

WEXFORD COUNTY COUNCIL**Minutes of Special Meeting of Wexford County Council Held on Wednesday 29th November, 2023
in the Council Chamber at 3.30pm (with some remote attendance via Microsoft Teams)****Attendance:****In the Chair:** Cllr. John Fleming, Cathaoirleach**Councillors:**

BARDEN	PAT	FARRELL	MARY	MURPHY	BRIDÍN (Remote)
BELL	MAURA (Remote)	FORDE	TOM	O'ROURKE	JOHN (Remote)
BREEN	PIP	HEGARTY	JOHN (Remote)	OWENS	JACKSER
BROWNE	AIDAN	HYNES	DAVID	SHEEHAN	MICHAEL
BYRNE	CATHAL	KAVANAGH	WILLIE	STAPLES	FRANK
CARTHY	GER	KENNY	DONAL	SULLIVAN	JOE
CODD	JIM	LAFFAN	GARY	WALSH	OLIVER
CODD-NOLAN	KATHLEEN	LAWLOR	GEORGE	WHELAN	MICHAEL
CONNICK	ANTHONY (Remote)	MCDONALD	LISA		
DEVEREUX	DIARMUID	MOORE	JIM		
DONOHUE	ANTHONY	MURPHY	BARBARA ANNE		

Officials:

Mr. Tom Enright, Chief Executive
 Mr. Eamonn Hore, Director of Services
 Ms. Carolyne Godkin, Director of Services
 Ms. Lynda Lacey, A/Head of Finance
 Ms. Elizabeth Hore, Director of Services
 Mr. Eddie Taaffe, Director of Services
 Ms. Amanda Byrne, A/Director of Services
 Mr. Michael Drea, County Secretary

Apologies:

Cllr. Andrew Bolger
 Cllr. Leonard Kelly

Cllr. Fionntán Ó'Súilleabháin

Cathaoirleach John Fleming welcomed representatives of Rosslare Harbour residents in the public gallery and online. He outlined the basis for the meeting.

Cathaoirleach John Fleming informed the meeting that he had received legal advice shortly before the meeting which he had sought on behalf of the Members. The Cathaoirleach circulated the legal advice to all Members and made hard copies available in the Chamber. The Members were given some time to consider the advice. At the request of the Members, Mr. M. Drea read out the legal advice provided to the Cathaoirleach by Michael Lanigan of Poe Kiely Hogan Lanigan Solicitors.

Cathaoirleach John Fleming advised that as the motions weren't submitted under a specific section of the Local Government Act, it was taken that the motions were submitted under section 140 of the Local Government Act 2001. The reason being, Section 140 is the only piece of legislation which can be used by the Members to direct the Chief Executive to do or not to do a particular thing and the motions were directing the Chief Executive to do or not do a particular thing.

The Cathaoirleach advised that Section 140 (8) states that "A motion to pass a resolution under this section shall be considered before any other business at the meeting, other than—

(a) the election of a Cathaoirleach at any meeting where that office falls to be filled in accordance with Part 5, or

(b) any other business which the elected council or joint body may decide should take precedence."

Given the complexity of the matters raised, the Cathaoirleach asked that Chief Executive, Mr. Tom Enright provide the Members with a statement outlining the principal issues involved. On the proposal of Cllr. M. Sheehan, seconded by Cllr. G. Laffan and in accordance with Section 140 (8)(b) of the Local Government Act, the Members resolved to allow a statement from Mr. T. Enright, Chief Executive prior to discussing the three motions submitted.

Mr. Enright welcomed the community representatives from Rosslare Harbour. He acknowledged the fantastic work of the community in welcoming displaced people from Ukraine and other parts of the world to their village. He said that people in Rosslare Harbour had every right to be concerned when plans were revealed by IPAS to place an additional large number of refugees into their community, and in particular where this may put an increased burden on local services such as doctors and schools.

He stated that the Council accepts the need to provide accommodation for refugees but that great care needs to be taken to ensure that no community is disproportionately overburdened with the number of refugees placed into it especially where local services are not available. He said that Wexford County Council has no role in placing persons seeking International Protection into accommodation in Wexford as that is a function of the Department of Children, Equality, Disability, Integration and Youth through IPAS.

He outlined the Council's responsibility in relation to the enforcement process and building control as a Planning Authority. Regarding building control, he advised that under the Building Control Act site inspections were carried out by the Council and a number of modifications which varied from

the planning permission granted were identified. In accordance with normal practice, a warning letter had been served on the developer who has until the 8th of December to respond to the issues raised.

Mr. Enright explained that in July this year, the Minister for Housing introduced a new Statutory Instrument SI 376 which provided for an exemption from planning to the temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate displaced persons or persons seeking international protection in (amongst other facilities) a hotel, health and social care accommodation. He advised that the owners of the building have sought exemption under this provision to use the building as a Temporary Accommodation Centre.

Mr. Enright said that Wexford County Council had concerns regarding the use of the planning exemption for this proposal and having considered the matter was satisfied that there were reasonable grounds to submit a Section 5 application for determination by An Bord Pleanála. He said the application was submitted on the 10th of November and that the Council has sought a determination in relation to the application of exempted status and the intensification of use. A request for further information was received from the Board on the 28th of November and a final decision is awaited.

Mr. Enright said that separately the Council had received a Section 5 application from Deputy Verona Murphy on the 15th of November and that this application process should be concluded within 28 days. He added that he could not comment further on a live planning process.

Mr. Enright explained the clear separation between reserved functions which are the responsibility of Councillors and executive functions which can only be undertaken by the Executive of the Council. He noted that whilst Section 140 of the Local Government Act 2001 allows the Elected Council to instruct the Chief Executive in the performance of executive functions of the local authority, Councillors cannot make decisions on planning applications. Nor can they require the Chief Executive to serve a warning notice or an enforcement notice because of failure to comply with a planning permission.

In concluding his statement Mr. Enright said that the contents of a letter dated 21st November from Minister for Children Roderic O’Gorman to Minister James Browne stated that no contract will be entered into until the planning issues that have been raised by Wexford County Council to An Bord Pleanála are fully addressed. He reiterated that Wexford County Council will meet its statutory obligations as a Planning Authority to ensure that planning legislation is complied with and will take all necessary action in accordance with the law where non-compliances are identified.

1. Consideration of the following motions:

On the basis of the legal advice received by Cathaoirleach John Fleming which stated “the proposed motions are seeking to direct the Executive to do things that are statutorily prohibited by Act of the Oireachtas and should not be proceeded with as same are ultra vires”, he ruled that the following motions could not be put:

1. That Wexford County Council undertakes not to validate any completion certificate in respect of the permission granted on foot of planning reference number 20220711, in circumstances where the issue of the permissibility of the material change of use, of

the entire development, from a nursing home to an IPASS centre has not been conclusively determined, and therefore may require a fresh planning application.

2. That Wexford County Council determine with immediate effect, the Section 5 reference submitted on behalf of the residents of Rosslare Harbour on the 14th November, 2023, in relation to the development at St. Martins Road, Rosslare Harbour.
3. That Wexford County Council, in view of the seriousness and urgency of the situation, will immediately commence injunctive proceedings to prevent the unauthorised use of the development from continuing, in view of the material changes to the permitted use as a nursing home granted on foot of planning reference number 20220711.

There was a lengthy discussion on the issues raised with contributions from Cllr.'s L. McDonald, J. Moore, G. Carthy, G. Lawlor, T. Forde, D. Hynes, P. Barden, J. Owens, J. Codd, F. Staples and C. Byrne.

Cllr. L. McDonald proposed the following motion which was seconded by Cllr. J. Codd "This Council accepts the need for the state to provide accommodation for refugees and asylum seekers. We hereby call on the Minister for Children, Equality, Disability, Integration and Youth to ensure that no community is overburdened with the number of refugees and asylum seekers placed into it, especially where local services are either not there or under pressure."

Cllr. T. Forde proposed the following amendment which was seconded by Cllr. D. Hynes and agreed by all "This Council accepts the need for the state to provide accommodation for refugees and asylum seekers. We hereby call on the Minister for Children, Equality, Disability, Integration and Youth to ensure that no community is overburdened with the number of refugees and asylum seekers placed into it, especially where local services are either not there or under pressure. The Council will support and do all it can to assist in meeting the local demands for a nursing home in the Rosslare Municipal District"

Cllr. G. Carthy proposed an amendment to one of the original motions which was seconded by Cllr. P. Barden but was ruled out of order by Cathaoirleach J. Fleming on the basis that he believed it still fell foul of the legal advice.

Cllr. P. Barden sought to ask the Chief Executive a number of specific questions but was ruled out of order by Cathaoirleach J. Fleming on the basis that he believed they related to a live planning matter and therefore could not be discussed.

THIS CONCLUDED THE BUISNESS OF THE MEETING

Daingithe ar an

lá de Nollaig, 2023.

Cllr. John Fleming
Cathaoirleach

Michael Drea
County Secretary