

# Press Releases - Councillors seek protection - 03/12/00

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## Councillors seek protection

Councillor Eoin Costello has put down a motion to the Council's Planning Area Committee requesting that the issue of the indemnity of individual councillors be referred to Councillors representative bodies. He is concerned that local democracy could be undermined by threats of legal action against councillors for decisions taken in good faith.

The issue of Councillors' liability arose in Cork last year when members of the council voted to rescind the ESB's planning permission to erect pylons on Cork Harbour despite a warning by officials that they were leaving themselves open to being personally sued by the ESB.

According to Councillor Costello the same situation arose recently

in the case of the granting of planning permission for 16A Monkstown Crescent. A substantial development was granted permission in the middle of a conservation area against the recommendation of Councillors.

When Councillors sought to revoke the permission they were warned by the manager that any revocation of permission would leave them open to legal action. Councillor Betty Coffee instructed the Manager to procure independent legal advice for the Councillors on the matter. The manager never produced independent legal advice but produced the opinion of the Council's law agent, which confirmed the Manager's opinion. The Manager stated that if elected members seek to have personal legal advice instead of the advice offered by the Council's law agent then the payment for same is a matter for the individuals concerned.

Councillor Costello believes that there is no doubt that the threat of legal action inhibited councillors from acting in a way they felt protected the development plan they had adopted in 1998.

According to Councillor Eoin Costello the current situation is not good enough. The proper planning of the County, as embodied in the County Development Plan, is primarily the responsibility of the elected representatives. At the moment major planning applications are brought before the Councillors for discussion and assessment

against the Development Plan. The Development Plan is a policy document agreed by the Councillors, which sets overall planning objectives for a five-year period. The plan forms a framework against which development decisions are to be taken by Council officials.

Development plans cover such areas as what kind of developments are acceptable in different areas, conservation and the preservation of amenities.

Dun Laoghaire Rathdown Councillors adopted the current development plan in 1998. Under the Planning and Development Act of 1963, the Councillors are in fact the planning authority and therefore the comments of the Councillors on a major application, specifically in relation to potential breaches of the County's development plan, should be taken into account by the officials in making their final decision on the application.

Councillor Costello believes that the forthcoming Local Government Bill extends many of the commitments that are currently in place for members of the Dail. Councillor Costello believes that it is anti democracy that the concept of Dail privilege is not extended to local government in certain limited circumstances. Councillor Costello feels that this issue is especially important at the moment as Council officials are seeking to amend the County Development plan to allow for considerably higher densities in certain sensitive parts of the county.