

DONCASTER METROPOLITAN BOROUGH COUNCIL
ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE

FRIDAY 5TH SEPTEMBER 2008

AN EXTRAORDINARY MEETING of the ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE was held at the MANSION HOUSE, DONCASTER on FRIDAY 5TH SEPTEMBER 2008 at 9.30am.

PRESENT:

Chair – Councillor Moira Hood
Vice-Chair – Councillor Ken Knight

Councillors Kevin Abell, Paul Bissett, Stuart Exelby, Marilyn Green, Beryl Harrison, David Hughes, J.P., Ray Mullis, Mark Thompson and Jonathan Wood.

ALSO IN ATTENDANCE:

David Forsdick, Counsel

APOLOGIES:

Apologies for absence were received from Councillors Norah Troops, Martin Williams and Yvonne Woodcock.

7. DECLARATIONS OF PERSONAL AND PREJUDICIAL INTEREST

There were no declarations made at the meeting.

8. EXCLUSION OF PUBLIC AND PRESS

The Chair, Councillor Moira Hood, confirmed that whilst the report and Appendix 1 (written submissions) on the agenda were public documents, Appendix 2 (legal briefing note) contained exempt information under paragraph 5 of Schedule 12A of the Local Government Act, 1972, as amended (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings). Therefore, it would be necessary to exclude the public and press from the meeting to enable the Committee to deliberate on this matter and discuss the contents of Appendix 2 in detail.

RESOLVED that the public and press be excluded from the deliberation of the matter in accordance with Section 100A(4) of the Local Government Act 1972, as amended, on the grounds that exempt information as defined in paragraph 5 of Schedule 12A to the Act is likely to be disclosed.

9. DETERMINATION OF HARDSHIP RELIEF APPEAL – DONCASTER SHEFFIELD AIRPORT LIMITED

It was reported that the Committee was required to determine an appeal by Doncaster Sheffield Airport Limited (DSAL) against the decision of the Council, acting as Billing Authority (BA), to refuse to grant Discretionary Hardship Relief from its Business Rates liability under Section 49 of the Local Government Finance Act 1988.

The appeal was conducted by way of written representations from both DSAL and the BA, as set out in Appendix 1 to the report. Members considered the written representations in detail and were advised as necessary throughout their deliberations by David Forsdick, Counsel experienced in rating law in conjunction with Appendix 2 to the report (legal briefing note).

Following its deliberations, the Committee unanimously

RESOLVED that, having reminded itself of the legislation and the government guidance and having discussed the detailed documents before it, the Committee concluded that:

- (1) the ratepayer would sustain some hardship if rate relief was not granted, but
- (2) it is not reasonable for the Authority to grant rate relief having regard to the interests of persons liable to pay Council tax set by it.

The Committee made its decision for the following reasons:

(1) Hardship

The Committee accepts that the ratepayer will sustain some hardship should rate relief be refused as explained in the various submissions of the Company with some investment (particularly marketing activity) being delayed.

However, there is no suggestion that the Company cannot pay the rates. The Committee notes that payment of rates is a normal business expense.

The Committee accepts that there are some circumstances here which take the situation out of the norm, which are out of the control of DSAL and which are not explicable by the normal vagaries of the market

However, it notes that a large part of the matters relied on by the Applicant, arise from over-optimistic assumptions at the outset and unexceptional matters which are common to many businesses.

(2) Reasonable to grant relief

The Council does not consider it reasonable to grant relief:

1. Whilst there are some matters which could not have been planned for (such as increased security costs, substantial increases in oil prices and recent changes in the airline industry) many of the factors relied on by the Applicant are attributable to (i) over-optimistic assumptions in the financial plan at the outset and (ii) matters which any business has to face and plan for.
2. Whilst it is accepted that:
 - (a) the grant of relief would serve to mitigate the hardship identified above; and
 - (b) it is very important to the Council and its area to maximise the potential economic advantage of an operational airport;

it considers that, in the light of the statutory scheme and the general obligation to pay business rates, and having regard to the interests of council tax payers in the area it would only be prepared to grant relief here if there were exceptional circumstances to justify such relief.

3. The Council considers that, notwithstanding the detailed submissions of the Airport, there is nothing in the facts of this case which warrants relief in this case and that there are no exceptional circumstances warranting relief.

In accordance with Council Procedure Rule 20.4, a recorded vote was taken that 'there were exceptional circumstances warranting relief' the result of the vote being as follows:

For
Nil

Against
Chair Cllr Moira Hood, Vice-Chair Cllr Ken Knight,
Cllrs Kevin Abell, Paul Bissett, Stuart Exelby, Marilyn Green,
Beryl Harrison, David Hughes J.P., Ray Mullis, Mark Thompson
and Jonathan Wood

Abstention
Nil

4. Relief should not therefore be granted.

5. The Council also considered whether it would have been prepared to grant relief if it had considered that there were exceptional circumstances to justify, in principle, the grant of such relief, having regard to the interests of council tax payers in its area.
6. Having regard to the financial position of the Council and the basic financial position that any grant of relief would have to be paid for by either an increase in council tax or a reduction in services, the Committee would not, in the exercise of its discretion, consider it reasonable to grant rate relief under S49 of the Local Government Finance Act 1988.