

# MINUTES OF THE APPEAL HEARING BEFORE THE APPEALS COMMITTEE OF THE COMMISSION OF ASSEMBLY – AUGUST 2016

*At Edinburgh and within the Church Offices, 121 George Street, the twenty-ninth day of August 2016 at 10.00 am in the matter of an appeal from the Kirk Session of Edinburgh: London Road against a decision of the Presbytery of Edinburgh.*

## **Sederunt:**

Lord Brodie, Convener of the Appeals Committee of the Commission of Assembly.

The Rev Helen Jamieson, Vice-Convener of the Appeals Committee of the Commission of Assembly.

Ms Mary Macleod, Solicitor.

The Very Rev John P Chalmers, Principal Clerk.

Ms Christine Paterson, Legal & Learning Resources Officer  
And seventeen members of the Appeals Committee of the Commission of Assembly as per the Sederunt Book.

Also present:

The Rev Angus Mathieson, Partnership Development Secretary

The Rev Alison Meikle, Convener of the Presbytery Planning Task Group

Ms Sheila Reeves, Senior Administrator, Ministries Council

Parties were called:

## **For the Appellants:**

Mrs Janet McKenzie, Session Clerk

Mr Bill Bryden, Elder

Mrs Jackie Pantony, Elder

## **For the Presbytery of Edinburgh:**

The Rev Dr George J Whyte, Presbytery Clerk

Mr Grant Gordon, Convener of the Presbytery's Deployment of Resources Committee

Dr Hazel Hastie, Depute Presbytery Clerk and Member of the Presbytery's Deployment of Resources Committee  
The Rev Dr Karen Campbell, Member of the Presbytery's Deployment of Resources Committee

The Hearing before the Appeals Committee of the Commission of Assembly ("the Committee") was constituted with prayer. Introductions were made.

In terms of Rule 8 of the Rules of Procedure set out in Schedule 2 to the Appeals Act (Act I 2014) ("the Act"):

- each Party made comment supplementary to their Written Argument;
- each Party was given the opportunity to make response to the Written Argument lodged by the other Party; and
- each Party answered questions put to them by members of the Committee.

Parties were removed.

After discussion a decision was reached.

Parties were recalled and the decision of the Committee, including a brief oral summary of the main reasons of the decision, was read over by the Convener, as follows:

The Committee's decision is:

The Committee dismisses the appeal and upholds the decision of the Presbytery of Edinburgh on 2 February 2016, finding that:

- There has been no error in Church law: in considering procedure in terms of Act VII 2003 ("the Act"),

Presbytery was correct to understand that it was proceeding under section 9(1) which permitted the Presbytery to proceed in terms of sections 3 to 5 of the Act. The Committee took the view that section 9(2) refers *inter alia* to special circumstances where Presbytery desires to deal with a vacancy within an area of suspended Plan which was not the case here.

- The Committee took the view that in order for the principles of natural justice to have been breached, the Appellants would require to have identified specific procedural unfairness in the decision-making process which prevented the Appellants presenting their position to Presbytery and not merely a decision which ultimately to them appeared unfair. The Committee did not identify any such instance.
- The Committee did not agree that any material irregularity of process had occurred and in particular took the view that disparities in the conclusions reached in various property reports were not material to the final decision of Presbytery.

- The Committee decided that the Presbytery was entitled in terms of sections 3 to 5 of the Act to proceed as it did without resolving disparities in the property reports.
- The Committee was unable to identify any incorrect material fact which influenced the decision of 2 February 2016.

The Convener stated that the Committee recognises that implementation of the Presbytery Plan as upheld will not be easy and hopes that the affirmation of the people of London Road Parish Church by the Presbytery of Edinburgh has been heard and encourages the parties to work together for the good of the Church in this area.

The Convener confirmed that the decision of the Committee was unanimous.

The Convener confirmed that written reasons for the Committee's decision will follow within twenty one days.

The Hearing was closed at 2.45 pm with the Benediction.