

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

*At Edinburgh and within the Church Offices, 121 George Street, the fifth day of December 2016 at 10.00 am in the matter of an appeal from the Kirk Session of Larkhall: Trinity against a decision of the Presbytery of Hamilton.*

## **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 Dr John P Chalmers, Principal Clerk.

Ms Christine Paterson, Legal & Learning Resources Officer.

And sixteen members of the Appeals Committee of the Commission of Assembly as per the Sederunt Book.

Introductions were made. Parties were called:

## **For the Appellants (including the dissenter and complainer):**

Miss Wilma Gilmour, Session Clerk

Mr Ian Rice, Presbytery Elder (and dissenter and complainer)

Mr Hugh McGregor, Elder

Mr George Gould, Elder and Convener of the Property Committee

## **For the Presbytery of Hamilton:**

The Rev Dr Gordon McCracken, Presbytery Clerk

The Rev Derek Gunn (Airdrie: Clarkston), Moderator of Presbytery in June 2016 and a former Convener of the Presbytery's Property Committee

Mr David S Alexander, Convener of the Presbytery's LCR/ Implementation Committee

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

The Convener indicated that a preliminary point was whether the Presbytery should be permitted to introduce its Supplementary Written Argument, which was received outwith the timeframe for submission of such documents. After hearing from both parties, the Convener and Vice-Convener decided that the Appellants' Written Argument would be accepted in full and the Presbytery would be permitted to introduce its Supplementary Written Argument.

Hard copies of the Supplementary Written Argument were distributed to members of the Committee. Parties withdrew and members of the Committee were given ten minutes to read the Supplementary Written Argument.

Parties were recalled.

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;
- each Party answered questions put to them by members of the Committee;
- each Party was permitted to make their final presentations to the Committee, with the Appellants having the last word.

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 reason for the decision, was read over by the Convener, as follows:

The Committee's decision is:

Uphold the appeal to the extent of quashing the two decisions of the Presbytery of Hamilton on 21 June 2016 complained of, remitting back to the Presbytery consideration of the original motion of the Property Committee, requiring the Presbytery to ensure that all parties in the relevant section of the Presbytery Plan area are cited in their interests and that the Presbytery is furnished with full details of the proposed building works.

The reason for the decision is that the Appeals Committee takes the view that there was a breach of the principles of natural justice in how the matter was dealt with at the Presbytery meeting of 21 June 2016. The Appeals Committee has accordingly upheld Ground of Appeal 5. The Appeals Committee does not uphold the other Grounds of Appeal.

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 1.00 pm by saying the Grace.