

Planning Committee

10:00am Monday 15 June 2015

New Procedure for Dealing with Legacy Planning Applications

Item number 7.2
Report number
Executive/routine
Wards All

Executive summary

This report sets out a proposed procedure for handling existing and future applications which have an interim “minded to grant” decision subject to the conclusion of a required legal agreement.

It puts forward arrangements which will reduce delays in concluding legal agreements before planning permission decision notices can be issue and improve the Council’s performance figures.

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New Procedure for Dealing with Legacy Planning Applications

Recommendations

- 1.1 Committee approves the proposed procedure set out in 3.4 below to reduce delays in concluding legal agreements before planning permission decision notices can be issued.

Background

- 2.1 The Committee requested a report on procedures for dealing with legacy applications at its meeting on 26 February 2015. The minute requested “the Acting Director of Services for Communities to report to the Planning Committee on procedures for legacy applications and options available to time limit the conclusion of legal agreements”.

Main report

- 3.1 The Scottish Government has required Local Authorities to take steps to reduce the number of applications which have not been determined for a number of years. Frequently this arises where a legal agreement considered necessary to make the application acceptable has not been concluded. The application is not formally determined until a decision notice granting or refusing planning permission has been issued. The delay causes uncertainty over whether the development will take place and when it will be undertaken.
- 3.2 A legacy case exercise was undertaken at the end of 2013, relating to “minded to grant” applications where three years or more had elapsed since that position was reached and other undetermined applications that had been dormant for a similar period of time. As a result of this exercise 50 “minded to grant” applications out of 100 cases and 63% of all the relevant applications including the dormant cases were withdrawn.
- 3.3 The Committee is asked to approve the following procedure. It is anticipated that this will address the problem of existing applications which remain “minded to grant” subject to the conclusion of a required legal agreement. It should also resolve this issue for future applications.

- 3.4 From 15 June 2015, any “minded to grant” decision subject to the conclusion of a legal agreement should have an interim minded to grant decision notice issued. This should state ‘the required legal agreement should be concluded within 6 months of the date of the notice. Thereafter the report will be sent back to committee with a likely recommendation that the application be refused’.
- 3.5 The 6 month period to conclude the agreement would only be extended in exceptional circumstances and at the Head of Planning and Building Standards’ discretion.
- 3.6 The current cases where the “minded to grant” decision was reached less than a year before 15 June 2015 should be written to and informed that the required legal agreement should be concluded within 6 months of the date of the letter. If not, the approach taken would be as set out above.
- 3.7 All “minded to grant” cases in excess of a year old should be re-assessed. All cases which are considered to have the same recommendation and with the same agreement obligations will be advised that they have 6 months to enter into an agreement. Those that need to be reconsidered as a result of more up-to-date development plans, changes to policies and guidance revisions will be reported to Committee.
- 3.8 An annual legacy exercise should be undertaken on dormant planning applications over three years old. All cases should be written to asking whether the application can be confirmed as withdrawn. When they are ten years old they should be automatically withdrawn.
- 3.9 There are currently 26 applications where a “minded to grant” decision was reached less than a year ago. There are 70 applications where this decision was reached more than a year ago. These cases have an adverse impact on the performance figures for the time taken to determine planning applications. They are only considered to be determined when the final decision notice is issued, after a required legal agreement has been concluded.

Measures of success

- 4.1 That the current “minded to grant” applications are reconsidered and reported back to Committee as necessary.
- 4.2 That all future cases be required to conclude any necessary legal agreement within 6 months of any re-assessment result or the date correspondence is issued advising of this requirement.

Financial impact

- 5.1 There would be a financial cost in terms of elected members’ and officer’s time, associated with handling reports being re-considered and returned to

Committee and potentially handling a greater number of appeals. These costs will be managed within existing budget provisions.

Risk, policy, compliance and governance impact

- 6.1 If the new procedure is approved and implemented, it should resolve the potential risks of minded to grant applications being left undetermined. This is considered to have a positive impact in terms of risk, policy, compliance and governance.

Equalities impact

- 7.1 An ERIA form has been completed. No issues have been identified.

Sustainability impact

- 8.1 There are no sustainability issues.

Consultation and engagement

- 9.1 None

Background reading/external references

None

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Links

Coalition pledges	<p>P8 – Make sure the city’s people are well housed, including encouraging developers to build residential communities, starting with brown field sites.</p> <p>P17 – Continue efforts to develop the city’s gap sites and encourage regeneration.</p> <p>P27 – Seek to work in full partnership with Council staff and their representatives.</p>
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Council outcomes	<p>CO7 – Edinburgh draws new investment in development and regeneration.</p> <p>CO16 – Well-housed – people live in a good quality home that is affordable and meets their needs in a well managed neighbourhood.</p> <p>C019 – Attractive places and well maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.</p> <p>CO26 – The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.</p>
Single Outcome Agreement	SO1 – Edinburgh’s economy delivers increased investment, jobs and opportunities for all.
Appendices	None.

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