

Planning Committee

10.00am, Monday, 15 June 2015

Development Management Sub-Committee: Review of Procedures

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| Item number | 7.3 |
| Report number | |
| Executive/routine | Executive |
| Wards | All |

Executive summary

The purpose of this report is to seek Committee approval for changes to the procedures for requests for presentations and hearings, applications decided contrary to recommendation and notification of committee meetings to interested parties.

The introduction of webcasting at the Development Management Sub-Committee has increased public accessibility to these meetings and improved the transparency of decision-making. The use of power point presentations allows viewers to follow the presentations more easily online and the intention is that these will be used for all future presentations. However, these take time to prepare and it is proposed that the period for requesting presentations and hearings (from ward councillors) is brought forward one day to assist this. It is also proposed that interested parties are no longer notified of the Committee date as the information is readily available online.

Where the Committee does not agree with the officer's recommendation, it has been established practice that officials are asked to report back on the proposed refusal reasons and conditions. However, this process needs to be reviewed to ensure greater clarity and so the decision can be issued promptly to the applicant.

Links

Coalition pledges

Council outcomes CO23, CO24, CO25,

Single Outcome Agreement

Development Management Sub-Committee:

Review of Procedures

Recommendations

- 1.1 It is recommended that the Planning Committee:
- 1) approves the new deadline for requests for elected members for presentations and hearings at the Development Management Sub-Committee;
 - 2) approves the revised procedures for dealing with applications which are decided contrary to recommendation; and
 - 3) agrees to the proposal to stop issuing Committee consideration letters to those who have made representations.

Background

- 2.1 At its meeting on 2 December 2010, the Planning Committee decided to continue its consideration of a committee procedures review to allow consultation with key stakeholders. This consultation was followed by a further report on decision-making processes at Planning Committee on 19 May 2011 and a revised agenda format and presentation requesting procedure were put in place. Further changes agreed by Committee on 9 August 2012, in response to the Councillor Code of Conduct, have led to the current agenda structure that is in place for the efficient management of these meetings. Requests for presentations or hearing requests by ward councillors currently have to be received by Committee Services at 9am on the day before the Committee meeting.
- 2.2 The introduction of webcasting at the Development Management Sub-Committee has increased public accessibility to these meetings and improved the transparency of decision-making. The use of power point presentations, rather than displaying plans on the overhead projector, allows viewers to follow the presentations more easily online. It is proposed that these will be used for all future presentations. However, the current deadline of 9am on the day before the meeting makes it difficult to prepare good quality power point presentations in the time available. It is proposed to alter the time and day of these requests.
- 2.3 At its meeting of 21 April 2005 on Decision Making Processes, the Planning Committee re-affirmed its practice regarding applications where it was minded to overturn the officer recommendation. In these cases, the Sub-Committee is required to specify the reasons why they are minded to overturn the

recommendation so that officers can form detailed reasons for refusal or conditions as appropriate at a future meeting.

- 2.4 In a recent case where the Committee overturned the recommendation of officers and refused planning permission, Committee members did not make it explicitly clear what their reasons for refusal were and there was a perception on the part of the applicants that they could introduce new information to overturn this refusal. A revised procedure is required to ensure the decision and the reasons for it are clear, in order that the decision can be issued after the meeting.
- 2.5 Finally, following a member request in 2009, a system was introduced to inform those who make comments on applications of the Committee date. Generally this has worked well for most applications. However, electronic working and the availability of information on digital devices, provides an opportunity for interested parties to self serve to find such information.

Main report

Deadlines for Presentations and Hearing Requests

- 3.1 The agenda for the Development Management Sub-Committee is divided into sections and items for hearings or presentation are identified in advance. The proposed use of power point will allow a more professional presentation of materials and enables the webcast viewer to understand the context of the application better. When the application is identified early for hearing or presentation, the materials can be prepared well in advance of the meeting.
- 3.2 However, there are two situations where an item could be requested for hearing or presentation at a later stage and currently there is insufficient time to prepare power point presentations. In both cases the deadline for requests is 9am on the day before the meeting.
 - Members of the Committee can request an item is presented from the 'other items' category which would not normally be presented; and
 - Ward councillors can request a hearing on an application in their ward. If agreed, this would then allow them to speak at the hearing.
- 3.3 It is proposed to bring the deadline for requests forward to allow the presentation materials to be prepared. The new deadline will be 10am on the Monday before the meeting for both presentation requests and requests for hearings. Committee papers will be made available a day earlier to ensure members still have the same amount of time to read the information. If agreed, advice notes will be updated and issued to councillors.

Applications determined against officer recommendation

- 3.4 Over 90% of planning applications determined by Committee are decided in accordance with the officer recommendation. However, in some cases,

committee members disagree with the recommendation and either approve or refuse the application. In 2014-15, 19 out of 228 applications fell into this category with 13 being refused and 6 being approved.

- 3.5 Where the application is approved, it has become standard practice to ask the Head of Planning and Building Standards to apply appropriate conditions of consent without reverting back to the Committee and there is no proposal to change this. However, if the application is refused, it is standard practice to ask the Head of Planning and Building Standards to come to the next Committee with the reasons for refusal for it to agree. This process is dependent on Committee members being clear about the planning reasons for refusal.
- 3.6 In a recent case, there was some uncertainty on the part of the applicants as to whether the Committee had made a final decision when deciding to refuse the application contrary to officer recommendation. The applicants were keen to submit further information to overturn this decision and it was not clear to them that this was a final decision with only the reasons for refusal being the subject of further consideration. The perception was compounded by the fact that there was no member stating clearly what the reasons for refusal were and forming a motion with this information for the Committee clerk to read back for members to agree.
- 3.7 Following an internal review, the procedure is proposed as follows:
- When members are minded to decide an application contrary to officer recommendation, this should be formally moved and seconded with the reasons for refusal or conditions of approval set out in the motion and read back to Committee members by the Committee Clerk. Members should then vote on the motion or any amendments.
 - In setting out a motion to decide an application contrary to the officer recommendation, members should be reminded of the requirement to decide applications in accordance with the Development Plan unless material considerations indicate otherwise. Other statutory requirements may also apply such as the requirement to assess the impact on the character and appearance of the conservation area.
 - In forming the motion, members may seek advice from planning officers on the materiality of the proposed reasons or conditions but it is for members to articulate the planning reasons for any decisions taken contrary to officer recommendation. It should be noted that there is a statutory requirement for decision letters to include a reason for the decision.
 - The decision of the Committee should be formally minuted and the decision letter issued within 4 working days unless there is a requirement for further notification or a legal agreement.

- 3.8 The implementation of these changes will make it clear that a final decision has been taken and allow the decision letter to be issued promptly. It will also make it clear which member would take lead responsibility for the defence of any subsequent appeal by the applicant.

Informing Interested Parties of the Committee Date

- 3.9 Since 2009, a process has been in place to inform those who have made representations on planning applications of the forthcoming committee date. The letters are issued the week before committee and are either emailed where the comment has been submitted online or posted if the comment is made on paper. There is no statutory requirement to issue these letters but service improvements are constantly sought through automating advice and notifications.
- 3.10 The Council's transformational change programme seeks to move customers to online services where they can self serve to find the information they seek. Around 65% of comments are now made online and indicate that the use of online services is now well established. Customers can, when making online comments, track cases to get updates. They can also sign up to get committee agendas. The process of issuing these letters is resource intensive yet serves a reducing number of customers due to the online services available.
- 3.11 It is proposed to cease issuing these advice letters and to provide more online information about how the customer can self serve to find information updates. This would be implemented with immediate effect and aligns with the draft Customer Engagement Strategy where the aim is to help the customer self serve through our online resources.

Measures of success

- 4.1 A planning application process that is clear and accountable.

Financial impact

- 5.1 There is no direct financial impact arising from this report. However, the move to online services for some processes will release some staff resource to address other pressures in service provision.

Risk, policy, compliance and governance impact

- 6.1 There are no perceived risks associated with this report. The report has no impact on any policies of the Council.

Equalities impact

- 7.1 The Equalities and Rights Impact Assessment indicates that there are positive impacts in terms of increased accessibility to decision-making processes. There are no negative impacts.

Sustainability impact

8.1 The impact of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties has been considered, and the outcome is summarised below.

- The proposals in this report will have no impact on carbon emissions because the report deals with the committee processes;
- The proposals in this report will have no effect on the city's resilience to climate change impacts because the report deals with committee processes; and
- The proposals in this report will help achieve a sustainable Edinburgh because they promote public engagement in the planning system.

Consultation and engagement

9.1 Advice has been taken from the Council solicitor on applications refused contrary to recommendation and the new procedures are a result of this advice.

Background reading/external references

[Planning Committee Report: Decision Making Processes 21 April 2005.](#)

[Planning Committee Report: Decision Making Processes Review 2 December 2010.](#)

[Planning Committee Report: Development Management Decision Making Process Review 19 May 2011](#)

[Planning Committee Report: Development Management Procedures Review 9 August 2012.](#)

John Bury

Acting Director of Services for Communities

Contact: Nancy Jamieson, Team Manager

E-mail: nancy.jamieson@edinburgh.gov.uk | Tel: 0131 529 3916

Links

Coalition pledges

Council outcomes

CO23 - Well engaged and well informed – Communities and individuals are empowered and supported to improve local outcomes and foster a sense of community

CO24 – The Council communicates effectively internally and

externally and has an excellent reputation for customer care
CO25 – The Council has efficient and effective services that
deliver objectives

**Single Outcome
Agreement**

Appendices

None

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