

Corporate Policy and Strategy Committee

10.00am, Tuesday, 7 August 2018

Review of Permissions and Licensing Processes – Update Report

Item number	7.1
Report number	
Executive/routine	
Wards	
Council Commitments	

Executive Summary

On [24 August 2017](#) (Item 21) the Council agreed a motion to review and report on how applications for permissions and licenses are shared with Councillors, officers and members of the public.

An initial review has been carried out identifying the range of permissions and licenses that the Council issues.

It is proposed that a review of local authority practice is commissioned over the next 12 months to identify best practice and suitable benchmarking against authorities,.

In the short term it is proposed that local ward members are notified of proposed Traffic Regulation Orders (TROs) at the same time as community councils.

Review of Permissions and Licensing Processes – Update Report

1. Recommendations

- 1.1 It is recommended that Committee
 - 1.1.1 note the complex legislation which governs in respect of roads, licensing, planning and building standards;
 - 1.1.2 note the initial review carried out;
 - 1.1.3 agree the review of local authority best practice and benchmarking as proposed; and
 - 1.1.4 agree that local ward members will now receive Traffic Regulation Orders at the same time as community councils.

2. Background

- 2.1 On 24 August 2017 the Council agreed a motion to review and report on how applications for permissions and licenses are shared with Councillors, officers and members of the public and how potential improvements could be made to the process with a view to improving the accessibility, efficiency and transparency of information and services to improve the experience of citizens engaging with relevant service areas.
- 2.2 The full detail of the Council motion is set out as below:
 - 2.2.1 Council notes the ongoing work across Council departments to improve the accessibility, efficiency and transparency of information and services to improve the experience of citizens engaging with relevant services.
 - 2.2.2 Council therefore instructs the Chief Executive to review and report on (a) how applications for permissions and licenses are shared with Councillors, Officers and members of the Public and (b) potential improvements to that process.
 - 2.2.3 The scope of information to be reviewed in the report must include, but is not limited to, the valid application and granting of:
 - 2.2.3.1 Planning applications;
 - 2.2.3.2 Road Construction Consents (RCCs) applications;

- 2.2.3.3 Building Warrant applications;
- 2.2.3.4 Transport Regulation Orders (TRO's);
- 2.2.3.5 Temporary Transport Regulation Orders (TTRO;s);
- 2.2.3.6 Roads awaiting adoption;
- 2.2.3.7 Liquor Licence applications;
- 2.2.3.8 Gambling Licence applications; and
- 2.2.3.9 Civic Licence applications.

The report should consider:

- 2.2.4 areas of duplication and the streamlining of information;
- 2.2.5 the extension of access to information;
- 2.2.6 the needs of Customers, Community Councils, Councillors, Officers, third party interests and the general public; and
- 2.2.7 the frequency of information being updated and available.

3. Main report

- 3.1 This report reviews how applications for a range of permissions and licenses are shared with Councillors, officers and members of the public and potential improvements to those processes with a view to enhancing access, efficiency and transparency.
- 3.2 An initial review has been carried out identifying the range of permissions and licenses that the Council issues.
- 3.3 Appendix 1 sets out the range of legislation under which permissions and licenses are granted by the Council in its role as planning, licensing, regulatory and roads authority for the city. These permissions are for activity undertaken by individuals and/or businesses which generally have an impact on the wider public and for which there is a public and community interest that needs to be considered that the Council ultimately represents.
- 3.4 These permissions include permission to:
 - 3.4.1 design, construct and adopt roads;
 - 3.4.2 build, adapt or extend property;
 - 3.4.3 events held in public spaces; and
 - 3.4.4 grant licenses for a range of commercial activity including liquor and gambling and taxis, private renting and premises that sell food.
- 3.5 Each of these permissions have their own requirements for publication, consultation and decision making including notification of local members, local communities and representative organisations. For example:

Transport and Roads

3.5.1 For Traffic Regulation Orders (TROs) the Council must contact emergency services, bus companies and Freight and Road Haulage associations. Other organisations and bodies that are contacted include residents' associations, community councils, public utility companies and taxi companies. Copies of notifications are placed on lamp posts, in local print media and on Council and Scottish Government websites. There is no specific approach to communicating these measures to local members.

Building and Land Use

3.5.2 Planning applications are made available on the Council's website. A weekly list of new applications is published on the Council's website and is sent to all community councils' and Councillors. Site notices are required in certain areas e.g. in conservation areas and neighbours living within 20 metres of planned development. Press adverts are required in some circumstances. There are different approaches to listed building consents, advertising permission, environmental impact assessments, local reviews, appeals, street-naming and planning obligations. The Council maintains a publicly available Building Standards register of applications and decisions. There is no requirement for notification.

Licensing

- 3.5.3 Licensing for liquor and gambling are governed by two separate Acts, the Licensing (Scotland) Act 2005 and the Gambling Act 2005. Liquor licenses for new premises and amendments to existing licences are published online in advance of Licensing Board meetings. Application details are circulated to Police Scotland, Fire and Rescue Service, NHS Lothian and relevant community councils. Notification is made to neighbours within a 10 metre boundary of the premises. Applicants are required to display a site notice with details of application, within the vicinity of premises for 21 days. For gambling licences for new premises and variations applicants are required to place an advert in local newspapers and a site notice and notify relevant authorities including Police, HMRC and the Gambling Commission. There is no specific approach to informing local councillors.
- 3.5.4 The Council is the licensing authority for a range of commercial activities including taxis and private hire cars, cinemas, theatres and the keeping of animals as well as renting of private rented sector property and the licensing of Houses in Multiple Occupation (HMOs).
- 3.5.5 All taxi, private hire car and HMO applications are recorded on the public licensing registers on the Council's website and copies sent to Police Scotland as a statutory consultee. In the case of HMO applications Fire and Rescue Services are also notified as a statutory consultee and applicants are required to display a site notice on or near the premises for 21 days. Registrations of private landlords are noted on the national landlord

registration database. Community Councils and ward councillors are not notified of HMO or Landlord Registration applications.

- 3.5.6 The Council also processes temporary licenses for events each year. There is no right to public objection to these and no requirement to display a site notice. Where representations are made by members of the public these are normally referred to the Licensing sub-committee on a discretionary basis.
- 3.6 In summary, the notification of, and consultation on, the wide range of permissions and licenses issued by the Council complies with required legislative requirements and use the appropriate local and national registers.
- 3.7 However, many of the ways in which such the notification and communication of applications for permissions and licenses are arguably outdated. Local ward members have also expressed concerns about the lack of early notification of applications, particularly for roads, where members often find out about applications from other parties including community councils. Additionally, while social media is increasingly used to make information available, this does not necessarily make information on applications any more accessible.
- 3.8 There is clearly scope to improve the accessibility and transparency of information on permissions and licenses but it is also important that improvements are developed concurrently with streamlining and more efficient processing to ensure that delays in managing these processes are not an unintended consequence.

Next steps - best practice review

- 3.9 It is proposed that over the next 12 months a review of local authority practice is commissioned to identify best practice and suitable benchmarking against authorities. This review will focus mainly on practice from mainly urban authorities and have an emphasis on how local members are supported in their role in engaging with the public on these issues. The review will also include a more detailed assessment of how improved transparency and accessibility of information is constrained by statutory or other legislative requirements.
- 3.10 In the short term it is proposed that local ward members are notified of proposed TROs at the same time as community councils.

4. Measures of success

- 4.1 Local members receive TRO notifications at the same time as community councils.
- 4.2 In the longer term, improved processes for dealing with permissions and licenses; improved accessibility and efficiency and improved engagement with citizens.

5. Financial impact

- 5.1 The current service costs are contained within the Place revenue budget.

5.2 The cost of the review will be met from the Licensing budget.

6. Risk, policy, compliance and governance impact

6.1 The legislation in place for each of these processes is outlined in appendix 1.

6.2 Any proposed changes will be considered in the context of existing and any known changes proposed to the legislation.

7. Equalities impact

7.1 It is anticipated that any changes will have a positive equalities impact, however a full impact assessment will be undertaken before changes are implemented.

8. Sustainability impact

8.1 There are currently no sustainability impacts arising from this. A full impact assessment will be carried out on any proposed changes.

9. Consultation and engagement

9.1 The review will look at best practice and benchmarking of other Local Authorities.

9.2 Engagement with Elected Members and stakeholders will be carried out before any further changes are implemented.

10. Background reading/external references

10.1 None.

Paul Lawrence

Executive Director of Place

Contact: Michael Thain, Head of Place Development

E-mail: michael.thain@edinburgh.gov.uk | Tel: 0131 529 2426

11. Appendices

Appendix 1 – Legislation which applies to dealing with applications and notification of such

Appendix 1 – Legislation which applies to dealing with applications and notification of such

A. Roads

Traffic Regulation Order (TRO)

- Road Traffic Regulation Act 1984; and
- the Local Authorities' Traffic Orders (Procedure) (Scotland) Act 1999.

Temporary Traffic Regulation Order (TTRO)

- Road Traffic Regulation Act 1984;
- the Road Traffic (Temporary Restrictions) Procedure Regulations 1992;

Road Construction Consent (RCC)R

- Roads (Scotland) Act 1984 sections 21, 22 and 23.

B. Licensing

Civic, Taxis and Miscellaneous

- Civic Government (Scotland) Act 1982 as amended
- Cinemas Act 1985
- Theatres Act 1968
- Performing Animals Regulation Act 1925
- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Acts of 1964 and 1970
- Breeding of Dogs Act 1973 and 1991
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981

HMO and Private Landlords

- Housing (Scotland) Act 2006
- Antisocial Behaviour, etc. (Scotland) Act 2004

Liquors and Gambling

- Licensing (Scotland) Act 2005
- Gambling Act 2005

C. Planning

- The Planning etc. (Scotland) Act 2006
- Town and Country Planning (Scotland) Act 1997
- The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- The Town and Country Planning (Development Management Procedure Regulations) (Scotland) 2013 – updated May 2017
- The Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017; Circular 1/2017 Guidance on EIAs
- The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984;
- The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013; Circular Planning Appeals 4/2013; Circular Schemes of Delegation and Local Reviews 5/2013
- The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010; Planning Obligations Circular 3/2012
- Tree Preservation and Trees In Conservation Areas (Scotland) Regulations 2010
- Licensing Act Scotland 2005 – S50 certificates
- Civic Government (Scotland) Act 1982 – street naming applications
- The Town and Country Planning (Hazardous Substances)(Scotland) Act 2015
- The Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992

D. Building Standards

- The Building (Scotland) Act 2003 (came into force 2005)
- Building Standards Technical Handbooks