Planning Committee

10.00am, Thursday, 25 February 2016

Development Management Procedures for Major Applications

Item number	
Report number	
Executive/routine	Routine
Wards	All

Executive summary

Following the committee workshop held in November 2015, this report recommends some changes in the procedures for determining major planning applications.

Links

Coalition pledges	
Council outcomes	CO19 CO25
Single Outcome Agreement	SO4

Report

Development Management Procedures for Major Applications

Recommendations

1.1   It is recommended that the Committee approves the changes in procedures for determining major planning applications as described in paragraph 3.3 of this report.

Background

2.1   On 1 October 2015, the Planning Committee considered a report on Development Management procedures for major planning applications and agreed to hold a workshop with officers to discuss these in detail. The workshop was held on 27 November 2015. This report summarises the matters discussed in that workshop and recommends some changes in procedures.

Main report

3.1   The workshop had three objectives:

1. Ensuring that all members of the sub-committee are sufficiently briefed on the key issues in advance of the meeting;
2. Ensuring that the process is transparent, fair and avoids any impression of bias; and
3. Ensuring that timescales and targets, particularly those in processing agreements, are met.

3.2   The discussion ranged across all three objectives and a number of matters were explored. The focus was on major applications but some matters covered both major and local applications. The issues are summarised in Appendix 1. In some cases, no change is proposed and in others there are some detailed points to be followed up by officers. There is also some advice on how local members can check when applications in their wards are coming to committee.

3.3 The main changes in procedure that are recommended as a result of the workshop are as follows:

1. The number of sub-committee site visits should be reduced and limited to applications proposed for hearings, or in cases when access needs to be arranged with the owner for members to obtain a full understanding of the planning issues. For major developments, the need for a site visit will be highlighted in the PAN report.

2. The format of the sub-committee reports should be amended to include links to assist navigation to various sections of the report.

3. If members have attended meetings or had discussions with applicants or third parties regarding applications that have been submitted, they should consider the advice on taking decisions on quasi-judicial or regulatory applications in the Councillors Code of Conduct when deciding if they should take part in the proceedings.

4. The committee clerk should routinely state the sub-committee's decision at the end of each item. When a vote is taken, members should keep their hands raised for a few moments to allow it to be captured on the webcast.

5. When the sub-committee wishes to grant permission contrary to the officer's recommendation, the Convener should consult the planning officer present and confirm whether conditions and informatives can be provided during the meeting (or following a short adjournment) or whether the application should be continued to the next meeting in order to allow suitable conditions to be drafted.

6. The sub-committee should adopt the same criteria used by officers when considering the need for a hearing. These are:

   • Where an application raises important land use, conservation, design or residential amenity issues contrary to the development plan and which is recommended for approval;

   • where the degree of public interest is substantial, as measured by the range and substance of material representations, rather than only the volume; and

- where the Council has substantial financial or land ownership interests in the proposals, and either of the two criteria above are applicable.

7. The time allocated to Community Councils at hearings should be reduced to five minutes and Ward Councillors should present before the Applicant, not after.

Measures of success

4.1 Informed, transparent and timely decision-making by the Development Management Sub-Committee.

Financial impact

5.1 There are no direct financial implications from this report. However, the proposed reduction in the number of site visits and hearings will allow more staff time to be spent on application processing which will result in greater efficiencies and improved performance.

Risk, policy, compliance and governance impact

6.1 The proposed changes in procedure are compatible with the two Schemes of Delegation, Council Standing Orders and the Members Code of Conduct.

Equalities impact

7.1 The proposed changes will have a positive impact on participation, influence and voiceand equality of opportunity.

Sustainability impact

8.1 The impacts of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered, and the outcomes are summarised below.

8.2 The proposals in this report will reduce carbon emissions because fewer site visits will mean less fossil fuel is consumed.

8.3 The proposals in this report will help achieve a sustainable Edinburgh because more transparent processes will increase public confidence in the planning process and increase social cohesion.

8.4 The proposals in this report will help achieve a sustainable Edinburgh because fewer hearings and site visits will mean less delays to decision-making and a more certain process.

8.5   The proposals in this report will help achieve a sustainable Edinburgh because fewer site visits will use less fossil fuels.

Consultation and engagement

9.1   There is no requirement for consultation on changes to Committee procedures.

Background reading/external references

None

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Links

Coalition pledges	
Council outcomes	**CO19** – 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.
	CO25 – The Council has efficient and effective services that deliver on objectives.
Single Outcome Agreement	**SO4** – Edinburgh's communities are safer and have improved physical and social fabric
Appendices	1. Workshop on Major Planning Applications: Summary of Issues Discussed.

APPENDIX 1

WORKSHOP ON MAJOR PLANNING APPLICATIONS

SUMMARY OF ISSUES DISCUSSED

The purpose of the PAN process

Officers will review information and guidance to the public on the PAN process. This will explain more clearly that it is the applicant's process not the Council's, and it is for the Council to assess if consultation is adequate.

Officers will ensure case officers prepare PAN reports as soon as possible to minimise the likelihood of consultation events taking place before the report is considered.

Officers will ensure that PAN reports focus more on the consultation process and less on the policy assessment which is the role of the application handling report.

The PAN report will state whether a site visit will be arranged prior to the sub-committee determining the application.

Officers will ensure that applicants are aware that they should contact local ward members at PAN stage.

The sequence of scheme revisions and how problems are addressed

Officers will review how this is explained in the report but it should be emphasised that the sub-committee's role is to evaluate and decide on the proposal before it, not the process leading up to it.

Complexity of navigation in Public Access when there is a large number of documents and drawings

Officers will enquire if the next upgrade of UNIFORM/IDOX could allow the creation of subfolders for superseded drawings and similar functions to the website of the Directorate of Planning and Environmental Appeals.

Once the application has been granted, the superseded drawings will be made "sensitive" on UNIFORM which means they would not appear on Public Access. This would make it easier for communities to check that what has been built conforms to the approved plans.

The naming of documents will be reviewed in the context of the Validation Lean Review.

Potential for update reports or briefings on complex applications

Briefings prior to site visits are helpful but it is recommended that the number of site visits is significantly reduced to the most complex applications (see below). Update reports would be an additional burden on staff preparing for the sub-committee and are not recommended.

The procedure for site visits

Site visits are part of the formal consideration of an application but they are time-consuming, compete with other council meetings and are not well attended by members.

Edinburgh is not a large city and most sites can be easily accessed on foot, bicycle, by public transport or by car. If a site visit is considered useful for a better understanding of the site, members could be expected to make their own arrangements for the majority of proposals. A guided site visit would be the exception rather than the rule and only for applications proposed for hearings (see below), or in cases when access needs to be arranged with the owner for members to obtain a full understanding of the planning issues.

Instead, greater use could be made in presentations of the availability of high quality images including those on the internet using Google Streetview, oblique aerial photography, video, etc. These can give a very good idea of the site's context and neighbouring uses.

The format of sub-committee reports

Sub-committee reports can be much longer than reports to other committees. This is because they must be comprehensive and robust enough to withstand legal challenge. There is little scope to radically shorten them as it must be clear to the public that all relevant information has been placed before the sub-committee and all aspects of the proposal tested against policy. However there is potential to make them more user-friendly through the use of embedded hyperlinks or bookmarks. This would enable the reader to navigate more efficiently to the matters that concerned them the most.

Infrastructure constraints

Members would like to understand any infrastructure constraints associated with new developments. The recent review of the process for Section 75 agreements emphasised that full details of all necessary developer contributions (education, transport, affordable housing etc) should be contained within the sub-committee report and not left to later discussions.

The risk that case officers might be unduly influenced by developers

The process for preparing sub-committee reports involves a number of checks and balances to ensure that policy interpretation is consistent, the assessment is balanced and the recommendation is sound. The process is as follows. Reports by Planning Officers are reviewed initially by their Team Manager. They are then edited by the two Team Managers on the rota to take the sub-committee in question. Reports by more experienced Senior Planning Officers are passed directly to the two editing Team Managers. Finally, all reports are read by the Head of Service before being signed and passed to the committee clerks for publication. This process is robust enough to guard against any undue influence or bias.

Local Members not on Planning Committee wishing to know when applications in their wards are coming to Committee

Unfortunately the system does not allow for such direct notification. However local members or their support staff can register on Public Access and receive alerts when the status of an application changes. For example, when the case officer puts in the recommendation, the status changes from Pending Consideration to Pending Decision. This means that the application will appear on a Sub-Committee agenda in the next few weeks. Members/support staff can also register on the Council website for alerts when the Sub-Committee papers are published and are able to see if applications in their wards are on the agenda.

Minutes of meetings between planners and applicants should be available on Public Access

This is not recommended. Such meetings form part of the ongoing assessment process which is not complete until the decision is taken. In addition, as noted above, the sub-committee's role is to evaluate and decide on the proposal before it, not the process leading up to it.

Meetings between sub-committee members and applicants/third parties

If members have attended meetings or had discussions with applicants or third parties regarding applications that have been submitted, they should consider the advice on taking decisions on quasi-judicial or regulatory applications in the Councillors Code of Conduct when deciding if they should take part in the proceedings.

The sub-committee's decision

To ensure full transparency, it is important that the public are clear on the decision when it is taken. It is recommended that the clerk should routinely state what the decision is at the end of each item. If a vote is taken, it is important that the public know how individual sub-committee members have voted. In the longer term, this will be dealt with by electronic voting. In the short-term it is recommended that members keep their hands raised for a few moments until the vote has been captured on the webcast.

All planning permissions should have appropriate conditions and informatives attached. When the sub-committee wishes to grant permission contrary to the officer's recommendation, the Convener should consult the planning officer present and confirm whether conditions and informatives can be provided during the meeting (or following a short adjournment) or whether the application should be continued to the next meeting in order to allow suitable conditions to be drafted.

There has been an increase in the number of hearings which has meant that processing targets have been missed

Hearings should be the exception rather than the rule. To make best use of time and resources it is recommended that the sub-committee should adopt the same criteria as officers when considering the need for a hearing. These are:

- Where an application raises important land use, conservation, design or residential amenity issues contrary to the development plan and which is recommended for approval;

- where the degree of public interest is substantial, as measured by the range and substance of material representations, rather than only the volume; and

- where the Council has substantial financial or land ownership interests in the proposals, and either of the two criteria above are applicable.

Time slots at hearings

To make best use of time, it is recommended that the time for community councils to speak should revert to five minutes like other parties. This was the previous arrangement. It should be sufficient as the sub-committee already has their written comments and the main purpose of the hearing is to allow the committee to question speakers.

In addition, it is proposed that the sequence of presentations be amended so that Ward Councillors speak after Other Parties and before the Applicant. This ensures that the applicant has an opportunity to respond if any new issues are raised. It is proposed that the following order of speakers at hearings is adopted:

- Head of Planning and Transport
- Community Council
- Key Stakeholders
- Ward Councillors
- Applicant

MPs, MEPs or MSPs speaking at hearings

Substitutes or representatives of MPs, MEPs or MSPs invited to take part in hearings are not permitted as the purpose of a hearing is for the sub-committee to hear from, and question, interested parties.

Section 75 Agreements and legacy cases

Performance in concluding Section 75 Agreements and reducing legacy cases will be included in the six-monthly report.