

# Planning Committee

2.00pm, Wednesday, 2 September 2020

## Changes to Publication Arrangements for Applications during Coronavirus Emergency

Executive/routine Wards Council Commitments	Executive Citywide
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### 1. Recommendations

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- 1.1 It is recommended that Committee notes the decision of the Chief Planning Officer, which was made in consultation with the Planning Committee Convener and Vice Convener, under extended delegated authority during the Coronavirus Emergency Measures period, to:
  - 1.1.1 cease, for the duration of the coronavirus emergency, the publication of applications via the weekly list at Council libraries and offices and cease the ability for members of public to view these applications at libraries and offices while these buildings are closed to the public;
  - 1.1.2 amend neighbour notification letters and advertisements of applications to reflect the change set out in 1.1.1;
  - 1.1.3 suspend the physical posting of site notices for the duration of the coronavirus emergency; and
  - 1.1.4 amend working practices to conform with any subsequent regulations or guidance issued by the Scottish Government with respect to the carrying out of Development Management functions for the duration of the coronavirus emergency.
- 1.2 Given the ongoing restrictions on access to buildings, it is recommended that the arrangements in relation not publicising weekly lists and not facilitating computer access at libraries and offices remain in place until 31 December 2020. If the

Chief Planning Officer considers that these measures need to continue beyond that date, he shall take a decision to do so following consultation with the Convener and Vice Convener of the Planning Committee and report to Committee on that decision thereafter.

- 1.3 Given the lower risk of contracting coronavirus during external activities, it is recommended that the posting of site notices is resumed from 6 October 2020, subject to the Chief Planning Officer being provided the authority not to post these, if he considers that there is an increased risk to officers or to the objectives of community health protection.

**Paul Lawrence**

Executive Director of Place

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## Changes to Publication Arrangements for Applications during Coronavirus Emergency Planning Contingency Measures

### 2. Executive Summary

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- 2.1 The Council published its weekly list of applications in libraries, Hub buildings and its principal office at Waverley Court. At these buildings allowed the public to view the plans for applications via computers. These buildings were closed to the public as a result of the Coronavirus Emergency.
- 2.2 In addition, the Council published and posted site notices for a variety of applications. The coronavirus emergency precluded Council officers from the ability to physically post such notices.
- 2.3 As a result of the Coronavirus emergency therefore, it was necessary to make changes to how planning and related applications were publicised and progressed. The Coronavirus (Scotland) Act 2020 allows Councils to take decisions not to physically publish or publicise documents or make documents available for physical inspection where they consider that doing so may give rise to a significant risk of transmission of coronavirus.
- 2.4 The purpose of this report to notify members of the decision taken by the Chief Planning Officer in consultation with the Convener and Vice Convener of the Planning Committee to implement these emergency powers, for the limited duration of the current coronavirus emergency. These powers relate to the carrying out of Development Management Functions under the Planning Acts and associated Regulations.
- 2.5 These measures allowed the Planning service to continue to progress and determine applications. Without them in place, it would not have been possible to make planning decisions. Were this to have been the case, there would have been impacts on the city's economy as a result of development being stalled.
- 2.6 The report also seeks authority for an extension to these measures.
- 2.7 The Scheme of Delegation to Officers was extended as a result of Coronavirus. The extension allowed the Chief Planning Officer to take decision in consultation with the Convener and Vice Convener. This scheme ends on 1 September.

### 3. Background

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#### **Planning Committee and Development Management Sub-Committee**

- 3.1 The Council acts as Planning Authority under the Town and Country Planning (Scotland) Act 1997 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and other related legislation.
- 3.2 Under these Acts and associated Regulations, the Council published applications via its weekly list of applications in libraries and its principal office at Waverley Court. In addition, it published this list at its Hub buildings. At these buildings it also allowed the public to view the plans for applications via computers. These buildings were closed to the public as a result of the Coronavirus Emergency.
- 3.3 In addition, the Council published and posted site notices for a variety of applications, including certain categories of development, applications for listed building consent, applications affecting setting of listed buildings, applications in conservation area etc. The coronavirus emergency precluded Council officers from the ability to physically post such notices. Health advice on staying at home recognised the need to restrict social contact and therefore discouraged members of the public leaving their properties to view site notices.
- 3.4 Paragraph 10(2) of Schedule 6 to the Coronavirus (Scotland) Act 2020 removes the duty requiring public authorities to physically publish or publicise documents or make documents available for physical inspection where they consider that doing so may give rise to a significant risk of transmission of coronavirus.
- 3.5 These powers remove the requirements to physically publish: weekly lists and make them available at council offices; make copies of documents relating to planning and related applications available for public inspection; and physical posting of site notices in relation to planning and related applications.
- 3.6 The removal of the legislative burden of physically publishing planning documentation facilitated the resumption of the development management process allowing decisions to be made on development proposals. Implementation of the package of measures contained in the Coronavirus (Scotland) Act 2020, and subsequent regulations issued by the Scottish Government, will assist with the city's resilience in its economy being able to recover from the Coronavirus.

### 4. Main report

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#### **Decision made by Chief Planning Officer to change publication arrangements**

- 4.1 Since the start of the Coronavirus emergency, several measures were required to ensure that the Council and the Planning Service was, and is, able to maintain business. These were arrangements put in place by the Chief Planning Officer under the extended scheme of delegation following consultation with the Convener and Vice Convener of the Planning Committee on 14 April 2020.

- 4.2 These arrangements were implemented in accordance with the provisions contained in the Coronavirus (Scotland) Act 2020 to allow the resumption of the statutory development management process. This included no longer physically publishing the weekly list of applications and making it available at the Council's principle office or local libraries. In addition, for all cases requiring additional publicity in terms of the need for site notices, the posting of site notices was ceased.
- 4.3 The Council continued to publish the weekly list on its website and Community Councils and other stakeholders were directed to this platform to obtain information pertaining to development management.
- 4.4 After an initial period when it was not possible to publicise notices in the Edinburgh Gazette and a local newspaper (Edinburgh Evening News), publication was resumed. All existing cases where this publicity had not been carried out during that initial period were publicised, and subsequent cases were published in accordance with the legislative requirements.
- 4.5 Similarly, it had not been possible in the initial period to notify neighbours. Neighbour notification of these applications was subsequently carried out and was resumed for those applications subsequently received. Neighbour notification letters were amended to advise that physical publication of notices and inspection of applications at Council offices and libraries has ceased during the current emergency and that details of applications will only be available on the Planning and Building Standards Portal.
- 4.6 Applications caught by the Coronavirus pandemic, during the initial period were released on a phased basis to assist with administration of the backlog and to ensure that weekly lists were manageable for stakeholders, consultees and other interested third parties.
- 4.7 As narrated to the Leadership Advisory Panel, where possible, the Planning Service sought extensions of time to applications to help avoid potential appeals for non-determination.
- 4.8 The Planning Service continued to process planning and related applications which were submitted and had the necessary publicity carried out, and will, where possible, continue to make delegated decisions on these.

#### **Proposed arrangements going forward**

- 4.9 In relation to these measures, except for site notices, it is proposed to continue with them until 31 December 2020.
- 4.10 As the extended scheme of delegation ends on 1 September 2020, to enable flexibility, if the Chief Planning Officer considers that these measures need to continue beyond the date of 31 December 2020, it is recommended he shall take a decision to do so following consultation with the Convener and Vice Convener of the Planning Committee and report to Committee on that decision thereafter.
- 4.11 As the number of cases within the community has dropped, the risk of contracting coronavirus since March has reduced. The risk of contracting it is also relatively

low in external environments. As restrictions on movement have eased, people are able to get out and about more. Therefore, it is proposed to resume the posting of site notices from 6 October 2020.

- 4.12 As the situation can change rapidly, it is recommended that while the posting of site notices is resumed, the decision to do this is made on the basis that the Chief Planning Officer is given the ability to suspend the posting of site notices if he considers the risk of infection has increased to a level where the posting of site notices is no longer safe for staff or where the posting of such notices would be counter to objectives of community health protection.

## **5. Next Steps**

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- 5.1 If the recommendations of paragraphs 4.9 to 4.11 of this report are accepted, these shall be implemented.

## **6. Financial impact**

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- 6.1 Resumption of the development management process allowed developers to continue their work so that when the coronavirus measures reduced development within the city could more readily continue. This approach therefore helps the resilience of the City's economy.

## **7. Stakeholder/Community Impact**

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- 7.1 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.2 The contents and recommendations described in the report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.
- 7.3 There is no environmental impact arising from the contents of this report.

## **8. Background reading/external references**

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- 8.1 [Coronavirus \(Scotland\) Act 2020](#)
- 8.2 [Town and Country Planning \(Scotland\) Act 1997](#)
- 8.3 [Planning \(Listed Buildings and Conservation Areas\) \(Scotland\) Act 1997](#)

- 8.4 [Town and Country Planning \(Development Management Procedure\) \(Scotland\) Regulations 2013](#)
- 8.5 [Town and Country Planning \(Listed Buildings and Conservation Areas\) \(Scotland\) Regulations 1987](#)

## **9. Appendices**

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- 9.1 None.