

EAST RENFREWSHIRE COUNCIL27 FEBRUARY 2020Report by Deputy Chief ExecutiveCHANGES TO PRE-DETERMINATION HEARING PROCEDURE**PURPOSE OF REPORT**

1. To advise the Council of legislative changes which will mean that any major planning applications subject to a pre-determination hearing will no longer need to be determined by the full Council and to seek the views of the Council on how to proceed.

RECOMMENDATIONS

2. That the Council:-
- (a) note the legislative changes that will no longer require any major planning applications subject to a pre-determination hearing to be determined by the full Council;-
 - (b) decide which of the options outlined in the report to adopt;
 - (c) agree that as at present, meetings dealing with planning applications that are subject to a pre-determination hearing continue to be webcast; and
 - (d) agree that the Scheme of Administration and Scheme of Delegated Functions be amended accordingly.

BACKGROUND

3. Section 38A of the Town and Country Planning (Scotland) Act 1997 (as amended) requires a pre-determination hearing to take place for planning applications for major developments that are significant departures from the development plan. The pre-determination hearing is carried out at the Planning Applications Committee and the decision on the planning application then has to be made by the full Council.

4. The format for pre-determination hearings is up to each planning authority to decide.

5. Members will be aware that locally, for dealing with such applications, membership of the Planning Applications Committee is extended to include all 18 councillors. The justification for this approach is that it is considered to be inappropriate for councillors to be involved in making the final decision on such an application if they have not been party to the entire hearing process.

6. In practical terms what this has meant is that all 18 councillors sit as the Planning Applications Committee, chaired by Councillor Ireland, to consider the Report of Handling prepared in respect of the application, and to hear from the applicant and any objectors who have asked to be heard. At the end of the process the committee then makes a recommendation to the full Council which sits immediately after the Planning Applications Committee and makes the final decision. As this is a meeting of the full Council, the meeting is chaired by the Provost and not the Chair of the Planning Applications Committee.

REPORT

7. Under the Planning (Scotland) Act 2019, from 1st March 2020 the requirement for the full Council to decide any major planning application subject to a pre-determination hearing is removed. As a result of this change, the Council needs to decide how to deal with any such applications after that date.

Options

8. Whilst there are various options open to the Council, there are 3 which are worthy of full consideration.

9. The Council could decide that the standard Planning Applications Committee will deal with all such applications. This will mean that all applications will be dealt with by those Elected Members who are more used to dealing with planning applications on a regular basis. It should be noted that the regular committee already deals with major applications. It is only those where a significant departure from the development plan is being proposed that presently need to be determined by the full Council.

10. The nature of applications which require a hearing can be controversial and generate a lot of public interest and representations and it may be that it is considered more appropriate for the applications to be dealt with by those members with more experience in the planning process.

11. Conversely, it may be the case that because of the nature of these applications and the interest that they can generate the view is taken that it is actually more appropriate for all Members to be involved in the decision-making process. Were that the case, then these applications could be dealt with by the extended Planning Applications Committee the membership of which would comprise all 18 councillors. The only difference from the way these applications are dealt with under the current arrangements would be that the committee would actually be making the decision on the application and not just making a recommendation to the Council. As with the current arrangements this approach does however mean that from time to time those Elected Members less experienced in planning matters will be involved in determining what can often be quite controversial and complicated applications.

12. A third option is that these applications are dealt with by the regular Planning Applications Committee, but that membership of the committee be extended to include those Elected Members in whose ward the application sits, if they are not already members of the committee. The table below shows how this would work depending on the ward in which the application sits.

Ward	Committee Membership
Barrhead, Liboside and Uplawmoor	10 (Planning Applications Committee plus Councillors Aitken, Convery, and Devlin)
Newton Mearns North and Neilston	10 (Planning Applications Committee plus Councillors Buchanan, Gilbert and O'Kane)
Giffnock and Thornliebank	9 (Planning Applications Committee plus Councillors Merrick and Wallace)

Clarkston, Netherlee and Williamwood	9 (Planning Applications Committee plus Councillors Lafferty and Macdonald)
Newton Mearns South and Eaglesham	9 (Planning Applications Committee plus Councillors Bamforth and Grant)

13. As mentioned previously applications that are the subject of a pre-determination hearing can be controversial and generate a lot of public interest and representations and so this would address any concerns that local members may have that they were excluded from being involved in “controversial” applications in their area. Like the second option, this option also means that from time to time those Elected Members less experienced in planning matters would be involved in determining what can often be quite controversial and complicated applications.

Webcasting of pre-determination hearings

14. Members will recall that the Council has taken a decision that the only meetings of the full Council should be webcast. However because of the link between the pre-determination hearing where a recommendation is made and the full Council meeting immediately thereafter where the final decision has been taken, it has been practice to webcast both meetings.

15. With there no longer being a requirement for the full Council to determine such applications, this would mean in practice no longer webcasting the committee where the pre-determination hearing takes place.

16. It is suggested that due to the likely controversial nature of the applications being considered and the level interest, and the precedent that has already been set, that these meetings continue to be webcast.

FINANCE AND EFFICIENCY

17. As the report relates to changes to procedures that are already in place any changes will be cost neutral.

CONSULTATION

18. Consultation on the report has taken place with relevant staff in the Environment Department.

CONCLUSIONS

19. There is a need for the Council to review its procedures in relation to planning applications that currently require to be approved by the full Council, following the introduction of legislation that removes this requirement. It is considered that there are 3 most appropriate options, and the Council needs to identify the option it considers most suitable. In addition the Council needs to decide whether or not to continue the practice of webcasting meetings at which pre-determination hearings are held.

RECOMMENDATIONS/...

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- (d) agree that the Scheme of Administration and Scheme of Delegated Functions be amended accordingly.

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Background papers

Planning (Scotland) Act 2019