

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 19 MAY 2020

CORONAVIRUS AND DEVELOPMENT MANAGEMENT PROCESSES

REPORT BY SERVICE LEADER PLANNING AND COMMUNITIES

ABSTRACT

Since the start of the current travel and social distancing restrictions introduced on 23 March 2020 in response to the global Coronavirus Pandemic, there have been emergency legislation introduced as well as guidance issued by Scotland's Chief Planner. This report seeks to update Members of these measures and how the Planning system continues to operate in Angus.

1. RECOMMENDATION(S)

It is recommended that the Committee notes the contents of the report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

By ensuring an effective and efficient Development Management service, this report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

ECONOMY

- An inclusive and sustainable economy
- Attractive employment opportunities

PEOPLE

- Improved physical, mental and emotional health and well-being

PLACE

- An enhanced, protected and enjoyed natural and built environment
- A reduced carbon footprint
- Safe, secure, vibrant and sustainable communities

3. THE NATIONAL PICTURE

As a result of the Coronavirus outbreak, and resultant social distancing and travel restrictions, there have been a number of implications for the operation of the Planning system in Scotland.

Before the lockdown, the Chief Planner wrote to planning authorities setting out the importance of not taking enforcement action against businesses (such as supermarkets, pubs and restaurants) that may need to operate beyond the terms of their planning conditions in order to maintain key services or to continue to operate while complying with social distancing requirements. Authorities were asked to take a reasonable and pragmatic view towards enforcement in these cases.

On the 3 April 2020, a further letter was issued by the Chief Planner that set out implications for Scotland's planning system as a result of the Coronavirus outbreak and resultant restrictions. The letter outlined some steps and actions to ensure

planning can continue to operate and play a vital role in economic and societal recovery. The letter set out that:

“Planning has a crucial part to play within and beyond the immediate emergency. A high performing system will have a critical role in supporting our future economic and societal recovery, and our future health and wellbeing. Those of us involved in planning, across sectors, must do what we can to keep plans and proposals moving through the system, throughout this period of uncertainty and in the months and years ahead. That might mean being prepared to adopt some new approaches; measuring risk and taking a pragmatic view of how we can best continue to plan and make decisions vital to the recovery of our communities and businesses.”

On 7 April 2020 the Coronavirus (Scotland) Act came into force. Amongst other provisions, the Act:

- Extended the duration of planning permissions about to expire – Any planning permission due to expire during the emergency period would be extended for 12 months from the 7 April 2020 (it does NOT extend the implementation period of each consent for 12 months from the date it would otherwise have expired).
- Allowed the publication of certain planning documents online rather than in physical locations, and
- Allowed authorities to exclude people from meetings for public health reasons.

On 24 April the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 came into force. These regulations suspended the requirement for physical public events for national and major planning application pre-application consultations. The Regulations also removed the requirement to hold meetings of the Local Review Body in public and to hold Environmental Impact Assessment reports in a physical location for the duration of the Coronavirus emergency period.

On the same date the Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2020 came into force. This amendment allowed certain development to be carried out by or on behalf of local authorities or health service bodies for the purposes of preventing, reducing, mitigating or controlling the effects of the current emergency and its impact on public health without the need for planning permission. This permitted development remains in place until the 31 December 2020 and any development carried out under this amendment must be removed or ceased and land returned to its previous use within 6 months of that date.

It is important to note:

- There is no national solution to neighbour notification issues, site notices, or how authorities should deal with paper applications and correspondence. Whilst electronic applications and correspondence should be encouraged, authorities must continue to accept paper applications and representations in the knowledge that some applications will not be able to be validated or progressed. It will be for authorities to be pragmatic and flexible in considering whether to extend consultation timescales for certain applications.
- That wider work on the implementation of the Planning (Scotland) Act 2019 will be delayed. This includes work on the National Planning Framework 4 (where a draft was due in September 2020 and is now due in 2021), digital planning, new Development Plan regulations and support towards the production of Regional Spatial Strategies.
- There is no intention to reduce the protection towards protected species. The use of suspensive conditions is not considered appropriate and in some cases, seasonally sensitive biodiversity surveys will be required, and the determination of applications will have to be delayed as a result.

- There is no intention to extend decision making timescales for planning applications as it is vital that proposals continue to move through the planning system. There is recognition, however that the process may take longer than normal.
- Applicants can still appeal the non-determination of applications, but they are asked to recognise the challenges facing local planning authorities at the current time.
- The timescales for submitting an appeal against a decision on an application or condition attached to a permission remain unchanged.

4. THE SITUATION IN ANGUS

The vast majority of the Planning Service worked from home from the 17 March 2020. From that date the bare minimum of staff travelled to Angus House to ensure statutory requirements in relation to Neighbour Notification were met and mail was handled and distributed. Following the lockdown announcement on the 23 March 2020, all staff have been working from home.

The move towards agile and the enabling of officers to work from home that has happened over the last four years meant that access to systems was in place and staff were immediately able to continue working on their caseload.

The immediate concern of the service was finding ways of continuing to meet statutory requirements relating to neighbour notification, site notices and the processing of paper based applications. The following measures have been put in place:

- Neighbour notifications are now being printed and posted out by the Council's Print and Design Unit.
- Applicants/agents are being sent copies of the Site Notice. They are asked to post the site notice (with advice given on how to do so) and they are asked to provide the authority with evidence that this has been done.
- All mail received by the Service is scanned and distributed electronically. This includes any paper applications that are submitted and any paper representations on planning applications.

The Service has taken a risk based approach in relation to Neighbour Notification and Site Notices that we believe meets our statutory responsibilities and allows applications to progress. Whilst an average of 90% of planning applications were received electronically in Angus over the last 12 months, and we continue to encourage this method of submitting information to the service, we still have to accept paper applications and representations.

In addition, online systems have been launched to allow for the submission of enquiries to establish if planning permission is required and requests for pre-application advice. Committee should note that the introduction of pre-application charging has been held in abeyance in order to reduce impact on the development industry. Over the period 23 March to 1 May 2020, 75 enquiries have been received.

The measures set out above will allow the Service to receive applications, validate and progress them to determination in the majority of cases, although the revised procedures, travel restrictions and matters outwith the council's control such as the furloughing of staff in the development industry is likely to impact determination timescales going forward.

Site visits have been suspended since the introduction of travel and social distancing restrictions. Alternative ways of inspecting sites has been employed by officers in most cases, although there remain some applications where a site visit will be essential, and progress on determining these applications will inevitably be delayed.

The report agreed at the 3rd April 2020 Council meeting set out that subject to the direction of the convenor/vice-convenor the Development Standards Committee and Development Management Review Committee would meet on a remote basis where a decision on an application or matter is regarded as necessary or time critical.

In addition, further authority was agreed to be delegated to the Service Lead Planning and Communities, which will only be exercised in the event of an emergency and where it is not possible for whatever reason to convene the relevant committee to make the decision.

The further delegations include the ability to determine any matter on behalf of the Development Standards Committee following consultation with the convenor where this is possible. For clarification, The Service Lead – Planning and Communities would not seek to use extended delegated powers to: -

- Approve an application that is significantly contrary to Development Plan unless that is consistent with a previous decision of the council.
- Approve an application submitted by a senior member of staff employed in the planning service.

Officers will not pursue enforcement action at this time unless it is absolutely necessary to address and immediate and ongoing issue that gives rise to significant environmental, amenity or safety issues, or where the need to serve an enforcement notice is time critical. Suspension of site visits has meant that any progress to investigate and pursue cases set out in the Enforcement Update usually presented to Committee has been limited. For this reason, there will not be any such report brought before the Committee at this time. Where needed a report will be brought forward on a particular issue or case. However, it is important to recognise that current restrictions are limiting the ability to investigate reported breaches of planning control and there will be a back-log of cases to progress once restrictions are relaxed or removed.

5. CONCLUSION

In the context of the measures put in place and outstanding issues identified at a national level, it is clear that the Planning Service in Angus continues to operate well. Solutions have been found for most issues with the major remaining issue being the suspension of site visits. Decision making by Committee or through existing delegated authority can continue where possible.

It is important to note that between lockdown and 1 May 2020, Angus Council's planning service has validated 91 applications and determined 79. That represents more applications validated and more applications determined than in the corresponding period last year (80 validated and 72 determined). In terms of Key Performance Indicators the average time to determine a local application has reduced over the period in comparison to last year (6.1 weeks in 2020 compared to 6.3 weeks in 2019). That 6.1 week average timescale is a full 3-weeks faster than the Scottish average (based on latest published information). It shows that the decisions have continued to be made in a timely fashion comparing favourably to our average for the year and the Scottish average decision making timescales.

Notwithstanding the very positive information reported above in relation to application numbers and determination timescales, it is possible that the number of applications submitted will start to reduce the longer current restrictions are in place. It is also possible that the type of applications submitted will change; we are already seeing a reduction in the number of more significant development proposals coming forward. This may reduce the level of income generated by the Planning Service going forward and the scale of any such reduction is likely to be dependent upon factors including the duration of the restrictions and the extent of any associated economic downturn. Additionally, while performance determining applications is currently very

good, there will be a number of applications that cannot be progressed due to Coronavirus related restrictions. Those applications will not be determined within statutory timescales and consequentially, their eventual determination will have an adverse impact on performance.

The continuing operation of the Planning Service will ensure that the impact of the Coronavirus and associated restrictions on the development pipeline and therefore the economy in Angus is minimised.

6. FINANCIAL IMPLICATIONS

There are no financial implications from the practices being employed to continue operation of the Development Management service. There may be some impact on income to the service from planning application fees. While applications numbers are relatively high there is starting to be a drop off in applications received and accordingly in the associated fees. There is also a noticeable increase in the percentage of householder and smaller applications, which attract a lower fee income.

As set out above, the decision has been taken to hold in abeyance charging a fee for a pre-application enquiry. This will mean a loss of income at the current time proportionate to the number of enquiries that have been received (it is estimated that this is somewhere in the region of £5,000 to date.)

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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