



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
3 AUGUST 2021**

SUBJECT: PROCEDURE FOR PRE-DETERMINATION HEARINGS

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to agree the revised procedural arrangements for planning applications that require to be considered at Pre-determination hearings following the introduction of The Planning (Scotland) Act 2019 (Commencement No.3) Regulations 2019.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;
- (i) agree that, for applications where a pre-determination hearing is mandatory, these will be carried out in accordance with the hearing procedure attached in Appendix 1;
 - (ii) agree that following the completion of the pre-determination hearing the planning application is then determined by the Planning & Regulatory Services Committee; and
 - (iii) notes that a further referral report will be required to the Full Council to amend the Council's Scheme of Administration to reflect this change.

3. BACKGROUND

- 3.1 The procedure for pre-determination hearings was agreed by this Committee on 17 June 2014 (paragraph 7 of the minute refers).

- 3.2 One aspect of the planning reform that was introduced in the Planning (Scotland) Act 2019 was to take the opportunity to streamline procedures in relation to pre-determination hearings.
- 3.3 Section 27 of The Planning (Scotland) Act 2019 repeals section 14 (2) of the Planning etc. (Scotland) Act 2006 and removes the requirement that any application which has been subject to a pre-determination hearing must be determined by Full Council.

4. PROPOSALS

- 4.1 The hearing procedure is set out in **Appendix 1** and this was agreed to be used for the holding of both a hearing and a pre-determination hearing. The final point has been updated to state that following the pre-determination hearing or hearing the Committee determine the application. This change has been made as there is now no longer a legislative requirement for a recommendation following a pre-determination hearing to be put to a special meeting of the Moray Council to make a final determination.
- 4.2 This Committee already has considerable experience in determining major planning applications and the determination of an application following a pre-determination hearing is no different in terms of assessment and balancing material considerations. The one pre-determination hearing that has been held where the final determination was made by a special meeting of the Moray Council was considered cumbersome and the process did not add any value or quality to the final decision-making. It is for this reason that it is proposed that this Committee make the final determination following the holding of any pre-determination hearing required.
- 4.3 It should be noted that there are not likely to be a large number of applications that require a pre-determination hearing but it is considered appropriate to review current procedures taking on board the changes introduced in The Planning (Scotland) Act 2019. This simplified procedure also reduces the risk for challenge in terms of decision-making.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The proposed procedure for pre-determination hearings will ensure that the Councils' decision-making is transparent and is an important element of ensuing good decision making on part of the Council.

(b) Policy and Legal

The Planning (Scotland) Act 2019 requires procedures to be reviewed.

(c) Financial implications

None other than the costs associated with the holding of meetings of the Council.

(d) Risk Implications

If a clear procedure is not established and implemented there is the risk of successful challenge to the Council's decision making process.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

A clear and transparent procedure for pre-determination hearings will ensure that the parties involved are treated on an equitable basis.

(h) Consultations

Consultation has taken place with the Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Equal Opportunities Officer, the Strategic Growth & Development Manager, the Legal Services Manager, Lissa Rowan (Committee Services Officer) and Paul Connor (Principal Accountant) and their comments incorporated into the report.

6. CONCLUSION

6.1 That the Committee agree to the procedures for pre-determination hearings as set out in Appendix 1 with decisions to be made by the Planning & Regulatory Services Committee in light of the legislative changes introduced in The Planning (Scotland) Act 2019.

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Background Papers: **Appendix 1**
Ref: