

The background of the slide features a large, faint, light blue watermark of the City of Vancouver coat of arms. The crest includes a crown with four maple leaves, a shield divided into four quadrants (top-left: a ship, top-right: a stag, bottom-left: a ship, bottom-right: an eagle), and a banner at the bottom with the motto "A NE FOR A".

Agenda Item 4

Covid-19 Interim Decision Making Structure

Falkirk Council

Title: Covid-19 Interim Decision Making Structure
Meeting: Falkirk Council
Date: 30 June 2020
Submitted By: Director of Corporate and Housing Services

1. Introduction

- 1.1 This report presents proposals for decision making for the period following the close of this meeting to 30 September 2020. The report also proposes a change in which the way planning applications that require a pre determination hearing are determined.

2. Recommendations

2.1 It is recommended that Council:-

- (1) approves the interim decision making arrangements set out in paragraph 4 of the report for the period 7 August until 30 September 2020;**
- (2) agrees to move to a hybrid/blended model of committee meetings in the event that the transition phase 4 of the Scottish Government's routemap out of the Coronavirus takes place during the period;**
- (3) agrees to delegate the power to determine planning applications for national developments and major applications that are significantly contrary to the development plan to the Planning Committee and instructs the Chief Governance Officer to make the necessary amendments to Standing Orders; and**
- (4) agrees to shorten the recess from 30 June 2020 - 25 August 2020 to 30 June 2020 - 7 August 2020 and to give Chief Officers delegated powers - in consultation with the Leader of the Council and Leaders of the main opposition groups, or the relevant portfolio holder or, as appropriate, the relevant committee convener or depute convener - to determine urgent items of business during the summer recess and to report the decisions taken to the first meeting of the Emergency Executive**

thereafter, provided that any such decision:-

- (i) is required to secure the proper delivery of Council Services and to comply with the Council's statutory duties;**
- (ii) does not involve expenditure of Council monies outwith the approved Revenue and Capital Programme;**
- (iii) does not involve an increase in the permanent establishment of the particular Service; and**
- (iv) involves no dispute as to legality, propriety or the proper interpretation of Council policy as affecting the decision;**

3. Background

- 3.1 Council agreed on 6 May 2020 interim arrangements to allow it to respond to the emerging situation regarding the Covid-19 pandemic and its impact. The committee calendar was suspended and a single decision making body for non-regulatory decisions, the Emergency Executive, was established. Additionally, Council altered the arrangements for the Planning Committee to enable decisions to be made by the Committee. The Emergency Executive was established to take all decisions for the Council (other than in regulatory matters) where the decisions were necessary to allow the Council to respond to the emergency situation, to plan for recovery or were time critical. This included the powers currently reserved to Council, including those relating to finance, but with the exception of any power to change the decision making structure.
- 3.2 The arrangements which were put in place were interim and will cease to have effect at the conclusion of this meeting when the recess period begins. The recess period this year is scheduled to run from after today's meeting to 25 August.
- 3.3 Council also agreed that the meetings of both committees would be held remotely by video and in private in the interests of public health.

4. Considerations

- 4.1 The interim arrangements were introduced as part of the Council's response to the Covid -19 pandemic and its impact. At the time Scotland was in lockdown. Since then the Scottish Government has eased a number of the lockdown restrictions moving the country from phase 1 to phase 2 of its four phase routemap out of the lockdown and could potentially have progressed to phase 3 by the end of the scheduled recess on 25 August. In this, home working would remain the default for workers but it would allow the reintroduction of larger public indoor gatherings subject to the necessary social distancing measures being put

in place.

- 4.2 As Scotland moves from response to recovery mode it is likely that public bodies will continue to have to respond quickly to rapidly evolving circumstances. Accordingly it is proposed that the interim arrangements agreed by Council on 6 May are, following the summer recess period, re-established through to the next scheduled meeting of Council on 30 September. The intention would be to retain the model of fully remote meetings until phase 4 is introduced by the Scottish Government. In this phase restrictions would be suitably removed to allow the Council to move to hybrid/ blended model of committee meeting. This would allow members and officers to participate either in person or by video link. Importantly it would also allow the public to attend meetings. It is envisaged that initially the number of participants attending in person at a committee would be restricted and governed by social distancing measures. This would also be the case for any public attendance. As the restrictions ease further the numbers of those attending physically would be able to be increased.

5. Proposals

- 5.1. It is proposed that the Emergency Executive is retained as the Council's decision making body in respect of non-regulatory decisions for the period to 30 September 2020. It is further proposed that the remit of the Emergency Executive is expanded to the following - 'to take all decisions for the Council (other than in regulatory matters) where the decisions are necessary to allow the Council to respond to the emergency situation, to plan for recovery, *are significant or otherwise time critical*'. It is further proposed that the period of the recess is shortened from 30 June to 25 August to 30 June to 6 August. Additionally, in order to begin the recovery in terms of the Council's broader decision making structure, it is proposed that the Council's programme of meetings for August and September is reintroduced. This will allow scrutiny to recommence in the form of the Audit Committee and Scrutiny Committee, and for the Pensions and Civic Licensing Committees to meet. Licensing Board meetings may also be held if required. The Planning Committee will continue to meet during this period as scheduled. As with the interim measures agreed on 6 May the meetings will be held remotely and the public will not be able to attend. Where a party would ordinarily require to attend a meeting of the Licensing Board or Civic Licensing Committee, they will be able to participate either remotely or by written representation. Video recordings of the meetings will be made available online after each meeting and any reports would be publicly available in advance (unless exempt).
- 5.2. It is proposed that the Emergency Executive meets every two weeks with the first meeting on Thursday 6 August 2020 fortnightly thereafter as follows:-

- Thursday 20 Aug 2020
- Thursday 3 Sept 2020
- Thursday 17 Sept 2020

5.3. In the case of the Emergency Executive, the notice period, when the agenda and papers were issued, was reduced from 5 working days to the statutory 3 working days to make any report as up to date as possible. It is proposed that, for this committee, this is retained. Similarly the deadline for submitting motions will be reduced to 7 clear days. For all other meetings during the interim arrangements the timescales will revert to those set out in Standing Orders of 5 days for notices and 9 days for motions.

5.4. Having now operated a number of meetings of the Emergency Executive and Planning Committee remotely by video conference (and, additionally, meetings of the Common Good Fund Committee and Education Appeals Committees) a number of modifications to the procedures employed in meetings are suggested. These are:-

- (i) Deputations – Council agreed in May to temporarily dispense with site visits, hearings and deputations in person. In the case of deputations, Council agreed that parties would be permitted to make written submissions in place of attending a meeting. It is now proposed that should a deputation request be made, and be agreed to be heard, by a committee then the deputees can participate by video link. By Phase 3 of the Scottish Government's routemap, extended gatherings outside should be permissible. It is proposed therefore that in the event that Phase 3 occurs during the period site visits can be reintroduced. However the Planning Committee in determining whether a site visit is necessary should be mindful of other options, such as the use of plans and photographs or video technology when balancing the need to hold a further meeting. Social distancing measures will be employed in all cases.
- (ii) Press – it is proposed that the press be permitted to attend the public parts of meetings remotely. This will not apply to meetings or parts of meetings where the business requires the press to be excluded.
- (iii) Public Access – should technology allow, it is proposed that meetings held during the interim period, when there will be no public access, are livestreamed. Any live feed would not include any items of business for which the public would ordinarily be excluded.
- (iv) Guidance – guidance on operating and participating in remote meetings, particularly the regulatory bodies, will be developed.

6. Pre determination Hearings

- 6.1 Planning applications for national developments and major applications that are significantly contrary to the development plan cannot be determined until an opportunity has been given for a pre-determination hearing. A pre-determination hearing gives the applicant and any person who submitted representations to the authority an opportunity of appearing before and being heard by a committee of the Council.
- 6.2 Until March 2020, it was the case that applications subject to a pre-determination hearing then required to be determined by Council and not Planning Committee. For that reason, pre-determination hearing have been conducted by Planning Committee expanded to comprise all members of the Council.
- 6.3 The Planning (Scotland) Act 2019 has, however, now removed the requirement for such applications to go to full Council and leaves the Council free to delegate the decision on such applications as it sees fit.
- 6.4 It is, accordingly, proposed that Council amends Standing Orders to remove the requirement for such applications to be decided at Council and provide instead that Planning Committee is delegated the power to take the decisions on such applications.
- 6.5 What this would mean is that pre-determination hearings would take place before the members of Planning Committee and then the decision on such an application would be taken by Planning Committee.
- 6.6 There are no such applications currently pending for determination and no current requirements to convene a pre-determination meeting. Clearly, at the present time, it would not be possible to hold a pre-determination with members of the public present.

7. Summer Recess

- 7.1 In order that urgent business, normally determined by Council or committee, might be dealt with during the summer recess, it is proposed that Chief Officers are given delegated powers to determine such business, in consultation with the Leader of the Council and the Leaders of the main opposition groups or the relevant portfolio holder or, as appropriate, the relevant Committee Convener or Depute Convener ("recess powers").
- 7.2 This general delegation is subject to the following exceptions:-
 - (a) no officer shall be entitled to take decisions involving Council expenditure outwith the approved Revenue Budget and Capital Programme;

- (b) no officer shall take decisions involving an increase in the permanent establishment of their Service, and
- (c) no delegated decision shall be taken where there is a dispute as to the legality, propriety or the proper interpretation of Council policy arising from the matter to be decided.

7.3 A special meeting of the appropriate Council body would be convened if it was necessary to take a decision urgently in respect of any matter falling within one of the exceptions.

7.4 In taking decisions under the auspices of this authority, Chief Officers are required to consult as widely as necessary and, in any event, with the Chief Governance Officer on whether the proposed decision falls within the scope of the recess powers.

8. Consultation

8.1 Consultation has taken place with Group Leaders and the Provost.

9. Implications

Financial

9.1 There are no financial implications.

Resources

9.2 There are no resource implications.

Legal

9.3 There are no legal implications.

Risk

9.4 No risks have been identified from the proposals in the report.

Equalities

9.5 No equalities issues arise from the proposals in the report.

Sustainability/Environmental Impact

9.6 There are no sustainability issues arising from the report.

10. Conclusion

In order to continue member level decision making in August and September an interim revised decision making structure is proposed. The report also proposes that delegated powers are granted to the Planning Committee to take decisions on planning applications for national developments and major applications that are significantly contrary to the development plan which are currently reserved to Council.

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Appendices: None

List of Background Papers:

No papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973.