

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's head, bottom-left: a sailing ship, bottom-right: an eagle), and a banner at the bottom with the motto "ANNE FOR A".

Agenda Item 4

Planning Site Visits and Hearings

Falkirk Council

Subject: Planning Site Visits and Hearings
Meeting: Planning Committee
Date: 19 June 2018
Author: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The purpose of this report is to invite members of the Planning Committee to consider and review the current practice surrounding site visits and hearings conducted by the Planning Committee.

2. Recommendation

2.1 Planning Committee is asked to

- 1) consider the terms of this report;**
- 2) agree the options detailed at paragraph 5.1; and**
- 3) agree the amendments to the current hearing procedure as set out at paragraph 4.9.**

3. Background

- 3.1 The current practice of the Planning Committee, when consideration of an application is agreed to be continued for a site visit, is to automatically combine an inspection of the site with a hearing. The procedure for these combined site inspections and hearings is attached as Appendix 1.
- 3.2 Any site visit requested by the Planning Committee constitutes a convened meeting of that Committee but not a meeting at which decisions are taken.
- 3.3 Once a request for a site visit has been agreed to, the site visit is generally arranged to take place prior to the next scheduled meeting of the Planning Committee. Following the site visit, an updated report summarising the events on site and any consequential changes to the original report is prepared and put before Committee at its next meeting. Usually, the application will then be determined.

4. Considerations for Members

- 4.1 There is no requirement in legislation or in the Council's Standing Orders for a site inspection or a hearing to be held before the determination of a planning application (except in mandatory pre-determination hearing cases).

- 4.2 A site visit is not called for in every case prior to determining the application. Reasons for this include that:
- Applications are debated at Committee and this may be sufficient to allow members to take an informed view of an application
 - Members may take decisions based on the Committee report before them and any other relevant information presented
 - It is open to members to discuss any concerns they may have with Council officers
 - Members may choose to visit a site in their own time.
- 4.3 Where members do decide that they wish further information before determining an application, Standing Orders provide for two separate options of having a site inspection and of holding a hearing. While the two matters can be combined, there is no requirement to do so. In terms of paragraph 51.10 of Falkirk Council's Scheme of Delegation, the Planning Committee may:
- (i) conduct hearings in such manner as they consider appropriate, having regard to the subject matter under consideration and the requirements of law; (and)
 - (ii) visit any site connected with a matter under consideration if it would assist the Committee in the discharge of their functions.
- 4.4 At present, a hearing session is automatically combined with a visit to a site. The site inspection element allows members to view the site. The hearing element is as set out in Appendix 1. There may, however, be circumstances where the Committee may not wish to combine the two procedures. For instance:-
- (i) The Committee may wish to simply view the physical characteristics of a particular application site.
 - (ii) The Committee may not require to hear from the applicant and interested parties before taking a decision. Objectors and supporters heard on site are normally persons whose representations have already been made in writing during the application process and what is said at the site visit is a reiteration of their representations.
 - (iii) The Committee may wish to hear from parties to clarify certain points before taking a decision but may have no need to view the site to do so.
 - (iv) There can be circumstances where weather conditions, the characteristics of an application site and/or the timing of a visit to a site do not create a favourable environment for a hearing process.

This separation of approaches is something members will be familiar with from the statutory Local Review Body procedure where further information may be sought by the Planning Review Committee by one procedure or a combination

of procedures, namely, written submissions, the holding of a hearing and inspecting the land.

- 4.5 The holding of a hearing is not anticipated by Scottish Government Planning Circular 3/2013 to automatically be a matter of routine common practice. Rather, the Circular presumes that the planning authority has regard to an aspect of a particular application that may lead it to consider that a hearing would be beneficial prior to determination of the application.
- 4.6 While not seeking to fetter the discretion of the Committee in deciding whether to convene a hearing for an application before it, examples of reasons for holding a hearing could include:-
- (i) where an application relates to development in a sensitive area protected by statutory designations.
 - (ii) where the degree of public interest, as demonstrated by the material issues raised by representations, rather perhaps than solely the volume of representations, is considered by the Committee to merit direct presentations to members.
 - (iii) where the Council has a financial or land ownership interest in the proposals and the application has been the subject of material representations.
- 4.7 Where a hearing is sought by the Committee, it may wish to consider where it takes place. Members may wish to consider holding the hearing at the Council chambers as part of the scheduled meeting of Planning Committee at which the application may thereafter be determined. While this would clearly extend the duration of the scheduled meeting of Planning Committee, it would allow the hearing to take place in a practical environment and mean that all members taking part in the subsequent decision making at the meeting would have had the benefit of attending the hearing session. As there would clearly be no continuation report, it would be recommended that only those members who heard the parties who spoke on the matter during the hearing take part in the subsequent decision making process.
- 4.8 It is suggested that the standard procedure for such a hearing would follow the format detailed in Appendix 1 (subject to suggested amendments as noted in the following paragraph) but allowing the Committee discretion to adapt the procedure for a particular application consistent with procedural fairness. The Committee may also wish to focus the hearing on defined specified matters. Any such change to the procedure and/or focus on defined specified matters would, in the interests of fairness, require to be notified to all parties entitled to appear at the hearing in advance of the hearing.
- 4.9 It is a general principle of the Council's Standing Orders that business is conducted in a fair, proper and timely manner. In the same way that the procedures adopted for pre-determination hearings provide for timescales

within which parties would normally be expected to make their representations, it would be suggested that the procedure at Appendix 1 be amended as follows:

- (i) to allow the applicant or their agent 10 minutes to speak
- (ii) to allow statutory consultees 5 minutes to speak
- (iii) to allow parties who have submitted representations 5 minutes to speak
- (iv) to allow a spokesperson who has been invited to speak on behalf of a group of parties with a similar interest or objection 10 minutes to speak
- (v) to provide that the Convener may limit the number of speakers addressing the hearing on any particular topic or may curtail any speech which repeats any matter on which the hearing has already been addressed

4.10 It is noted that Standing Orders, at Standing Order 33, provide for committees to hear deputations on matters included within their remits. Application requires to be made for admission to a meeting as a deputation and it is for the committee to decide whether to hear the deputation (voting on it as necessary) and no discussion of the merits of the case will take place before that decision has been taken.

5. Suggested Options

5.1 It is suggested that the Planning Committee may wish to consider the following options when deciding to continue consideration of an application for a site inspection or a hearing or both:-

- (i) To request that an unaccompanied site inspection of the application site take place where the site can be adequately viewed from public land. There would be no discussion of the merits of the application with any third party at the site inspection;
- (ii) To request that an accompanied site inspection of the application site take place where the site is not able to be viewed from public land and/or access to the site requires to be given by the applicant. Despite being an accompanied site visit, there would be no discussion of the merits of the application with the applicant or any third party at the site inspection;
- (iii) To request that a hearing (in accordance with paragraphs 4.8 and 4.9) take place at the Planning Committee meeting at which it is proposed to determine the application;

- (iv) To request a site inspection with a subsequent hearing in the Council Chambers; or
- (v) To request that a combined site inspection and hearing take place in line with current practice. The procedure for the hearing element would be in line with Appendix 1 subject to the introduction of time limits as set out in paragraph 4.9.

6. Consultations

- 6.1 There is no requirement to carry out a consultation based on the report proposals.

7. Implications

- 7.1 There are no financial, resources, legal, risk, equalities or risk implications arising from the report recommendations.

8. Conclusions

- 8.1 There is no requirement in legislation or in Standing Orders for a site inspection or a hearing to be held before the determination of a planning application except in cases where a mandatory pre-determination hearing is required for national applications or major applications that are significantly contrary to the development plan.
- 8.2 The current practice of the Planning Committee, when consideration of an application is continued for a site visit, is to automatically combine the visit to the site with a hearing. Standing Orders provide for two separate options of having a site inspection and of holding a hearing. While the two matters can be combined, there is no requirement to do so.
- 8.3 This report proposes options that Committee may wish to consider if it decides that it wishes to hold a site visit or convene a hearing or both prior to determining an application.

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Director of Corporate & Housing Services

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List of Background Papers:
Nil

FALKIRK COUNCIL

PLANNING COMMITTEE

SITE INSPECTION PROCEDURE FOR PLANNING APPLICATIONS

1. The Convener will introduce the Committee to those present and, will explain that the procedures to be followed will be those already intimated to both the applicant and any objectors/supporters. The Convener will ask all parties who participate to formally identify themselves to the Committee and for the purposes of the record.
2. The Planning Officer will give a factual summary of the proposal.
3. The applicant(s) or agent(s) will be invited to speak in support of the proposal.
4. The objector(s), supporter(s) or agent(s) will be invited to speak to the terms of their representation(s) submitted to the Director of Development Services. Each objector will be permitted to address the committee once.
5. The applicant(s) or agent(s) will have a right to reply to any points raised by the objector(s)/ supporters(s) or agent(s).
6. The Members of the Committee will be invited to question the applicant(s)/agent(s) or the objector(s)/supporters(s)/ agent(s) or to seek guidance on factual or legal matters from the Officers.
7. The Local Member will be invited to speak in relation to the application.

NOTE:

UNDER NO CIRCUMSTANCES WILL APPLICANTS BE ALLOWED TO QUESTION OBJECTORS SUPPORTERS DIRECT OR VICE VERSA. ALL REMARKS MUST BE DIRECTED TO THE CONVENER, WHOSE DECISION ON ANY MATTERS OF ORDER WILL BE FINAL.