

North Lanarkshire Council Report

Planning Committee

approval noting

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New Procedure for Dealing with Legacy Planning Applications

From Head of Planning and Regeneration

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Executive Summary

This report sets out a proposed procedure for handling existing and future applications which have an interim “minded to grant” decision subject to the conclusion of a required legal agreement.

It puts forward arrangements which will reduce delays in concluding legal agreements before planning permission decision notices can be issued and improve the Council's performance figures.

Recommendations

It is recommended that the Planning Committee approves the proposed procedure set out in paragraph 2.4 to reduce delays in concluding legal agreements before planning permission decision notices can be issued.

The Plan for North Lanarkshire

Priority Improve economic opportunities and outcomes

Ambition statement (4) Market and promote North Lanarkshire as the place to live, learn, work, invest, and visit

1. Background

- 1.1 One of the measures of planning performance measured by the Scottish Government through the annual Planning Performance Framework (PPF) is the number of legacy cases a planning authority is dealing with. A legacy case is any application which is more than one-year-old. Each year the service is required to report in the number of cases cleared and the number of cases remaining.
- 1.2 One of the main reasons for applications taking more than one year for a decision to be issued is that the application has been considered by the Committee or by the authorised officer and the decision is minded to grant, subject to the applicant entering into a legal agreement with the Council. Frequently these legal agreements

take some time to be concluded and, in some rare cases, the applicant does not conclude the agreement at all.

- 1.3 As an application is not formally determined until a decision notice granting or refusing planning permission is issued, these delays cause uncertainty over whether a development will take place and when it will be undertaken.

2. Report

- 2.1 The Scottish Government sets targets for the time taken to determine different types of planning applications and it requires Local Authorities to demonstrate that they have taken steps to reduce the number of applications which have not been determined for a number of years.
- 2.2 An exercise was undertaken at the start of 2021, relating to “minded to grant” applications where one year or more had elapsed since that position was reached and other undetermined applications that had been dormant for a similar period of time. As a result of this exercise 14 “minded to grant” applications out of 63 cases have been identified. A separate exercise will be undertaken to reduce the number of other legacy applications.
- 2.3 The Committee is asked to approve the introduction of the following procedure. It is anticipated that this will address the problem of existing applications which remain “minded to grant” subject to the conclusion of a required legal agreement. It should also resolve this issue for future applications.
- 2.4 From 24 February 2022, any “minded to grant” decision subject to the conclusion of a legal agreement will have an interim minded to grant decision notice issued. This should state “the required legal agreement should be concluded within 6 months of the date of this notice. Thereafter the report will be sent back to the committee with a likely recommendation that the application be refused or, if it was a delegated decision, the application will be refused.
- 2.5 The 6-month period to conclude the agreement would only be extended in exceptional circumstances and at the Planning and Place Manager’s discretion.
- 2.6 The current cases where the “minded to grant” decision was reached less than a year before 24 February 2022 should be written to and informed that the required legal agreement should be concluded within 6 months of the date of the letter. If not, the approach taken would be as set out above.
- 2.7 It is proposed that all “minded to grant” applications in excess of a year old should be re-assessed. All cases which are considered to have the same recommendation and with the same agreement obligations will be advised that they have 6 months to enter into an agreement. Those that need to be reconsidered as a result of more up-to-date development plans, changes to policies and guidance revisions will be reported to Committee.
- 2.8 An annual legacy exercise should be undertaken on dormant planning applications over three years old. All cases should be written to asking whether the application can be confirmed as withdrawn. When they are ten years old, they should be automatically withdrawn.

- 2.9 There are currently 3 applications where a “minded to grant” decision was reached less than one year ago. There are 11 applications where this decision was reached more than one year ago. These cases have an adverse impact on the performance figures for the time taken to determine planning applications.

3. Public Sector Equality Duty and Fairer Scotland Duty

- 3.1 Fairer Scotland Duty
This change in procedure will have no impact under the Fairer Scotland Duty.
- 3.2 Equality Impact Assessment
This change in procedure will have no negative impacts on equality groups and no potential for infringement of individuals’ human rights have been identified.

4. Impact

- 4.1 **Financial impact**
There will be no financial impact arising from this proposal.
- 4.2 **HR policy / Legislative impact**
There will be no impact arising from this proposal
- 4.3 **Technology / Digital impact**
There will be no impact arising from this proposal
- 4.4 **Environmental impact**
There will be no environmental impact arising from this proposal
- 4.5 **Communications impact**
This change in policy will be publicised on the Council’s web pages to ensure developers are aware of it.
- 4.6 **Risk impact**
There will be no additional risk impact arising from this proposal and it will improve the Planning Service’s annual performance in line with Scottish Government requirements.

5. Measures of success

- 5.1 The measures of success would be the reduction in legacy cases which will improve the council’s performance in relation to legacy cases and help provide greater certainty regarding likely future development.

6. Supporting documents

- 6.1 None.



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