
PLANNING SERVICE – MEMBER UPDATE

Reason for the Report

1. To provide Members with the opportunity to consider the current challenges being placed on Cardiff's Planning Service and review the work being undertaken to address these challenges. In particular the scrutiny will look at the impact of:
 - The recently introduced Planning Wales Act 2015;
 - The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015.

Background

2. The Planning Wales Act 2015 became law in Wales on 6 July 2015. It aims to deliver a planning system which is fair; resilient and enables development; which helps to create sustainable places where citizens have improved access to quality homes, jobs and infrastructure; which protects our most important built and natural environments and supports the use of the Welsh language. The Welsh Government explains that the new Act 'puts in place delivery structures, processes and procedures to make Wales' planning system fit for the 21st century'.
3. It is anticipated that the Planning Wales Act 2015 will create a series of changes for Wales, these include:
 - Providing a modern delivery framework for the preparation of development plans and planning decisions. This will include allowing Welsh Ministers to decide a limited number of planning applications in defined circumstances;

- Strengthening the plan-led approach to decisions on planning applications by providing a legal framework for the preparation of a National Development Framework and Strategic Development Plans;
 - Improving collaboration by allowing the Welsh Ministers to direct local planning authorities to work together and for local planning authorities to be merged;
 - Improving engagement with communities by introducing a statutory pre-application consultation process for significant planning applications;
 - Modernising the planning enforcement system so that breaches of planning control can be dealt with quickly.
4. The implementation of 'The Planning (Wales) Act 2015' has resulted in changes to other pieces planning legislation. In particular changes have been applied to the planning fees which can be levied by local authorities in Wales.
5. From the 1st October 2015 the new legislation will in effect consolidate parts of the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015; the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 and the Town and Country Planning (Fees for Non-Material Changes) (Wales) Regulations 2014. These Regulations provide for the payment of fees to local planning authorities in respect of:
- Applications made under the Town and Country Planning Act 1990 ("the 1990 Act") for planning permission for development or for approval of matters reserved by an outline planning permission;
 - Deemed applications for planning permission under section 177(5) of the 1990 Act;
 - Applications for a certificate of lawful use or development;
 - Applications for consent for the display of advertisements;
 - Certain applications under the Town and Country Planning (General Permitted Development Order) 1995;
 - Applications for non-material changes to planning permission; and

- Site visits to mining and landfill sites.

6. The main changes introduced by the legislation are:

- That planning fees may be increased by approximately 15%;
- That fees paid in respect of applications for planning permission or for approval of reserved matters are refunded if the local planning authority fails to determine the application within specified times (Regulation 9);
- That fees in respect of deemed applications are paid to the local planning authority rather than half to the local planning authority and half to the Welsh Ministers (Regulation 10);
- That fees paid in respect of a deemed application in relation to the use of the land as a caravan site are to be treated the same as other applications for the purposes of refunds (Regulation 10(12)). Under the 1989 Regulations, such a deemed application was excluded from the provisions for refunds;
- That fees are payable in respect of applications for consent, agreement or approval required by any planning condition or limitation, and any such fee is refunded if the local planning authority fail to determine the application within specified times (Regulation 15);
- That a fee is payable to the local planning authority on a revised application for approval of reserved matters where those reserved matters have previously been approved. Under the 1989 Regulations such an application was exempt from payment of a fee where conditions were met;
- Where applications are made for planning permission, for approval of reserved matters or for certificates of lawful use or development which relate to land in the area of two or more local planning authorities, a fee is payable to each local planning authority (paragraph 8 of Schedule 1). Under the 1989 Regulations the fee was payable to the local planning authority in whose area the largest part of the land was situated.

7. At the meeting the recently appointed Head of Planning will deliver a presentation which will set out a wide range of performance improvements for the Planning

Service which are currently being developed to respond to changes in the Planning system and also address other challenges to the Council's Planning Service. In doing this he will comment on:

- The main impacts of current changes to the Planning System in Wales;
- Planning Policy overview;
- Infrastructure provision overview – Community Infrastructure Levy & Section 106 Funding;
- Placemaking overview;
- Development Management overview;
- Overview of main challenges facing the Planning Service; and
- Performance improvement measures currently being developed in response to above.

Way Forward

8. Councillor Ramesh Patel (Cabinet Member for Transport, Planning & Sustainability) and Councillor Michael Michael (Chair of Cardiff's Planning Committee) have been invited to attend for this item. They will be supported by officers from the City Operations Directorate.

Legal Implications

9. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the

Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

10. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

The Committee is recommended to:

- i. Note the contents of the attached reports;
- ii. Consider whether they wish to pass on any comments to the Cabinet following scrutiny of the Planning Service – Member Update.

MARIE ROSENTHAL
Director of Governance & Legal Services
7 October 2015