

EAST RENFREWSHIRE COUNCIL
PLANNING APPLICATIONS COMMITTEE

8 October 2014

Report by Director of Environment

ONLINE PLANNING INFORMATION

PURPOSE OF REPORT

1. This report considers the information and documents that are displayed online through the Online Planning Information System and proposed some changes to procedures.

RECOMMENDATIONS

2. It is recommended that the Committee approve the proposed changes to procedures as outlined in this report, particularly by agreeing not to display online the personal data and representations of parties making comment on planning applications.

BACKGROUND

3. A number of factors influence what information and documents are open to public inspection, shown online and for how long these are shown.
4. On the one hand, the Data Protection Act 1998 (DPA) protects people's personal information from misuse. This includes people's names and addresses, signatures, personal phone numbers and personal email addresses. Misuse could include publishing such information online without their permission.
5. On the other hand, Freedom of Information (FOI) regulations promote public access to information, and encourages public authorities to be open and transparent, with particular regard to be given to making available information pertinent to decisions that are made in the public interest.
6. There is therefore a fine balance to be struck in terms of what information is open to public inspection and what is published online. The planning legislation specifies certain things that have to be in the 'planning register' and open to public inspection, but this does not necessarily mean that they have to be online nor does it set any time limits.
7. This review of procedures also ties in with the 'Modernising how we work' *capability* in terms of bringing our practices in line with the latest Scottish Government, DPA and FOI practices, and ensuring that efficiencies are achieved in our processes.

REPORT

8. A review of our practices has been carried out by the Planning Service in the light of *Data Protection Guidance for Planning Authorities* published by the Information Commissioner's Office and Heads of Planning Scotland.
9. The above guidance gives some flexibility to authorities to set their own procedures to suit local circumstances.
10. Our reviewed policy follows the pattern of the 'planning register' with regards to what is shown online before and after the decision on the application is made. Updated IT systems also now give us more flexibility in terms of what is shown online when appeals and reviews are lodged.
11. **During the consideration of an application** we propose to show the planning application form, plans, design/access statement, pre-application consultation report, final responses from consultees and other all other supporting reports which are to be referred to in the Report of Handling (committee report).
12. **After the application is decided** we propose to continue to show the above along with the decision notice and report of handling for four years. During the processing of an appeal or review, the appeal/review documents will also be displayed online. Any non-material variations approved after the original decision is made will also be displayed online.
13. The main change with our proposed procedure will be that we propose to no longer display online representations to planning applications. There is no obligation on authorities to display these online and they are not mentioned in the planning register. Practice across the country is split approximately 50/50 on this matter. There is however a legal obligation in Reports of Handling (committee reports) to report the number of representations made and to summarise the main issues that have been raised by these representations. This practice will continue.
14. There are clearly some arguments in favour of showing these online, mainly with regards to openness. There are however a number of arguments against :
 - a) data protection concerns of showing people's personal data (names and addresses) online despite signatures, personal phone and email addresses being redacted,
 - b) sometimes objectors do not wish to be easily identifiable by the applicant,
 - c) redacting documents takes staff time (both professional and support), to the detriment of processing the application, resulting in slower decisions and poorer performance rates,
 - d) people get upset and concerned about any delay in seeing their comment online (despite being advised that it takes some time and despite getting an acknowledgement letter advising them that the representation has been received and will be considered) and we have had a number of complaints in this regard,
 - e) people should be able to submit their comments in their own words rather than copying what other people have said,
 - f) people can get embroiled in public debate with the Council or others,

- g) people will still be able to come in to the office to see the file (the representations are not 'confidential' – they would just not be shown online), and
 - h) for applications with a lot of objections, the representations can 'clog up' the online display of documents, making it more difficult for the public to find the drawings and documents that they are entitled to see.
15. It is also proposed that the names and addresses of people making representations no longer be included in Reports of Handling, including committee reports. As explained above, the legislation does not require names/addresses to be included in such reports and the guidance specifically says that *"there is no need for the reports to include the names and addresses of those who made the comments."* Once a name/address goes into a report of handling, it is viewable online for four years. Data protection guidance says that information should only be published online if there is a legislative basis or good reason to do so – and there does not seem to be such here. Of other Council's surveyed, 16 do not list names/addresses in Reports of Handling, 4 do in all Reports of Handling and 4 do so only in committee (not delegated) reports.
16. The above does not mean that representations (or even the people's names and addresses) are secret. They will always be open to public inspection in the planning office.

FINANCE AND EFFICIENCY

17. The above procedures should improve the efficiency of processing planning applications; and modernise how we work, thus contributing to our *capabilities*.

CONSULTATION

18. No consultations were undertaken.

PARTNERSHIP WORKING

19. There are no partnership working implications.

IMPLICATIONS OF THE PROPOSALS

20. There are no direct implications for the Council within this Report.

CONCLUSIONS

21. The policies as described above bring the Council's procedures up-to-date with the latest Information Commissioner and Heads of Planning Scotland guidance. It means that people will continue to have access to the information that they need to comment on planning applications, whilst at the same time, their personal information will be protected in accord with the Data Protection Act.

RECOMMENDATIONS

22. It is recommended that the Committee approve the proposed changes to procedures as outlined in this report, particularly by agreeing not to display online the personal data and representations of parties making comment on planning applications.

Director of Environment

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September 2014

BACKGROUND PAPERS

None

KEY WORDS

Planning application; online display of documents; representations