

Planning and Property Development Strategic Policy Committee February 2017

Payment of fee by Elected Members re submission/observation to planning application

The consideration and deliberation of planning applications is an executive function. The Elected Members have an interest in how the development plan is applied and in their representative capacity may also be interested in individual planning applications. The weekly planning list is circulated to Councillors. Queries/questions from Councillors are responded to as they arise. Presentations of complex planning applications are periodically made to Area committees or the Planning Information Unit may present to a meeting of Councillors and residents. In both instances it must be within the 5 week submission period as the purpose is to assist Councillors to understand complex applications so that they can advise constituents who may wish to make submissions or they may wish to make submission themselves.

Pursuant to Section 29 (1) (a) of the Planning & Development Regulations *'Any person or body, on payment of the prescribed fee, may make a submission or observation in writing to a planning authority in relation to a planning application within the period of 5 weeks beginning on the date of receipt by the authority of the application'*.

The Development Management Guidelines published by the Department in 2007 provide that there is no fee for Elected Members *'when supporting or objecting to the application in general terms without elaborating on the grounds of the application or on a submission by an observer'*.

There is however a fee for a formal submission which *'elaborates on the grounds of an application or a submission or raises a substantive new issue, the submission cannot be considered by the planning authority unless it is accompanied by the appropriate fee'*.

The Independent Planning Review in its July 2015 report recommended that Dublin City Council be advised that *'in the presentation of any undecided planning applications, officials should advise that any observations or recommendations cannot be taken into account in the determination of the planning application unless formally submitted in accordance with the provisions of the Planning and Development Regulations'*.

On the 22nd March 2016 the Area Managers were advised to record Members wishes in a manner that would not compromise the fact that decisions are an executive function.

In July 2016 the Planning SPC wrote to Minister Coveney to enquire about the previous Minister's intention to abolish the planning fee for Councillors and TDs. The response received in November 2016 indicated that the Minister is considering the suggestions made in the context of the review of legislation currently underway.

Dublin City Council on the 8th September 2016, in response to the Independent Planning Review of The Performance of Planning Functions, confirmed to the Department that "in the presentation of any undecided planning applications to elected members or members of the public, attendees are advised that any observations / recommendations cannot be taken into account in the determination of the planning application unless formally submitted in line with the Planning & Development Regulations".

A small number of Councillors were periodically making observations without the fee and outside the statutory time period. On 21st October staff in Planning Registry were advised to ensure that only submissions made within the statutory time period and with the appropriate fee are accepted.

At the Corporate Policy Group meeting with the Chief Executive it was indicated that it would be possible to reinstate the practice of accepting submission/observations on planning applications from Elected Members without the payment of the statutory fee, pending discussion at the February SPC. Unfortunately having reviewed the situation it was clear that in order to protect the integrity of the planning process this was not possible so a memo to this effect was sent to all Elected Members.

To summarise the situation all submissions/observations on planning applications by Elected Members must be made during the statutory 5 week period and be accompanied by the appropriate fee unless the submission/observation simply states that the Elected Member is in favour of or not in favour of the proposed application/submission. If any further elaboration is provided the appropriate fee must accompany the submission.

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