1. **REASON FOR REPORT**

1.1 To ask the Committee to agree the procedural arrangements for planning applications that require to be considered at pre-determination hearings and subsequent referral to The Moray Council for determination.

1.2 This report is submitted to Committee in terms of Section III (F) (1) of the Council's Administrative Scheme relating to the functions of the Council as Planning Authority.

2. **RECOMMENDATION**

2.1 It is recommended that the Committee agrees:

(i) that for applications where a pre-determination hearing is mandatory, these should be heard by this Committee which will be extended to include all members of the Council for this statutory hearing purpose only;

(ii) that the Committee's current departure hearing procedure be adopted for such hearings, as detailed in Appendix 1 of the report;

(iii) at the close of the pre-determination hearing, that the extended Planning and Regulatory Services Committee will then make a recommendation to The Moray Council in respect of the determination of the application;

(iv) that immediately following the extended Planning and Regulatory Services Committee at which the pre-determination hearing has taken place, a special meeting of The Moray Council will be called to determine the application;

(v) that training be arranged, particularly for the benefit of Members who have not previously had training/experience in planning matters; and
(vi) if minded to agree (i), (iii) and (iv) above, to recommend to The Moray Council to approve proposals to extend the Planning and Regulatory Services Committee to include all members of the Council for the purpose of pre-determination hearings only and agree to amend the Administrative Scheme for The Moray Council and the Planning and Regulatory Services Committee accordingly.

3. BACKGROUND

3.1 An integral part of the Scottish Government’s modernising planning agenda, introduced through the Planning etc (Scotland) Act 2006 was to increase the level of community engagement and involvement in the planning process. A pre-determination hearing is mandatory for certain planning applications and those applications, thereafter, must be determined by The Moray Council. The applications which fall into this category are:

- National developments
- Major developments that are significantly contrary to the Development Plan

Since the introduction of this requirement, no such applications have been considered by the Council.

3.2 The 2006 Act requires the Council to give the applicant and those making representations the opportunity to be heard by a Committee of the Council - this Committee carries out the functions of the Council as Planning Authority. The proposal is that, for applications where a pre-determination hearing is mandatory, these should be heard by this Committee which will be extended to include all members of the Council for this statutory hearing purpose only. This will ensure that all members have the opportunity to attend and participate in the pre-determination hearings required for such application.

3.3 There is already an agreed procedure in place used by this Committee for departure hearings and it is proposed that this same procedure is adopted for mandatory pre-determination hearings. The current procedure is attached as Appendix 1.

3.4 At the close of the pre-determination hearing, the extended Planning and Regulatory Services Committee will then make a recommendation to The Moray Council in respect of the determination of the application. Immediately following the extended Planning and Regulatory Services Committee at which the pre-determination hearing has taken place, a special meeting of the Council will be called to determine the application on the basis that all Members present will have attended the pre-determination hearing and will have fully heard the detail of the application.

3.5 Members of this Committee, and also those who sit on the Local Review Body already have experience of dealing with planning matters and have received training on planning. Further training will be offered, particularly for the benefit
of Members who have not previously had training/experience in planning matters.

3.6 It should be noted that it is not anticipated that there would be a large number of such applications falling to be considered by the Council but it is considered appropriate to have agreed procedures in place.

4. SUMMARY OF IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan
The proposed procedure for mandatory pre-determination hearings will ensure that the Council’s decision making is transparent and although does not specifically relate to the single outcome agreement or corporate improvement programme it will be an important element of ensuring good decision making on the part of the Council.

(b) Policy and Legal
The proposed procedure for mandatory pre-determination hearings will ensure that the Committee is adhering to the principles of natural justice in its decision making process.

(c) Financial Implications
There are no specific financial implications arising from this report other than the costs associated with the holding of meetings of the Council.

(d) Risk Implications
If a clear procedure is not established and implemented there is the risk of successful challenge to the Council’s decision making process.

(e) Staffing Implications
There are no specific staffing implications associated with this report.

(f) Property
There are no property implications arising from this report.

(g) Equalities
A clear and transparent procedure for mandatory pre-determination hearings will ensure that the parties involved are treated on an equitable basis.

(h) Consultations
Consultation has taken place with the Chair and Vice Chair of the Committee. The Head of Development Services, the Development Management Manager, The Equal Opportunities Officer, The Democratic Services Manager and Darren Westmacott, Committee Services Officer have all been consulted in the preparation of this report and their comments have been included.
5. CONCLUSION

5.1 That the Committee agree:

(i) that for applications where a pre-determination hearing is mandatory, these should be heard by this Committee which will be extended to include all members of the Council for this statutory hearing purpose only,

(ii) that the Committee’s current departure hearing procedure be adopted for such hearings, as detailed in Appendix 1 of the report,

(iii) at the close of the pre-determination hearing, that the extended Planning and Regulatory Services Committee will then make a recommendation to The Moray Council in respect of the determination of the application,

(iv) that immediately following the extended Planning and Regulatory Services Committee at which the pre-determination hearing has taken place, a special meeting of The Moray Council will be called to determine the application;

(v) that training be arranged, particularly for the benefit of Members who have not previously had training/experience in planning matters; and

(vi) if minded to agree (i), (iii) and (iv) above, to recommend to The Moray Council to approve proposals to extend the Planning and Regulatory Services Committee to include all members of the Council for the purpose of pre-determination hearings only and agree to amend the Administrative Scheme for The Moray Council and the Planning and Regulatory Services Committee accordingly.

Author of Report: Aileen Scott, Legal Services Manager, (Property & Contracts)

Background Papers: Background papers held by Author

Ref: P222/AS/ JB
Hearing Procedure

The Hearing will be webcast and the proposed procedure which the Committee will follow in respect of the Hearing is as follows:

(i) The applicant will speak first (maximum of 15 minutes) outlining the application and addressing the stated objections.

(ii) Councillors will then be given the opportunity to question the applicant in order to clarify points raised.

(iii) Those submitting representations on the application will then be given the opportunity to address the meeting (maximum of 10* minutes) to speak to their stated objections/representations. It should be noted that the Committee will not be prepared to consider any new ground(s) of objection/representation.

(iv) Councillors will be given the opportunity to question each objector in turn in order to clarify points raised.

(v) Both applicant and objectors will then be given the opportunity to summarise their respective cases in light of the submissions to the Authority (5 minutes each maximum for objectors and equivalent time for the applicant).

(vi) The Corporate Director (Environmental Services) or representative will then be afforded the opportunity to make any additional comments and/or points of clarification in light of the submissions.

(vii) The Committee will consider and, if so disposed, determine the application

* This may be extended at the discretion of the Chairman in cases where the speaker is speaking on behalf of a number of objectors or is representing another party/parties who are unable to attend a Hearing.