

## Modernising Planning – Schemes of Delegation

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City of Edinburgh Council

25 August 2011

### Purpose of report

- 1 To make a recommendation for an amendment to the Statutory Scheme of Delegation for local developments.

### Main report

- 2 The City of Edinburgh Council at its meeting on 20 August 2009 agreed to adopt the Statutory Scheme of Delegation for Local Developments under Section 43(a) of the Town and Country Planning (Scotland) Act 1997. In addition the Council also operates its own Scheme of Delegation to Officers made under the Local Government (Scotland) Act 1973 which was amended at the same time.
- 3 On 11 August 2011 the Planning Committee considered the attached report by the Acting Director of Corporate Services on proposed amendments to the Schemes of Delegation.

### Decision


- 4 To continue the practice of reporting discharge/modification for legal agreements to Committee for six months and to review the proposal to delegate this function to the Head of Planning at that time.
- 5 To agree the amendment to the Statutory Scheme of Delegation as detailed in paragraph 11 of the Acting Director of Corporate Services report.

### Recommendation

- 6 That the Council agree the amendment to the Statutory Scheme of Delegation as detailed at paragraph 11 of the Acting Director of Corporate Services report subject to the approval of the Scottish Ministers.

**Alastair Maclean**  
Head of Legal and Administrative Services

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Appendices	Report by the Acting Director of Corporate Services
Contact/tel/Email	Stephen Broughton, Committee Services  529 4261 e-mail: <a href="mailto:stephen.broughton@edinburgh.gov.uk">stephen.broughton@edinburgh.gov.uk</a>
Wards affected	None
Single Outcome Agreement	N/A
Background Papers	Planning Committee 11 August 2011 (item 10)

## Modernising Planning – Schemes of Delegation

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### Planning Committee

11 August 2011

#### **Purpose of report**

- 1 This report makes recommendations for amendments to the Schemes of Delegation for Local Developments.

#### **Main Report**

- 2 The City of Edinburgh Council at its meeting on 20 August 2009 agreed to adopt a Statutory Scheme of Delegation for Local Developments under Section 43(A) of the Town and Country Planning (Scotland) Act 1997.
- 3 In addition, the Council also operates its own Scheme of Delegation to Officers made under the Local Government (Scotland) Act 1973 which was amended at the same time.
- 4 Since these amendments there have been changes to legislation which require amendments to the Schemes.

#### **Discharge/Modification of Planning Obligations and Good Neighbour Agreements**

- 5 On 1 February 2011, new legislative provisions in respect of planning obligations and good neighbour agreements came into effect. These provisions modified those set out in Section 75 of the 1996 Act, as amended. Changes include a requirement for a formal application for the discharge or amendment of the provisions of any such agreements. Where the provisions have been met, delegated authority is sought to confirm that the requirement has been discharged. This would be a straightforward discharge and has no other implications.
- 6 There are also cases where a party suggests modifications to an agreement. This may involve a reduction in the contribution or the financial sum involved, it can also relate to the timing of the payment or the delivery of the requirement. In such circumstances it would be useful to have delegated power to deal with practical revisions to legal agreements which do not alter the

level or scale of the contribution or requirement. In all other cases the submission would be referred to Committee for a decision.

- 7 It is thus recommended that the following be included in the Council's Scheme of Delegation to Officers:

"To enter into a discharge of a legal agreement granting partial or full discharge of the relevant party's obligations on the due performance by that party of the said obligations."

"To enter into a modification of a legal agreement with a relevant party, provided that:

- the terms of the modifications comply with the terms of government guidance, relevant development plan policies and supplemental guidance on developer contributions; and
- it does not involve reducing the financial sum or other contributions in the legal agreement."

### **Twenty One Day Period for Referral by Elected Members**

- 8 The Statutory Scheme of Delegation under the Planning Etc (Scotland) Act 2006 does not specifically refer to the 21 day period available to elected members to require an application to be referred to the Development Management Sub-Committee for consideration.

- 9 This period runs from the date of neighbour notification or the date of the advertisement or the validation date, whichever is later. While the guidance for elected members and others which accompanies the Scheme of Delegation sets out the position, legal advice suggests that referral could be requested at any time prior to the determination of the application as the Scheme is currently worded.

- 10 The Scheme of Delegation under the 1973 legislation in respect of all other delegated planning powers has already been amended to reflect this and does not require further change in this regard.

- 11 It is important to bring both schemes into line and to avoid challenges which could disrupt the delegated decision-making process and impact adversely on performance. It is recommended that the following form of words be included in the Statutory Scheme of Delegation under Paragraph 7 bullet point 1 and submitted to Scottish Ministers for approval:

"Which an elected member has requested, within 21 days from the date of neighbour notification, the date of the advertisement or the validation date whichever is the later, be referred to the Development Management Sub-Committee for material planning reasons."

### **Financial Implications**

- 12 There are no significant resource implications for the implementation of the amendments to the Scheme of Delegation.

### **Environmental Impact**

13 There are no specific environmental impacts arising from this report.

### **Equalities Impact**

14 There are no equalities impacts arising from this report.

### **Recommendations**

15 It is recommended that the Committee:

- (i) agrees to recommend to the Council the amendments to the Council's Scheme of Delegation as detailed in paragraph 7, and
- (ii) agrees the amendment to the Statutory Scheme of Delegation as detailed at paragraph 11, subject to the approval of Scottish Ministers.

**David Jack**  
Acting Director of Corporate Services

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Appendices	None
Contact/tel/Email	Stephen Broughton, Committee Services ☎ 529 4261 e-mail: <a href="mailto:stephen.broughton@edinburgh.gov.uk">stephen.broughton@edinburgh.gov.uk</a>
Wards affected	None
Single Outcome Agreement	15 – Our public services are high quality, continually improving, efficient and responsive to local people
Background Papers	None