

10am, Thursday, 22 August 2013

## Planning Statutory Scheme of Delegation

Item number	8.2
Report number	
Wards	All

### Links

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Coalition pledges	<a href="#">P40</a>
Council outcomes	<a href="#">CO19</a>
Single Outcome Agreement	<a href="#">SO1</a> , <a href="#">SO4</a>

### Mark Turley

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# Executive summary

## Planning Statutory Scheme of Delegation

### Summary

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The Scottish Government made changes to the regulations relating to schemes of delegation in respect of planning powers in June this year. These changes allowed minor local developments by the council requiring planning permission to be determined under delegated powers. At its meeting on 27 June 2013, the Council resolved to amend the statutory scheme of delegation accordingly and to seek the approval of Scottish Ministers to those changes. The changes have been agreed and are now presented for formal adoption.

### Recommendations

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1. That the Council agrees to adopt the amended Planning Statutory Scheme of Delegation with immediate effect
2. That the Council agrees to make the scheme available for inspection in accordance with the regulations and forwards the link to the published version to Scottish Ministers.

### Measures of success

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That the council's performance in dealing with applications improves and consistently meets the levels set out in the service improvement plan of the Planning & Building Standards Service.

### Financial impact

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This report has no financial implications.

### Equalities impact

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There is no relationship between the matters described in this report and the public sector general equality duty. There is no direct equalities impact arising from this report.

### Sustainability impact

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This report has no sustainability impacts.

### Consultation and engagement

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Consultation and community engagement have not been carried out. The Scottish Government has used its statutory powers to change the legislation and no consultation was therefore carried out in the preparation of this report as this would have been inappropriate.

## Background reading / external references

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The following legislation and Council report provide the relevant background:

- Local Government (Scotland) Act 1973
- Town and Country Planning (Scotland) Act 1997 (As amended)
- The Planning etc (Scotland) Act 2006
- The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
- Report (Item 8.3) City of Edinburgh Council dated 27 June 2013

## Planning Statutory Scheme of Delegation

### 1. Background

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- 1.1 In the main, delegated powers in respect of planning fall within the council's overall scheme of delegation to officers set out in terms of the Local Government (Scotland) Act 1973. However, the Planning etc (Scotland) Act 2006 required planning authorities to draw up a statutory scheme of delegation in respect of local developments. In planning terms, developments now fall within three categories – national developments; major developments and local developments. The statutory scheme in its current form was adopted by the council, after the required referral to Scottish Ministers, on 27 October 2011.
- 1.2 The Scottish Government changed the regulations relating to schemes of delegation on 30 June 2013. The main effect of the change was to allow schemes of delegation to apply to local developments either proposed by the council or where the council has an interest. At its meeting on 27 June 2013 the Council agreed to amend the scheme of delegation accordingly and to refer the amended scheme to Scottish Ministers for approval.

### 2. Main report

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- 2.1 This proposed change is to be welcomed. It will lead to greater efficiency in the process and will mean that minor development proposals requiring planning permission and involving the council will no longer require to be referred to the Development Management Sub-Committee. This will **not** affect any other reasons that might exist for referral to that Committee.
- 2.2 The specific changes which have been made to the scheme and have been agreed by Scottish Ministers are as follows:
- 2.3 Clause 1 – change 2008 to 2013
- 2.4 Clause 6 – delete first two bullet points
- 2.5 Clause 11 has been up-dated with the appropriate effective date.

### 3. Recommendations

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- 3.1 That the Council agrees to adopt the amended Planning Statutory Scheme of Delegation

3.2 That the Council agrees to make the scheme available for inspection in accordance with the regulations and forwards the link to the published version to Scottish Ministers.

## Mark Turley

Director of Services for Communities

## Links

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<b>Coalition pledges</b>	P40 - Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city's built heritage
<b>Council outcomes</b>	CO19 - Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all SO4 – Edinburgh's communities are safer and have improved physical and social fabric
<b>Appendices</b> *	The City of Edinburgh Council Local Developments Scheme of Delegation, 2011

## APPENDIX 1

### THE CITY OF EDINBURGH COUNCIL

#### LOCAL DEVELOPMENTS

#### SCHEME OF DELEGATION

##### Status

- 1 The Council, as planning authority, has made this Scheme of Delegation for the purposes of section 43A of the Town and Country Planning (Scotland) Act 1997 (the Act) and Part 2 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations). It provides for the determination of local developments by the Head of Planning subject to certain exceptions.
- 2 The Council has delegated other planning functions to the Director of City Development and the Head of Planning under section 56 of the Local Government (Scotland) Act 1973. These are listed in the Council's Scheme of Delegation to Officers published on the Council's website.

##### Appointed Officer

- 3 For the purposes of section 43A (1) of the Act, the Council authorises the Head of Planning to appoint suitable officers to determine applications for local developments in accordance with this Scheme.

##### Delegated Powers

- 4 Subject to the qualifications and exceptions listed below, the Council delegates authority to the appointed officer to determine
  - applications for planning permission
  - applications for consent, agreement or approval required by a condition imposed on a grant of planning permissionin respect of local developments, as defined by Sections 3A(4)(b) and 26A of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

##### Qualifications and Exceptions

- 5 In exercising authority under this Scheme, the appointed officer should be satisfied that: -
  - the decision is in accordance with the statutory development plan (Structure Plan and Local Plan);
  - the decision is in accordance with non-statutory Council adopted policy, or that the infringement of policy would be so minor that refusal or amendment would be unjustified;
  - the decision does not remove or amend conditions originally added by Committee.

- 6 An appointed officer shall not determine an application which has been submitted:
- by, or on behalf of, an elected member of the Council or by the partner, close friend or relative of an elected member of the Council;
  - by, or on behalf of, an officer involved in the statutory planning process or by a partner, close friend or relative of such officer.
- 7 An appointed officer shall not determine an application:
- 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; or
  - which the Head of Planning considers to be controversial, or of significant public interest, or has a significant impact on the environment.
- 8 An appointed officer shall not approve an application if more than six material objections have been received from third parties.
- 9 An appointed officer shall not refuse an application if more than six material representations in support of the proposals have been received from third parties.
- 10 Applications which are exempt from this Scheme by virtue of paragraphs 6 - 9 above shall be determined by the Development Management Sub-Committee.

**Effective Date**

- 11 This Scheme was approved by Council on 22 August 2013 and will take effect from 22 August 2013.
- 12 The Council will review the Scheme from time to time at intervals of no greater than five years or if required to do so by the Scottish Ministers.