

10.00am, Thursday, 23 August 2018

Planning Statutory Scheme of Delegation

Item number	8.2
Report number	
Executive/routine	
Wards	All
Council Commitments	10-15

Executive Summary

The statutory scheme of delegation on planning applications allows officers to make decisions on local developments. It is proposed to make changes to the statutory scheme to allow more delegated powers in respect of householder development and representations in support of local developments. Other changes proposed mean that outstanding objections from statutory consultees such as community councils would require a Planning Committee decision if the application is recommended for approval.

The changes are consistent with the amendments agreed by the City of Edinburgh Council on [27 June 2018](#) in relation to the Scheme of Delegation under the Local Government (Scotland) Act 1973.

Planning Statutory Scheme of Delegation

1. Recommendations

- 1.1 To agree the proposed changes to the Statutory Scheme of Delegation; and
- 1.2 To refer the proposed changes to the Statutory Scheme of Delegation to Scottish Ministers for approval and thereafter to adopt the scheme should such approval be forthcoming.

2. Background

- 2.1 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 [22 August 2013](#). Changes to the scheme in 2013 allowed officers to determine applications for local developments made by the Council or where the Council has an interest in the land.
- 2.2 The Government requires planning authorities to keep the statutory scheme of delegation under review every five years and, on 14 March 2018, the Planning Committee agreed changes to the scheme subject to the approval of Council and Scottish Ministers.
- 2.3 The amendments in respect of the Chief Planning Officer's delegated functions in respect of the Local Government (Scotland) Act 1973 were approved by Council on 27 June 2018. The changes proposed as part of this report are consistent with those amendments.

3. Main report

- 3.1 Currently around 95% of planning applications are determined by officers, meaning that the Development Management Sub-Committee can concentrate on the more complex and/or contentious cases. Increased delegation is one way of improving efficiency and performance and so improving customer satisfaction.

- 3.2 The current statutory scheme of delegation is generally fit for purpose but there are some opportunities to increase delegation and allow members to spend committee times on more significant cases. The following changes were agreed by the Planning Committee on 14 March 2018:
- 3.2.1 The Chief Planning Officer shall have delegated powers to determine householder development planning applications, where not more than 20 representations or a petition have been received, provided other parts of the scheme of delegation do not apply;
 - 3.2.2 The Chief Planning Officer shall have delegated powers to determine local applications for refusal, where not more than 20 representations in support have been received, subject to certain provisos, including the issues raised;
 - 3.2.3 The Chief Planning Officer shall have delegated powers to determine planning applications, other than householder development, where a petition has been submitted properly headed with material planning considerations and it has not more than 20 signatures of objection in relation to recommendations for approval and not more than 20 signatures of support in relation to recommendations for refusal;
 - 3.2.4 The Chief Planning Officer's delegated powers will not apply if there are outstanding unresolved objections from statutory consultees, including community councils, in relation to applications recommended for approval. Where the community council supports an application and it is recommended for refusal, delegated powers shall not apply;
 - 3.2.5 Full delegated powers shall be given to the Chief Planning Officer to determine whether a change to a granted planning application is material or not; and
 - 3.2.6 The term non-statutory Council adopted policy shall be removed from the Scheme of Delegation.
- 3.3 The current statutory scheme of delegation is set out in Appendix 1 and the proposed draft statutory scheme of delegation is set out in Appendix 2. Changes are also required to the naming of the appointed officer.

4. Measures of success

- 4.1 A Planning service which makes service improvements to allow best value to be realised and a more efficient planning system created.

5. Financial impact

- 5.1 There are no financial impacts arising from this report. There are no significant cost saving envisaged from these changes.

6. Risk, policy, compliance and governance impact

6.1 There are no perceived risks associated with this report.

7. Equalities impact

7.1 The Equalities and Rights Impact Assessment indicates the following:

- There are no infringements of Rights under these proposals;
- There are no identified positive or negative impacts on the duty to eliminate unlawful discrimination, harassment or victimisation;
- The proposals have been designed to ensure there is no impact on participation in public life; and
- The proposals promote the duty to foster good relations as they make clear the service standards that can be expected and so promote understanding.

8. Sustainability impact

8.1 The impact of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties has been considered, and the outcome is summarised below:

- The proposals in this report do not affect carbon emissions;
- The need to build resilience to climate change impacts is not relevant to the proposals in this report because it is concerned with procedural matters;
- The proposals in this report will help achieve a sustainable Edinburgh by improving the efficiency of council processes; and
- Environmental good stewardship is not considered to impact on the proposals in this report because there is no relevance to the use of natural resources.

9. Consultation and engagement

9.1 Changes to the scheme of delegation are for members to consider. No consultation or engagement has taken place on the proposed changes.

10. Background reading/external references

- 10.1 [Planning and Building Standards Service Improvements](#) – report to Planning Committee 14 March 2018
- 10.2 [The Town and Country Planning \(Schemes of Delegation and Local Review Procedure\) \(Scotland\) Regulations 2013](#)

Paul Lawrence

Executive Director of Place

Contact: David Leslie, Chief Planning Officer

E-mail: david.leslie@edinburgh.gov.uk | Tel: 0131 529 3948

11. Appendices

Appendix 1 – Current Statutory Scheme of Delegation

Appendix 2 – Proposed Statutory Scheme of Delegation (DRAFT)

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.

APPENDIX 2

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 Chief Planning Officer subject to certain exceptions.
- 2 The Council has delegated other planning functions to the Executive Director of Place and the Chief Planning Officer 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 Chief Planning Officer 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 permission¹
 - 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 (Strategic Development Plan and Local Development Plan);
 - the decision does not remove or amend conditions originally added by Committee;

¹ The meaning of "application" shall be taken to include applications for planning permission; planning permission in principle; applications for consent, agreement or approval required by condition imposed on a grant of consent for local developments.

- 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 has outstanding unresolved objections from statutory consultees and the application is recommended for approval;
 - which has support comments from the local community council as a statutory consultee and is recommended for refusal.
 - which the Chief Planning Officer 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 except if the application is for householder development.
- 9 An appointed officer shall not approve an application for householder development if more than 20 material objections have been received from third parties.
- 10 An appointed officer can determine an application for householder development if a petition is submitted;
- 11 An appointed officer shall not refuse an application if more than 20 material representations in support of the proposals have been received from third parties.
- 12 An appointed officer shall not determine an application where a petition has been submitted properly headed with material planning considerations and it has more than 20 signatures of objection in relation to recommendations for approval and more than 20 signatures of support in relation to recommendations for refusal.
- 13 An appointed officer can determine whether changes to an approved local development are material or not;
- 14 Applications which are exempt from this Scheme by virtue of paragraphs 6 - 13 above shall be determined by the Development Management Sub-Committee.

Effective Date

- 15 This Scheme was approved by Council on xxxx and will take effect from xxxx.
- 16 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.