

PERTH AND KINROSS COUNCIL

26 June 2013

Development Management Scheme of Delegation

Head of Planning and Regeneration

PURPOSE OF REPORT

This report sets out legislative changes introduced by the Scottish Government in relation to how planning applications which have a council interest should be dealt with. The report seeks approval for the Council's Scheme of Delegation to be amended to accord with this legislative change.

1. BACKGROUND / MAIN ISSUES

- 1.1 Under Section 43A of the Town and Country Planning (Scotland) Act 1997 and the Local Government Act (Scotland) 1973, Councils are required to have a Scheme of Delegation which has to set out those categories of planning applications and other related applications which are required to be determined by the Development Management Committee. The current Scheme of Delegation was approved by the Full Council of 24 June 2009 and was subsequently approved by Scottish Ministers, under Section 43A of the Town and Country Planning (Scotland) Act 1997, in relation to 'Local Developments' and came into force on 3 August 2009. Currently, under the Scheme of Delegation, all planning applications that the Council has an interest in are required to be referred to the Development Management Committee for determination, irrespective of either the scale of the development or number of representations lodged.

2. PROPOSALS

- 2.1 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (The DMR 2013) a change was introduced taking away the automatic requirement for all Council interest applications to be reported to the Development Management Committee for determination. However, all Councils are now required to amend their individual Scheme of Delegation to bring them in to line with the latest legislative change. Any changes agreed by Councils to their Scheme of Delegation are then required to be submitted to Scottish Ministers for approval prior to being able to be brought in to effect. Nationally the changes apply from 30 June 2013.
- 2.2 It is still the intention to retain those parts of the Scheme of Delegation which requires Council interest applications to be referred to the Development Management Committee under the following circumstances:-

- (a) the recommendation by the Executive Director (Environment) is for approval, but the proposal is significantly contrary to the development plan; or
 - (b) the recommendation by the Executive Director (Environment) is for approval, but the proposal has attracted six or more valid planning objections from a Community Council, household, business address or interest group with multiple letters from the same household, organisation or property counting as one letter of objection; or
 - (c) a similar application at the same site was previously determined by the Committee.
- 2.3 The majority of Council applications which have been referred to the Development Management Committee for determination have been relatively minor in nature and for the most part have not attracted any representations. The requirement to automatically refer them to Committee for determination has also led to a delay due to the committee meeting cycle. However, they could have otherwise been dealt with under delegated powers.
- 2.4 The change introduced nationally will therefore result in a speeding up of the process for these categories of applications and assist the Council in improving the overall performance levels for the determination of planning applications. It would also reduce the workload of the Development Management Committee through a reduced agenda and also the associated lead-in support work. The introduction of the changes has been supported nationally through the Heads of Planning Scotland, leading to a more proportionate response to how these types of applications should be dealt with.
- 2.5 It is not intended at this stage to propose any other changes to the Scheme of Delegation.
- 2.6 If these changes are agreed to by Council then, subject to the amended Scheme of Delegation being agreed by Scottish Ministers, it is likely that this would be able to be brought in to effect in time for the meeting of the Development Management Committee on 17 July 2013.

3. CONCLUSION AND RECOMMENDATION(S)

- 3.1 The proposed changes to the Council's Scheme of Delegation for dealing with planning applications is intended to bring it in line with the changes brought in nationally and would therefore represent a consistent approach by this Council. It would also assist in improving performance by speeding up the process of determination of these categories of applications.

The Council is asked to;

- (i) Approve the proposed change to the Scheme of Delegation in respect of the requirement to refer all Council interest applications to the Development Management Committee, as contained in Appendix 2.

- (ii) Agree to the amended Scheme of Delegation being referred to the Scottish Ministers for approval.

Author(s)

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Approved

Name	Designation	Signature
Jim Valentine	Executive Director (Environment)	<i>Jim Valentine</i>
Date 14 June 2013		

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	None
Corporate Plan	None
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	None
Risk	None
Consultation	
Internal	None
External	None
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan / Single Outcome Agreement

- 1.1 The proposed changes to the Scheme of Delegation would have no strategic implications.

Corporate Plan

- 1.2 The proposed changes to the Scheme of Delegation would have no implications in respect of the Corporate Plan other than enabling Council interest applications to be determined more quickly. Council interest applications will relate to the provision of categories of development which promote the five focussed strategic objectives, as follows:

- i) Giving every child the best start in life
- ii) Developing educated, responsible and informed citizens
- iii) Promoting a prosperous, inclusive and sustainable economy
- iv) Supporting people to lead independent, healthy and active lives
- v) Creating a safe and sustainable place for future generations.

2. Resource Implications

Financial

- 2.1 There are no financial implications to the proposed changes to the Scheme of Delegation.

Workforce

- 2.2 The proposed changes to the Scheme of Delegation will reduce the number of applications being reported to the Development Management Committee. As such, there will be a consequent reduction to Committee associated workload. However, this will not, though, have any significant workforce implications.

Asset Management (land, property, IT)

- 2.3 The changes proposed relate specifically to Council interest applications. As such, the changes will lead to speedier decision times for applications, some of which will involve Council and or property assets, although there will be no significant implications to these.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

(i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.3 However, no action is required as the Act does not apply to the matters presented in this report. This is because the Committee are being requested to bring Council procedures in line with recent legislative changes.

Sustainability

- 3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.

- 3.5 The changes to the Scheme of Delegation have no implications in respect of sustainability.

Legal and Governance

- 3.6 There are no legal implications to the proposed changes as it will bring the Council's procedures in line with recent legislative changes.
- 3.7 The proposed changes have not been previously considered by the Planning Etc (Scotland) Act 2006 Member/Officer Working Group as the timescales for the introduction of the changes nationally have not allowed for this.

Risk

- 3.8 There are no associated risks with the proposed changes to the Scheme of Delegation

4. Consultation

Internal

- 4.1 The Convenor and Vice Convenor of the Development Management Committee have been consulted and are agreeable to the changes.

External

- 4.2 No external consultations were necessary as the changes are as a result of new legislation.

5. Communication

- 5.1 There will be a requirement to advise all Council services, for information purposes, which are likely to lodge applications, of the changes.

2. BACKGROUND PAPERS

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

3. APPENDICES

Appendix 1: Existing Scheme of Delegation
Appendix 2: Proposed Scheme of Delegation

Town and Country Planning (Scotland) Act 1997 – Delegation Scheme under S43A

The Appointed Officers

The Appointed Officers in respect of Local Developments in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 are:

- the Executive Director (Environment) or
- the Head of Planning or
- the Development Quality Manager or
- the Development Management Team Leaders or
- the Development Management Planning Officers who have MRTPI and 2 years post qualifying experience.

The Appointed Officers may exercise delegated powers under Section 43A of the 1997 Act to determine (i) all applications for planning permission in respect of development within the category of local development; and (ii) all applications for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within the category of local development, except those which have to be referred to the Development Control Committee as listed below, where:

- (a) the Council is the applicant; or
- (b) the application relates to land in the ownership of the Council or to land in which the Council has a financial interest; or
- (c) the applicant is a member or chief officer of the Council; or
- (d) the recommendation by the Appointed Officer is for approval, but the proposal is significantly contrary to the development plan; or
- (e) the recommendation by the Appointed Officer is for approval, but the proposal has attracted six or more valid planning objections from a Community Council, household, business address or interest group with multiple letters from the same household, organisation or property counting as one letter of objection; or
- (f) a similar application at the same site was previously determined by the Committee.

Appendix 2

Planning Application Decisions - Scheme of Delegation

This is a summary of the Council's Scheme of Delegation to Development Management Committee and to officers, under Section 43A of the Town and Country Planning (Scotland) Act 1997 and the Local Government Act (Scotland) 1973, of decisions on Planning Applications and other related consents under the Town and Country Planning (Scotland) Act 1997 and related legislation.

It is based on the decision of the full Council of 26 June 2013 and the subsequent approval of Scottish Ministers, under Section 43A of the Town and Country Planning (Scotland) Act 1997 in relation to 'Local Developments', of the scheme of delegation and the definition of 'Appointed Officers'.

The scheme applies to all decisions made since 30 June 2013.

Full Council

The full Council is required to determine applications for planning permission in respect of all major developments which are significantly contrary to the development plan. In addition, the full Council is required to consider applications for planning permission in respect of projects designated as national developments in the National Planning Framework for Scotland.

Development Management Committee

The Development Management Committee will determine –

1. All other applications for planning permission for major developments (i.e. all those major developments which are not significantly contrary to the development plan), unless the Executive Director (Environment) intends to refuse solely on the ground of inadequate information to enable determination; and
2. All applications for planning permission for local developments, for listed building consent, conservation area consent, hazardous substances consent and advertisement consent where –
 - (a) the applicant is a member or chief officer of the Council; or
 - (b) the recommendation by the Executive Director (Environment) is for approval, but the proposal is significantly contrary to the development plan; or
 - (c) the recommendation by the Executive Director (Environment) is for approval, but the proposal has attracted six or more valid planning objections from a Community Council, household, business address or interest group with multiple letters from the same household, organisation or property counting as one letter of objection; or
 - (d) a similar application at the same site was previously determined by the Committee.

Note: For the purposes of the above, The Executive Director (Environment) includes any person appointed in writing by him to exercise delegated powers under the Local Government Act (Scotland) 1973.

Executive Director (Environment) and Appointed Officers

Decisions which are delegated to officers rather than being made by the full Council or the Development Management Committee are divided into two groups depending on the Act under which they are delegated.

1. 'Appointed Officers' may exercise delegated powers under Section 43A of the 1997 Act to determine:

- All applications for planning permission in respect of local developments, except those which have to be referred to the Development Management Committee as listed above; in addition the Appointed Officers may refuse any application for planning permission for a local development on the grounds of inadequate information.

The Appointed Officers in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997, i.e. in respect of Local Developments, are:

- Executive Director (Environment),
- Head of Planning,
- Development Quality Manager,
- Development Management Team Leaders, and
- (for certain applications only) Development Management Planning Officers who have Membership of the Royal Town Planning Institute and 2 years post-qualifying experience.

2. The Executive Director (Environment) and any person appointed in writing by the Executive Director to exercise delegated powers under the Local Government Act (Scotland) 1973 will determine –

- All other applications for permission or consent required under the Town and Country Planning (Scotland) Act, 1997, as amended; the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended; and all other related and subsidiary legislation, including applications for Listed Building, Conservation Area, Hazardous Substances and Advertisement Consents, except those which have to be referred to the Development Management Committee as listed above.

In addition, the Executive Director (Environment) and any person appointed in writing by the Executive Director may refuse any application on the grounds of inadequate information.

26 June 2013