
Report to Planning Committee

Date of Meeting: 31st October 2013

**Subject: Scheme of Delegation: Planning Applications for
Local Developments**

Report by: Development Quality Team Leader

1.0 Purpose

- 1.1. The purpose of this report is to recommend changes to the Council's Scheme of Delegation for planning applications for local developments under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006) and propose an improved procedure for referral of applications to Committee for decision. The proposed changes comply with Regulations which came into force on 30th June 2013.

2.0 Recommendations

- 2.1 It is recommended that the Committee:

- I. Approve the amended Scheme of Delegation for Planning and Other Applications under Section 43A of the Town and Country Planning (Scotland) Act 1997, as contained in Appendix 1 of this report.
- II. Agree to implement the procedures for referral/call-in of an application set out in the Procedure Note in Appendix 2 of this report.
- III. Agree to submit the Scheme of Delegation to Scottish Ministers for approval.

3.0 Background

- 3.1. Legislative changes in 2006 (The Planning etc (Scotland) Act) signalled the modernisation of the planning system in Scotland and paved the way for a programme of planning reform in Scotland. This has been delivered through the joint work of local authorities and other agencies.
- 3.2. Provision to delegate decisions on planning applications to officers was contained in the Local Government (Scotland) Act 1973. To improve the efficiency of decision making, new powers were introduced in 2008 as an integral part of a hierarchy of development. In effect, Schemes of Delegation were adopted for planning applications that sought approval for local

developments. The Council's Scheme was approved by Members on 13th August 2009, and by Scottish Ministers in the following month. Implementation of the Scheme has led to increased delegation of decision making to officers, improved efficiency and certainty in decision making, and a reduction in the number and frequency of appeals/reviews of planning decisions.

- 3.3. Two specific matters necessitate a review of the existing arrangements. Firstly, the original legislative change required Schemes of Delegation for local developments to be kept under review. Subsequent regulations published in 2008 prescribed a period not exceeding 5 years. Secondly, further changes in legislation this year have removed the obligation to prohibit the delegation of an application by the planning authority or a member of the planning authority, or an application that relates to land which the Council owns or has a financial interest. The opportunity therefore arises to amend the Scheme to take account of this change in direction.

4.0 Considerations

- 4.1. The main observations and findings of our review of the existing Scheme of Delegation for local developments are as follows.
- 4.2. The establishing of a hierarchy of developments (national; major; local) has represented a welcome and proportionate change to the planning system. It acknowledges the fact that different scales of development require separate procedures for publicity, consultation and decision making. The Scottish Government recognised that planning authorities should make the most effective use of powers to delegate decisions on the more straightforward applications to officials, allowing Elected Members to focus attention on more complex or controversial applications. Our Scheme of Delegation for Local Developments adheres to this ambition, with the flexibility for Members to "call in" applications (see paragraph 4.6 below). Although not included in the Scheme, we will as a matter of good practice, refer all applications for national or major development will be reported to the Planning Committee for decision.
- 4.3. The proportion of applications delegated to and decided by officers has increased since the Scheme was introduced in September 2009. This appears to have been welcomed by applicants and agents, as officers can provide confident advice on the merits of the proposal, the need for any changes and the likely timescale for decision making. The advent of e-planning has also facilitated strong third party engagement in the planning process. This has necessitated some new management arrangements. For example:
- Weekly service case conferences are convened to assess the more controversial applications
 - Reports of Handling on applications with representations against the development are signed off by the Development Quality Team Leader and Development Services Manager
 - Those submitting representations receive a full summary of the decision and officers assessment of their comments.

4.4. During a period when a number of other changes and improvements have been introduced, the Council's performance on planning application decision making has remained consistently in the top quartile of planning authorities in Scotland. The following table provides a summary of performance on planning application decision making for the last seven years. This includes the three years prior to the introduction of the Scheme of Delegation. The table includes the percentage of all planning applications decided in 2 months, plus the equivalent figures for householder; housing local; and business local applications which are the three main categories of development now decided by the Appointed Officer under the Scheme of Delegation. In summary, the figures indicate:

- I. Improved performance on decision making for all planning applications decided, since 2009, apart from 2012/13 - see Item III below.
- II. Consistent standards of decision making on planning applications for householder development. Few applications in this category would have been decided by the Planning Committee before the current Scheme of Delegation was introduced, so the effect of the changes would not be evident from householder applications.
- III. The only decline in performance evident from the figures is the decisions on local housing development in 2012/13. The explanation for this has little to do with the Scheme of Delegation, and has arisen from the secondment of the planning officer responsible for housing development in the Development Quality Team to the Development Plan section to assist with the new Local Development Plan, supplementary policy guidelines and the draft Open Space Strategy for Clackmannanshire. The dip in performance has had an inevitable but largely unavoidable impact for the overall performance in that same period.

Percentage of Planning Applications Decided Within Two Months							
Category	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
All Applications	85	86	88	95	92	92	85
Householder	94	94	97	96	94	95	92
Housing Local	70	80	86	100	85	89	61
Business Local	60	100	81	100	95	81	85

4.5. The 2008 Regulations on Schemes of Delegation prevent the delegation of applications in which (i) the planning authority is the applicant, or (ii) the planning authority has an interest in the land, or (iii) which have been made by members of the planning authority. Experience shows that many applications for relatively minor developments have therefore had to be referred to

Committee for a decision. This has created unnecessary delay, and we welcome the opportunity to amend our Scheme and remove these restrictions. The Scheme as presented in Appendix 1, would now allow the Appointed Officer to deal with any of the three foregoing categories of development, in circumstances where the development complies with the Development Plan and there are no representations against the development submitted within the statutory publicity period(s). This latter criterion will help to maintain transparency of the Council's separate interests in any application.

- 4.6. Having reviewed the Scheme of Delegation, we are taking this opportunity to introduce new arrangements for decision making on the referral of applications for local developments to the Planning Committee for decision. At present, and guided in part by the framing of legislation, the procedures includes a Member motion to Council, setting out the reasons for the application to be "called-in". While these arrangements comply with legislation, there are drawbacks:

- The procedure is cumbersome, and often perceived as bureaucratic (a Council decision on Committee decision making arrangements).
- Having regard to the Council and Committee meeting cycle, it causes unreasonable delay.
- The arrangements do not represent the best and effective use of resources, including Member and Officer time.
- The arrangements can have a negative impact on Service performance for planning application decision making.

- 4.7. New arrangements are required to address these difficulties and comply with legislation. The Procedure Note in Appendix 2 explains the proposed arrangements. Perhaps a point to emphasise is that the reasons for the call-in of an application will not include the planning merits of the proposal nor relevant planning policy. The Note offers guidance on what may be of greater relevance.

- 4.8. The Procedure Note incorporates the form to be issued to, and ultimately signed by, the Director of Services to Communities. It should be used on all occasions.

5.0 Conclusions

- 5.1 The proposed amended Scheme of Delegation accords with the 2013 Regulations, and will represent a proportionate, efficient and transparent arrangement for determining planning applications for local developments. The new procedures for the referral of a planning application to Committee will improve decision making arrangements and benefit applicants, agents and third parties alike.

6.0 Resource Implications

6.1 Financial Details

6.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes ☐

6.3 Finance have been consulted and have agreed the financial implications as set out in the report. Yes ☐

7.0 Exempt Reports

7.1 Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☒

8.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses	<input type="checkbox"/>
Our communities are more cohesive and inclusive	<input type="checkbox"/>
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input checked="" type="checkbox"/>

(2) **Council Policies** (Please detail)

None

9.0 Equalities Impact

9.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? Yes ☐ No ☒

10.0 Legality

10.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

11.0 Appendices

11.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 - Amended Scheme of Delegation - Planning Applications for
Local Developments

Appendix 2 - Procedure for Referral of Planning Applications for Local
Developments to Committee for Decision

12.0 Background Papers

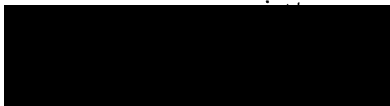
12.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☐ (please list the documents below) No ☒

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Services Manager	

APPENDIX 1 - AMENDED SCHEME OF DELEGATION - PLANNING APPLICATIONS FOR LOCAL DEVELOPMENTS

1.0 Services to Communities

1.1 The director has overall responsibility for the following services:

- Community & Regulatory
- Facilities Management

1.2 Specific Responsibilities Delegated to the Heads of Service

1.3 Carrying out our duties as a planning authority, including making decisions on planning applications and enforcing planning laws, subject to the following:

As appointed persons for the purposes of Section 43A(1) of the Town and Country Planning (Scotland) Act 2007 as amended, the Director of Services to Communities, Development Service Manager, and Development Quality Team Leader are authorised to make decisions on all applications made under the planning and related Acts other than where:

- (i) The application relates to a "national development" as defined by Section 3A of the Act;
- (ii) The application relates to a "major development" as defined in the Schedule to the Town and Country Planning (Hierarchy of Development)(Scotland) Regulations 2008;
- (iii) The application is by the Council or involves development of land in which the Council has a financial, land ownership or other interest in circumstances where the development is contrary to the Development Plan or is subject to representation(s) against the development;
- (iv) The application is by a member of the Council, and the development is contrary to the Development Plan or is subject to representation(s) against the development

1.4 Giving the Council advice on land use and planning matters.

1.5 Preparing, introducing, monitoring and reviewing the Development Plan

APPENDIX 2 - PROCEDURE FOR REFERRAL OF PLANNING APPLICATIONS FOR LOCAL DEVELOPMENTS TO COMMITTEE FOR DECISION

1.0 Purpose

- 1.1 This paper provides advice on the procedure to be followed for the Planning Committee to decide an application for planning permission which is otherwise delegated to officers for decision making under the Council's approved Scheme of Delegation for Planning Applications

2.0 Background to the Scheme of Delegation

2.1 STAGE 1

Where an Elected Member wishes an application which would otherwise be delegated, to be decided by the Planning Committee, the Member will complete the proposal form attached to this procedure note, forward it to the Director of Services to Communities, and send a copy to the Development Quality Team Leader. The form shall be received within 21 days of the date of validation of the application. Planning application details are available on Clacksweb, and assistance can also be obtained from the Development Quality Team. The Elected Member can seek advice from Legal Services on the reasons to refer the application for decision by Committee. These reasons, for example, might include unique or unexpected circumstances associated with the application site, an abnormal level of public/community interest, or a planning history of committee decision making in relation to the site or the proposal. Relevant planning policy or the planning merits of the proposal will not be regarded as a proper reason for a referral to Committee.

2.2 STAGE 2

The proposal to refer the application for decision by the Committee will then be considered by the Director of Services to Communities (or the Head of Community and Regulatory Services in the Director's absence). The Director will rely upon the information provided in the proposal form and contained in the planning application file.

2.3 STAGE 3A

Where the Director (or Head of Service) decides that the application is to be referred to the Planning Committee, the decision and reasons for it will be notified to the Member who submitted the proposal, the Convenor of the Planning Committee and the Development Quality Team Leader, who will arrange to serve Notice of the decision on the applicant in accordance with Section 43A(7) of the Act. The planning application will be scheduled for the first available planning committee meeting following completion of the assessment of the proposed development.

OR

STAGE 3B

In circumstances where the Director (or Head of Service) decides that there is insufficient reason to refer the application for decision by the Committee, this decision will be taken in consultation with the convenor of the Planning Committee, then notified to the Member who submitted the proposal and to the Development Quality Team Leader, who will arrange for the application to be decided by Appointed Officers under the Scheme of Delegation.

- 2.4 The decision of the Director of Services to Communities (or the Head of Community and Regulatory Services in the Director's absence) will be final and will be the decision of the planning authority for the purposes of Section 43A(6) of the Planning etc (Scotland) Act 2006.
- 2.5 Notwithstanding the terms of the Scheme, occasions will occur where a case officer will encounter abnormal circumstances associated either with the proposed development itself, the particular location, or a measure of public/community interest that could not have been reasonably foreseen. In those circumstances, the existing arrangements which allow the officers to refer an application to Committee rather than it to be decided under the Scheme of Delegation will continue. To comply with Section 43A(7), the officer's reasons for referring the application for decision by the Committee will be notified to the applicant and a courtesy notification will also be given to the Convenor of the Planning Committee and Ward members for their information. The reasons for the referral of the application for decision by the Committee will be explained in any subsequent committee report.

**PLANNING APPLICATIONS - SCHEME OF
DELEGATION FOR LOCAL DEVELOPMENTS**

**PROPOSAL TO REFER APPLICATION TO THE
PLANNING COMMITTEE FOR DECISION**



**Clackmannanshire
Council**

APPLICATION DETAILS

Reference Number

Description of
Development

Location Address

REASONS FOR REFERRAL OF APPLICATION TO COMMITTEE FOR DECISION

Name:

Ward

Date:

DECISION

The reasons described above are sufficient/insufficient to refer this planning application to the Planning Committee for decision

Signed

Date:

Director of Services to Communities

