

Report on	Organisation of Planning Department and Scheme of Delegation for Planning (April 2024)
Date of Meeting	5 th March 2024
Reporting Officer	Service Director for Planning
Contact Officer	Service Director for Planning

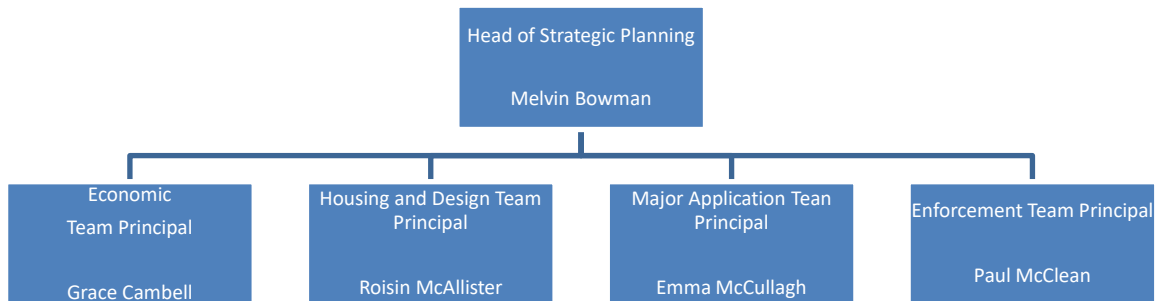
Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

1.0	Purpose of Report
1.1	To agree the structure, responsibilities and accompanying Scheme of Delegation for Planning functions for Financial Year (April 2024)
2.0	Background
2.1	Members will be aware that the Planning Department adopted a revised scheme of delegation as of April 2023 and went through a restructuring in the Autumn of 2023. The next phase of that restructuring will commence with the retirement of the Service Director, thus leaving behind a competent work force under the leadership of the Head of Strategic Planning and Head of Local Planning. This report sets out the organisational structure of the Department with accompanying scheme of delegation to ensure the Planning department remains fit for purpose once the Service Director Departs.
3.0	Main Report
3.1	Members will recall that the Policy and Resources and Planning Committee considered a comprehensive review and adopted a new Scheme of Delegation to Officers in April 2023. Over the year the scheme has functioned adequately ensuring both transparency and accountability with members being informed and making decisions on those matters of strategic importance or likely to have a significant impact on communities in the area.(i.e. policy formulation, major and regionally significant applications) or are quasi- judicial in nature. These include proposal where there is an interest (either pecuniary or through a close relative) and where the decision is likely to be disputed because of objection or is recommended for refusal. The Committee also makes those other decisions where a person's liberty may be affected, such as instructions to serve of an enforcement Notice or Tree Preservation Orders. The officers on the other hand are delegated those matters which are not subject to dispute at the point of decision or by their nature are more legalistic or administrative in nature.

3.2 As the current scheme is working satisfactory there is no need to review what is delegated to officers as a principle. The task is simply to reassign those responsibilities delegated to the Service Director to the Head of Strategic Planning and the Head of local Planning.

The Head of Strategic Planning is currently responsible for progressing the Local Development Plan and processing Major Proposals, as well, responding to Government calls of evidence on planning policy and legal matters. Come April He will also take responsibility for overseeing the enforcement function (Fig 1).

Fig 1 Strategic Planning



3.3 The Head of Local Planning takes on the responsibility of managing the two area teams which deal with over 99% of planning applications, consents and other determinations. Come April they will also take responsibility for managing the Business Support functions (Fig 2).

Fig 2 Local Planning

3.4	<div data-bbox="229 264 1385 672" data-label="Diagram"> <pre> graph TD A[Head of Local Planning Planning Karen Doyle] --> B[Dungannon Team Team Principal Phelim Marrion] A --> C[Housing and Design Team Principal Karla McKinless] A --> D[Business Support Manager Jean Connolly] </pre> </div> <p data-bbox="229 824 1418 1081">A simple division of the matters already delegated to the Service Director results in the Head of Strategic Planning being delegated those matters related to the local Development Plan, processing of Major Applications and Enforcement, whilst the Head of Local Planning takes responsibility for determining those planning applications and Listed Building and Conservation Area consents not defined as needing a Planning Committee decision and all other consents and determinations. This is detailed in Appendix One.</p>
4.0	Other Considerations
4.1	<p data-bbox="229 1245 976 1283">Financial, Human Resources & Risk Implications</p> <p data-bbox="229 1317 432 1355">Financial: N/A</p> <p data-bbox="229 1388 408 1426">Human: N/A</p> <p data-bbox="229 1460 563 1498">Risk Management: N/A</p>
4.2	<p data-bbox="229 1615 746 1653">Screening & Impact Assessments</p> <p data-bbox="229 1686 858 1724">Equality & Good Relations Implications: N/A</p> <p data-bbox="229 1758 662 1796">Rural Needs Implications: N/A</p>
5.0	Recommendation(s)
5.1	That the Members of Planning Committee and Policy and Resources Committee agree that the revised scheme of delegation and instruct the Service Director to

	seek approval of the Department before it comes into affect and is published on the Council's website in April 2024
6.0	Documents Attached & References
6.1	Appendix One - Draft Revised Scheme of Delegation

APPENDIX A DELEGATED AUTHORITY ON PLANNING MATTERS

Scheme of Delegation of Planning Applications

The Scheme of Delegation for planning applications was agreed by Mid Ulster District Council at its meeting of Thursday 20th April 2023 following approval by the Department for Infrastructure on 7th October 2022. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The Scheme of Delegation takes effect from 8th April 2024.

Part A – Mandatory applications for determination by the Planning Committee:

Statutory requirements require that certain types of application must be determined by the planning committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the council or an elected member of the council, and
- The application relates to land in which the council has an interest/estate.

Part B – Delegated Applications:

The appointed person within the Council is the Head of Local Planning to determine all local development applications with the exception of:

- Applications which are significant departures from the Development Plan or planning policy and which are recommended for approval.
- Applications submitted by the Chief Executive, Directors, planning staff, or their close relatives (parents, partners, siblings, and children).
- Applications submitted by an elected member or their close relative (parents, partners, siblings and children).
- Applications attracting valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
- Any application referred to the Planning Committee by a Council Member, subject to a valid planning reason being provided by the Member for the deferral.
- All refusals of planning permission.
- Applications where the Head of Local Planning considers that the proposal merits consideration by the Committee, for example an application subject to an Enforcement Notice where the recommendation is to refuse permission.
- Applications where a legal agreement is required.

Part C – Publicity:

On adoption of this scheme of delegation the council made a copy

- available on the councils website at www.midulstercouncil.org

- available at Mid Ulster Council Offices
Magherafelt Office
50 Ballyronan Road
Magherafelt
BT45 6EN

An advert was placed in the local press.

Scheme of Delegation of planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations

As well as determining planning applications, the Council will also have to administer the enforcement of planning and the processing of other planning consents, orders etc. The Scheme of Delegation in relation to planning consents, certificates, orders, enforcement and other determinations was agreed by Mid Ulster District Council at its meeting of Thursday 20th April 2023. The Scheme of Delegation takes effect from 8th April 2024 and is in accordance with Section 7 (4) (b) of the Local Government (Northern Ireland) Act 2014.

The following matters are delegated to the Head of Strategic Planning:-

(a) Enforcement Matters

- The investigation of complaints of breach of planning control including the decision to not take enforcement action and/or to close an enforcement case or investigation and/or to withdraw or vary an enforcement notice;
- In exceptional circumstances, such as where there is immediate risk to human health or the environment, issue an Enforcement Notice or Stop Notice, subject to the Planning Committee being informed at the next available opportunity.
- The service of a Breach of Condition Notice, Submission Notice or planning contravention notices
- To instruct the Council's Legal representative to make an application to the Courts for Injunctions, subject to the Chair and Vice Chair of the Planning Committee being informed.
- To instruct the Council's Legal representatives in relation to any legal action concerning the breach of an enforcement notice or any other enforcement matter.
- Application to the Magistrates Court for a warrant to enter land and/or buildings in accordance with the powers provided in the Planning Act (Northern Ireland) 2011.
- Determination of the type of enforcement appeal (written/hearing), preparation and submission of evidence and amendments to Council's case during the course of the appeal.

(b) Matters Relating to Major and Regional Significant Applications and Proposals (defined by the Planning Act (NI) 2011 and supporting legislation).

- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 or any successor legislation, to
 - o Issue screening opinions determining whether developments fall within Schedule (1) and (2)
 - o Issue scoping opinions as to the information to be provided in any statement and undertake appropriate consultations and notifications for major proposals.
 - o Determine whether a major application should be accompanied by an Environmental Statement.
- Preparation of evidence on behalf of Council and amendments to the Councils case in liaison with the Chair of the Planning Committee for Public Inquiries and Hearings in relation to Major and Regionally significant Applications.
- Negotiating Section 76 Planning Agreements including developer contributions on Major planning applications prior to a final decision being taken by the Planning Committee.
- Discharge of conditions on major planning approvals.
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland 2015 or any successor, to consider and approve of a waste management plan.
- Instruct the Council's Legal representative in relation to any legal action on major planning matters, provided the Committee is informed.

(c) Local Development Plan

- Engage freely with the Planning Appeals Commission at the Independent Examination pre-hearing stage.
- To provide additional information or to request same, where the Commissioner deems this necessary. Agree minor, typographical or factual changes or modifications to the Local Development Plan documents.

- Agree changes to the justification and amplification text, for example to provide greater clarity on a particular policy.
- Agree changes to a particular policy or proposal in the draft Local Development Plan document suggested by the Commissioner, where that change would not fundamentally alter the thrust of that policy / proposal, or the change is necessary to make the policy / proposal sound, with no substantive implications for other aspects of the Plan or overall objectives of the policy.
- Instruct the Council's Legal representative in relation to any legal action on major planning matters, provided the Committee is informed.

(d) Tree preservation Orders

- Determination of any application for carrying out works to trees subject to a tree preservation order.

The following matters are delegated to the Head of Local Planning:

(e) Listed Building and Conservation Area Consents

- The applications for listed building consent, conservation area consent and advertisement consent are delegated to Head of Local Planning, except for where:
 - The application is made by the council or an elected member of the council.
 - The application relates to land in which the council has an interest.
 - The application is submitted by the Chief Executive, Director, planning staff, or close relatives (parents, partners, siblings, and children)
 - The application has attracted valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
 - The application is recommended for refusal.
 - Where the Head of Local Planning considers that the proposal merits consideration by the Committee.
- Instruct the Council's Legal representative in relation to any legal action on any listed building or conservation area consent.

(f) Other Consents and Certificates

- Determination of any application for a Certificate of Lawful Development.
- Determination of any application for Advertisement Consent or variations of same.
- Determination of any Hazardous Substance Consent.
- Applications for Non Material Changes.
- Determination of applications for Certificates of Alternative Development Value.
- Determination of applications for Urgent Crown Development and Crown Listed Building Consent.
- Determination of a Correction Notice.
- Discharge of Planning Conditions.
- Registering Notices and Charges in the Statutory Charges Register.
- Issuing Property Certificates
- To make determinations under Section 46 (Power to Decline).
- To make determinations under Section 48 (Power to decline).
- Instruct the Council's Legal representative in relation to any of the other legal action on local planning matters, provided the Committee is informed.
- Instruct the Council's Legal representative in relation to any legal action on any of the other consents or certificates as detailed above.

(g) Matters relating Local Planning Applications (defined by the Planning Act 2011 and supporting Legislation as other Planning Applications not defined as regionally significant or major)

- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 or any successor legislation, as it relates to local applications and proposals:
 - o Issue screening opinions determining whether developments fall within Schedule (1) and (2).
 - o Issue scoping opinions as to the information to be provided in any statement and undertake appropriate consultations and notifications.
 - o Determine whether an application should be accompanied by an Environmental Statement.
- Instruct the Council's Legal representative in relation to any legal action on local planning matters, provided the Committee is informed.

The Planning Committee reserves the right to request a report for information purposes on any of the matters dedicated to the Head of Strategic Planning and the Head of Local Plannings.