

Report on	The Review of the Scheme of Delegation for Planning
Date of Meeting	5 th July 2022
Reporting Officer	Planning manager
Contact Officer	Planning manager

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	For the Planning Committee to consider a revised Scheme of Delegation for Planning functions, before it goes on to Policy and Recourses and Full Council for agreement.
2.0	Background
2.1	Under the provisions of Planning Act (NI) 2011 and Planning (Development Management) Regulations (NI) 2015 the Council is required to prepare a scheme of delegation and keep it under review every 3 years. The current Scheme of delegation (May 2016) is now technically outside the specified period and work on a review has been hampered by the Covid pandemic.
3.0	Main Report
3.1	Members will recall that at the Planning Committee in December 2021 a report was produced explaining the reasons why the scheme of delegation needed to be revised to take into account legal judgements and to widen the decisions that could be delegated. This report informed a workshop which was held on line on 25 th January 2022 where members were given the opportunity to consider the matter properly.
3.2	<p>The general consensus of the meeting was that the existing scheme in relation to the consideration of planning applications was working well in that the matters where there was a dispute came before members and resulted in everyone having the opportunity to receive a fair hearing. Therefore this part of the scheme of delegation did not need changing. It was noted that we are not currently achieving the 90% plus delegation rate suggested by the Northern Ireland Audit Office, yet despite this performance was higher than many other Districts.</p> <p>The key changes primarily related to formalising what would be assumed to be an officer as standard everyday practice and the more rarely used powers which had not been specified in the scheme of delegation. These included:</p> <ul style="list-style-type: none"> • Use of the power to decline to consider a subsequent application

	<ul style="list-style-type: none"> • Serving of completion notices • Determination of non-material changes • Revocation or modification of permissions and consents • Discontinuance and alteration or removal of buildings • Modification and discharge of conditions • Consent to revoke or modify a listed building or hazardous substance consent • Review Minerals planning permissions (not enacted yet) • Variation or withdrawal of an enforcement notice • Serving of a temporary stop notice • Hazardous substance prevention notices and variations of such notices • Certificates of Lawfulness of proposed use or development • Correction of errors (still to be enacted) • Minor amendments or inconsequential amendments
3.3	The Consensus was certain decisions to serve notices for the completion or revocation of a permissions and discontinuance of use or removal of a building should remain with the Committee, most other decisions could be delegated.
3.4	<p>It was also the consensus of opinion that the service director should be given some discretion to change agree minor changes (those which do not change the thrust of policy) to the Development Plan in order to ease the way through the Public Examination process to adoption.</p> <p>A draft of the revised Scheme of Delegation is included in the Appendix.</p>
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
5.0	Recommendation(s)
5.1	That the Members agree that the revised scheme be forwarded to P&R Committee, full Council and the Department for decision.
6.0	Documents Attached & References
6.1	Appendix A - Draft Revised Scheme of Delegation

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 INSERT* following approval by the Department for Infrastructure on 1 April. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The Scheme of Delegation takes effect from INSERT. [CM1]

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 Service Director of 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 Service Director of 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 INSERT*. The Scheme of Delegation takes effect from INSERT [CM2] and is in accordance with Section 7 (4) (b) of the Local Government (Northern Ireland) Act 2014.

- [CM3]

Delegated planning consents, certificates, orders [CM4] and other decisions:

The following matters are delegated to the Service Director:

- 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 urgency, immediate risk to human health or environmental harm etc., [CM5] 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.
- 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 any application for a Certificate of Lawful Development.
- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent or variations of same.
- Determination of any application for carrying out works to trees.
- Determination of any Hazardous Substance Consent. [CM6]
- 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.
- To make determinations under Section 46 (Power to Decline).
- To make determinations under Section 48 (Power to decline).
- Determination of the type of planning appeal and amendments to Council's case during the course of the appeal, subject to consultation with the Chair of the Planning Committee as deemed appropriate by the Head of Development Management.
- Negotiating Section 76 Planning Agreements including developer contributions on planning applications prior to a final decision being taken by the Planning Committee.
- The preparation of evidence on behalf of Council and defending planning decisions at Planning Appeals, Independent Examinations and other Hearings.
- 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.
- Responding to minor consultations on planning matters on behalf of the Council.^[CM7]
- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 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.
 - o Determine whether an application should be accompanied by an
 - o Environmental Statement.

- 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
- All other statutory powers connected to the exercise of the planning functions which have been transferred to Council and are not specifically listed or delegated to the Planning Committee shall be deemed to be delegated unless otherwise provided for within this scheme.^[CM8]
- Instruct the Council's Legal representative in relation to any legal action on planning matters, provided the Committee is informed.

The applications for listed building consent, conservation area consent and advertisement consent are delegated with the exception of the following which require determination by the Planning Committee:

- 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 Service Director of Planning considers that the proposal merits consideration by the Committee.

The Planning Committee reserves the right to request a report for information purposes on any of these delegated matters.