
Derry City and Strabane District Council (March 2020)

(Temporary amendments for Coronavirus Response. To be reviewed XX June 2020)

Scheme of Delegation: Delegation of Power to Determine Planning Applications and Consents and Enforcement

The scheme of delegation for the determination of planning applications was agreed by the Shadow Derry City and Strabane District Council at its meeting of 21 January 2015 following approval by the Department of the Environment for Northern Ireland on 1 April 2015. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The scheme of delegation took effect from 1 April 2015.

A review of the Protocol and Delegated Scheme was undertaken in 2016 and discussed at previous workshops and agreed with the Planning Committee on 4th January 2017 and ratified by Full Council on 26th January 2017.

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

Statutory requirements under the Planning Act 2011 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 as defined in the Planning (Development Management) Regulations NI 2015;
- An application for planning permission where the application is made by the Council or Council has an interest in or an elected member of the Council; or where an application needs to be referred to DfI.

Part B – Delegated Applications:

Part 4 Section 7(4)(b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate to an officer of the Council. Derry City and Strabane District Council thereby authorises the Head of Planning (HOP) as the appointed person within the Council and those Senior Officers nominated by this Officer.

To determine all Local development applications as defined in the Planning (Development Management) Regulations NI 2015 whether for approval or refusal with the exception of:

- 1) Applications attracting more than five separate individual objections or a petition with five or more signatures (i.e. this excludes five letters of objection from a single person/organisation/household) objections must be based on material planning matters. The HOP is to adjudicate on this where necessary in liaison with Chair.
- 2) Applications deemed as significant departures from the Development Plan and which are recommended for approval also needs to be referred to Dfl.
- 3) Applications submitted by members of Council staff at Planning Officer grade and other Senior Council staff at Heads of Service grade and above (or a close relative/friend of same). HOP to adjudicate in liaison with Chair.
- 4) Applications which the Chair and any Planning Committee Councillors requests to be referred to Committee for determination should be submitted in writing, providing specified planning reason/s for such a referral as per the Protocol, within 4 weeks of delegated list being circulated to members or two weeks after the advertisement or re-advertisement date whichever is the later as per Protocol.
- 5) Applications which the Head of Planning considers that the proposal merits consideration by the Committee. Reason and consideration to be noted on file.
- 6) When the Council is required to enter into a legal agreement/Section 76.
- 7) All applications – outline, full or reserved matters for more than 49 housing units in all locations, including non-significant changes of house type, roads access etc.
- 8) Any applications having significant cross border environmental and economic impacts.
- 9) All refusal recommendations - for decision by Committee, except for planning applications being refused for insufficient information under the Protocol, Revision 4.

Part C – Enforcement and Determination of other matters

As well as determining planning applications, the Council will also have to administer the enforcement of planning and the processing of other planning consents. **Part 4 Section 7(4)(b) Local Government Act (Northern Ireland) 2014** allows a Council committee to delegate to an officer of the Council. The committee has endorsed this approach on 21 January 2015.

The Planning Committee shall be required to consider and determine:

- The formal reporting of planning enforcement matters to the public.
- The commencement of legal proceedings in a magistrates or other court.
- The Designation, Variation or Cancellation of a Conservation Area.
- Applications to Courts for Injunctions.
- The making of a Completion Notice.
- Proposals involving the Revocation or Modification of a planning permission (does not relate to Minor Amendment process).
- Proposals requiring Discontinuance of the use or alteration or removal of buildings.

The following matters are delegated to the appointed officer:

- The making of a Tree Preservation Order.
- Confirmation of a Provisional Tree Preservation Order.
- The serving of a provisional Tree Preservation Order.
- The serving or affixing of a Building Preservation Notice – temporary listing.
- The serving of a Completion Notice.
- The making of an order to revoke or modify a planning permission.
- The making of an order requiring discontinuance of the use or alteration or removal of buildings.
- The investigation of formal planning enforcement proceedings through the issuing of Enforcement Notices, Listed Building Enforcement Notices, Breach of Condition Notices, Stop Notices, Temporary Stop Notices, Fixed Penalty Notices and Planning Contravention Notices.

The following applications, subject to criteria as set out in Part B, or delegated to appointed officer:

- Determination of any application for a Certificate of Lawful Use or Development.
- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent.
- Determination of any application for carry out works to trees.
- Determination of any Hazardous Substance Consent.
- Applications for Non-Material Change of Use.

Part D – Publicity

On adoption of this Scheme of Delegation the Council made a copy available on the Council's website at www.derrystrabane.com available at the Council Planning Office, 98 Strand Road, Derry BT48 7NN.