

To: PLANNING AND ENVIRONMENT COMMITTEE	Subject: DELEGATED POWERS	
From: DIRECTOR OF PLANNING AND ENVIRONMENT DIRECTOR OF ADMINISTRATION		
Date: 17 AUGUST 2005	Ref:	

1. Purpose of Report

1.1 The purpose of this report is to consider an updated and revised Scheme of Delegation for the planning function of the Planning and Environment Department.

2. Background

2.1 The current Scheme of Delegation is now 4 years old, having been agreed by the Council in May 2001 and updated in June 2001 to accord with the revised Structure of the Department. The Scheme as it relates to Development Control, delegates decisions to officers on certain planning applications, on enforcement matters, stopping up orders, consultations from neighbouring authorities and certain matters relating to the Environmental Impact Assessment Regulations.

2.2 It is considered that this is an appropriate time to review these powers for a number of reasons:

- The Scottish Executive's Audit Unit recommended, following a review of the department's planning service, that the level of delegation requires to be increased in order to reduce the number of minor applications being considered at Committee.

- The Service Delivery and Performance Scrutiny Panel recommended a review of the arrangements for delegated powers as a potential means of shortening processing times.

- Since the current scheme was agreed 4 years ago, it has become clear that there are a number of anomalies which require to be addressed.

- Changes in legislation and guidance.

- The number of planning applications per year rose to 2166 in 2004, which is 33% increase on 2001.

3. Proposals

3.1 Proposals for amending the Scheme are as follows:

PLANNING APPLICATIONS

To delegate the **approval** of the following provided **no objections** have been received

OUTLINE APPLICATIONS FOR UP TO 5 HOUSES ON A RESIDENTIALLY ZONED SITE

At present authority to approve **detailed** applications for up to 5 houses is delegated, however if the principle of residential use has been established through the local plan, there should be no issues with an outline application.

AGRICULTURAL WORKERS DWELLINGS WITH APPROPRIATE JUSTIFICATION AND AN AGREEDS75

If an acceptable justification is received then such applications are in accordance with approved policy.

ALTERATIONS AND EXTENSIONS TO COMMUNITY FACILITIES IF IN ACCORDANCE WITH LOCAL PLAN OR OTHER COUNCIL POLICIES

These are usually minor applications

CHANGE OF USE FROM PUBLIC OPEN SPACE TO GARDEN GROUND

These are usually minor applications with no issues

BAD NEIGHBOURHOOD DEVELOPMENT IN ACCORDANCE WITH THE LOCAL PLAN

MINOR ENGINEERING WORKS WHICH ARE REQUIRED FOR A PURPOSE IN ACCORDANCE WITH LOCAL PLAN ZONING OR AN EXISTING USE

To **approve** the following where certain **objections** have been received

ALTERATIONS TO APPROVED LAYOUTS AND HOUSE DESIGNS AND HOUSEHOLDER APPLICATIONS

Some householder applications attract objections which do not constitute material planning matters, such as boundary disputes. These are currently referred to Committee and Members are advised that these are not matters that can be taken into account when determining the application. Similarly there are objections relating to matters which can be measured against set criteria or guidance or policy such as loss of sunlight, daylight, or size of garden and, when so measured, it is found that the application complies with the criteria. Again these are currently reported to Committee and Members advised that the appropriate tests have been carried out and the proposal complies. It is proposed that where objections fall into these categories, powers to approve applications are delegated.

To refuse

ADVERTISEMENT APPLICATIONS WHERE THEY DO NOT ACCORD WITH LOCAL PLAN POLICY

This was included in the Scheme of Delegation until it was revised in 2001 when it was inadvertently omitted.

As at present members would always have the ability to ask that any application be referred for the consideration of the Committee.

ENFORCEMENT MATTERS

PLANNING CONTRAVENTION NOTICES and S.272 NOTICES

Where a breach of planning control is suspected, these notices require that certain information relating to the activities being carried out on land is submitted to the planning authority.

DISCONTINUANCE NOTICES

In terms of Section 71 of the Town and Country Planning (Scotland) Act 1997, and section 186 of the Town and Country Planning Control of Advertisement (Scotland) Regulations 1984.

At present certain enforcement matters are delegated to identified officers in consultation with the Convener, Local Member and where appropriate, the Director of Administration. To avoid delay in circumstances when the Convener is unavailable it is proposed that the scheme be amended to enable a Vice Convener to substitute for the Convener.

In terms of the above delegation -

APPLICATION FOR INTERDICT

Following consultation between the Directors of Planning and Environment, Administration and the Convener of the Planning and Environment Committee, there are currently delegated powers to serve Enforcement Notices and Stop Notices. As an application for interdict would only be in an emergency situation, delegated powers are similarly needed.

NOT TO TAKE ENFORCEMENT ACTION

At present the scheme of delegation allows positive action in respect of enforcement action in consultation but does not specifically refer to the ability to decide not to take enforcement action.

OTHER MATTERS

CONFIRMATION OF STOPPING UP ORDERS AND REFERRAL OF OBJECTIONS TO THE SCOTTISH MINISTERS

The current scheme provides for the promotion of stopping up orders but not their confirmation if there have been no objections after the 28 day advertisement period. Similarly if there are objections then delegated powers are sought to decide to proceed with the process and forward the objections to the Ministers.

ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) REGULATIONS

To respond to consultations from neighbouring authorities on scoping or screening options.

TO DECLINE TO DETERMINE AN APPLICATION

Planning Authorities can decline to determine an application if it is substantially the same as one which in the previous 2 years has been refused by the Scottish Ministers or dismissed at appeal, and there has been no significant change in the development plan or any other material consideration

4. Corporate Considerations

4.1 This report has been compiled following consultation involving the Departments of Planning and Environment and Administration and there are no adverse legal, financial or corporate consequences arising from its implementation.

5. Conclusions

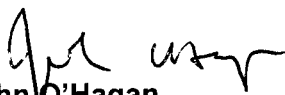
5.1 Adoption of the additional delegated powers outlined above in respect of planning applications will speed up the process and not only provide a quicker response to applicants but also assist in increasing the number of applications which can be dealt with in the 2 month period as identified by the Service Delivery and Performance Scrutiny Panel. It would also allow savings in officer and management time and therefore would have financial benefits as noted in the Audit. The additional powers in respect of Enforcement would allow a more immediate response by the Department on matters which, by their nature, can be urgent, and therefore avoid delay in dealing with unauthorised development.

6. Recommendation

6.1 It is recommended that the Committee approves the revised delegated powers in accordance with appendix 1 of this report.



David M. Porch
DIRECTOR OF PLANNING AND ENVIRONMENT



John O'Hagan
DIRECTOR OF ADMINISTRATION
(17 August 2005)

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DELEGATED POWERS: DEPARTMENT OF PLANNING AND ENVIRONMENT

Development Control

2. To grant applications within the following categories, in respect of which no written objections have been received: -
- (a) Outline applications for up to 5 houses on a residentially zoned site
 - (b) Detailed applications for new development
 - (i) for up to 5 houses on a residentially zoned site
 - (ii) for up to 4000 square metres of class 4, 5 or 6 floorspace on an appropriately zoned site
 - (c) Agricultural workers dwellings where justification has been provided in accordance with local plan policy
 - (d) Industrial, commercial and public utility developments comprising alterations to premises, extensions and ancillary development which accords with both structure and local plan policy and other planning policies approved by the Council, if there is no adopted local plan, the plan to be considered being the relevant development plan
 - (e) Reserved matters of all kinds
 - (f) House extensions and all development within the curtilage of a dwellinghouse which is clearly incidental to the use of the dwellinghouse
 - (g) Alterations to flatted developments
 - (h) Amendments to approved schemes
 - (i) Alterations to shop fronts
 - (j) Alterations and extensions to Community facilities if in accordance with the local plan or other Council policies
 - (k) Minor engineering works which are required for a purpose in accordance with local plan zoning or an existing use, or a proposal with planning permission
 - (l) Changes of use where the proposed use accords with the relevant local plan and other policies approved by the Council, if there is no adopted local plan, the plan to be considered being the relevant development plan
 - (m) Development proposals by the Council and other public authorities which are included within the relevant local

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plan or which have, previously, been approved by the Council in some other context

- (n) Changes of use from open space to garden ground
- (o) Advertisements of all kinds
- (p) Listed building applications
- (q) Applications for conservation area consent
- (r) Applications to lop, top, pollard, fell or destroy trees which are subject to protection by a confirmed Tree Preservation Order or which are within a Conservation Area
- (s) Applications for a Certificate of Lawfulness in terms of Sections 150 and 151 of the Town and Country (Scotland) Act 1997
- (t) Applications for prior approval in terms of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992
- (u) Applications for non material variations in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997
- (v) Applications for renewal of consent in terms of the Town And Country Planning (General Development Procedure) (Scotland) Order 1992
- (w) Details in respect of the fulfilment of conditions in planning consents

3. To grant applications within the following categories, in respect of which objections have been received (where objections relate to non-material planning matters or to matters which can be measured against accepted criteria, guidance or policy, including sunlight/daylight and garden ground open space provision.) and when so measured it is found that the application complies.

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- (a) Householder applications
- (b) Alterations to approved layouts and house designs

(4). To refuse

- (a) Advertisement applications where they do not accord with Local Plan policy

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- (5). To initiate and serve in terms of Town & Country Planning (Scotland) Act 1997
- (a) Discontinuance Notices, s.71
 - (b) Planning Contravention Notices, s 125
 - (c) Section 272 Notices, and
 - (d) Section 186 Notices in terms of the Town and Country Planning Control of Advertisement (Scotland) Regulations 1984
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- (6). Following consultation with the Convener or in his/her absence, a Vice Convener of the Planning and Environment Committee, the local member and, where appropriate, the Director of Administration, to initiate and serve or determine not to serve in terms of the Town and Country Planning (Scotland) Act 1997
- (a) Enforcement Notices, s127
 - (b) Breach of Condition Notices, s.145
 - (c) Stop Notices, s. 140
 - (d) Application for interdict, s 146
 - (e) Tree Preservation Orders, s. 160
 - (f) Provisional Tree Preservation Orders, s. 163
 - (g) Notices relating to removal, or obliteration, as appropriate of unauthorised posters, s 187
 - (h) Notices Requiring Proper Maintenance of Land (wasteland notice) s. 179,
- and ancillary thereto, in circumstances considered appropriate by the Director of Planning and Environment to instruct works to be carried out and costs to be recovered.
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- In terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997,
- (i) Building Preservation Notices, s3,
 - (j) Listed Building Enforcement Notices, s 34
- (7). After consultation with the Director of Administration to authorise the promotion and confirmation of Orders for the Stopping Up or Diversion of roads, footpaths or bridleways in terms of Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997
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- (8). To issue, on behalf of the Council, opinion in terms of Regulations 5, 7 and 10 of the Environmental Impact Assessment (Scotland) Regulations 1999 as follows
- (a) Regulation 5 – Screening opinion, at request of the applicant
 - (b) Regulation 7 – Screening opinion, on receipt of an application Unaccompanied by an environmental statement
 - (c) Regulation 10 – Scoping opinion at request of the applicant
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- (9). To determine whether to claim costs on behalf of the Council in respect of planning appeals
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(10). To respond to consultations from neighbouring authorities where proposals accord with the relevant development plan and on scoping and screening, opinions under the Environmental Impact Assessment (Scotland) Regulations 1999

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