



# Consolidated Schemes of Delegation for Planning and Related Applications

Effective 1<sup>st</sup> April 2020

*Local Government Act (Scotland) 1973 – Section 56*

*Town and Country Planning (Scotland) Act 1997 – Section 43A*

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The Chief Officer (Strategic Place Planning) or any appropriate person nominated by him/her for the purpose (that Chief Officer or any such appropriate person hereinafter referred to as the “Appointed Officer”) has the following delegated powers

1. To determine applications for –

- a) planning permission (including planning permission in principle) for development falling in the category of Local Development in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009;
- b) the requisite approval of matters specified in condition(s) imposed on a grant of planning permission in principle under section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended); and
- c) planning applications for modification of conditions under section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended).
- d) applications as required by Section 28 of the Planning (Scotland) Act 2019 (when it comes into force).

**except** where that application –

- i. has been made by or on behalf of;
  - o an elected member of the Council or a member of staff employed within the Strategic Place Planning function of the planning authority;
  - o the Chief Executive or any other member of the Corporate Management Team of the planning authority,

all as determined from the contents of the application form;

- ii. requires to be the subject of formal notification to the Scottish Ministers as defined in the Schedule to the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 (or any other Scottish Government Direction);
- iii. is an Environmental Impact Assessment (EIA) application for which a validated EIA has been submitted;
- iv. is being recommended for approval and has been the subject of formal timeous objection<sup>1</sup> by the local Community Council within whose area the application site falls;

- v. has been the subject of six or more timeous letters of representation<sup>2</sup> (following advertisement and/or notification) that express objection or concern about the proposal;
  - vi. is being recommended for approval and has been the subject of formal objection from the Roads Authority or the Council's Environmental Health service;
  - vii. is being recommended for approval and is considered by the Appointed Officer to be contrary to the adopted development plan strategy; or
  - viii. has been subject to a Public Hearing under Section 38A(4) of the Town and Country Planning (Scotland) Act 1997
2. To determine applications for the approval of consent, agreement or approval required by a condition(s), imposed on a grant of planning permission under section 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as required by Section 28 of the Planning (Scotland) Act 2019 when it comes into force.
  3. To determine applications for any approval of the planning authority required under a development order as required by Section 28 of the Planning (Scotland) Act 2019 when it comes into force.
  4. To determine applications for advertisement consent required by virtue of regulations made under Section 182 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as required by Section 28 of the Planning (Scotland) Act 2019 when it comes into force.
  5. Under the terms of section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) and section 69 of the Local Government (Scotland) Act 1973, and following consultation with the Chief Officer (Governance) to –
    - a) negotiate and conclude legal agreements related to planning and other applications;
    - b) determine applications for Modifications or Discharge of Planning Obligations under section 75A in relation to planning applications;
    - c) participate in the promotion and development of Good Neighbour Agreements under section 75D;provided the Appointed Officer considers such agreements to be in accordance with the original decision on the application
  6. To determine planning and other applications given a willingness to approve and for which legal agreements are not completed within 6 months of the date a willingness to approve was agreed by the Planning Authority.
  7. To determine applications for Listed Building consent and Conservation Area consent subject to any of the applicable exceptions contained in paragraph 1 above and provided that the Scottish Ministers, if notified, have either made no observations or, where observations have been made which can competently be made the subject of appropriate planning conditions, to determine these applications with those conditions attached.
  8. To determine requests for non-material variation of planning applications in terms of section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

9. To determine, following consultation with the Chief Officer (Governance), the Convener of the Planning Development Management Committee and the Business Manager, whether to appeal a decision of the Scottish Ministers and thereafter, if applicable, to instruct the making of such an appeal.
10. To determine Hazardous Substance Consent applications under the Planning (Hazardous Substances) (Scotland) Act 1997 and the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.
11. To determine whether planning or other applications that have been lodged or pre-application proposals require planning or other consent.
12. To issue consents where Full Council or any relevant committee of the Council are minded to grant a development and the Scottish Ministers, having been notified, indicate no objections or intention to intervene, or the period for so indicating has expired.
13. To deal with Proposal of Application Notices in terms of section 35B of the Town and Country Planning (Scotland) Act 1997 (as amended) and Pre-Application Screening Notices in terms of section 35A(3) of that Act.
14. To determine applications for advertisement consent under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.
15. To determine, in accordance with the applicable Environmental Impact Assessment Regulations, whether a particular planning application requires to be supported by an Environmental Statement (Screening Opinion) and the scope of any such Statement (Scoping Opinion) and to determine the scope of any such Statement (Scoping Opinion) and whether the information submitted with any EIA report is sufficient to reaching a reasoned conclusion on the significant effects of the development on the environment or whether supplementary information is required and the scope of any such information all in accordance with Section 40 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as required by Section 40A of the Planning (Scotland) Act 2019 when it comes into force.
16. To determine applications related to Prior Notification or Prior Approval made under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 Schedule 1 for the following –
  - a) Part 1A - Class 6G: Free standing wind turbine within the residential curtilage;
  - b) Part 1B - Class 6K and 6L: Biomass facilities on agricultural or forestry land;
  - c) Part 6 - Class 18: Agricultural buildings;
  - d) Part 7 - Class 22: Forestry buildings and operations;
  - e) Part 13 - Class 39 and 40: Public gas transporters and electricity undertakings;
  - f) Part 20 - Class 67: Development by electronic communications code operators;
  - g) Part 23 - Class 70: Demolition of buildings;
  - h) Part 24 - Class 71: Toll road facilities;

- i) Any other types of prior notification or prior approval that might come forward in future amendments to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 Schedule 1.
- 17.** To determine applications for certificates of lawfulness of existing and proposed use or development under Sections 150 and 151 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as required by Section 28 of the Planning (Scotland) Act 2019 when it comes into force where, in the opinion of the Appointed Officer, there is no reasonable doubt that the use or development is or would be –
- a) lawful without further planning approval; or
  - b) unlawful
- 18.** To give, serve, issue and sign the following notices, all under the Town and Country Planning (Scotland) Act 1997 (as amended), following consultation with the Chief Officer – Governance with an annual report to the Planning Development Management Committee detailing all action authorised under the below:
- Enforcement Notices under Section 123
  - Notices under section 33A requiring an Application for Planning Permission for a Development already carried out;
  - Planning Contravention Notices under section 125;
  - Stop Notices under section 140;
  - Temporary Stop Notices under section 144A;
  - Breach of Condition Notices under section 145;
  - Fixed Penalty Notices under section 136A;
  - Completion Notices under section 61 and as amended by Section 33 of the Planning (Scotland) Act 2019
  - Notices in terms of Land Adversely Affecting the Amenity of Neighbourhood under section 179
- 19.** To instruct applications for interdict in terms of section 146 of the Town and Country Planning (Scotland) Act 1997 (as amended) in order to restrain breaches of planning control.
- 20.** To develop and maintain a Development Management Charter and Enforcement Charter under section 158A of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 21.** To take, following consultation with the Chief Officer (Governance), any necessary enforcement action in respect of unauthorised advertisements, poster panels (hoardings) or fly posting.
- 22.** To instruct the registration and/or discharge of Charging Orders in terms of section 158 of the Town and Country Planning (Scotland) Act 1997 (as amended) in order to reclaim the costs of carrying out enforcement action.
- 23.** To make an order to revoke or modify planning permission where all owners, lessees or occupiers of land affected, or such other person who in the opinion of the Appointed Person will

be affected by the order, have notified the planning authority in writing that they do not object to the order under sections 65 and 67 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**24.** To determine all applications for Certificates of Appropriate Alternative Development under section 25 of the Land Compensation (Scotland) Act 1963.

**25.** To decline to determine an application under section 39 of the Town and Country Planning (Scotland) Act 1997 (as amended).

## **Note**

The Appointed Officer and Chief Officer (Strategic Place Planning), following consultation with the Convener of the Planning Development Management Committee may decide, for whatever reason, that the particular circumstances of an application which would in terms of this Scheme fall to be determined by the Appointed Officer are such that the application should be determined by the Planning Development Management Committee. The final decision lies with the Chief Officer (Strategic Place Planning).

## **Definitions (superscript numbers in text above)**

1. A “*timeous objection*” from the Community Council means any written representation – stating explicitly that it is objecting - received from the Community Council within whose area the application is located no later than the time period specified for representations following the date of notification or, if applicable, advertisement of the application (whichever is the later) or any later date agreed in writing with the planning case officer prior to the expiry of the aforementioned time period(s).
2. A “*timeous letter of representation*” means any written representation no later than the expiry of the time period specified by the Planning Authority for representations to be made following the date of notification or, if applicable, advertisement of the application (whichever is the later).

“*Letter of representation*” is to be construed in light of the following –

- (i) if more than one representation is submitted from a single individual or a single e-mail address, this only counts as one representation.
- (ii) a single letter with a number of signatures from one postal address counts as only one representation.
- (iii) a petition (i.e. the same comment or letter submitted on behalf of and signed by multiple individuals from the same or different addresses) is counted as one representation.
- (iv) a representation will only be counted if it is from a specified e-mail address or street address and from a specified individual(s).