

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT: SCHEME OF DELEGATION

DELEGATION OF DECISIONS ON PLANNING APPLICATIONS AND ENFORCEMENT

The scheme of delegation for the determination of planning applications was agreed by the Council at its meeting of 26th May 2009 and referred to the Scottish Ministers' for approval. This approval was granted on the 16th July 2009 and reported to the Council on 25th August 2009. The scheme is in accordance with the **Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008**. This scheme of delegation replaces the scheme of delegation agreed by the Planning Committee at its meetings on 15 March 2007. The amended scheme of delegation took effect from 3rd August 2009.

Part A.

The following applications for planning permission shall be determined by the Planning Committee of the Council:

- i. any application for planning permission in principle (PPP) and for detailed planning permission which comprises a 'National Development' or a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
- ii. *A copy of the schedule in those Regulations which lists those developments which are classed as major comprises the Appendix to this scheme of delegation.*
- iii. any application made by the planning authority;
- iv. any application made by a member of the planning authority;
- v. any application that relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest;
- vi. any application that the appointed officer is minded to approve under the terms of this scheme of delegation but which is the subject of an extant objection from a statutory consultee that would result in referral of the application to Scottish Ministers under the provisions of Circular 3/2009, Notification of Planning Applications;
- vii. any application that the appointed officer is minded to approve under the terms of this scheme of delegation but which would constitute a significant departure from the provision of the Council's Development Plan; and
- viii. any application which would normally be determined by the appointed officer under the terms of this scheme of delegation but which has been the subject of notification that it is to be determined by the Planning Committee of the Council: such notification to be made in writing within one month of the date of validation of the application (except where the provisions of Annex 2 apply) and to be known as 'Notification of Member Referral': such notification shall only be valid if submitted by a Member in whose Ward the application site lies in whole or in part, and includes a statement of the reasons in planning terms for the notification.

Part B.

The following applications for planning permission shall be delegated for determination by the appointed officer of the Council. The appointed officer of the Council is the officer appointed in terms of Section 17 of the Planning etc (Scotland) Act 2006 (Section 43A (1) of the Town and Country Planning (Scotland) Act 1997), as a person holding the position of Director of Strategic Services, Head of Planning, Development Management Manager, Principal Planning Officer or Senior Planning Officer.

- i. any application which does not fall within any of the categories comprising Part A of this scheme of delegation;
- ii. any application for development defined as a 'Local Development' in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
- iii. any application to vary or amend a condition on an extant planning permission;
and
- iv. any application to vary an extant planning permission.

SCHEDULE OF MAJOR DEVELOPMENTS

<i>Description of Development</i>	<i>Threshold or criterion</i>
<u>1. Schedule 1 development</u>	
Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999 (3) (other than exempt development within the meaning of those Regulations).	All Development.
<u>2. Housing</u>	
Construction of buildings, structures or erections for use as residential accommodation.	(a) The development comprises 50 or more dwellings; or (b) The area of the site is or exceeds 2 hectares.
<u>3. Business & General Industry, Storage and Distribution</u>	
Construction of a building, structure or other erection for use for any of the following purposes-	(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres; or (b) The area of the site is or exceeds 2 hectares.
(a) as an office;	
(b) for research and development of products or processes;	
(c) for any industrial process; or	
(d) for use for storage or as a distribution centre.	
<u>4. Electricity Generation</u>	
Construction of an electricity generating station.	The capacity of the generating station is or exceeds 20 megawatts.
<u>5. Waste Management Facilities</u>	
Construction of facilities for use for the purpose of waste management or disposal.	The capacity of the facility is or exceeds 25,000 tonnes per annum. In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge.
<u>6. Transport and Infrastructure Projects</u>	
Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.	The length of the road, railway, tramway waterway, aqueduct or pipeline exceeds 8 kilometres.
<u>7. Fish Farming</u>	
The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.	The surface of water covered is or exceeds 2 hectares.
<u>8. Minerals</u>	
Extraction of minerals	The area of the site is or exceeds 2 hectares
<u>9. Other Developments</u>	
Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above	(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or (b) The area of the site is or exceeds 2 hectares

Annex 1: Decisions and Determinations on Other Matters

The Planning Committee shall be required to consider and determine:-

- i.** the making of a Tree Preservation Order;
- ii.** confirmation of a Provisional Tree Preservation Order; and
- iii.** the formal reporting of planning enforcement matters to the Procurator Fiscal.

The following matters are delegated to the appointed officer:-

- i.** the serving of a Provisional Tree Preservation Order;
- ii.** the investigation of formal planning enforcement proceedings through the issuing of enforcement notices, stop notices, temporary stop notices, fixed penalty notices, planning contravention notices and Section 179 (amenity) notices;
- iii.** determination of any application for a certificate of lawful development;
- iv.** determination of any application for listed building consent;
- v.** determination of any application for conservation area consent;
- vi.** determination of any application for advertisement consent; and
- vii.** determination of any application to carry out works to trees.

Annex 2: Information to Members

Applications for planning permission which fall to be determined under Part B of the Scheme of Delegation (i.e. are delegated for determination by officers), and to which any of the following criteria are relevant will be drawn to the attention of Members:-

- i.** the application has attracted ten or more written objections from individual households or other premises; or
- ii.** the application is the subject of formal written objection from a community council within whose area the application site lies either in whole or in part; or
- iii.** the application seeks to vary a planning permission originally granted by the Planning Committee; or
- iv.** the application can only be approved subject to the requirement for a legal planning agreement.

Information will be provided to all Members no later than five working days prior to the date of formal determination, thereby providing the opportunity for a local Ward Member to consider submission of a formal 'Notification of Member Referral' in accordance with Part A vii) of the Scheme of Delegation. For the avoidance of doubt the time limit period for notification specified in Part A vii) will not apply in cases notified under the provisions of this Annex.

Local Ward Members will be informed of any formal planning enforcement proceedings which have been undertaken within their respective Wards: such proceedings being the issuing of an Enforcement Notice, a Stop Notice, a Temporary Stop Notice, a Breach of Condition Notice, a Fixed Penalty Notice or a Section 179 (amenity) Notice.

Unless otherwise specified all communications to Members under the terms of this Annex shall be by email.

Annex 3: Representations Received on Planning Applications

A representation on a planning application shall only be competent if it comprises a written submission in the form of either a letter or an e-mail. In the case of a letter the correspondent will require to include their name, full address and signature. In the case of an e-mail a name and full address will be required.

Any representations which may be received after the following dates will not be taken into account in the assessment and determination of planning applications:-

- i. In the case of planning applications which are to be reported to the Planning Committee, 5.00 p.m. on the Monday of the week preceding the meeting of the Committee; where that day is a public holiday then the deadline will be 5.00 p.m. on the immediate preceding working day. This deadline also applies where the Committee defers determination of an application to a later date.
- ii. In the case of applications due for approval under delegated powers subject to a legal agreement, the day that notice is given to Members advising that the application is to be approved subject to the signing of a legal agreement.