

DUMFRIES & GALLOWAY COUNCIL

SCHEME OF DELEGATION TO OFFICERS FOR PLANNING

Part 1: Local Developments

1. In accordance with Section 43(A) of the Town & Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019, Dumfries & Galloway Council as planning authority hereby delegates the power to determine any application for planning permission for a development within the category of local developments as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 or any application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within that category, to the appointed officers nominated by the Executive Director Economy and Infrastructure / or the Head of Economy and Environment, subject to the condition that such delegated powers shall not be exercised in the circumstances set out below in para 2 (i) to (v).

2. Exceptions

- (i) applications made by the planning authority;
- (ii) applications made by or on behalf of a) any Elected Member of the planning authority or b) any officer directly involved in the statutory planning process or c) any immediate relative or partner of either a) or b)¹;
- (iii) applications which are subject to 6 or more separate, individual and timeously-received objections² on material planning grounds;
- (iv) applications which are the subject of objections from any statutory consultee³ and which officers are minded to approve; or
- (v) applications for developments which are significant departures from the development plan⁴ and which officers are minded to approve.

Part 2 : National and Major Developments and all other Planning Determinations

3. In accordance with Section 56 of the Local Government (Scotland) Act 1973, Dumfries & Galloway Council as planning authority hereby delegates to the Executive Director Economy and Infrastructure, the Head of Economy and Environment and their appointed officers, the power to take all actions and decisions, make all determinations and Orders and serve, vary or withdraw all notices under Planning, Listed Building and Conservation Area, Hazardous Substances and Advertisement legislation on behalf of the Council, subject to the condition that such delegated powers shall not be exercised in the circumstances set out below in paras 4(i) to 4(viii).

4. Exceptions

Part 2 of this Scheme does not apply to applications for local developments, as defined in Regulation 2(2) of the Town & Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, which are the subject of Part 1 of this Scheme of Delegation. In addition, it does not apply to:

- (i) applications made by the planning authority;
- (ii) applications made by or on behalf of a) any Elected Member of the planning authority or b) any officer directly involved in the statutory planning process or c) any immediate relative or partner of either a) or b)¹;
- (iii) applications relating to national or major developments as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
- (iv) applications which are subject to 6 or more separate, individual and timeously-received objections² on material planning grounds; or
- (v) applications which are the subject of objections from any statutory consultee³ and which officers are minded to approve;
- (vi) applications for developments which are significant departures from the development plan⁴ and which officers are minded to approve.

Furthermore, it does not apply to:

- (vii) responses to notifications and consultations on national or major development which do not require the permission of the Council as planning authority (e.g. S36 applications for wind turbines);
- (viii) taking direct action to remedy breaches of planning control subsequent to the service of an Enforcement Notice, Stop Notice or other Notice served under Planning, Listed Building and Conservation Area or Advertisement legislation.

Applicable to Parts 1 and 2 above:

5. For the avoidance of doubt, appointed officers shall not be under any obligation to exercise their delegated powers, and shall retain the right to refer any application to Committee for determination, if they consider it appropriate or expedient to do so.

6. If, within 21 days of the publication of the weekly list of new applications, or before the expiry date of any statutory public notification period, whichever is later, an appointed officer receives a request on material planning grounds from any Elected Member for any application within Dumfries & Galloway to be referred to Committee for a decision, the appointed officer shall refer that application to Committee. An Elected Member may revoke such a request if this is notified to the appointed officer prior to the publication of the agenda and papers for the meeting where the application was due to be considered. Provided there is no other reason why the application must be considered by the Planning Applications Committee, it will then be deemed to have been withdrawn from the agenda for that meeting and the decision will be made by the appointed officer.

7. Notwithstanding the above exceptions to Parts 1 and 2 of this Scheme of Delegation, appointed officers are hereby delegated to refuse any application where insufficient information has been submitted to enable a properly informed determination to be made.

Footnotes:

¹ "Immediate relative" in relation to an Elected Member of the planning authority, or an officer involved in the statutory planning process, means a person who is, at the time of determination of the application, in any of the following relationships to the Elected Member or officer -

(a) a spouse or civil partner;

(b) a person, not being the spouse or civil partner, living with the Elected Member or officer as husband or wife or in a relationship which has the characteristics of the relationship between civil partners;

(c) a parent or child;

(d) a person not falling within paragraph (c) above who is accepted by the Elected Member or officer as a child of his family or as his parent;

(e) a brother or sister, or a person who was brought up in the same household with the Elected Member or the officer, and who was accepted as a child of the family in which the Elected Member or the officer was a child;

(f) a grandparent or grandchild;

and includes any person who is the spouse or civil partner of, or a person living as husband or wife or in a relationship which has the characteristics of the relationship between civil partners with, a person falling in (c) to (f) above.

² Objections – 'Timeously received' means an objection received from a member of the public within 21 days from the date of service of the neighbour notification, or within the statutory response period of any advertisement of the application in question, whichever is the later. Late objections received outwith the applicable period will not be accepted. For the avoidance of doubt, a petition is counted as an individual representation and not as a representation from each signatory.

³ Statutory consultee - a 'statutory consultee' is one defined in Schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, namely the Scottish Environment Protection Agency, Scottish Natural Heritage, the Health and Safety Executive, Scottish Ministers (trunk roads, historic environment, and marine fish farm development), Community Councils, the Coal Authority, adjoining planning authorities, Network Rail Infrastructure Ltd, Theatre Trust, Scottish Water, District Salmon Fishery Boards and sportscotland.

⁴ Significant Departure from Development Plan - It is a matter for the appointed officer to judge the significance of a departure. Judgement is based on the significance of the departure from the main aims, objectives and policies of the development plan, not on the size or scale of the development.

⁵ Should there be any change in national legislation for any of the categories above which are also covered by statute (namely those under paragraphs 2 (i - ii) & 4 (i - ii) above), any such change shall be deemed to be simultaneously reflected in the Council's Scheme of Delegation to Officers for Planning without the need to further Council approval.