

**COMMUNITY COUNCIL ADVICE NOTE:
The Scheme of Delegation**

May 2019

What is a Scheme of Delegation?	
<p>The Council is required to have a scheme of delegation by virtue of the Local Government (Scotland) Act 1973. The scheme is the way the Council delegates authority to officers to perform certain functions. It also fulfils the legislative requirement to set out a list of the functions of the Council that are carried out by officers.</p> <p>The Council, as planning authority, also needs to have a statutory scheme of delegation to deal with local developments such as extensions and small housing developments. This is then approved by Scottish Ministers.</p> <p>So both schemes allow officers of the Council to perform functions and make decisions on behalf of councillors.</p>	
Why do we have a planning scheme of delegation?	
<p>Edinburgh has over 6000 planning applications each year. Clearly elected councillors would be unable to make a decision on each one – this would not be an efficient use of their time. In order for councillors to carry out their statutory roles, officers take decisions on a wide range of matters provided they are in compliance with the scheme of delegation.</p>	
What is in the Planning Scheme of Delegation	
<p><i>The scheme of delegation under the 1973 Local Government Act.</i></p>	<p>Planning Applications</p> <p>This section authorises the determination of a range of applications for planning permission, listed building consent, conservation area consent, certificates of lawfulness, advertisement consent and non-material variations. Applications for Hazardous Substances Consent are excluded and must be referred to the Development Management Sub-Committee for a decision.</p> <p>In determining an application, the officer must be sure that the proposal accords with the statutory development plan and does not remove or amend conditions previously added by the Committee. Legal agreements may be entered into as long as the total value of the contributions, of whatever kind, does not exceed £250,000.</p>

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	<p>The officer cannot determine applications which fall within the definition of national developments. Local developments, which are the subject of the statutory scheme (see below), are also excluded from this scheme of delegation. The officer also cannot determine applications which have been submitted by an elected member or by an officer involved in the statutory planning process, or have been submitted by a partner, close friend or relative of such a person. In addition, applications cannot be approved where there are more than 6 material objections (20 in the case of listed building consent relating to householder development) nor can they be refused where there are more than 20 material representations in support of the proposals.</p> <p>These delegated powers do not have effect where an elected member has asked within 21 days of advert, neighbour notification or validation, whichever is later, that the matter be referred to the Development Management Sub-Committee for material planning reasons or the Chief Planning Officer is of the view that the matter should be determined by that Committee because the proposal is controversial, is of significant public interest or may have significant environmental impact.</p> <p>Where a Statutory consultee objects and it is proposed to recommend the application for approval, the application must be determined by committee. This includes objections from Community Councils as Statutory Consultees. In addition, where the Community Council supports a scheme recommended for refusal, a Committee decision is required.</p> <p>Enforcement Action: This section covers a wide range of actions to initiate, to progress and to conclude enforcement action, interdict action and direct action in connection with the range of powers within the planning enforcement toolkit. The delegation also includes powers to withdraw, relax or vary an enforcement notice and to respond to a number of specific situations or issues.</p>
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	<p>Landscape: This section provides the authority to make provisional TPOs and to authorise works to trees protected by TPOs and to trees in conservation areas.</p> <p>Miscellaneous: These provisions relate to powers of entry for any purpose in the preparation of a development plan and in general planning controls; naming and numbering of streets; and requiring proper maintenance of land affecting listed buildings or conservation areas.</p>
<p><i>The statutory scheme of delegation (under the 2006 Planning Act)</i></p>	<p>This scheme authorises the Chief Planning Officer to appoint suitable officers to determine applications for local developments as defined in the Hierarchy of Developments. This power relates to planning applications and to applications for consent, agreement or approval required by a condition imposed on a grant of planning permission.</p> <p>In determining an application, the appointed officer must be sure that the proposal accords with the statutory development plan and does not remove or amend conditions previously added by the Committee</p> <p>The appointed officer cannot determine applications which have been submitted by an elected member or by an officer involved in the statutory planning process, or have been submitted by a partner, close friend or relative of such a person. In addition, applications cannot be approved where there are more than 6 material objections (20 in the case of householder applications) nor can they be refused where there are more than 20 material representations in support of the proposals.</p> <p>These delegated powers do not have effect where an elected member has asked that the matter be referred to the Development Management Sub-Committee for material planning reasons within 21 days of advert, neighbour notification or validation, whichever is later or the Chief Planning Officer is of the view that the matter should be</p>

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Appointed officers

Only certain officers are given delegated powers. For instance, the Chief Planning Officer or service managers can only sign off reports for the Development Management Sub-Committee. Planning applications decided under delegated powers can only be determined by chartered town planners. The case officer can never determine the planning application they are dealing with.