



Scheme of Delegation: Delegation of Planning Applications, Enforcement, Local Development Plan and other Planning Matters (Revised June 2023)

Introduction

Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate certain matters to an officer of the Council. In relation to the scheme of delegation for planning applications, enforcement, local development plan and other planning matters the person appointed by the Council to exercise delegated powers is the Deputy Director of Planning within the Council and those Senior Planning Officers nominated by this Officer in writing (the "Appointed Officers").

Where the Council gives authority for the implementation of any duty under this scheme of delegation, the Appointed Officers shall be entitled to take all necessary steps for the completion of such a duty.

Nothing in this Scheme of Delegation shall prejudice the validity of any actions taken by the Appointed Officers under any other scheme or power.

Delegation of Planning Applications

This scheme of delegation (as revised) for the determination of planning applications has been agreed by Antrim and Newtownabbey Borough Council and approved by the Department for Infrastructure. The scheme of delegation (as revised) is in accordance with Section 31 of The Planning Act (NI) 2011 and takes effect on 1 June 2023.

Part A – Planning Applications required under the Planning Act to be determined by the Planning Committee

Statutory provisions within the Planning Act (NI) 2011 require that certain types of planning application must be determined by the Planning Committee. Accordingly, the following categories of application cannot be delegated to officers:

- (a) An application that falls within the Major category of development;
- (b) An application for planning permission where the application is made by the Council or an elected Member of the Council, and
- (c) An application relating to land in which the Council has an interest.

Part B – Delegated Planning Applications

The Council has agreed that the person appointed is empowered to determine all planning applications that fall within the Local category of development whether for approval or refusal with the following exceptions:

- (a) An application made by a Senior Officer¹ of the Council (Head of Service or above), a staff member of the Planning Section or their immediate families or the immediate family² of an elected Member.
- (b) An application that would introduce fundamental changes to a major application that has been determined by the Planning Committee;
- (c) An application which is a significant departure from the Development Plan and which is recommended for approval.
- (d) An application subject to objections from more than 2 postal addresses within the Neighbour Notification area or 5 objections from occupied properties in the wider area;
- (e) An application recommended for refusal, except where the refusal decision relates to:
 - a retrospective application where there is an Enforcement Notice in place;
 - cases where technical information required to determine the application has not been submitted following a request and a reminder (the total of which is not less than 21 days); or
 - an application for an advertisement(s) not located within the curtilage of the business premises to which it relates.
- (f) An application which the Deputy Director of Planning considers should be considered and decided by the Committee;
- (g) An application where a legal agreement under Section 76 of Planning Act (Northern Ireland) 2011 is required; and
- (h) An application which is referred to the Committee by a Member of the Council. Any such referral must be made in writing to the Head of Planning within 21 calendar days of validation of the application and accompanied by a sound planning reason.

Delegation of Enforcement and other Planning Matters

Part C – Enforcement

As well as determining planning applications, the Council is also responsible for the enforcement of planning control and a range of other planning matters, including the processing of other planning consents.

The Council has agreed that all matters associated with the enforcement of planning control are delegated to the person appointed by the Council with the following exceptions:

- (a) The service of an Enforcement Notice, Listed Building Enforcement Notice, Stop Notice, Temporary Stop Notice, Breach of Condition Notice or Fixed Penalty Notice, except in the following circumstances:

¹ For the purposes of this scheme of delegation a Senior Planning Officer is defined as any officer reporting direct to the Deputy Director of Planning, Legal Officer, or other Senior Planning Officer employed by the Council.

² For the purposes of this scheme of delegation, immediate family refers to a spouse, partner, children and parents.

- where the person appointed considers the breach of planning control could result in immediate public danger or development which may result in permanent damage to the environment. Examples include: the demolition of, or works to, a listed building; the felling of protected trees; the demolition of a building in a conservation area; or the commencement of building operations without permission; or
- it relates to service of Notices on an existing offender in relation to any further breach (es) of control on the same site, or adjoining lands within the same ownership, in cases where formal action has already been taken. The service of any such Notice will be reported to the next available Planning Committee for ratification.

- (b) The instigation of court proceedings (to include interim-injunctions and/or final – injunctions) with the exception of direct offences in relation to advertisement control, Tree Preservation Orders, Conservation Areas and Listed Buildings and prosecution for non-compliance with a Planning Contravention Notice and a Submission Notice as well as non-compliance with any formal Notices or action taken by the Council. Court proceedings will be reported in the Quarterly Enforcement Report; and
- (c) Any other enforcement matter which the Deputy Director of Planning considers should be considered and decided by the Committee.

Part D – Determination of other Planning Matters

In relation to other planning responsibilities the Council has agreed that the following matters are also delegated to the person appointed:

- (a) The issuing of a certificate of lawful use or development;
- (b) The making of a non-material change to a planning permission;
- (c) The discharge of planning conditions;
- (d) The issuing of a correction notice (once this provision is commenced);
- (e) The power to formulate the precise wording of planning conditions/refusal reasons following decisions made by the Planning Committee;
- (f) The power to amend a planning condition/refusal reason following Planning Committee to address any administrative issue;
- (g) The power to decide whether information received after the Planning Committee make their decision on a planning application and before the decision notice is issued, is substantial new material information that needs to be referred back to the Planning Committee to consider;
- (h) The power to provide draft conditions or reasons of refusal (as appropriate) to the Planning Appeals Commission on Non-Determination Appeals subject to the agreement of the Chair and Vice-Chair of the Planning Committee;
- (i) The power to withdraw a reason for refusal at or prior to a planning appeal hearing on technical matters (noise, odour, flooding etc.) where the consultee has raised no concerns following the submission of additional information;
- (j) The power to address any matter raised by objectors during a planning appeal hearing which was not a reason for refusal put forward by the Planning Committee; and
- (k) The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations.

The Council has also agreed that the following matters are delegated to the person appointed subject to the same exceptions set out under Part B above:

- (l) Determination of any application for listed building consent;
- (m) Determination of any application for conservation area consent;
- (n) Determination of any application for advertisement consent;

- (o) Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order); and
- (p) Determination of any Hazardous Substance Consent.

The Council has also agreed that the following matters are delegated to the person appointed in circumstances where awaiting the Planning Committee meeting could result in serious environmental or amenity damage arising:

- (q) The serving of a Provisional Tree Preservation Order³ ; and
- (r) The affixing of a Building Preservation Notice.

The use of these powers will be reported to the next available Planning Committee meeting for ratification.

Delegation of Local Development Plan Matters

Part E – Local Development Plan

(a) The Appointed Officers shall be entitled to represent the Council any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011.

(b) During the course of any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below:

- (i) propose and agree on behalf of the Council minor modifications to the development plan document which is under examination.

(c) For the purposes of this Scheme of delegation, "minor modifications" means typographical, clarificatory, or factual modifications which do not, in the judgement of the Appointed Officers, materially alter the operation of substance of the development plan document or relevant policies within it.

(d) During the course of any Independent Examination held under Section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below, but only in accordance with the conditions set out in paragraph (f) below:

- (i) propose and agree on behalf of the Council to modifications to the development plan document which go beyond "minor modifications" (as defined in this Scheme), but which do not amount to a "major change" as defined in Part 2, Article 2 of the Constitution (defined in this Scheme as "non-minor modifications").

Before proposing or agreeing to "non-minor modifications", the Appointed Officers must first consult with Party Leaders, the Chair and Vice Chair of the Planning Committee and having done so, the Appointed Officers may only propose or agree to the non-minor modifications in question (if a majority of those Members have indicated in writing that they consent to the Appointed Officers doing so).

(e) Adoption – Prior to the publication and adoption of the development plan document (i.e. Draft Plan Strategy and/or Local Policies Plan) and associated

³ Where there is no perceived or actual threat of serious environmental or amenity damage arising, the serving of a Provisional Tree Preservation Order is not delegated to the person appointed.

supporting documents, delegated authority is given to Appointed Officers regarding any minor typographical errors.

Part F – Publicity

The Council has made a copy of this Scheme of Delegation available on the Council's website at www.antrimandnewtownabbey.gov.uk and it is also available on request at the Council's offices in Mossley Mill and Antrim Civic Centre.

The Scheme of Delegation (revised) has been advertised in the local press.

Part G – Review

This Scheme of Delegation will be subject to review by the Planning Committee every 2 years or at any such time as requested by more than 50% of the Members of the Committee.