

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 25 September 2013

Subject: Review of Planning Authority Scheme of Delegation

1. Purpose

- 1.1** To seek approval of a revised Scheme of Delegation to reflect recent changes in planning regulations.

2. Recommendations

- 2.1** That the Committee **agrees that the proposed new scheme of delegation (Appendix 1) is appropriate for referral to Council.**

3. Background

- 3.1** The Local Government (Scotland) Act 1973 empowers local authorities to delegate a wide range of decisions to officers, including powers to determine certain planning applications. The Planning etc. (Scotland) Act 2006 introduced a positive requirement that each planning authority must prepare a specific scheme of delegation under which determination of certain types of planning application is delegated to officers. Secondary legislation requires that the scheme of delegation must be approved by the Scottish Ministers, and that planning authorities must review their scheme of delegation at least every five years.
- 3.2** This authority's current scheme of delegation was agreed by the full Council on 24 June 2009, and therefore requires to be reviewed within the next 9 months. Furthermore, the existing scheme of delegation (Appendix 2), reflected the requirements of the national regulations which were current in 2009. Those regulations have since been revoked, and replaced by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, which came into effect on 30 June 2013. This is therefore an appropriate point to review our scheme of delegation.

4. Main Issues

Changes to Planning Regulations

- 4.1** When the statutory requirement to produce a scheme of delegation came into effect in 2009, the regulations required that applications by the Council or an elected member, or in which the Council had an interest, required to be determined by the Planning Committee. Whilst these provisions were

intended to ensure public scrutiny, their effect was that a very large number of minor and non-contentious applications required to be considered by the Planning Committee, causing delays, increased costs and unnecessary workload. Following consultation with Planning Authorities the government introduced new regulations which came into force in June 2013 and they have abolished all of the previous statutory limitations on the use of delegated powers for “Local” development applications.

- 4.2** The proposed new scheme of delegation (Appendix 1) reflects the recent regulatory change by removing the requirement applications to be decided by the Committee purely because of a Council interest in the land or development. The majority of such applications tend to be of a minor and non-contentious nature. Between June 2011 and June 2013, 53% of all applications that went to Committee were Council interest applications. Applications for Council interest development would therefore be handled in the same way as all other applications, and the more significant or contentious proposals would continue to be considered by the Planning Committee.
- 4.3** Whilst it is no longer mandatory, it is considered that applications by Members of the Council should continue to be dealt with by the Committee in order to avoid any perceptions of impropriety. The same would apply to applications by senior officers or by Planning and Building Standards staff.
- 4.4** The review also provides an opportunity to resolve an existing anomaly with the scheme of delegation, whereby all applications to which a community council has objected currently require to be decided by the Committee, even when officers agree that the application should be refused. It is therefore proposed to allow such applications to be refused under delegated powers. This change would only affect a small number of applications.
- 4.5** A further anomaly relates to applications to vary planning conditions or obligations where the original decision was made by the Planning Committee. The current scheme of delegation allows applications to vary such conditions to be refused under delegated powers. However, the applicant could only challenge such a refusal by seeking a local review, and as members of the Local Review Body also serve on the Planning Committee which had imposed the condition in the first place, this would create a conflict of interests. It is therefore appropriate for such applications to be decided by the Committee, giving the applicant a right of appeal to the Scottish Ministers. This would also affect only a small number of applications.
- 4.6** Following a review of the scheme of delegation it is not considered appropriate to change the other categories of applications which are determined by Planning Committee where the more major and contentious applications continue to be determined by Committee. This allows this authority to maintain its good performance statistics whilst maintaining a good balance between the use of delegated powers and Committee applications. This is in keeping with Scottish Government advice through the Planning Performance Framework which encourages planning authorities to make

maximum use of delegated powers, and to consider only the most important and contentious applications at the Planning Committee.

- 4.7 The revised scheme of delegation would require to be agreed by the full Council, and to be approved by the Scottish Government before coming into effect.

5. People Implications

- 5.1 There are no people implications.

6. Financial Implications

- 6.1 The removal of the requirement for Council interest applications to be decided by the Planning Committee would reduce administrative costs.

7. Risk Analysis

- 7.1 No risks have been identified.

8. Equalities Impact Assessment (EIA)

- 8.1 No equalities issues have been identified.

9. Consultation

- 9.1 No consultation is required.

10. Strategic Assessment

- 10.1 No strategic issues.

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Appendices: Appendix 1 proposed scheme of delegation
Appendix 2 existing scheme of delegation

Background Papers:

None.

Wards Affected:

All wards