

## Scheme of Delegation for Ards and North Down Borough Council

### Part A – Mandatory applications for determination by Planning Committee

By statute certain types of application must be determined by the Planning Committee and therefore cannot be delegated to officers:

- Applications which fall within the Major category of development as specified within the Planning (Development Management) Regulations (NI) 2015;
- Applications where the application is made by the Council or an elected member of the Council;
- Applications relating to land in which the Council has an estate.

### Part B – Non-Mandatory applications for determination by Planning Committee

- A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation, and where a material planning matter has been raised.

In determining if the threshold of six or more separate objections is met, the following clarification shall apply for the purposes of the calculation:

- Multiple letters of objection from one individual person (or body including any corporate entity) will constitute one objection;
  - Multiple letters of objection from one address (whether by one individual or more) will constitute one objection;
  - Pro-forma objection letters will constitute one objection;
  - Petitions will constitute one objection;
  - Objection(s) to an application by any statutory or non-statutory consultee will not count toward the threshold and for the avoidance of doubt be excluded from any such calculation. A 'consultee' being a body consulted by the Council to ascertain their expert view on the merits of a planning application.
- A Local development application which is a significant departure from the Local Development Plan which is recommended for approval (the Head of Planning to adjudicate on this where necessary in liaison with the Chair).
  - A Local development application called-in to Planning Committee by the Head of Planning;

- A Local development application called-in to Planning Committee from the delegated list<sup>1</sup> as set out in the Council's Protocol for the Operation of the Planning Committee by a member of that Committee – a sound material planning reason having been given for such a referral;
- A Local development application called-in by any Councillor within 25 working days<sup>2</sup> of the application being validated – a sound material planning reason having been given for such a referral (as set out in the Council's Protocol for the Operation of the Planning Committee);
- A planning (legal) agreement or modification to a legal agreement is required.

### **Part C – Delegated Applications**

The appointed officer is the Head of Planning within the Council and any officer nominated by the Head of Planning, who will be responsible for determining the following:

- All Local development applications whether for approval or refusal, with the exceptions listed at Part B above.

### **Part D – Enforcement and Determination of Other Planning Matters**

In relation to other planning responsibilities, the following matters are delegated to the appointed officer:

- All investigation of breaches of planning control and decisions on enforcement to include:
  - Service of an Enforcement Notice;
  - Service of a Listed Building Enforcement Notice;
  - Service of Hazardous Substances Contravention Notice;
  - Service of a Stop Notice;
  - Service of a Temporary Stop Notice;
  - Service of a Breach of Condition Notice;
  - Service of Tree Replanting Notice;
  - Withdrawal/modification of any of the Notices specified above, as appropriate;
  - Service of Warning Letters and Planning Contravention Notices;
  - Determination of applications for Certificates of Lawfulness of Existing Use or Development;

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<sup>1</sup> Paragraph 25 of the Protocol for the Operation of the Planning Committee

<sup>2</sup> Paragraph 24 of The Protocol for the Operation of the Planning Committee

- Service of a Fixed Penalty Notice, except in circumstances 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;
- Service of a Discontinuance Order;
- The instigation of court proceedings e.g. prosecution for non-compliance with a statutory notice or injunction proceedings.

Other planning matters to include:

- The determination of applications for Certificates of Lawfulness of Proposed Use or Development;
- The serving/affixing of a Building Preservation Notice;
- The withdrawal of a Building Preservation Notice;
- The making and serving of a provisional Tree Preservation Order;
- The making and serving of a Tree Preservation Order;
- Revocation of a Tree Preservation Order;
- Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order or within a Conservation Area);
- Determination as to appropriate replanting in relation to tree(s) the subject of a Tree Preservation Order or within a Conservation Area;
- Determination of non-material change applications to planning permissions;
- Determination of any application for Conservation Area consent;
- Determination of any application for advertisement consent;
- Determination of any application for listed building consent;
- Determination of any application for hazardous substances consent;
- Revocation or modification of any of the above consents;
- Issuance of Urgent Works Notice;
- The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations;
- Discharge of planning conditions;
- Determination of any application for variation or removal of condition(s) previously attached to permission to develop land;
- Drafting of legal agreements.

## **Part E – Legal Challenge**

The Council provides delegated authority to the Head of Planning to instigate or defend judicial review proceedings on behalf of the Council, and instruct such Counsel or experts in association with the Council's solicitor deemed necessary to defend any decision of the Council, or a challenge to such a decision, the Head of Planning sees fit in the interests of the Council.

## **Part F – Publicity**

The Council has made a copy of this Scheme of Delegation available on the Council's website at [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) and it is also available on request at the Council's offices at 2 Church Street, Newtownards, BT23 4AP.