



---

**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON  
29 JANUARY 2019**

**SUBJECT: PLANNING ETC. (SCOTLAND) ACT 2006: SCHEME OF  
DELEGATION**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,  
PLANNING & INFRASTRUCTURE)**

**1. REASON FOR REPORT**

- 1.1 The report is to review the existing adopted Scheme of Delegation approved by this Committee on 25 February 2014 (para 5 of the minute refers). It is a requirement of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 to prepare such a Scheme of Delegation at intervals of no greater than every five years.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

**2. RECOMMENDATION**

- 2.1 It is recommended that this Committee approve the revised Scheme of Delegation, as set out in Appendix 1.**

**3. BACKGROUND**

- 3.1 The Committee may be aware that the provisions of the Planning etc. (Scotland) Act 2006 introduced significant changes in the way in which the Council carries out its planning function which included the operation of Local Review Bodies.
- 3.2 Circular 5/2013 was issued in 2013 titled Schemes of Delegation and Local Reviews which provides the following advice in the introduction:

*“The planning system should operate in support of the Government’s central purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. For decision-making this means providing greater certainty of process, including being timely and transparent, as a means to achieve better places for Scotland. Planning authorities use powers of delegation so that certain*

*decisions can be taken by officials instead of being considered by elected members of the authority at committee. Delegation to officers is an important means of adding efficiency to administrative processes and the Scottish Government wants to encourage an appropriate level of delegation to officials to support the role of the planning system in achieving their central purpose”.*

3.3 It also important to remember that the 2006 Act introduced a ‘Hierarchy of Developments’ and under this Hierarchy, developments are split into three categories:

- **National** – developments of a national significance which feature in the National Planning Framework (a spatial development plan that provides the national context for key infrastructure and development for Scotland).
- **Major** – for which there is a prescribed schedule of what classes of development are regarded as major:
  - Developments requiring a Schedule 1 – Environmental Impact Assessment
  - Residential Development of more than 50 dwellings or 2 hectares
  - Business, general industry storage and distribution of over 10,000 sq. meters or 2 hectares
  - Other development in excess of 5,000 sq.meters or 2 hectares
  - Electricity generating stations exceeding 20 megawatts
  - Transportation or infrastructure projects in excess of 8km.
- **Local** – the third category, comprising all development other than national or major.

3.4 The current delegation scheme which has been operating since being adopted on 7 March 2014 (**Appendix 2**) and has resulted in 93 applications being determined by this Committee. In addition, there have been 29 special meetings held to deal with planning applications by way of a hearing and to deal with committee items outside of the scheduled committee calendar. The last special meeting requested (other than for a hearing) was held on 6 December 2016, and as such requests are kept to a minimum to ensure that resources are used efficiently.

3.5 The approved Scheme of Delegation was submitted to Scottish Government before being adopted. Once adopted, a copy was made available for inspection at Council offices, and at every public library. A copy is also available on the Councils website. The rationale behind the Scheme of Delegation is to support the Scottish Government’s intention that planning authorities should make the most effective use of its powers to delegate decisions on straightforward applications to officials, allowing elected members to focus on more complex and strategic applications.

#### **4. SCHEME OF DELEGATION**

- 4.1 The principal matters to be addressed as part of this review is whether the Committee wishes to make any further amendments to the current scheme that has been in operation for the last five years.
- 4.2 Following a review of the numbers and types of applications presented to this committee it is proposed to keep the approved Scheme of Delegation largely unchanged as it has operated efficiently and effectively over the last five years. The scheme has however been re-drafted for ease of reference and to avoid confusion over the definition of a major application (as set out in the hierarchy) and those that are considered to have local significance because of their impact on both Moray's economy and environment.
- 4.3 One proposed amendment is to remove the following criterion from the current scheme "The appointed officer is minded to approve an application which is a material departure from the Development Plan where the need for a hearing is required". There is no legislative requirement to hold a hearing other than the Pre-determination Hearings required for all National applications and for Major applications that are significantly contrary to the development plan. This proposed amendment would allow hearing requirements to be streamlined in line with the aims of circular 5/2013 and legislative requirements but would still allow any local or major application to be determined by holding a hearing should the appointed officer or this committee agree that this would be the most appropriate means of determination.
- 4.4 In relation to turbine applications over the last five years a small number have been referred to this committee on the basis that they raise matters of wider community interest and/or planning significance and it is proposed that this would continue to operate in the same way i.e. all those over 40 metres in height would not be determined under delegated powers.
- 4.5 All applications that are dealt with under delegated powers by officers can be the subject of a Local Review where refused. Since Local Reviews were introduced in 2014, 124 delegated decisions have been the subject of a review by the Moray Local Review Body (a panel of seven councillors). Of the 124 that was determined, 52 were upheld and the original decision overturned.
- 4.6 The High Hedges (Scotland) Act came into force in April 2014 and so far only two applications have been received and it is considered that due to the nature of these proposals that the arrangements for these to be determined by this committee would also continue.

#### **5. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

This report enables the Council's priorities and objectives to be delivered.

**(b) Policy and Legal**

The requirements for preparing schemes of delegation are contained in the Schemes of Delegation and Local Review Procedures (Scotland) Regulations 2013 and the Town and Country Planning (Scotland) Act 1997.

**(c) Financial implications**

None.

**(d) Risk Implications**

There is a risk that performance could be impacted upon if the Scheme of Delegation increases the number of applications being referred to the Planning & Regulatory Services Committee. This may then require a review of the committee cycle to be undertaken, which would need approval of Moray Council, to ensure current performance levels are maintained.

**(e) Staffing Implications**

None.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

None.

**(h) Consultations**

The Corporate Director (Economic Development, Planning and Infrastructure), the Head of Development Services, the Legal Services Manager (Property and Contracts), Lissa Rowan (Committee Services Officer), Gary Templeton (Principal Planning Officer) and the Equalities Officer have been consulted and their comments taken into consideration in this report.

**6. CONCLUSION**

**6.1 That the Committee agrees the revised delegation scheme as set out in Appendix 1. The approved scheme shall then be submitted to Scottish Government prior to adoption.**

Author of Report: Beverly Smith, Manager, Development Management

Background Papers:

Ref: