

ABERDEEN CITY COUNCIL

COMMITTEE	Council Statutory Meeting
DATE	16 May, 2012
DIRECTOR	Stewart Carruth
TITLE OF REPORT	Local Review Body – Pool of Members
REPORT NUMBER:	CG/12/047

1. PURPOSE OF REPORT

This report seeks the Council's approval to appoint a pool of councillors to form the membership of the statutory Local Review Body.

2. RECOMMENDATIONS

The Council is recommended:-

- (1) to appoint a pool of councillors from which individuals can be drawn to form members of the statutory Local Review Body; and
- (2) to note that appropriate training will be provided to the pool of members appointed.

3. FINANCIAL IMPLICATIONS

There are no direct financial implications relating to this report.

4. OTHER IMPLICATIONS

None.

5. BACKGROUND/MAIN ISSUES

1 INTRODUCTION

1.1 The Council is required to establish a Local Review Body in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

1.2 Part 3 of the Planning Etc (Scotland) Act 2006 (the 2006 Act) introduced a number of important changes to the planning appeals system in Scotland. At the centre of these are the provisions covering new schemes of delegation for local

developments and the opportunity for the applicant to seek a review of a decision by the Planning Authority in certain circumstances where an appeal to Scottish Ministers will no longer be available. The new provisions are intended to improve efficiency in the decision making process whilst retaining a high quality of determination. The Scottish Government's intention is that planning authorities should make the most effective use of powers to delegate decisions of straightforward planning applications to officials, allowing elected members to focus attention on more complex or controversial applications. The approach taken in the legislation and regulations is to provide planning authorities with significant scope to develop schemes of delegation that are appropriate for local circumstances and to provide a clear framework for conducting reviews of decisions locally.

- 1.3 The Council adopted a scheme of delegation in 2009 - which was subsequently approved by Scottish Ministers, as required by legislation (a copy of which forms the appendix to the report).
- 1.4 As set out in the legislation, where an application for planning permission, or for consent, agreement or approval of a proposal in the category of local developments falling within the scheme of delegation has been
 - refused by an appointed officer
 - granted subject to conditions or
 - has not been determined within the prescribed period (2 months) but is of a class of application that falls within the scope of delegationthe applicant may require the planning authority to review the case. The legislation requires that review cases are to be conducted by a committee of the planning authority comprising at least 3 members of the authority. Since the Local Review Body was set up in Aberdeen City Council, the membership has been 3 councillors and it is proposed to retain this format for the time being.
- 1.5 Members participating in review cases will receive appropriate training in planning issues and in how to conduct the Local Review Body process and it is essential that early training sessions for the pool of members appointed to the Local Review Body are held.
- 1.6 The Council agreed that any member in the pool will not be allowed to sit on the Local Review Body if one of the cases to be determined is within that Councillor's ward. As such, it is important that the pool of members is sufficiently large to give flexibility in terms of membership.
- 1.7 The Council, in its previous term, had 16 members who formed the pool for the Local Review Body and a similar or greater number would be required in this term.
- 1.8 In 2011 there were 9 meetings of the Local Review Body considering a total of 11 cases.

6. IMPACT

None.

7. BACKGROUND PAPERS

None.

9. REPORT AUTHOR DETAILS

Martin Allan, Committee Manager
mallan@aberdeencity.gov.uk
01224 523057



SCHEME OF DELEGATION

PLANNING ETC (SCOTLAND) ACT 2006

THE TOWN AND COUNTRY PLANNING (SCOTLAND)
ACT 1997

Introduction

In keeping with the aims of the Scottish Ministers that the planning system should respond in a more proportionate and efficient way to proposals that come before it and to ensure that applications for planning permission are dealt with in a way that is appropriate to their scale and complexity, Aberdeen City Council as planning authority for the city have adopted this Scheme of Delegation.

This Scheme of Delegation has been prepared in pursuance of the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act), as introduced by Section 17 of the Planning etc. (Scotland) Act 2006, and in accordance with the requirements set down within The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

The meaning of all words and phrases used within this Scheme, where not otherwise given, will be as provided for under the various Acts and Regulations referred to.

For the avoidance of doubt attention is drawn to the fact that, in accordance with the Planning etc. (Scotland) Act 2006, the Scottish Ministers will determine what applications fall into the category of “major development” or the category of “local development”. There is no scope for local interpretation either by planning authorities, applicants or by other stakeholders.

“Local development” for the purposes of this Scheme of Delegation will include all development other than national development, as designated in a National Planning Framework document prepared and published by the Scottish Ministers under Part 1A of the 1997 Act; and major development, as identified in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Scheme of Delegation

1. Appointed Officer. The Council as planning authority shall for the purposes of this Scheme of Delegation, appoint a member of its professional planning staff to act as the “appointed officer”, whose duties, subject to the terms of paragraphs 2 and 3 hereof, shall be to determine:-

- (a) all applications for planning permission in respect of development within the category of local development; and
- (b) all applications for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within the category of local development.

2. Prohibition. The appointed officer under this Scheme of Delegation is prohibited however from determining an application for planning permission for development within the category of local development, where:-

- (a) that application has been made by or on behalf of Aberdeen City Council (the planning authority) or a member of that authority; or
- (b) that application has been made by or on behalf of a member of staff directly involved with the Planning Service provided by the planning authority, by or on behalf of the Chief Executive or by or on behalf of any other member of the Senior Management Team, of the planning authority; or

- (c) that application relates to land in the ownership of the planning authority or in respect of which the planning authority have a financial interest; or
- (d) that application relates to development (one) which will for whatever reason, if supported by the planning authority, require to be the subject of formal notification to the Scottish Ministers, or (two) in respect of which it has been decided, an Environmental Impact Assessment should be undertaken; or
- (e) that application relates to proposed development which would require to be the subject of a notice in a newspaper circulating in the locality in which the neighbouring land is situated, in accordance with regulation 20(1)(c) and Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008; or
- (f) that application has been the subject of formal objection by the local Community Council, by local roads officers or by local environmental health officials; or
- (g) that application following advertisement and/or notification has been the subject of a level of timeous objection which the planning authority have pre-determined as significant and to warrant consideration of the proposal by the Development Management Sub-Committee (or equivalent). [For the purposes of this Scheme of Delegation the Development Management Sub-Committee have indicated that six (6) or more letters of objection would represent a significant level of opposition to any local development proposal.]

3. Particular Circumstances. The powers delegated to the appointed officer under paragraph 1 hereof are further qualified to the extent outlined in the provisions of Section 43 A (6) of the 1997 Act. Accordingly the planning authority may decide, for whatever reason, that the particular circumstances of an application which would in terms of this Scheme fall to be determined by the Appointed Officer are such that the application should be determined by the Development Management Sub-Committee. Applications shall be identified for potential treatment in accordance with the provisions of Sections 43A(6) and (7) of the Town and Country Planning (Scotland) Act 1997, by the Head of Planning and Sustainable Development who, in consultation with the Convener of the Development Management Sub-Committee, shall bring such cases to the notice of elected members in the form of a report to that Committee.

Review

The Governments proposals for modernising the planning system involve changes to the appeals process. It continues, however, to be an important aspect of the modernised system that applicants who are unhappy with the terms of a planning decision have recourse to a process that enables an effective review of that decision to take place. It is also clear that people should have access to a review process which avoids unnecessary complexity or lengthy procedures that do not add value to the quality of a decision.

Accordingly, applicants for planning permission whose proposals are determined under this Scheme of Delegation will have the right to seek a review of the decision taken, by lodging a Notice of Review to that effect with the local planning authority.

A Notice of Review in accordance with the terms of regulation 9 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, would require to be served on the Local Review Body within a period of three months from the date of the decision notice or (in a deemed refusal situation) from the date of expiry of the period allowed for determining the application.