

ANGUS COUNCIL

ANGUS COUNCIL – 21 MARCH 2024

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: REVIEW AND  
AMENDMENT OF THE COUNCIL'S SECTION 43A SCHEME OF DELEGATION TO  
OFFICERS**

**REPORT BY JILL PATERSON, SERVICE LEADER PLANNING & SUSTAINABLE  
GROWTH**

**1. ABSTRACT**

1.1 This report seeks approval for minor revision to the council's statutory scheme of delegation for determination of planning applications under section 43A of the Town and Country Planning (Scotland) Act 1997 as unanimously agreed by the Development Standards Committee at its meeting on 14 February 2024.

**2. ALIGNMENT TO THE COUNCIL PLAN AND COUNCIL POLICIES**

2.1 A proportionate scheme of delegation contributes to the provision of an effective and efficient development management service, and in turn contributes to the following outcomes in the Angus Council Plan 2023-2028:

- Caring for our economy
- Caring for our people
- Caring for our place
- Angus Council is efficient and effective

**3. RECOMMENDATIONS**

3.1 It is recommended that Council: -

- (i) Approve the proposed revision to the section 43A planning scheme of delegation as set out in Appendix 1; and
- (ii) Instruct the Service Leader Planning & Sustainable Growth to submit the scheme of delegation to Scottish Ministers for approval.

**4. BACKGROUND**

4.1 Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the council to prepare a scheme of delegation by which any application for planning permission for a development within the category of local developments or any application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within that category is to be determined by a person appointed by them. It also requires the scheme to be kept under review. The scheme of delegation cannot be adopted until it has been approved by the Scottish Ministers.

4.2 In broad terms, the scheme of delegation determines which planning applications for local development will be determined by officers, and consequentially, which applications will be determined by committee. Where an application is determined under the section 43A scheme of delegation, the applicant may challenge the decision by application to the local review body (development management review committee). Where an application is determined by committee, or by delegation provided by the Local Government (Scotland) Act 1973, an applicant has a right to challenge the decision by means of appeal to Scottish Ministers.

- 4.3 The scheme of delegation avoids committee time being spent deciding routine or minor applications which do not give rise to major issues or matters of wider public interest. The ability to challenge decisions made through the section 43A scheme of delegation to the development management review committee increases the number of decisions taken at a local level and reduce the number of cases determined by Scottish Government appointed reporters.
- 4.4 The council's first scheme of delegation was approved by Ministers in June 2009 and came into effect from 3 August 2009. It was reviewed by a short life working group in 2014 (report 162/14) and again in 2019 (report [107/19](#)). The current scheme of delegation, which reflects the 2019 review, was approved by Scottish Ministers on 17 May 2019.
- 4.5 At its meeting on 17 October 2023, the Development Standards Committee agreed to establish a short life member officer group (MOG) (report [271/23](#) refers) to consider whether any changes were required to improve the efficiency and effectiveness of the scheme of delegation in determining relevant planning applications

## 5. DISCUSSION

- 5.1 The MOG met on 7 December 2023 and considered the existing scheme of delegation. A report on its deliberations (report [41/24](#) refers) was submitted to and unanimously approved by the Development Standards Committee at its meeting on 14 February 2024. Committee agreed that minor amendments should be made to the existing scheme to delegation to clarify administrative issues associated with its implementation.
- 5.2 Specifically, the amendments seek to provide clarity around clause 1(b) of the current scheme. That clause does not allow the exercise of delegation in respect of: -
- applications which attract five or more material planning objections which are recommended for approval (more than one objection from the same individual, household or organisation will count as one objection for the purposes of the scheme of delegation)*
- 5.3 The clause prevents approval of an application by means of delegated powers where there are five or more objections but clarifies that more than one objection from the same individual, household, or organisation will count as one objection for the purposes of calculating numbers for the scheme of delegation. This clause can only be meaningfully applied where the name and address of a contributor is known. The proposed change clarifies that where an objection is submitted anonymously or is not attributable to an identifiable and recognised postal address, it will not be counted as objections in terms of applying the scheme of delegation. In very simple terms that is to avoid the anomalous situation whereby five valid objections submitted by the same identifiable individual would, in terms of the scheme of delegation, be counted as one objection, but five objections submitted by the same individual anonymously would be counted as five separate objections.
- 5.4 For clarity, anonymous or unattributable objections that raise material planning matters will continue to be considered in the determination of planning applications; they simply will not be counted in terms of applying the scheme of delegation. In addition, this exclusion would not apply in circumstances where an identified individual submits a representation and asks for personal details to be withheld for safety or similar justifiable reasons; a representation submitted in these circumstances would not be anonymous, rather the council would maintain the individual's anonymity in so far as legislatively possible.
- 5.5 The clause also requires objections to raise material planning issues. The proposed change would clarify that the materiality of any objection would be a matter for the determination of the service leader – planning & sustainable growth as the council's chief planning officer. This is a matter already delegated to the service leader in terms of the council's scheme of governance and it is implicit in the existing scheme of delegation. The amendment makes this explicit and provides clarity for those viewing or using the scheme of delegation.
- 5.6 The Development Standards Committee agreed that the current scheme of delegation should be retained with the following note added for clarification purposes.

\* For the purpose of implementation of this scheme of delegation, objections must be based on competent planning grounds the competency having been assessed by the Chief Planning Officer; anonymous objections and/or objections that are not attributable to an identifiable and recognised postal address will not be counted as objections in terms of applying the scheme of delegation.

5.7 The scheme of delegation cannot be amended until and unless it is approved by Scottish Ministers.

## **6. FINANCIAL IMPLICATIONS**

6.1 There are no financial implications arising directly from this report. The proposals aim to deliver on our priority that the council is efficient and effective as detailed in our Council Plan. This has the potential to reduce officer and member time spent on governance matters which has a positive financial impact.

## **7. RISK MANAGEMENT**

7.1 There are no issues arising from the recommendation of this report.

## **8. ENVIRONMENTAL IMPLICATIONS**

8.1 There are no implications arising from the recommendation of this report. Environmental implications associated with the determination of a planning application under the scheme of delegation will be considered, in so far as they may be material, in the determination of any such application.

## **9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY**

9.1 A screening Equality Impact Assessment has been carried out and a full EQIA is not required as the report is technical. Any relevant matters associated with the determination of a planning application under the scheme of delegation will be considered, in so far as they may be material, in the determination of any such application.

## **10. CONSULTATION**

10.1 The Director of Finance and Director of Legal, Governance and Change were consulted in the preparation of this report.

**NOTE:** No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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**Appendix 1:** Scheme of delegation, including tracked changes