

COMMITTEE	COUNCIL
DATE	3rd May 2018
TITLE	Amendments to the Constitution
PRESENTED BY	Councillor Simon Glyn Chairman of the Communities Scrutiny Committee.
CABINET MEMBER	Councillor Dafydd Meurig , Environment Portfolio Holder.
PURPOSE	To implement the recommendations of the Communities Scrutiny Committee to adapt the Planning Delegation Scheme.
RECOMMENDATION	To adopt the adaptations to the Planning Delegation Scheme, Section 13 Appendix 3 Part 11 Head of the Regulatory Department, in accordance with what is noted in Appendix 1 of the report.
AUTHOR	Iwan Evans, Monitoring Officer

Background

1. This report includes recommendations to amend a specific element of the Constitution, namely the Planning Delegation Scheme. The specific adaptations can be seen in Appendix 1.
2. In March 2017, a Communities Scrutiny investigation was completed into the Planning field. One of the areas under consideration was the number of planning applications that come before the Planning Committee. The investigation's findings were that the number of applications that came before the Committee were high and therefore consideration needed to be given to adapting the Delegated Planning Scheme. This was the formal recommendation of the Communities Scrutiny Committee. Informal consultation was also conducted with members of the Planning Committee in November on the prospective adaptations. There was support in principle for the suggestions.
3. Further consultation was conducted with the Communities Scrutiny Committee on 22nd February 2018 regarding the wording of the new delegated scheme and it was resolved to accept the adaptations. The Scrutiny Committee report can be seen in Appendix 2, and this gives all of the background. The advantages and benefits of adapting the Delegation Scheme that were considered are noted in part 7.2 of the Scrutiny report. These are the applications which must be brought before the Planning Committee for consideration.

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/s16060/Planning%20Delegation%20Plan.pdf?LLL=1~>

Section 13 Appendix 3 Part 11 Head of Environment

4. The proposed amendments can be seen specifically in Appendix 1. A number of the amendments deal with ensuring consistency and tidying up technical issues. The amendments can be summarised as follows:
 - 4.1 Number 2 deals with planning applications and objections from Elected Members or Planning Service staff. This creates an assurance in order to deal with matters in a transparent way, and that any such applications are dealt with in public by the Committee. Number 3 deals with a similar situation with close relatives.
 - 4.2 Number 5 - has been deleted as other parts of the scheme can deal with applications of this type.
 - 4.3 Number 6 - Currently the threshold of three objections to a planning application contrary to the officer's recommendation means that the matter will go before the Planning Committee. This entails that the receipt of any three items of correspondence places the item on the Committee's agenda without any context. Based on the information submitted to the Scrutiny Committee during the investigation in 2017, the Scrutiny Committee was supportive of not having a threshold for the number of items of correspondence. The Local Member's discretion to refer an application to the Planning Committee remains (Number 1) and also the Head has the discretion to refer applications to Committee as is considered appropriate (Number 7).
 - 4.4 Number 9 - It is not considered necessary to differentiate between commercial, industrial or retail development that exceeds 500 square metres and developments for a building or buildings that are more than 1000 square metres. It is considered that the adaptation addresses these in one relevant point setting a threshold of 1000 square metres be they commercial buildings, retail or any development of another type. This reflects the statutory definition of Major Development.
 - 4.5 Number 10 - this is included in order to address land developments that are in excess of 0.5 hectares. It is considered that this point addresses a number of substantial caravan applications (number 11) and any other development that may be substantial.
 - 4.6 Numbers 11 and 12 have been deleted on the grounds that either one of the other headings now address these(Number10) , and that the Local Member's discretion still exists to call-in a matter to Committee if it is considered a matter of local planning importance.
 - 4.7 It should be noted that number 8 (developments of 5 houses or more) has been retained in the scheme.

RECOMMENDATION:

To adopt the adaptations to the Planning Delegation Scheme, Section 13 Appendix 3 Part 11 Head of the Regulatory Department, in accordance with what is noted in Appendix 1 of the report.

APPENDIX 1

Gwynedd Council Planning Delegation Scheme

1. Planning applications where the Councillor in whose ward a proposed development is located, or any other two members, submit(s) a written request to the Planning Manager within the established timescale so that the matter is referred for a decision by the Planning Committee. The written request should include clear planning reasons why a request is made for the application to be referred to Committee. A notification letter should be sent to all local members. The prescribed period for advertising shall be 16 calendar days from the date of the notification letter. A local member may discuss an application with officers before referring it to Committee.
2. Planning applications and/or objections/support for a planning application submitted by Elected Members or current staff of the Planning Service.
3. Planning applications and/or objections/support for a planning application submitted by a close relative of an Elected Member or current staff of the Planning Service. To this end, a "close relative" is defined as a mother or father, husband or wife, partner, child, brother or sister, grandmother or grandfather, grandson or granddaughter.
4. Applications which include an Environmental Impact Assessment.
5. ~~An application for consent to erect power lines with a capacity of 32KV or more.~~
6. ~~Applications where three or more observations, which are contrary to the officers' recommendation, have been received within the consultation period.~~
7. Planning applications that should be referred to Committee according to the Head of Environment Department.
8. Planning applications for housing where the number of houses provided is five or more
9. Planning applications for a commercial, industrial or retail development that is larger than 500 square metres the provision of a building or buildings where the floor space to be created by the development is 1000 square meters or more; or
10. Planning applications for developments on a site which is 0.5 hectares or more in size
11. ~~Applications for more than five caravans.~~
12. ~~Full planning applications for telecommunication masts and equipment.~~

'Planning applications' are defined as: full applications, householder applications, outline applications, reserved matters applications, listed building applications, Conservation Area applications, display of advertisements applications, minerals and waste applications, applications to remove or vary condition(s), applications to remove or vary Planning Obligations, non-material amendments applications.

APPENDIX 2

COMMITTEE	Communities Scrutiny Committee
DATE	
TITLE	To implement the recommendation to adapt the Planning Delegation Scheme following the Scrutiny Investigation into the Planning field.
CABINET MEMBER	Councillor Dafydd Meurig
PURPOSE	To submit the new (Draft) Planning Delegation Scheme to include the adaptations approved by the Scrutiny Committee prior to its submission to the Full Council.

1. **Background:**

- 1.1 It is intended to request that the Full Council supports the recommendation of the Scrutiny Committee to amend the Planning Delegation Scheme. A Scrutiny Investigation into the planning field was carried out during 2016-17. One of the fields which was investigated was the Planning Delegation Scheme, which is the Scheme that notes which applications are delegated to relevant officers to determine and which applications need to be reported to the Planning Committee for a decision.
- 1.2 In March 2017, and as a result of the work and outcomes of the Scrutiny Investigation, a recommendation was made by the Scrutiny Committee to the Cabinet Member that the thresholds in the Delegation Scheme should be revised. Amending the Planning Delegation Scheme will require the approval of the Full Council on the recommendation of the Monitoring Officer as it is a constitutional matter. As part of this process, the support of the Scrutiny Committee is sought to amend the Planning Delegation Scheme in accordance with its original recommendations in order to secure the benefits already discussed and which are outlined below. It is felt that it is important that the Scrutiny Committee sees the output of the investigation's work, before it is reported to the Full Council, with the amendments already approved by the Committee, incorporated in an amended Delegation Scheme.

2. **Work of the Scrutiny Committee**

- 2.1 One of the work fields that the Scrutiny Committee wished to examine was the part of the Delegation Scheme that is relevant to planning applications. This probably arises from concerns raised regularly by members, the Chair and former Chair of the Planning Committee about the length of agendas, the duration of the Committees, the number and type of items which are submitted before the Planning Committee and why some items need to be submitted to Committee at all. General concern has been expressed that the existing procedure does not make the best use of the Committee's time and ensure that it deals with and focuses on applications which are of real interest to them without having to deal with matters which have little more than local interest.
- 2.2 Specifically in relation to this topic, the scrutiny investigation considered:

1. What are the priorities of the Planning Committee in terms of applications that are submitted before the Committee and the time and expertise that is available?
2. Do existing arrangements enable the Planning Committee to deal with and focus on applications that are of real interest to the Committee without having to deal with matters which have little more than local interest?
3. If the content/thresholds of the Delegation Scheme need to be changed, how can this be carried out?
4. What would be the benefits to the Planning Committee ... and would there be a broader benefit than a benefit to the work of the Planning Committee itself?

2.3 In order to do this, information was provided for the consideration of the Scrutiny Investigation which covered:

3. **The Planning Committee's existing arrangements**

3.1 The Planning Committee meets every three weeks and on average approximately 10 applications appear on every agenda and recently there were 16 applications on the agenda which meant that the Committee had to start in the morning rather than at 1pm. Given the work involved with preparing items for the Committee, as well as pressure on Members and a significant number of officers to prepare in advance (and the duration of the meetings), it is clear that having more than ten applications on every agenda is not ideal, especially if there are major and/or contentious applications. This mindset has been supported by the Chair and the former Chair of the Committee and the Deputy Monitoring Officer and in general, it is believed that the ideal number of items on the agenda is eight.

3.2 Due to the requirements of the current Delegation Scheme, every draft agenda starts with a high number of applications (between 20 and 25) with the need to prioritise which applications will be included on the final agenda. One must prioritise based on a number of matters and risks such as: the ability to determine within the statutory period in order to meet national targets; determination within the statutory period as the applicant could request a refund of their fee if this is not achieved; a risk of appeal for not determining within the timescale; economic/grant implications (though not a planning matter, it is important for the developer and to achieve the development); work pressures for all officers involved with the process and Committee Members. From time to time, an additional Committee meeting has been required in order to catch up as occurred in December 2017 when an all-day Committee was held.

3.3 In addition, work involved with preparing Committee reports has increased substantially in recent years due to the need for more detailed reports in order to reduce risks for the Council, to meet local and national policy requirements and to ensure that Committee Members receive all relevant information as they make their decision. It is acknowledged that a report in relation to delegated matters is needed also, but, clearly, the timescale restrictions do not exist which means that a timely decision is much more likely.

4. **The Current Delegation Scheme**

4.1 Currently, and in relation to planning matters only, the right to determine any matter requiring a decision under the relevant acts (which is noted in the "Delegation Scheme for Committees") is delegated to the Head of Regulatory Department (now called the Head of Environment Department), with the exception of the following, which will be the responsibility of the Planning Committee (a full copy of the current Planning Delegation Scheme is attached as Appendix 1):

- *Applications where the Councillor in whose ward a proposed development is located, or any other two members, submit(s) a written request to Planning Managers within the established timescale so that the matter is referred for a decision to the Planning Committee. The written request should include clear planning reasons why a request is made for the application to be referred to Committee. A notification letter should be sent to all local members. The prescribed period for advertising shall be 16 calendar days from the date of the notification letter. A local member may discuss an application with officers before referring it to Committee.*
- *Applications submitted by Members and current staff of the Planning Service.*
- *Applications which contain an Environmental Impact Assessment.*
- *An application for consent to erect power lines with a capacity of 32KV or more.*
- *Applications where three or more observations, which are contrary to the officers' recommendation, have been received within the consultation period.*
- *Applications which the Head of Regulatory Department considers should be referred to Committee.*
- *Applications for residential developments for five dwellings or more.*
- *Applications for a commercial, industrial or retail development that is larger than 500 square metres.*
- *Applications for more than five caravans.*
- *Full planning applications for telecommunication masts and equipment.*

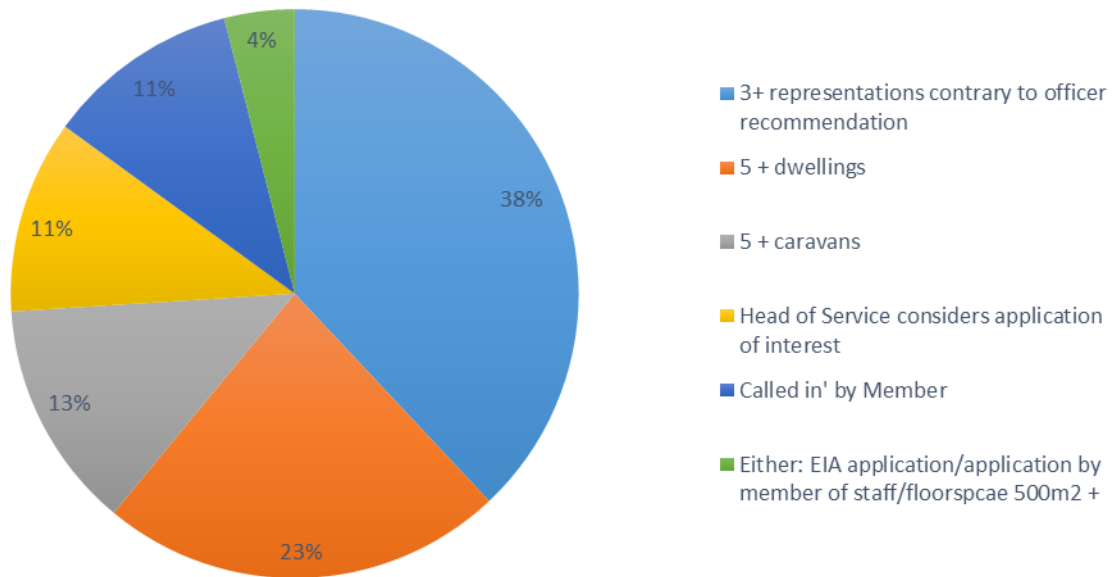
NOTE: As a matter of good practice, the Head of Service will refer any application by a close relative of a current member of staff from the Planning Service to Committee for determination. To this end, a close relative is defined as a mother or father, husband or wife, partner, child or brother or sister.

4.2 It should be noted that there is a responsibility on all chief officers to consider, prior to determining, if any delegated application should be referred to the Committee for determination, under the general rights of the Officers Delegation Scheme within the Constitution (Part 13, Appendix 3). This responsibility will remain following any specific change to the Planning delegation scheme.

4.3 A chart was provided to the Scrutiny Committee which showed the reasons for submitting applications to the Planning Committee and it was noted that the main reason was receiving 3+ observations contrary to the officers' recommendation. All these objections could come from the same postal address or e-mail and/or be anonymous and possibly irrelevant to the case or to planning. This also means that small developments such as extensions to houses etc. have to be determined by the Committee.

4.4 During the 2015/16 year, the main reasons for submitting applications to the Committee were as follows:

Reasons for presenting the application to Planning Committee



Note: it must be borne in mind that these (or current) thresholds do not apply individually - it is possible that an application before the Committee is on the agenda due to e.g. number of houses, objections and that it was referred by the Local Member.

5. The national position and the arrangements of a sample of other Local Planning Authorities in north Wales -

5.1 During 2016/17 and 2015/16 9% of all Gwynedd Local Planning Authority planning applications came before the Planning Committee compared with the Welsh average of 6%. This is equivalent to 100 applications a year being submitted to the Committee at 15 different meetings (with a number of applications deferred and re-submitted).

5.2 We looked at the delegation arrangements of other Local Planning Authorities in the North and it was seen that there are common criteria between each LPA but they aren't entirely consistent, such as:

1. Circumstances where a Local Member may refer an application to the Committee
2. Circumstances where a member of staff or Councillor has a personal interest in the application
3. Applications which include an Environmental Impact Assessment
4. Applications that should be referred to the Planning Committee for determination according to the Head of Department
5. The application falls within the statutory definition of 'major'
6. A specific number (which varies from LPA to LPA) of written objections received
7. The application has been submitted by the Council or is on Council land.

5.3 Most LPAs which we looked at do not note the size/type of development or the number of units as a threshold as Gwynedd LPA does, but rather use the statutory definition of 'major' applications. Gwynedd Council thresholds are lower than this and are very prescriptive in terms of the number of observations, the number of houses and caravans and it is likely that their content is out of date and generally reflects the circumstances/interest that existed at the time of drawing it up. By now, the nature of the applications that are submitted to the LPA has changed considerably in terms of type, size and number.

5.4 Given this, it was highlighted that it was possible to propose simple changes to the delegation thresholds that would either reduce the number of applications on every agenda and all the associated work and/or ensure that applications that require priority and the Committee's attention are not unnecessarily delayed, reducing risks and ensuring performance levels. It would also be a way of trying to reduce the number submitted to Committee in order to reflect the National average and facilitate speedier decisions.

6. **Scrutiny Committee Discussion:**

6.1 Based on the high percentage of applications that are submitted to the Planning Committee and the associated impact of doing this (as noted above), the need to ensure that the Planning Committee focuses on dealing with matters which are of genuine interest to them alone was supported and this would also ensure the best use of the time and expertise available whilst also avoiding the potential risks outlined above.

6.2 In order to do so, the intention to change the Planning Delegation Scheme and basing it on the thresholds/definition of 'major' applications with local adaptations in relation to the number of houses (five rather than 10) and also development on a site of a specific size (0.5 hectare rather than 1 hectare) was supported. In relation to minerals and waste applications, it is not considered that these need to be noted individually as the other thresholds suggested will mean that the major applications or which are of interest will come before the Committee in any case.

6.3 The Scrutiny Committee was supportive of not having a threshold for the number of items of correspondence contrary to the officers' recommendation required in order to submit an application to Committee, as this is shown to contribute substantially towards applications submitted to Committee, which had little more than local interest. It was acknowledged and supported that the right of the Local Member or two other members to refer an application to Committee under particular circumstances continued as the current situation and this was considered acceptable. In addition, it was accepted that all items of correspondence received on an application and which are relevant to planning will continue to have deserving and appropriate attention as part of the delegated assessment.

7. **Findings of the Scrutiny Investigation -**

7.1 Based on the evidence and the information submitted to the Scrutiny Committee, it was found that *'Gwynedd Planning Delegation Scheme thresholds seem low in comparison to other organisations and this is highlighted in the number of applications*

referred to the Planning Committee. ' This is evidenced by the comparative Welsh performance for 2015-16 (which is also true for 2016-17). On this basis, the Scrutiny Committee recommended that the thresholds of the Planning Delegation Scheme should be as discussed and supported by the Scrutiny Committee. A draft of the entire proposed Delegation Scheme has been included as Appendix 2 and this refers to the rights to call-in, referral of application by staff and members, good practice etc.

7.2 It is anticipated that there would be clear and wide-ranging benefits of implementing the changes:

- Fewer applications on the agenda and not have to prioritise as much
- More timely decisions likely to:
 - Improve customer experience
 - Reduce the risks to the Council (appeal and refunding fees)
- Less work pressure on Planning Committee Members and shorter meetings
- Planning Committee can deal with and focus on applications that are of real interest to them
- Less pressure on the Translation Unit, Support Unit, Planning Officers and all the other officers who support the process
- Enable the Planning Service to maintain and improve performance
- Free up Planning Officers' time to focus on other planning applications (namely 91% of all applications) in order to improve the experience of all Planning Service customers

8. **Relevant Timetable:**

8.1 Submit the changes to the Full Council for its support on the recommendation of the Monitoring Officer at the annual meeting on 3 May 2018.

8.2 Implement the change soon afterwards and before September 2018 and take advantage of the summer period to raise awareness and put the appropriate arrangements in place.

9. **Conclusions**

9.1 The Scrutiny Committee is asked to confirm and support the Full Draft of the proposed Planning Delegation Scheme in Appendix 2, which includes the adaptations which have already been approved, before the scheme is reported to the Full Council on the recommendation of the Monitoring Officer.

10. **Appendices:**

Appendix 1 – current Planning Delegation Scheme

Appendix 2 - Full Draft of the proposed Planning Delegation Scheme