

Committee(s):	Date(s):
Planning & Transportation	14 April 2015
Subject: Updated to Scheme of Delegation in relation to changes to statutory powers and minor material amendments	Public
Report of: Chief Planning Officer and Development Director and Director of the Department of the Built Environment	For Decision
<u>Summary</u>	
<p>The Court of Common Council has delegated to Planning and Transportation Committee responsibility for the City's local planning authority functions. To facilitate the carrying out and administration of these functions, some of them have been delegated down to Chief Officers as set out in the Scheme of Delegations approved by Court of Common Council on 1 May 2014 and updated on 1 December 2014. Recent modifications to the conservation area regime, and the introduction of Lead Local Flood Authority functions and Sustainable Urban Drainage responsibilities have given rise to further delegation issues. In addition, to address recent measures aimed at speeding up the planning process, delegation of decisions regarding minor material amendments are proposed.</p>	
Recommendations	
<ul style="list-style-type: none"> • I recommend that you agree the amendment to the Scheme of Delegations in respect of local planning authority functions as set out in paragraphs 2, 4, and 5.3 of this report. • I recommend that you agree the amendment of the Scheme of Delegations in respect of the Lead Local Flood Authority functions as set out in paragraphs 3.2 and 3.3 of this report [subject to the Court of Common Council delegating those functions to Planning and Transportation Committee] 	

Main Report

1. Background

The Court of Common Council has delegated to Planning and Transportation Committee responsibility for the City's local planning authority functions. To facilitate the carrying out and administration of these functions, some of them have been delegated down to Chief Officers as set out in the Scheme of Delegations approved by Court of Common Council on 1 May 2014, and as updated to reflect CIL changes on 1st December 2014. The extract from the Scheme of Delegations annexed to this report shows in the Revisions Table on

page 1 the changes that have been previously agreed. Further changes have given rise to additional delegation issues as set out below. The extract from the Scheme of Delegations annexed to this report shows tracked the additional changes recommended in this report.

2. Conservation Area Regime

The requirement for Conservation Area consent for demolition of buildings in conservation areas was removed by the Enterprise and Regulatory Reform Act 2013. The delegation in respect of this function is therefore proposed to be deleted as shown tracked at former paragraph 46 of the amended Scheme of Delegation extract annexed to this report.

3. Lead Local Flood Authority Regime

3.1 Under the Flood and Water Management Act 2010 the City Corporation is designated as the Lead Local Flood Authority (LLFA) for the City of London. This role involves a range of new powers and duties including the following:

- Develop and maintain a public register of Flood Risk Management Assets
- Develop co-ordinated management of flooding
- Deliver Flood Management Maps and a Flood Risk Management Plan
- Power to designate Flood Risk Management Assets
- Determination of applications for approval to alter, demolish or replace structures designated as Flood Risk Management Assets

3.2 It is proposed that the City's new LLFA functions be delegated by Court of Common Council to Planning and Transportation Committee, and, subject to that being done, it is proposed that those functions be delegated by Planning and Transportation Committee to the Director of the Built Environment, as shown tracked at paragraph 89 of the amended Scheme of Delegation extract annexed to this report.

3.3 The Government is intending to bring forward changes to the Development Management Procedure Order to make the LLFA a statutory consultee for local planning authorities in relation to Sustainable Drainage Systems (SuDS). It is proposed that this function as a statutory consultee be further delegated to the District Surveyor as shown tracked at paragraph 93 of the amended Scheme of Delegation extract annexed to this report.

4. Delegation of Traffic Functions between Authorities

4.1 Paragraph 11 of the Scheme of Delegation authorises officers to enter into agreements with other traffic authorities enabling the City to delegate its traffic functions to other traffic authorities, for example to enable TfL to make traffic orders for City roads, as well as GLA roads, as part of wider traffic arrangements. However, where City-led projects involve other borough roads and/or GLA roads, as well as City roads (such as Aldgate) it is also useful for the other traffic authorities involved to delegate their traffic authority functions to the City. It is proposed that the delegated authority at paragraph 11 is clarified expressly to state that officers may enter agreements to accept delegations of traffic authority functions from other traffic authorities.

5. Minor Material Alterations

5.1 A range of recent and imminent statutory measures are aimed at speeding up the planning system (e.g. the 26 week period for determination and the six week period for discharging planning conditions). In order to promote efficient consideration, manage the punitive impacts of non-compliance with strict deadlines, and ensure that member and officer time involved with committee work is focussed on significant and high profile issues, it is proposed that consideration of minor material amendments be delegated to officers.

5.2 The statutory arrangement for consideration of minor material amendments is by applications to remove or amend planning conditions attached to a permission, which, if approved, results in the issue of a new full permission (Section 73 Town and Country Planning Act 1990). Only the question of the condition to be removed or amended (not the principle of the whole scheme) may be considered in determining such an application (see Section 73(2)). Determinations under this regime must not fundamentally alter the scope of the original permission.

5.2.1 There is no statutory definition of 'non material'. The judgement of what is a non-material amendment is for the Local Planning Authority and would vary scheme to scheme. For example 2 new flats in a scheme for 10 units could be regarded as material whereas 2 in 100 would almost certainly be a non-material amendment unless they resulted in a material physical change. One new window in a scheme would probably be a non-material amendment, unless it overlooked a residential premise. We have received 47 such applications in each of 2014 and 2015.

5.3 At present these "Section 73 applications" are all dealt with in the same way as other full applications. There are normally some 5 or 6 Section 73 applications a year which are reported to committee under the criteria in the Scheme of Delegation paragraph 42 (e.g. more than four objections). It is proposed that Section 73 applications be dealt with under delegated authority. However, where there are more than four objections received to such applications, the Ward Member would be notified and the Chairman and Deputy Chairman would be consulted prior to any decision being taken. If it was considered that the amendments were more than minor material, or should be reported to committee for any other reason, then the application would be reported to committee. Otherwise, (and only after the consultation and notification referred to above) the application would be dealt with by the authorised officer. The proposed change to the existing arrangement is shown tracked at paragraph 43 of the amended Scheme of Delegation extract annexed to this report.

5.4 If delegated, these applications and decisions would continue to be included in the routine reports to committee of Forthcoming Applications and of Delegated Decisions, to ensure Members were aware of them both before and after the decisions are made.

6. Corporate & Strategic Implications

This proposal links the following themes of the City Together Strategy: is competitive and promotes opportunity; supports our communities; protects, promotes and enhances our environment; is vibrant and culturally rich; is safer and stronger.

7. Consultees

The Town Clerk, and the Comptroller & City Solicitor have been consulted in the preparation of this report and their comments have been incorporated.

8. Conclusion

To remove reference to an abolished function, to ensure that arrangements are in place to address new functions, to ensure the delegations regarding traffic authority functions are clear, to ensure committee time is focussed on significant issues and to enable the City to expedite planning decisions which the Committee has hitherto delegated it is recommended that Committee amends the Scheme of Delegation as shown tracked in the annex to this report.

Background Papers: Scheme of Delegations and Standing Orders, of the Town Clerk

Appendix

Scheme of Delegations and Standing Orders, of the Town Clerk (extract)

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