



<b>Subject:</b>	Delegation of Local applications with NI Water objections
<b>Date:</b>	27 June 2022
<b>Reporting Officer(s):</b>	Kate Bentley, Director of Planning and Building Control
<b>Contact Officer(s):</b>	Ed Baker, Planning Manager (Development Management) Kelly Mills (Principal Planning Officer)

<b>Restricted Reports</b>	
<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>If Yes, when will the report become unrestricted?</b>	
<b>After Committee Decision</b>	<input type="checkbox"/>
<b>After Council Decision</b>	<input type="checkbox"/>
<b>Some time in the future</b>	<input type="checkbox"/>
<b>Never</b>	<input type="checkbox"/>

<b>Call-in</b>	
<b>Is the decision eligible for Call-in?</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of Main Issues</b>
1.1	To seek the Planning Committee's agreement to delegate to officers those Local planning applications to which NI Water has objected as set out at <b>Appendix 1</b> .
1.2	For the avoidance of doubt, it is only those applications which would have been delegated to officers under the Scheme of Delegation were it not for the objection from NI Water which are proposed to be delegated. Therefore, any of the Local applications listed at <b>Appendix 1</b> which it may later transpire require to be referred to the Committee for other reason/s (other than the NI Water objection) will be reported to the Committee to determine.
1.3	Delegated authority is sought to determine only those Local applications listed at <b>Appendix 1</b> . If necessary, a further report will be brought to the Committee seeking delegated authority to determine an updated list of Local applications with NIW objections.

<b>2.0</b>	<b>Recommendation</b>
2.1	That the Committee agrees to delegate those Local planning applications to which NI Water has objected as set out at <b>Appendix 1</b> .
<b>3.0</b>	<b>Main Report</b>
	<u>Background</u>
3.1	The Committee will be aware from the Committee Workshop on 18 November 2021 that NI Water has objected to a significant number of Local applications on grounds of insufficient waste-water infrastructure capacity.
3.2	As advised at the Committee Workshop, officers have been engaging with NI Water over the past several months to try to resolve those objections. Whilst progress is being made, and NI Water is actively considering a threshold for the scale and nature of development above which they would like to be consulted on future planning application, the objections to these Local applications remain.
	<u>Scheme of Delegation</u>
3.3	Members will be aware that the Council operates a Scheme of Delegation for Planning which identifies which matters are to be determined by the Committee and which are delegated to officers.
3.4	Paragraph 3.8.5 (f) of the Scheme of Delegation (January 2020) states that planning applications are not delegated where ' <i>There is an objection from a statutory consultee and the recommendation of the Planning Officer is to approve.</i> ' This means that those applications are required to be determined by the Planning Committee.
3.5	The Planning (General Permitted Development) Order (Northern Ireland) 2016 identifies NI Water as a statutory consultee ' <i>...where a development proposal is likely to significantly impact upon the availability of suitable water and sewerage infrastructure to service development proposals.</i> '
3.6	This means that where NI Water has lodged an objection to a Local application and the officer recommendation is to approve, the application cannot be delegated and must be determined by the Committee.
3.7	There are currently 97 undetermined planning applications subject to NIW objections, for which officers could, in theory, recommend for approval. In accordance with the Scheme of Delegation, should all those applications be recommended for approval, all 97 applications would need to be reported to the Committee for a decision. It would be logistically extremely difficult to report all 97 applications individually, potentially requiring several sittings of the Planning Committee to hear each of the applications. This would be both costly and time consuming, as well as causing further delays for applicants in circumstances where officers do not consider the objections from NI Water to be reasonable.
3.8	Therefore, delegated authority is sought to determine those applications on a case by case basis.
	<u>Nature of NI Water objections</u>
3.9	NI Water has lodged objections to Local applications for one or both of the following reasons.

	<p>a) There is insufficient capacity at the local Waste Water Treatment Plant to support the proposed development; <b>and/or</b></p> <p>b) There is insufficient network capacity within existing Combined Storm Overflows to support the development.</p>
3.10	In broad terms, NI Water is concerned that a lack of infrastructure capacity would give rise to risk of environmental harm including pollution, flooding and adverse impact on existing property. In some cases, NI Water is concerned that the application site may be hydrologically linked to Belfast Lough and may harm its water quality.
3.11	However, despite requests, NI Water has to date not provided robust evidence to support their objections including demonstration of actual specific impacts resulting from individual proposals that stems from their broad concerns outlined above.
3.12	Importantly, allowance must be made for existing significant committed development across the city including extant planning permissions. It is highly unlikely that all such development, which includes unimplemented permissions for over 20,000 houses and significant levels of commercial floor space across the city, will come forward at once, if at all. In practical terms it would be unreasonable for the Council to withhold planning permission given the fall-back of the need to connect those developments to existing waste water infrastructure.
3.13	In the case of Waste Water Treatment capacity, NI Water advises that there will be increased capacity from July 2023, albeit this will not be sufficient to address long term waste water treatment plant infrastructure requirements.
3.14	The Council must be mindful that were it to refuse planning permission based on NI Water's concerns, it would need to provide robust evidence to the Planning Appeals Commission in the event that the applicant appeals the decision. In the absence of robust evidence, it would be unreasonable to refuse planning permission.
	<u>Habitats Regulations Assessment</u>
3.15	Officers have met with Shared Environmental Services (SES). Belfast City Council is the Competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) for undertaking an Appropriate Assessment where a proposal is likely to have a significant environmental effect on Belfast Lough, an environmentally protected Special Protection Area (SPA), RAMSAR and Special Area of Conservation (SAC). Water quality of the lough is a key consideration. The Habitats Regulations are framed in such a way that it is not only the impacts of individual development proposals that need to be considered, but also "in combination" impacts with other development.
3.16	Whilst a precautionary approach applies to Habitats Regulations Assessment (HRA), SES confirms that the onus is on NIW to provide evidence of likely actual impacts, rather than hypothetical impacts. As Competent Authority, the Council may take its own objective view on whether a proposal is likely to have a "significant effect" on water quality of the Lough. However, having regard to the precautionary approach, where there is clear intensification the Council may need to consult SES and ask them to undertake a HRA Appropriate Assessment Screening to ascertain whether there would be a likely significant impact. This would also trigger statutory consultation with DAERA NI Environment Agency. The Planning Service will consult SES and DAERA on a case by case basis as required.

	<u>Local applications for which delegated authority is sought to determine</u>
3.17	The Local applications to which NI Water has objected and which delegated authority is sought to determine are listed at <b>Appendix 1</b> .
3.18	It should be noted that only those applications which would have been delegated to officers under the Scheme of Delegation were it not for the objection from NI Water are proposed to be delegated. Therefore, any of the Local applications listed at <b>Appendix 1</b> which it transpires need to be referred to the Committee for other reason/s under the Scheme of Delegation will be reported to the Committee to determine.
<b>4.0</b>	<b>Financial &amp; Resource Implications</b>
4.1	Officers are aware of the infrastructure issues which NI Water are facing and have had regard to that in making this recommendation to Committee. However, each application must be assessed on its own merits and officers have sought detailed evidence to support the objections which have been provided by NI Water. That has not been forthcoming.
4.2	The cost and resources involved in individually reporting all Local applications to which NI Water has objected to the Planning Committee would be considerable. It would also require several additional sittings of the Committee.
4.3	Regard is also had to the considerable current pressures on the Planning Service and staff with an unprecedented high volume of live applications on hand due to the impacts of COVID-19. This was reported in detail to the 15 <sup>th</sup> February Planning Committee, <a href="#">item 12a</a> . (hyperlink). The Committee will be aware that following the initial lock-down in March 2020, Council offices were closed for a time when it was not possible to receive or process applications. Site visits were initially suspended for health and safety reasons. New IT infrastructure had to be rolled out to support staff working remotely. Some staff were furloughed for a period. The knock-on impact has been that live application numbers have risen by approximately 35% from around 900 pre-pandemic to approximately 1,200. This has also been exacerbated by significant ongoing consultee delays. Whilst incoming applications and outgoing decisions has normalised, it has proven very difficult to shift the “backlog” caused by the pandemic. Current work volumes are unsustainable on the Planning Service and its staff.
4.4	For the reasons set out above, officers are of the view that it would be appropriate to delegate these applications.
<b>5.0</b>	<b>Equality or Good Relations Implications / Rural Needs Assessment</b>
5.1	No adverse impacts identified.
<b>6.0</b>	<b>Appendices – Documents Attached</b>
	<b>Appendix 1</b> – List of Local applications which are proposed to be delegated to officers to determine.