



Subject:	Delegation of Local applications with NI Water objections
Date:	18 April 2023
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

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

1.0	Purpose of Report or Summary of Main Issues
1.1	The Planning Committee will recall that at its meetings on 27 June 2022, 14 November 2022 14 February 2023 and 14 March 2023, it agreed to delegate authority to the Director of Planning and Building Control the determination of a number of Local applications to which NI Water had objected.
1.2	The Council continues to receive objections from NIW to some Local applications. The purpose of this report is to seek the Committee's agreement to delegate to officers those Local planning applications to which NI Water has objected as set out at Appendix 1 .
1.3	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 Appendix 1 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. Individual

	Members can also still request that the applications at Appendix 1 are referred to the Committee under paragraph 3.8.1 of the Scheme of Delegation.
2.0	Recommendation
2.1	That the Committee agrees to delegate to the Director of Planning and Building Control those Local planning applications to which NI Water has objected set out at Appendix 1 .
3.0	Main Report
	<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 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	Therefore, at its meeting on 27 June 2022, 14 November 2022, 14 February 2023 and 14 March 2023, the Committee agreed to delegate 97, 25 and 18 Local applications respectively with NI Water objections to the Director of Planning and Building Control. This has avoided the potential need to report all 150 applications individually to the Committee. To have reported all those applications to the Committee would have been logistically extremely difficult, costly and would have resulted in further delays for applicants.
	<u>Nature of NI Water objections</u>
3.8	NI Water has lodged objections to Local applications for one or both of the following reasons. <ul style="list-style-type: none"> a) There is insufficient capacity at the local Waste Water Treatment Plant to support the proposed development; and/or b) There is insufficient network capacity within existing Combined Storm Overflows to support the development.

3.9	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.
3.10	However, despite requests, NI Water has to date not provided robust evidence to support individual objections including demonstration of actual specific impacts resulting from individual proposals that stems from their broad concerns outlined above.
3.11	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.
3.12	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.
3.13	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. NIW have in recent months added further detail to their responses but sufficient robust evidence has not been provided..
	<u>Habitats Regulations Assessment</u>
3.14	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.
3.15	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 will 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>
3.16	The further Local applications to which NI Water has objected and which delegated authority is sought to determine are listed at Appendix 1 .
3.17	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 Appendix 1 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. Individual Members can also still request that the applications at Appendix 1 are referred to the Committee under paragraph 3.8.1 of the Scheme of Delegation.
4.0	Financial & Resource Implications
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 extremely high volume of live applications on hand due to the longer-term impacts of COVID-19 and ongoing technical issues with the new Planning Portal. The impacts of COVID-19 and other operational pressures were reported in detail to the 15 th February 2022 Planning Committee, item 12a. (hyperlink). In addition, technical issues with the new Planning Portal have reduced the rate of decisions. Combined with several key vacancies, total live applications have increased to around 1,100 application, an approximate 40% increase since pre-pandemic levels. It is very important that the Planning Service implements a range of measures to reduce live applications back down to more manageable levels. This includes securing delegated authority from the Committee for officers to deal with these Local applications subject to NI Water objections.
4.4	For the reasons set out above, officers are of the view that it would be appropriate to continue to delegate these applications.
5.0	Equality or Good Relations Implications / Rural Needs Assessment
5.1	No adverse impacts identified.
6.0	Appendices – Documents Attached
	Appendix 1 – List of Local applications which are proposed to be delegated to officers to determine.