

---

<b>Report To:</b>	<b>Safe Sustainable Communities Committee</b>	<b>Date:</b> 31 August 2010
<b>Report By:</b>	<b>Corporate Director, Regeneration and Environment</b>	<b>Report No:</b> <b>SS/10/09/02/SJ/NM</b>
<b>Contact Officer:</b>	<b>N.McLaren</b>	<b>Contact No:</b> 01475 712420
<b>Subject:</b>	<b>Scheme of Delegation</b>	

---

## 1.0 PURPOSE

- 1.1 In June 2009 the Committee approved the current Scheme of Delegation for Local Developments as required by Section 43A of the Town and Country Planning (Scotland) Act 1997. The purpose of the report is to seek approval of an amended scheme.

## 2.0 SUMMARY

- 2.1 The Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009 which came into force on 6<sup>th</sup> April 2009 introduce three categories of planning applications – national, major and local.
- 2.2 Section 43A of the Town and Country Planning (Scotland) Act 1997 requires planning authorities to prepare separate schemes of delegation for determining planning applications relating to local developments. This gives powers to “appointed officers” to determine such applications for planning permission subject to the terms of the scheme of delegation.
- 2.3 The current scheme of delegation has contributed to a reduction in the number of planning applications being considered by the Planning Board. In the year ending June 2009, the Board considered 87 applications. In the following year it determined 62 applications. No Board meeting was required in April 2010. Forty nine applications have been determined under delegated powers that previously would have been considered by the Planning Board.
- 2.4 The existing scheme of delegation reflects Government guidance and regulations and, as required, was approved by the Scottish Ministers. Schemes of delegation are to be prepared at intervals of no greater than 5 years, however it is considered that following a year of operation, it is now appropriate to assess whether the scheme remains fit for purpose.
- 2.5 Assessment of the validity of the limitations under the scheme of delegation has been made with reference to openness, fairness and transparency, application of Council planning policy and wider public interest. The following changes, highlighted in bold, are proposed to the list of Local Developments necessitating Planning Board approval:
- (a) The approval of an application which would be contrary to the approved Development Plan,
  - (b) The approval of an application which is the subject of letters of representations from **6** or more individuals and/or 2 community groups, **including formally constituted groups comprising at least 10 members and Community Councils,**
  - (c) Applications made by the planning authority,

- 
- (d) Applications made by a Member of the planning authority,
  - (e) Application relating to land in the ownership of the planning authority or to land in which the planning authority has a financial interest.
  - (f) Applications made by employees of the Council's Regeneration and Planning Service.**

2.6 The revised Scheme of delegation is set out in Appendix 1

### 3.0 **RECOMMENDATION**

3.1 That Committee:

- (a) agrees to adopt the amended Scheme of Delegation prepared under the terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 for determining local developments as outlined in Appendix 1 and subject to approval from Scottish Ministers;
- (b) agrees to remit (a) above to the Inverclyde Council for approval.

## 4.0 BACKGROUND

- 4.1 In June 2009 the Committee approved the current Scheme of Delegation for Local Developments as required by Section 43A of the Town and Country Planning (Scotland) Act 1997. The Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009, which introduced national, major and local developments, came into force on 6<sup>th</sup> April 2009. National and major developments are processed in line with the procedures set out in Regulations and detailed in a report to the Committee in March 2009.
- 4.2 Under the terms of Section 43A of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 17 of the Town and Country Planning (Scotland) Act 2006, Local Authorities are required to prepare a scheme of delegation for dealing with local developments. Under this scheme designated officers determine applications for planning permission for a development within the category of local development 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.
- 4.3 Refusals made under this scheme have the right of review to the Local Review Body only. Where applications do not fall within the scheme referral to the Planning Board is required with the appeal against refusal to the Scottish Ministers.
- 4.4 The current scheme of delegation for local developments has contributed to a reduction in the number of planning applications being considered by the Planning Board. In the year ending June 2009, the Board considered 87 applications. In the following year it determined 62 applications. No Board meeting was required in April 2010. Six applications determined under delegated powers were the subject of review by the Local Review Body. Forty nine applications have been determined under delegated powers that previously would have been considered by the Planning Board.

## 5.0 REVIEW OF THE SCHEME OF DELEGATION

- 5.1 The existing scheme of delegation reflects Government guidance and regulations and, as required, was approved by the Scottish Ministers. Schemes of delegation are to be prepared at intervals of no greater than 5 years, however I consider that following a year of operation, it is now appropriate to assess whether the scheme remains fit for purpose.

The following application types currently require referral to the Planning Board:

- 5.2
- (a) The approval of an application which would be contrary to the approved Development Plan,
  - (b) The approval of an application which is the subject of letters of representations from 10 or more individuals and/or 2 community groups (including Community Councils) which are formally constituted and comprise at least 10 members,
  - (c) Applications made by the planning authority,
  - (d) Applications made by a Member of the planning authority,
  - (e) Application relating to land in the ownership of the planning authority or to land in which the planning authority has a financial interest.

- 5.3 Assessment of the validity of the limitations under the scheme of delegation is made with reference to openness, fairness and transparency, application of Council planning policy and wider public interest.

Openness, fairness and transparency: The current scheme ensures that where there is a Council interest in a planning application, irrespective of public objection or representation, the decision is taken by the Planning Board and in the public domain. This currently covers applications made by or on behalf of the Council, applications where the Council holds a financial interest, and applications made by any Elected Member. In the interests of openness and transparency, it is considered appropriate to expand the restriction to include any employee of the Council's Regeneration and

Planning Service.

Application of Council policy: The current scheme only permits officers to determine applications in accordance with the Council's adopted planning policies as incorporated in the Inverclyde Local Plan. It is considered that the right to determine proposals contrary to Council policy should remain in the sole domain of the Elected Members.

Wider public interest: Prior to the introduction of the current scheme of delegation, all applications subject of public objection required referral to the Planning Board. A key aim of the scheme is to speed the application process and ensure that the Planning Board does not concern itself with minor proposals that accord with the Council's planning policies. Benchmarking against the schemes operated by other authorities notes that, on average, 6 objection trigger the requirement for decision by the Elected Members. While changing from 10 to 6 will not significantly increase the number of applications requiring referral to the Planning Board (2 during 2009-10), it is considered that this change will improve public and member confidence in the scheme of delegation without unreasonable burden on the Planning Board. Addressing representations from Community Councils and community groups, it has been brought to my attention that some Community Councils may not comprise 10 members. Community Council contributions can add value to the planning process, and as such an amendment to the scheme removing reference to membership numbers is proposed.

## 6.0 PROPOSALS

6.1 It is proposed that the Council agrees to

(a) adopt the amended Scheme of Delegation (as detailed in Appendix 1) prepared under the terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 for determining local developments and subject to approval from Scottish Ministers The proposed amendments are highlighted in bold:

(a) The approval of an application which would be contrary to the approved Development Plan,

(b) The approval of an application which is the subject of letters of representations from **6** or more individuals and/or 2 community groups, **including formally constituted groups comprising at least 10 members and Community Councils,**

(c) Applications made by the planning authority,

(d) Applications made by a Member of the planning authority,

(e) Application relating to land in the ownership of the planning authority or to land in which the planning authority has a financial interest.

**(f) Applications made by employees of the Council's Regeneration and Planning Service.**

(b) agrees to remit (a) above to the Inverclyde Council for approval.

## 7.0 IMPLICATIONS

7.1 There are no immediate legal implications arising from this report.

7.2 There are no direct financial implications arising from this report.

7.3 There are no personnel implications arising from this report.

7.4 Equalities: when delivering services to our customers full cognisance is taken of equality and diversity processes and procedures.

## 8.0 CONSULTATION

- 
- 8.1 Consultation has been carried out with the Chief Financial Officer, the Head of Legal and Democratic Services and the Head of Organisational Development, HR and Performance. No adverse comments have been received.

## 9.0 LIST OF BACKGROUND PAPERS

Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009

Town and Country Planning (Scheme of Delegation and Local Review Bodies) (Scotland) Regulations 2008

Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008

Town and Country Planning (Scotland) Act 1997

Town and Country Planning (Scotland) Act 2006

## Town and Country Planning (Scotland) Act 1997 – Section 43A Scheme of Delegation – Local Developments

This Scheme of Delegation is prepared in accordance with Section 17 of the Town and Country Planning (Scotland) Act 2006 – which introduced a new Section 43A to the Town and Country Planning (Scotland) Act 1997 – the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

It relates to any application for planning permission for a development within the category of local developments (see Appendix 1) 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.

The “Appointed Person” in terms of Section 43A(1) of the 1997 Act will be either the **Head of Regeneration and Planning**, the Development and Building Standards Manager or the **Planning Policy and Property Manager**.

The appointed person will have the authority to determine (a) all planning applications for planning permission within the category of local development and (b) all applications for consent, agreement or approval required by a condition imposed by a grant of planning permission for a development within that category submitted to Inverclyde Council in compliance with the requirements of the Town and Country Planning (Scotland) Act 1997 – as amended by the 2006 Act – and all associated statutory provisions with the following exceptions;

- (a) The approval of an application which would be contrary to the approved Development Plan,
- (b) The approval of an application which is the subject of letters of representations from **6** or more individuals and/or 2 community groups, **including formally constituted groups comprising at least 10 members and Community Councils**,
- (c) Applications made by the planning authority,
- (d) Applications made by a Member of the planning authority,
- (e) Application relating to land in the ownership of the planning authority or to land in which the planning authority has a financial interest.
- (f) **Applications made by employees of the Council’s Regeneration and Planning Service.**

### Local Developments

1. Housing – construction of buildings for use as residential accommodation comprising less than 50 dwellings or a site area not exceeding 2 hectares.
2. Businesses and General Industry, Storage and Distribution – the gross floor area of the building does not exceed 10,000 square metres or the site area does not exceed 2 hectares.

- 
3. Electricity Generation – the generating station has a capacity not exceeding 20 megawatts.
  4. Waste Management Facilities – the facility has a capacity not exceeding 25,000 tonnes per annum.
  5. Transport and infrastructure projects – the length of road, railway, tramway, waterway or aqueduct or pipeline does not exceed 8 kilometres.
  6. Fish Farming – the surface area of water covered does not exceed 2 hectares.
  7. Minerals – the area of the site does not exceed 2 hectares.
  8. Other Development – any development not wholly falling within any single class of development categories 1 to 7 where the gross floor area of any building does not exceed 5,000 square metres or the area of the site does not exceed 2 hectares.

This Scheme of Delegation is prepared in accordance with Section 17 of the Planning etc. (Scotland) Act 2006 – which introduced a new Section 43A to the Town and Country Planning (Scotland) Act 1997 – the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

It relates to any application for planning permission for a development within the category of local developments (see Appendix 1) 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.

The “Appointed Person” in terms of Section 43A(1) of the 1997 Act will be either the **Head of Regeneration and Planning**, the Development and Building Standards Manager or the **Planning Policy and Property Manager**.

The appointed person will have the authority to determine (a) all planning applications for planning permission within the category of local development and (b) all applications for consent, agreement or approval required by a condition imposed by a grant of planning permission for a development within that category submitted to Inverclyde Council in compliance with the requirements of the Town and Country Planning (Scotland) Act 1997 – as amended by the 2006 Act – and all associated statutory provisions with the following exceptions;