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<b>Report To:</b>	<b>Environment and Regeneration Committee</b>	<b>Date:</b> 5th September 2013
<b>Report By:</b>	<b>Corporate Director, Environment, Regeneration and Resources</b>	<b>Report No:</b> E+R/13/09/02/sj/nm
<b>Contact Officer:</b>	<b>S. Jamieson, Head of Regeneration and Planning</b>	<b>Contact No:</b> 01475 712421
<b>Subject:</b>	<b>Scheme of Delegation</b>	

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## 1.0 PURPOSE

- 1.1 In September 2010 the then Safe, Sustainable Communities 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 this 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 introduced 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 Scottish Government, in monitoring the efficiency of the planning application process, has responded to concerns that applications in which local authorities have an interest are being unnecessarily delayed as a consequence of a statutory obligation to have them determined by a committee of the Council. As a consequence The Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013, which replace the 2008 Regulations, remove this obligation allowing determination under an approved Scheme of Delegation.
- 2.4 Authorities are required submit any amendments to a Scheme of Delegation to the Scottish Ministers for approval. The proposed revised Scheme is set out in Appendix 1.

## 3.0 RECOMMENDATION

- 3.1 It is recommended that the Committee agrees to:
- (a) 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) submit the amended Scheme of Delegation to the Scottish Ministers for approval; and
- (c) remit (a) and (b) above to The Inverclyde Council for approval.

#### **4.0 BACKGROUND**

- 4.1 In September 2010 the then Safe, Sustainable Communities 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 reports to the then Safe, Sustainable Communities Committee in March 2009 and to the Environment and Regeneration Committee in January 2013.
- 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 Scottish Government, in monitoring the efficiency of the planning application process, has responded to concerns that applications in which local authorities have an interest are being unnecessarily delayed as a consequence of a statutory obligation to have such applications determined by a committee of the Council. As a consequence, The Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013, which replace the 2008 Regulations, remove this obligation allowing determination under an approved Scheme of Delegation.

#### **5.0 REVIEW OF THE SCHEME OF DELEGATION**

- 5.1 The existing Scheme of Delegation reflects previous Government guidance and regulations and, as required, was approved by the Scottish Ministers. Although Schemes of Delegation are to be prepared at intervals of no greater than 5 years and the current scheme has been operational for less than 3 years, I consider it appropriate to exercise the opportunity provided by new regulation. This will facilitate the delegation of local planning applications submitted by Inverclyde Council and any local planning application relating to land in the ownership of Inverclyde Council or in which Inverclyde Council has a financial interest.
- 5.2 Under the proposed Scheme of Delegation applications of the following categories will continue to require to be referred to the Planning Board:
  - (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 a Member of the planning authority,
  - (d) Applications made by employees of the Council's Regeneration and Planning

Service.

These categories will continue to apply to applications in which Inverclyde Council has an interest.

## **6.0 RECOMMENDATION**

6.1 It is recommended that the Committee agrees to:

- (a) 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) submit the amended Scheme of Delegation to the Scottish Ministers for approval; and
- (c) remit (a) and (b) 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 Communications.

## **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 and 2013

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and 2013

Town and Country Planning (Scotland) Act 1997

Planning etc. (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 2013 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)~~(c) 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)~~(d) 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

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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.
- 9. *Planning Authority – any development falling within any single class of development categories 1, 2, 4, 5 and 8 where the application is made by the planning authority, or where the application relates to land in the ownership of the planning authority or to land where the planning authority have a financial interest.***

[\*\*NB – Additions are in bold italics and underlined. Deletions are in bold italics with strikethrough.\*\*]