
Report To:	Environment and Regeneration Committee	Date: 14 January 2016
Report By:	Corporate Director, Environment, Regeneration and Resources	Report No:RC/16/01/04/SJ/NM
Contact Officer:	S.Jamieson, Head of Regeneration and Planning	Contact No: 01475 712421
Subject:	Scheme of Delegation	

1.0 PURPOSE

- 1.1 In September 2013 the Environment and Regeneration Committee approved the current Scheme of Delegation for local development planning applications 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 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 local development planning applications. This gives powers to “appointed officers” to determine local development applications for planning permission.
- 2.3 Planning applications are the subject of neighbour notification and, on occasion, a newspaper notice. The current Scheme of Delegation sets a threshold number of consequential “representations” submitted beyond which a local development planning application will be referred to the Planning Board. Circumstances have arisen when letters of support for applications consistent with Council policy have triggered this requirement. Changing reference to the nature of written submissions from “representation” to “objection” will facilitate the original intent that the Planning Board focuses on major and controversial planning applications only.

Authorities are required to submit any amendments to a Scheme of Delegation to the Scottish Ministers for approval. The revised Scheme is set out in Appendix 1.

3.0 RECOMMENDATIONS

- 3.1 That the Committee:
- (1) 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;
 - (2) agrees to remit (1) above to the Inverclyde Council for approval.

Aubrey Fawcett
Corporate Director, Environment, Regeneration and Resources

4.0 BACKGROUND

- 4.1 In September 2013 the Environment and Regeneration Committee approved the current Scheme of Delegation for local development planning applications 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 6th 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 development planning applications. 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.

5.0 PROPOSAL

- 5.1 The existing Scheme of Delegation reflects 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 revise the Scheme to ensure that uncontroversial local planning applications may continue to be approved quickly.
- 5.2 Planning applications are the subject of neighbour notification and, on occasion, a newspaper notice. The current Scheme of Delegation sets a threshold number of consequential “representations” submitted beyond which a local development planning application will be referred to the Planning Board. Circumstances have arisen when letters of support for applications consistent with Council policy have triggered this requirement. While it is perfectly reasonable and acceptable for letters of support to be submitted, under the current Scheme of Delegation this presents the potential for time delay in the assessment of applications. Changing the nature of written submissions from “representation” to “objection” will facilitate the original intent that the Planning Board focuses on major and controversial planning applications only
- 5.3 It is recommended that the Council agrees to
- 1) 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 circumstances under which the appointed person may not determine local planning applications using delegated powers are detailed below, with the amendment 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 **representation objection** 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.
- 2) agrees to remit (a) above to the Inverclyde Council for approval.

6.0 IMPLICATIONS

Finance

- 6.1 There are no direct financial implications arising from this report.

Financial Implications

One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With effect from	Annual Net Impact	Virement From	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

Legal

- 6.2 There are no direct legal implications arising from this report.

Human Resources

- 6.3 There are no direct personnel implications arising from this report.

Equalities

- 6.4 There are no direct equalities implications arising from this report.

Repopulation

- 6.5 There are no direct repopulation implications arising from this report.

7.0 CONSULTATION

- 7.1 Consultation has been carried out with the Chief Financial Officer, the Head of Legal and Property Services and the Head of Organisational Development, Human Resources and Communications. No adverse comments have been received.

8.0 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 2013

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

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 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 objection 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.

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.
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 by a member of 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.