

# Renfrewshire Council

To: COUNCIL

On: 21<sup>st</sup> May 2009

Report  
by

Director of Planning and Transport &  
Director of Corporate Services

## REVISED SCHEME OF DELEGATION

### 1. Summary

- 1.1. As Members are aware, the Planning system in Scotland is undergoing major change through the Planning etc. (Scotland) Act 2006 to modernise the system to speed up decisions, strengthen involvement of communities and allow quicker investment decisions. An essential part of these proposals is the requirement to introduce a revised Scheme of Delegation, allowing officers to take decisions on smaller scale applications of local importance. Local applications are defined in the hierarchy of applications being introduced where all developments are categorised as national, major or local with procedures and decision making processes appropriate to the level of development. The Scheme of Delegation requires that any application for planning permission for a development within the category of local developments 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 is to be determined by a person appointed by them for the purpose.
- 1.2 This report seeks approval for a revised scheme of delegation which is required to be forwarded to the Scottish Ministers for approval prior to its adoption by the Council.
- 1.3 This requires the replacement of part of Section H of Section 5 of the scheme of delegated functions approved by the Council on 28 June 2007.

### 2. Recommendations

2.1 It is recommended that the Council:-

- a) Approve the terms of the revised scheme of delegated functions relating to The Town and Country Planning (Scotland) Act 1997 (as amended) – powers delegated to officers forming the appendix to this report.
- b) Submit to the Scottish Ministers the revised scheme of delegated functions, for their approval in so far as it relates to those matters required by S 43A of the Town and Country Planning (Scotland) Act 1997; and
- c) Revoke the Part H paragraphs 1.1, 1.2, 1.3, 1.4 and 1.5 of the existing scheme of delegated functions and replaces these with the delegated powers approved in this report which will be adopted with effect from 3<sup>rd</sup> August 2009, subject to the revised scheme of delegation being approved by the Scottish Ministers.

d) Agree that if the Scottish Ministers propose any changes to the revised scheme of delegated functions then any changes may be agreed by the Director of Corporate Services and Director of Planning and Transport following liaison with the Leaders of the Political Groups on the Council and the scheme, duly revised, will be adopted with effect from 3 August 2009.

e) Revoke paragraph 3.26 of Part C of Section 5 of the existing scheme of delegated functions and agrees to the renumbering of the remainder of Part C accordingly.

### **3. Background**

- 3.1 Section 43A of the 1997 Act (as amended) requires the Council to prepare a scheme of delegation for approval by the Scottish Ministers in relation to the determination of applications for development which are classified as local i.e. not within a category which is national or major development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 make provision for the preparation and content of schemes of delegation and the procedure for reviews. A scheme of delegation requires to be prepared as soon as practicable after 6 April 2009 to allow adequate time to have the scheme approved and subsequently adopted by the Council prior to the bringing into effect of the remainder of the Regulations on 3 August 2009.
- 3.2 The Scottish Government's intention is that there should be a focus on engagement and scrutiny on the more complex development management proposals, while at the same time seeking to streamline and speed up those processes, where possible. Major proposals which are likely to have the most significant economic, social or environmental benefits should receive appropriate priority and scrutiny by planning authorities. A more proportionate procedure for local developments is also considered important, ensuring that best use is made of delegated powers for planning officers to make decisions in relation to such proposals.
- 3.3 Under the regulations the Council has to adopt a scheme of delegation that describes the circumstances in which officials can take decisions in respect of planning applications for different classes of local developments. Where an applicant is not satisfied with the terms of the decision taken, the applicant will be entitled to require the Council as planning authority to review the decision instead of appealing to Scottish Ministers. The decision of the planning authority on that review will be reached by a local review body comprising elected members from the authority and their decision on the case will be final. The setting up of this Local Review Body will be the subject of a separate report to the Council.
- 3.4 The provisions for the new schemes of delegation contained within Section 43A apply only to planning applications within the category of local developments. They do not relate to the categories of developments specifically excluded i.e. major and national developments nor to other types of planning applications such as listed building consent, or consent to display advertisements. These other forms of permission retain their rights of appeal to Scottish Ministers.

3.5 The Regulations prescribe that the scheme of delegation shall apply to applications for planning permission and applications for consent, agreement or approval required by a condition imposed on a grant of planning permission and specify certain types of applications which are not to be the subject of delegation and these are where:-

(a) the application is made by-

(i) the planning authority; or

(ii) a member of the planning authority; or

(b) the application relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest.

3.6 As a consequence of the introduction of the local review procedure, it will be necessary to discontinue the current arrangement of circulating on a weekly basis the list of reports in relation to applications which are to be determined under delegated powers. Such a practice implies the acquiescence of members in the decision and therefore would be prejudicial to any subsequent review. Consequently the matters dealt with through the weekly delegated list such as enforcement, street naming, etc are now included in the revised scheme of delegation. For the avoidance of doubt, the weekly list of planning applications submitted to the Council will still be circulated as per the current practice.

The Council's current scheme of delegation to officers includes applications and decisions beyond the category of local developments specified in Section 43A of the Act, such as advertisements, amenity notices, stopping up of roads, etc. These have all been included in the revised scheme of delegation.

In addition decisions to be taken within the scope of certain parts of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in relation to listed buildings applications, urgent repair and preservation of listed buildings, etc have been included to clarify existing delegation practice.

3.7 Councillors should note that the Council as planning authority may, if they think fit, decide themselves to determine an application which would otherwise fall to be determined by a person appointed to do so under the scheme of delegation. Where such a decision relates to an application within the category of local developments in terms of Section 43A of the Act any such decision must include a statement of reasons for which it has been taken and thereafter a copy of the decision is to be served on the applicant.

3.8 The Appendix sets out the revised scheme of delegation in respect of the Town and Country planning functions of the Council.

3.9 In relation to Part C of Section 5 of the existing scheme of delegation, ie. delegation to Legal Services, it is proposed to revoke paragraph 3.26 as the scheme of delegation for Director of Planning and Transport adequately covers these matters.

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## Implications of this report

1. **Financial Implications** – none
2. **Personnel Implications** – none
3. **Community Plan/Council Plan Implications**  
Wealthier and Fairer - none.  
  
Smarter - none  
  
Healthier - none  
  
Safer and Stronger – none  
  
Greener – none  
  
Developing our Organisation – none
4. **Legal Implications** – the changes to the scheme are necessary to comply with legislative change and are detailed in the report
5. **Property Implications** – none
6. **Information Technology Implications** – none
7. **Equal Opportunities Implications** – none
8. **Health and Safety Implications** – none
9. **Procurement Implications** – none
10. **Risk Implications** - none.

## Renfrewshire Council Scheme of Delegation

### H. DIRECTOR OF PLANNING AND TRANSPORT

#### DECISIONS BY MEMBERS

Applications for

- (a) National developments as specified in the National Planning Framework
- (b) Major developments which are significantly contrary to the local development plan  
are to be determined by the Council

The following categories of application:-

- (c) applications which the planning authority decides to determine which would otherwise fall to be determined by a person appointed to do so under this scheme;
- (d) major developments as set out in the Schedule to the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and repeated hereafter;
- (e) listed building consent for demolition of listed buildings and conservation area consent for demolition of a building in a conservation area.

are to be determined by a Board of the Council

#### **DELEGATED UNDER POWERS IN THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973**

The Director of Planning and Transport, the Head of Planning, Principal Planning Officer and Assistant Principal Planning Officers within Development Management , as appointed officers, are authorised to determine the following matters:-

All planning and related decisions within the scope of the Town and Country Planning (Scotland) Act 1997 as amended in relation to;

Part III Control over Development, in particular, but not restricted to, the determination of applications for planning permission and applications for consent, agreement or approval required by a condition imposed on a grant of planning permission

Part VI Enforcement

Part VII Special Controls – Trees, Amenity Notices, Advertisements

Part IX Roads, Footpaths & Rights of Way

Part X Statutory Undertakers

Part XIV Miscellaneous & general provisions

All planning and related decisions within the scope of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in relation to:

Part I Listed Buildings

Chapter 1 Sections 3 & 4 Building Preservation Notices

Chapter II Authorisation of Works affecting Listed Buildings

Chapter IV Enforcement

Chapter V Prevention of Deterioration and Damage

Sections 49 and 50 – Urgent preservation

Sections 51 and 52 – Grants for Repair and Maintenance

Chapter VI -

Sections 59 and 60 – Special considerations affecting Planning Functions

Part II

Section 66 Conservation Area Consent

Section 72 Grants for Repairing of Buildings in Town Schemes

Part III

Sections 76 – 78 Miscellaneous Provisions

All planning and related decisions within the scope of the Planning (Hazardous Substances) (Scotland) Act 1997

**Exceptions**

The above delegation is subject to the exception of the following categories of application, which are for decision by members as noted above:

Applications for

- (a) National developments as specified in the National Planning Framework
- (b) Major developments which are significantly contrary to the local development plan  
are to be determined by the Council

The following categories of application:-

- (c) applications which the planning authority decides to determine which would otherwise fall to be determined by a person appointed to do so under this scheme;
- (d) major developments as set out in the Schedule to the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and repeated hereafter;
- (e) listed building consent for demolition of listed buildings and conservation area consent for demolition of a building in a conservation area.

are to be determined by a Board of the Council

**In addition, delegation is also granted to the following officers in relation to the specified matters:**

- (a) The Director of Planning and Transport, the Head of Planning and the Principal Officer, Regeneration and Environment are authorised in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, to determine applications for heritage fund and town scheme grants within the terms of the relevant Council policies.
- (b) The Director of Planning and Transport, the Head of Planning and the Principal Officer, Plans and Information are authorised in terms of the Civic Government (Scotland) Act 1982 to determine the naming of new streets and roads and numbering of new properties in consultation with local members.
- (c) The Director of Planning and Transport, the Head of Planning, the Principal Officer and the assistant Principal Officers, Development Management, are authorised to determine applications for a planning certificate in terms of the Licensing (Scotland) Act 2005.

### **DELEGATED UNDER SECTION 43A OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

The Director of Planning and Transport, the Head of Planning, Principal Planning Officer and Assistant Principal Planning Officers within Development Management , as appointed officers, are authorised to determine applications for local developments.

Notwithstanding the above, an appointed officer is prohibited from determining any application for a local development where;

- (a) the application is made by –
  - (i) the planning authority; or
  - (ii) a member of the planning authority; or

(b) the application relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest.

In these cases the applications will be determined by a Board of the Council.

Councillors should note that the Council as planning authority may, if they think fit, decide themselves to determine an application which would otherwise fall to be determined by a person appointed to do so under the scheme of delegation. Where such a decision relates to an application within the category of local developments in terms of Section 43A any such decision must include a statement of reasons for which it has been taken and thereafter a copy of the decision is to be served on the applicant.

## **Annex : Definition of Major Developments**

### **Major Developments**

#### ***Description of Development***

#### ***Threshold or criterion***

##### **1. Schedule 1 development**

Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999 (other than exempt development within the meaning of those Regulations).

All development.

##### **2. Housing**

Construction of buildings, structures or erections for use as residential accommodation.

(a) The development comprises 50 or more dwellings; or

(b) The area of the site is or exceeds 2 hectares.

##### **3. Business and General Industry, Storage and Distribution**

Construction of a building, structure or other erection for use for any of the following purposes –

(a) as an office

(b) for research and development of products or processes

(c) for any industrial process; or

(d) for use for storage or as a distribution centre

(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square meters; or

(b) The area of the site is or exceeds 2 hectares

##### **4. Electricity Generation**

Construction of an electricity generating station.

The capacity of the generating station is or exceeds 20 megawatts.

## ***Description of Development***

## ***Threshold or criterion***

### **5. Waste Management Facilities**

Construction of facilities for use for the purpose of waste management or disposal.

The capacity of the facility is or exceeds 25,000 tonnes per annum.  
In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge.

### **6. Transport and infrastructure projects**

Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.

The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres.

### **7. Fish Farming**

The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.

The surface area of water covered is or exceeds 2 hectares.

### **8. Minerals**

Extraction of minerals.

The area of the site is or exceeds 2 hectares.

### **9. Other Development**

Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above.

(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or  
(b) The area of the site is or exceeds 2 hectares.