

MODERNISATION OF THE PLANNING SYSTEM

SCHEME OF DELEGATION & ESTABLISHMENT OF LOCAL REVIEW BODY

1 SUMMARY

- 1.1 This report requests the Council's approval for (i) changes to the Council's current Scheme of Delegation to take account of impending changes in the manner in which planning applications are to be processed as a result of the new modernised planning system introduced under the Planning etc (Scotland) Act 2006 (the 2006 Act) and (ii) a new Scheme of Delegation for dealing with "local developments" in terms of the new Section 43A of the 1997 Act. The new Scheme of Delegation requires to be submitted to Scottish Ministers by the end of June 2009 for their approval. The report also proposes the establishment of, and appointments to a Local Review Body whose function is to determine reviews (appeals) of decisions taken by Officers under the new Scheme of Delegation.

2 RECOMMENDATION(S)

The Council is invited to:-

- 2.1 adopt a Section 43A Scheme of Delegation as an appendix to the Council's existing Scheme as set out in Appendix 1 for dealing with all planning applications received on or after 3 August 2009, subject to approval by Scottish Ministers;
- 2.2 remit it to the Chief Executive to submit the revised Scheme of Delegation to Scottish Ministers and implement any further changes arising from Scottish Ministers approval of the Scheme;
- 2.3 remit it to the Chief Executive, to amend the Council's Scheme of Delegation as a consequence of the new modernised planning system introduced under the Planning Etc (Scotland) Act 2006 (the 2006 Act) as set out in Appendices 2 and 3; and, as appropriate the Council's Standing Orders;
- 2.4 to establish a Local Review Body comprising 3 Members (drawn from a suitably trained and experienced pool of 6 Members), and appoint Members to serve on it on the basis that:-

- a there will be a Chair of the Local Review Body appointed for each review on a rotational basis and drawn from a suitably trained and experienced pool;
 - b the Chair of the Planning Panel cannot serve as Chair of the Local Review Body;
 - c meetings of the Local Review Body be scheduled for 2pm on Thursday in Week 1 of the cycle or such other times as may be required;
 - d Members of the Local Review Body will be required to have relevant experience of planning matters and to undergo appropriate training before participating in meetings; and
 - e Members will not be allowed to sit on the Local Review Body when it is conducting a review relating to a planning application for a development which is in whole or in part located within the Ward of that Member.
- 2.5 remit it to the Chief Executive to make revisions to the Council's Standing orders to provide for the establishment of a Local Review Body and prepare working procedures for this Body based on the advice provided in paragraphs 3.19 – 3.34 which will then form an Appendix to the Council's Standing Orders;
- 2.6 note that the Council's Scheme of Delegation and Standing Orders, as revised to take account of the above, will be submitted for formal adoption by Council at its next meeting; and
- 2.7 remit it to the Chief Executive to undertake in Spring 2010 a review of the operation of the Local Review Body and amended Scheme of Delegation so far as it relates to Planning and report to the Council meeting of June 2010.

3 CONSIDERATIONS

- 3.1 The Scottish Government's aims to deliver a modern planning system that is:
- Efficient:** up to date development plans to be at the heart of an efficient system that provides certainty for users and local people;
 - Inclusive:** local people to be more involved in the decisions that shape the development of their communities;
 - Fit for purpose:** with a clear sense of priorities, and to address different issues in different ways; and
 - Sustainable:** development to contribute to economic growth that is sustainable. Planning will deliver sustainable development ensuring development is in the right place, and of, the right quality.
- 3.2 The Government's underlying desire is to "simplify" the "process" so that it is better understood by all parties involved. This includes "removing minor applications from the system" and ensuring agencies are better equipped to

deal with the system. A further requirement of the Government is the need to ensure that engagement with all parties takes place at an early stage so ending the to-ing and fro-ing which can see some applications jammed in the system for months or even years.

- 3.3 The Government also want to ensure a higher quality of application from the submitter that can be understood by non-professional members of planning panels and is not short of information that then needs to be included at a later date.
- 3.4 The new Planning etc (Scotland) Act 2006 is the central part of the Government's aspirations and represents the most fundamental and comprehensive reform of the Scottish planning system in sixty years. Sections 5 and 17 of the Planning Etc (Scotland) Act 2006 amends the Town and Country Planning (Scotland) Act 1997 and comes into force in two stages on 6 April 2009 and 3 August 2009. This is through published secondary legislation namely the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (See Background Papers).
- 3.5 From 6 April 2009, in accordance with the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 all planning applications received require to be identified as a National, Major or Local Development. (See paragraph 3.8 below and Background Papers).
- 3.6 The various regulations referred to above will result in changes to the systems and procedures the Council has in place for dealing with planning applications.
- 3.7 A summary of the major implications of these regulations for the Council are set out below together with a series of proposals and recommendations to ensure that the Council meets legislative requirements in a way that gives effect to the Government's aspirations as set out above.

Hierarchy of Developments

- 3.8 As stated above, from 6 April 2009 all applications have had to be categorised. Those categories are:-

National Developments, which are those developments, contained within the National Planning Framework for Scotland (e.g. power stations and new motorways).

Major Developments which are proposals such as 50 or more houses (site over 2ha), business / industry of 10,000square metres or more, electricity generation in excess of 20 megawatts, 8kms of road or rail, and retail developments over 5,000 square metres.

Local Developments, which are, defined as all other planning applications not defined as a National or a Major development.

Key Changes

- 3.9 From 3 August 2009 the key changes affecting the Council are that:-
- National developments require to be referred to Council or the Planning Panel for determination;
 - Major developments will be determined through the Weekly Schedule (with the option of being referred to the Planning Panel);
 - appeals against decisions of the Planning Panel will be referred to Scottish Ministers;
 - local developments require to be determined by an Appointed Officer under a Scheme of Delegation specifically approved by Council for this purpose;
 - appeals against Appointed Officers' decisions require to be heard by a Local Review Body.

Guidance

- 3.10 The Scottish Government has held a series of Elected Member and Officer workshop events across Scotland to explain the new arrangements and provide advice on these as requested. A two-part workshop event covering the Loch Lomond & Trossachs National Park Authorities took place in the Park's Headquarters in April 2009. Councillors Thomson and Ffinch attended the morning session, and the Head of Governance and Planning Officers attended the afternoon session. To date there has been no written guidance from the Scottish Government on the revised arrangements so leaving many aspects of the introduction of these for local determination. It may be that guidance will be issued once the Government has had the opportunity to review all local authorities' Schemes of Delegation and arrangements for the operation of Local Review Bodies.
- 3.11 Meanwhile, in May 2009, the Convention of Scottish Local Authorities (COSLA) issued some guidance which represents a consensus view reached between an informal working group of planning and legal advisers of local authorities, developers' agents, COSLA and the Local Government Improvement Service. The guidance covers key provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 (the Act) and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the Regulations).
- 3.12 The guidance note is not intended to be a definitive legal view and all authorities have been advised to seek their own legal advice on matters of concern.
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Scheme of Delegation

- 3.13 The Council currently operates a Scheme of Delegation made in terms of the Local Government (Scotland) Act 1973 for dealing with planning and other applications, amongst other functions. This scheme sets out those matters, including planning related matters, in respect of which decision-making powers have been delegated to officers.
- 3.14 The Scottish Government has advised that in adopting a Section 43A Scheme of Delegation, the Council should seek to promote efficiency and expediency in the planning system, to link decisions on delegated local applications to a Local Review Body of local Councillors rather than by appeal to the Scottish Ministers and to promote the principle of local decision making. It is the Scottish Government's view that a greater use of delegation to officials for applications classed as 'local' under the Planning Hierarchy of developments will allow elected members to focus attention on proposals that involve greater economic benefits or environmental impact within the Council area. The 'local development' category will be the category that contains the least complex or controversial type of application and consequently, the most appropriate to be dealt with by officers under the revised scheme of delegation.
- 3.15 The Regulations identify certain circumstances where it would not be appropriate for officials to determine applications identified as 'local developments' in such instances where they have been submitted by, or on behalf of, the Council or where they relate to land owned by the Council or which the Council has a financial interest in or where the application is made by a member of the Council. There is also a provision for individual planning authorities to further restrict what can or cannot be determined under the new Scheme. So, for example, it is proposed that planning applications submitted by members of staff directly involved in the planning process should, in the interests of openness and transparency, be determined by the Planning Panel.
- 3.16 In addition to the above, the provisions of the Act enables the Council, as planning authority, to determine, if they think it fit, an application which would otherwise fall to be determined by the Appointed Officer under delegated powers. Where it is decided that it would be appropriate to consider an application which would otherwise fall to be determined under delegated powers, the planning authority is required to provide the applicant with a statement giving their reasons for deciding to determine the application/s. It is however expected that this mechanism will only be used by the planning authority in exceptional circumstances given the additional administrative and financial burden this would have on the authority and potentially the applicant, the extension of timescales for determining the application and the fairness and transparency for the applicant who would have expected their application to be dealt with under agreed delegated powers with an appeal, if appropriate, to a Local Review Body.
- 3.17 Appendix 1 sets out a draft 43A Scheme of Delegation for approval by Council which is intended to reflect the guidance and regulations approved by the Scottish Ministers and the spirit of the modernising planning agenda as set out in the COSLA guidance. Members should note that in adopting a 43A Scheme of Delegation, it is subject to approval by Scottish Ministers and so it cannot be implemented until such approval is received. Since the revised

arrangements must come into force on 3 August, it is proposed that it be remitted to the Chief Executive to submit the revised Scheme of Delegation to Scottish Ministers and implement any further changes arising from Scottish Ministers approval of the Scheme.

- 3.18 The draft reflects in general terms what other authorities are proposing with some having been more restrictive and others less so. There is no qualification as to what is a local development. That is to say no limit to the Scheme by reducing the number of houses or area of land that defines a local development. It is proposed that the Head of Planning be given delegated authority to determine all applications for local developments except applications made by the planning authority; applications made by a member of the planning authority; and applications where the planning authority has an ownership or financial interest in the land.

Local Review Body

- 3.19 Prior to the new legislation coming into force applicants who are aggrieved at a decision to refuse or at a condition(s) imposed on any consent have a right of appeal to the Scottish Ministers (who in turn delegate the majority of appeal decisions to Reporters). Following implementation of the new legislation on 3 August 2009, applicants aggrieved at a decision to refuse or at a condition(s) imposed on any consent for an application determined by the Appointed Officer will be able to seek to have the decision reviewed by a Local Review Body set up by the Authority for that purpose. Applicants will also be able to seek a review in cases where the Appointed Officer has not determined their application within the prescribed two-month period. For applications determined by the Council and the Planning Panel or for development not covered by the new scheme of delegation for local developments the route of appeal will remain as at present, i.e. through appeal to the Scottish Ministers. This will include appeals relating to applications for Listed Building Consent, Conservation Area Consent, Advertisement Consent and Hazardous Substance Consent.
- 3.20 This aspect of the arrangements to modernise the planning appeal system should not be viewed in isolation from the new hierarchy for Planning, which splits applications into national, major or local developments.

Membership

- 3.21 The role of the Local Review Body is to review the Appointed Officer's delegated decision. The Local Review Body is to act as a Committee of the Council and so needs to be established by Council. All meetings of the Local Review Body are to be held in public and the body is to be made up of a minimum of three Members. There is no upper limit to the membership. Concerns have been expressed about elected members who are members of planning panels also sitting on Local Review Bodies. However, the COSLA guidance confirms that, on balance, existing Planning Panel members can populate Local Review Bodies. Clearly, there are advantages in Councillors experienced in Planning matters being a part of the Local Review Body. This is particularly the case in relation to smaller authorities such as Stirling. It is proposed that the Local Review Body comprise 3 Members drawn from a suitably trained pool of 6 Members with relevant experience of Planning matters.

- 3.22 It is proposed that the Council establish a Review Body comprising three elected members. It is also recommended that, given the specialised role of a Chair in leading structured discussions at hearings, the Local Review Body has a Chair appointed for each review on a rotational basis and drawn from a suitably trained and experienced pool. From a human rights perspective and to safeguard the public's perception of the independence of the Local Review Body from the Planning Authority and Planning Panel, it is further recommended that the Chair of the Planning Panel should not serve as the Chair at any Local Review Body Hearing. Similarly, to safeguard the public's perception of the fairness of the Local Review Body, it is recommended that Members will not be allowed to sit on the Local Review Body when it is reviewing a planning application for a development which is in whole or in part located within the Ward of that Member.

Frequency of Meetings

- 3.23 A request for a review of a delegated decision by an applicant has to be submitted within three months of the date of the delegated decision. In cases where the applicant is seeking a review when the planning application has not been determined within the statutory two-month period, the Local Review Body has to review the case within two further months.
- 3.24 It is important, in any case, that the Local Review Body deals with any reviews in an efficient, open and transparent way. To that end, it is recommended that meetings of the Local Review Body be scheduled once per cycle and at other times as may be required. Timetables for receipt of any necessary documentation and issuing of Local Review Body papers would be set around this date.

Review Process

- 3.25 The focus of the review should be on material, which was before the Appointed Officer during the planning process, including any delegated report. All matters that the applicant intends to raise in the review should accompany the notice of review, including all documents, material and evidence. Only in exceptional circumstances will the applicant be able to submit anything new that was not considered by the Appointed Officer in determining the application.
- 3.26 The notice of review has to be made known to consultees and people who made representations on the application and a copy of the review documents has to be available for public inspection.
- 3.27 The Scottish Government anticipates that the majority of cases will be determined quickly by the Local Review Body on the basis of written submissions and this may be how members of the Local Review Body may wish to proceed with the more straightforward cases. There is provision, however, in the legislation for the Local Review Body to seek further information and a combination of procedures can be employed using written submissions, hearings and site visits (accompanied or unaccompanied). This is very much in line with current Planning Panel practice and ensures that members are fully acquainted with all facets of the case. Guidance will be offered to the Local Review Body in relation to each case in order that informed decisions can be made in the most efficient way.

- 3.28 Hearings are to be conducted under the rules set out in the Regulations. The intention is that they should take the form of a structured discussion, led by the chair, only to hear matters set out in advance by the Local Review Body. Parties may be represented but hearings are not intended to be adversarial and cross-examination should not be allowed unless considered necessary to ensure a thorough examination of the issues. The Council's standing orders currently recognise the capacity for a formal call for adjournment to 'clear heads'. This will have to be used with caution by the Local Review Body and during any adjournment, there should be no contact with either party. No decisions should be reached, or perceived to be reached, in the adjournment period. Similar considerations apply to other parts of the proceedings, particularly site inspections.

Advice and Guidance

- 3.29 It is important that the LRB provides applicants with a fair hearing and that reviews are, and are seen to be, independent from the Planning Authority. The administration of Local Review Body meetings will be carried out by Democratic Services. Procedural and legal guidance will be available through a senior solicitor. Any adviser (legal or planning) sitting with the Local Review Body should neither be associated with development management nor have considered or given advice to the Planning Authority on the particular application under review nor be the advisers to the Planning Panel.

Decision and Decision Letter

- 3.30 In carrying out a review, the Local Review Body is to maintain high standards, so that those requesting a review are confident that their case will be dealt with fairly and that clear reasons explaining the decision of the review body will be made available. The Local Review Body will have full powers to uphold, reverse or vary a determination. The decision letter must set out the considerations taken into account by the Local Review Body in reaching its decision and will be drafted on behalf of the Local Review Body by the legal advisor with assistance from a person not associated with the original planning. A full decision letter is required in all cases and there is no further appeal although the validity of the decision can be challenged in an application to the Court of Session.

Training

- 3.31 Participation in the Local Review Body is important and from the above it will be clear that it will be essential that members of the Local Review Body have appropriate training prior to taking up their new role. There are new procedural issues, including the conduct of hearings, and the intention is to offer training to prospective members of the Local Review Body before the first scheduled meeting. The role of the chair in leading the structured discussion at hearings will require specific training.
- 3.32 In terms of Article 6 of the European Convention on Human Rights, a Local Review Body decision amounts to a local authority acting as an appellate body for its own, delegated, decisions. In line with the COSLA guidance, it is proposed that the Council should proceed on the above basis that the process overall is capable of being Article 6 compliant.

- 3.33 It is proposed that it be remitted to the Chief Executive to make revisions to the Council's Standing orders to provide for the establishment of a Local Review Body and prepare working procedures for this Body based on the advice provided in paragraphs 3.19 – 3.34 above which will then form an Appendix to the Council's Standing Orders.
- 3.34 The Council's Scheme of Delegation and Standing Orders, as revised to take account of the above, will be submitted for formal adoption by Council at its next meeting.

Other Implications

- 3.35 There are other changes resulting from the Modernising Planning proposals and new legislation published by the Scottish Government that will require amendments to the existing Scheme of Delegation. The section 43A Scheme of Delegation referred to above is for planning applications only. However, the existing Scheme of Delegation also covers applications for adverts, listed building applications, Conservation Area Consents, enforcement action and screening and scoping opinions under the Environmental Impact Assessment Regulations 1999 among other functions.
- 3.36 The new legislation also introduces additional screening notices for Pre-Application Consultations by applicants for major developments and Fixed Penalty Notices under the new Enforcement Regulations. The opportunity will be taken, given the modernising planning agenda and the guidance from the Scottish Government, to streamline the categories remaining on the existing Scheme of Delegation and to add additional powers in relation to section 75 and other legal agreements, screening notices for Pre-Application Consultations and Fixed Penalty Notices for Enforcement cases. The Fixed Penalty Notices for enforcement cases will be issued in consultation with the Solicitor to the Council.
- 3.37 It is proposed that it be remitted to the Chief Executive, to amend the Council's Scheme of Delegation as a consequence of the new modernised planning system introduced under the Planning Etc (Scotland) Act 2006 (the 2006 Act) as set out in Appendices 2 and 3.
- 3.38 This is all on the basis that various issues, advice and guidance are still being considered both internally and external to the Council which means that there is still work ongoing to finalise the Council's Governance documentation by 3 August 2009. It is of particular concern that the Council's arrangements are be compliant with Article 6 requirements as well as common law principles of equity. The Council will also have ensure its arrangements are clear on the distinction between the role of Members and Officers in the various arrangements outlined above and that there is a clear distinction between the powers delegated to Officers and those delegated to the Council's decision-making bodies on the basis that no powers of decision-making can be delegated to an individual member.

4 POLICY/RESOURCE IMPLICATIONS AND CONSULTATIONS

Policy Implications (delete Yes/No as appropriate)	
Diversity (age, disability, gender, race, religion, sexual orientation)	No
Sustainability (community, economic, environmental)	No
Corporate/Service Plan	No
Existing Policy or Strategy	No
Risk	Yes
Resource Implications (delete Yes/No as appropriate)	
Financial	Yes
People	Yes
Land and Property or IT Systems	No
Consultations (delete Yes/No as appropriate)	
Internal or External Consultations	Yes

Policy Implications

- 4.1 There is a risk of legal challenge if proper procedures are not put in place to ensure that the business of the Local Review Body is conducted in a fair and impartial way and the Local Review Body is seen as independent of the Planning Authority.

Resource Implications

- 4.2 No additional funding is being made available from the government to cover the additional duties and responsibilities that will have to be provided from within existing budgets. There has been no indication that fees for planning applications will be raised.

Consultations

- 4.3 Officers have consulted with the Council's external legal advisers who have had an opportunity to consider this report and its recommendations. They have confirmed that the recommendations are appropriate measures which minimise the risk of legal challenge to the validity of the Local Review Body.


5 BACKGROUND PAPERS

- 5.1 The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 5.2 The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Author(s)

Name	Designation	Tel No/Extension
Fiona Macleod	Head of Governance	01786 443351
Peter Dow	Solicitor, Corporate Services	01786 443467
Peter Morgan	Planning Manager	01786 442914

Approved by

Name	Designation	Signature
Fiona Macleod	Head of Governance	
pp Mick Stewart	Head of Planning	

Date 19 June 2009

Reference REP1040SC(PM)

Planning - Section 43A Scheme of Delegation

This part of the Scheme of Delegation is operated under Section 43A of the Town and Country Planning (Scotland) Act 1997 and Part 2 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008. Subject to the Scottish Ministers' approval under Regulation 4 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 this part of the Scheme shall commence on 3 August 2009.

The Appointed Officer, being the Officer appointed under Section 43A(1) of the Town and Country Planning (Scotland) Act 1997 and V85 above, is authorised to determine any application for planning permission and any application for consent, agreement or approval required by condition imposed on a grant of planning permission) and being applications which fall within the definition of a local development as specified in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 under the following exceptions:-

(a) **Planning Authority Applications**

The application (a) is made by the planning authority or a member of the planning authority, or by members of staff directly involved in the planning process or (b) relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest.

(b) **Section 43A(6) Remit to Planning Panel**

Prior to either (a) the determination of the application by the Appointed Officer or (b) the request by the Applicant for a review on the grounds of non-determination under section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Planning Panel or the Head of Planning or any officer authorised by him (including the Appointed Officer) decide that the application should be remitted to the Planning Panel for determination under section 43A(6) of the Town and Country Planning (Scotland) Act 1997.

(c) **Member Remit to Planning Panel**

Prior to either (a) the determination of the application by the Appointed Officer or (b) the request by the Applicant for a review on the grounds of non-determination under section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Head of Planning receives from a Member a written request setting out relevant planning reasons for referral of the application to the Panel for determination and the Head of Planning, in consultation with the Chair and Vice Chair of the Planning Panel, agrees to the request.

(d) **Significant Local Objection**

Prior to either (a) the determination of the application by the Appointed Officer, or (b) the request by the Applicant for a review on the grounds of non determination under

Section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Head of the Planning receives significant local objections and is satisfied that the objections disclose relevant planning reasons.

(e) **Contrary to local development plan**

The application is a significant departure from the local development plan.

(f) **Scottish Ministers**

The application requires to be notified to the Scottish Ministers.

(g) **Listed Building Consent etc**

Any application which also requires any or all of the following: (i) Listed Buildings Consent, (ii) Conservation Areas Consent; (iii) Hazardous Substances Consent; and (iv) Control of Advertisements Consent.

The Planning Panel shall determine any application that falls within exceptions (a) to (c).

Any application that falls within exceptions (d) to (g) shall be determined through the Weekly Planning Schedule under V99 above.

With reference to exception (d), a written objection from a Community Council is deemed to be one objection.

Only exceptions (a), (b), (f) and (g) shall apply to applications for a householder development falling within Classes 1 to 6 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or a sundry minor operation falling within Classes 7, 8, or 9 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

Planning - General

- V82** Determining the necessity for planning consent in terms of **Part III of the Town and Country Planning (Scotland) Act 1997** and **Part I of the Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997**.
- V83** Determining the classification of a Planning Application as either a National, Major or Local Development in terms of **Parts IA and III of the Town and Country Planning (Scotland) Act 1997**.
- V84** Subject to such other procedures as the Planning Authority may from time to time approve and in consultation with the Chair and Vice Chair of the Planning Panel, determine, implement and administer the procedures in accordance with which any Pre-determination Hearing under **Section 38A of the Town and Country Planning (Scotland) Act 1997** is arranged and conducted.
- V85** To nominate the Appointed Officer or Officers for the purposes of **Section 43A of the Town and Country Planning (Scotland) Act 1997** and **the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008** including the determination of a planning application under V100 below.
- V86** Determining the need for an Environmental Impact Assessment in terms of the **Environmental Impact Assessment (Scotland) Regulations 1999**.
- V87** Approval or otherwise of minor alterations to approved developments or applications not considered to be significant in terms of altering the nature, character or appearance of the items in question - this may include the size of windows, minor alterations to housing layout and changes in colours and materials.
- V88** Advertising applications for planning consent when considered necessary or desirable.
- V89** Signing and issuing planning decision notices (once the necessary authority has been obtained).
- V90** Agreeing minor adjustments to planning consents and satisfactory compliance with conditions of a planning consent approved by a Committee, Panel or through a Planning Schedule.
- V91** Service of Notices in order to establish ownership of land in terms of **Section 272 of the Town and Country Planning (Scotland) Act 1997**.
- V92** To exercise the rights of entry in respect of any land in accordance with **Sections 269 and 270 of the Town and Country Planning (Scotland) Act 1997**.
- V93** To exercise the rights of entry in respect of any land in accordance with **Sections 76, 77 and 78 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**.

- V94** Serving of enforcement notices, listed building enforcement notices and stop notices in situations where there is a breach of planning control which is causing a continuing and serious adverse effect on amenity or environmental impact or is likely to result in irretrievable damage to buildings or natural features.
- V95** Serving of Breach of Condition Notices and Planning Contravention Notices.
- V96** Making Tree Preservation Orders in terms of **Section 160 of the Town and Country Planning (Scotland) Act 1997**, authorising the lopping or felling of trees subject to such Orders and authorising emergency action in respect of trees subject to such Orders.
- V97** Signing and issuing Notices under **Section 2(2)(b) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997** (notification of addition, amendment or exclusion of property from the list of buildings of special architectural or historic interest).
- V98** Progressing Planning Appeals and Public Inquiries where there is no material change in the Council's position in respect of the appeal.

Planning – Weekly Schedule

- V99** Subject to reporting the proposed determination, decision, approval, action or exercise of the functions of the Planning Authority and no written objection to the proposed determination, decision, approval, action or exercise of the functions of the Planning Authority being received from a Member by the Head of Planning within seven days of the report appearing in the Weekly Planning Schedule:
 - a) determining applications for planning consent in terms of the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Town and Country Planning (Control of Advertisements) Regulations 1984 where the applications are not National or Local Developments that are to be determined under the Section 43A Scheme of Delegation below.
 - b) making comments on Woodland Grant Scheme applications, Forest Enterprise Design Plans and felling licences referred to the Council by the Forestry Commission;
 - c) making observations or representations on local development plans and planning applications outwith the Stirling Council area;
 - d) authorising appropriate action in respect of breaches of planning control (which shall include breaches in respect of listed buildings, buildings in conservation areas, trees covered by Tree Preservation Orders and unauthorised advertisements) including the issuing of relevant Notices and Orders;
 - e) authorising amenity notices to be served under **Section 179 of the Town and Country Planning (Scotland) Act 1997**;
 - f) deciding on street naming and house numbering in terms of **Section 97 of the Civic Government (Scotland) Act 1982**;
 - g) publishing Planning Briefs, Development Advice Notes and other Supplementary Planning Guidance for consultation and subsequently approving same;

- h) progressing Planning Appeals and Public Inquiries, where there are issues material to the Council's position in respect of the appeal;
- i) determining applications for Certificates of Appropriate Alternative Development;
- j) determining application for Certificates of Lawful Development under **Sections 150 and 151 of the Town and Country Planning (Scotland) Act 1997**;
- k) making observations or representations in response to consultation on planning issues from central government agencies and other bodies (including other Planning Authorities);
- l) making observations or representations in response to consultation on the National Planning Framework or any reviews of the same under Section 3A of the Town and Country Planning (Scotland) Act 1997;
- m) making observations or representations in response to consultation on a Strategic Development Plan under **Sections 9, 12 and 12A of the Town and Country Planning (Scotland) Act 1997**;
- n) authorising appropriate action under **Section 187 of the Town and Country Planning (Scotland) Act 1997** (Power to remove or obliterate placards and posters);
- o) making and confirming Orders stopping up roads **Section 207 of the Town and Country Planning (Scotland) Act 1997**;
- p) making modifications to or discharges of a Planning Agreement made under **Section 75 of the Town and Country Planning (Scotland) Act 1997** or otherwise; and
- q) making all other proposed determinations, decisions, approvals, actions or exercises of the functions of the Planning Authority not otherwise provided for under the Scheme of Delegation (including the Section 43A Scheme of Delegation).

In the event of such an objection (for a relevant planning reason) being timeously received from a Member, the Head of Planning shall report the matter to the Planning Panel for determination.

Planning - Section 43A Scheme of Delegation

V100 INSERT NEW SCHEME AND RENUMBER SUBSEQUENT DELEGATIONS ACCORDINGLY

Corporate Services

C19 LOCAL REVIEW BODY

Town and Country Planning (Scotland) Act 1997

Subject to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and to the directions of the Local Review Body in accordance with those Regulations and such procedures as the Council may from time to time approve, to determine, implement and administer the procedures in accordance with which any Hearing before the Local Review Body is arranged and conducted.

(Section 43A)

And renumber accordingly.