

REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 17 NOVEMBER 2008

REPORT ON: COMMITTEE WORKLOADS AND THE DECISION MAKING PROCESS IN RELATION TO PLANNING APPLICATIONS

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 491-2008

1 PURPOSE OF REPORT

- 1.1 To consider and make recommendations on the options for change in respect of the way in which planning applications are determined with particular reference to the potential for reducing the workload of the Development Quality Committee.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee remits the Director of Planning and Transportation and the Depute Chief Executive (Support Services) to prepare a report to the Policy & Resources Committee seeking amendments to the Scheme of Delegation based on Option C and as detailed in Para 5.1 and Appendix 4 of this report.

3 FINANCIAL IMPLICATIONS

- 3.1 Although there are no financial implications directly arising from this report the recommended option is likely result in improved business efficiencies. Less staff time will be involved in supporting Committee preparation work with priorities redirected towards delegated and other workloads. This should also result in improved statutory performance levels.

4 BACKGROUND

- 4.1 Reference is made to the decision taken by the Development Quality Committee on 15 September 2008 to remit the Director of Planning and Transportation to prepare a report outlining options available to the Committee in respect of the potential reduction of the scale of the business it conducts. In this regard reference was made to the scope which may exist for amending the present Scheme of Delegation with particular reference to applications attracting objections.
- 4.2 This report summarises the remit of the Development Quality Committee; how it conducts its business; the nature of the business it conducts and developing patterns; outlines the present Scheme of Delegation and its impact on the Committee's work; identifies a range of options for change; and makes recommendations.

Remit of the Development Quality Committee

- 4.3 The remit of the Committee is summarised on Page 26 of the current *Standing Orders and Scheme of Administration* of the Council May 2007 and includes all functions relating to development control (management) under the Town and Country Planning Acts and subsidiary legislation. This is deemed to include the processing of all notifications and applications for consent.

- 4.4 To assist in the undertaking of the Committee's business the Council has delegated powers to the Director of Planning and Transportation to discharge specified activities on the Committee's behalf. These are outlined on Pages 106/107 of Standing Orders and are outlined in Appendix 1 of this report.

The Conduct of Committee Business

- 4.5 The Development Quality Committee meets monthly on a Monday evening at 6.00pm on a regular cycle throughout the year with the exception of the July recess. At times, the November and December Committees have been combined to avoid the meeting taking place during the Christmas/New Year holiday period.
- 4.6 The Committee comprises all members of the Council. The Committee's business is quasi-judicial with decisions being taken in strict accordance with the terms of Section 25 of the Act and with particular reference to the Code of Conduct for Councillors as set out in Standing Orders and with particular reference to Section 7 of the Code as set out on Page 47.
- 4.7 Committee agendas and papers are circulated to Members at least four working days prior to Committee and are made public immediately thereafter. The Committee's business is conducted in three parts : the hearing of deputations; the consideration of planning applications; and the receiving of other reports of a more general nature which include noting reports on appeal decisions, reports on dangerous buildings and any matters referred from other Committees and in particular the Planning and Transport Committee.
- 4.8 Depending on the length and nature of the business to be conducted Committees can last over four hours often requiring the suspension of Standing Orders to allow the business to be concluded. Members have expressed the view that lengthy evening meetings do not do satisfactory justice to any party involved in the decision making and in particular to those concerned with items towards the end of lengthy agendas.
- 4.9 All the Committee meetings are open for attendance by members of the public. Written reports prepared by the Director are comprehensive and illustrative and are supplemented by a display of plans relative to items which are potentially to be the subject of deputations.
- 4.10 The core of Committee business comprises the determination of planning applications which fall outwith the present Scheme of Delegation. Appendix 2 provides a detailed analysis of the content of Committee business conducted during the most recent full calendar year 2007 although a similar pattern of business has continued into 2008.
- 4.11 The following conclusions emerge:
- a 22% of all applications fell outwith the existing Scheme of Delegation and required a Committee determination. (This figure is much higher than any of the Council's benchmarking partners whose figures range between 8% and 13%);
 - b Only 17 of the 213 applications referred to Committee were determined contrary to the Director's recommendation. This represented 1.6% of all applications determined and 7.5% of all applications determined by Committee. This

illustrates a relatively high degree of confidence in the reports and recommendations of the Director;

- c 59% (125) of applications falling outwith the scope of the current Scheme of Delegation were referred to Committee because they attracted up to a maximum of five letters of objection (Currently any application attracting one or more letters of objection falls outwith the Scheme of Delegation);
- d In the order of 25% of the applications considered by Committee fall into the category of householder applications (eg domestic extensions);
- e Deputation requests were received in respect of 107 applications, ie 50% of applications determined by Committee. Deputation presentations, either for, against or both were actually heard in respect of 82 applications. The number of presentations made ranged from 5 to 15 per meeting.

During 2007 the Committee approved 69.5% of the applications considered. Overall the Council approved 88.7% of the applications it determined.

Factors Influencing the Nature and Duration of Committee Business

- 4.12 The factors which can influence the nature and duration of business are considered to be:
- a The number of applications falling to be determined by the Committee under the Scheme of Delegation;
 - b The complexity of the applications involved and the extent of questioning of officers;
 - c The number of deputations actually heard and the number of speakers per deputation;
 - d The duration of individual deputations;
 - e The extent of questioning of the deputations by Members;
 - f The number of voting divisions and the length of formal debates.
- 4.13 It is considered that the number and nature of the applications coming before Committee rather than the way in which applications are debated and decided is the most significant issue. The breakdown of the business conducted in 2007 indicates that relatively few applications of major or strategic importance come before Committee compared to applications attracting relatively small numbers of objections. This is a direct function of the nature of the Scheme of Delegation.

The Current Scheme of Delegation and the Possibility for Change

- 4.14 The purpose behind the Scheme of Delegation should be to ensure that the time of Members and officers in Committee is proportionately dedicated to considering larger scale, more strategic and controversial applications. Committee time, however, has become increasingly skewed towards debating the detail of smaller scale and

householder applications where the issues are localised in nature and which have on many occasions attracted a single objection.

- 4.15 The Scottish Government in the new Planning Act is keen for Councils to review their decision making processes and procedures to ensure that decisions are made more efficiently and effectively. This is to ensure that the planning system is an enabler of sustainable development rather than perceived to be a cumbersome bureaucratic barrier to economic growth in the public interest. In April 2007 the Scottish Government consulted on its proposals for Schemes of Delegation and Appeals. The Scottish Government's proposals for Schemes of Delegation as consulted on are summarised in Appendix 3. The Council responded relatively positively to the proposals, but were concerned at the overly complex nature of the proposed approval arrangements. Report 176-2008 considered by the DQ Committee on 21 April 2008 refers. The proposed measures, which are likely to enter Parliament as draft secondary legislation before the end of the year, indicate that delegation of decision making to officers should be at the highest acceptable level. This will ensure that decision making for major developments is the protected remit of elected Members (or Scottish Ministers on referred cases) and that they have sufficient time and resources to dedicate to these important decisions.
- 4.16 The Council's current Scheme of Delegation, whilst liberal in many respects, has not proved to be as effective and efficient as it might have been in following the above principles. It is considered now opportune, in the light of the known content of primary and likely content of forthcoming secondary legislation, to revisit the Scheme now. This will ensure that Members are able to focus on major applications of significant public interest and to deliver a modernised and even more efficient and effective planning service and to assist in the achievement of improved levels of performance and quality for which the Council has always sought to achieve. Because the Council will be required to submit a formal Decision Scheme to Scottish Ministers for approval in due course, amendments to the existing Scheme approved now will allow an adequate period of testing in practice as an Interim Scheme and assist in confirming a finally adopted and submitted Scheme when the relevant provisions of the new Act come into force during 2009.
- 4.17 A proposed Interim Revised Scheme of Delegation is outlined in detail in Appendix 4. In drawing up the proposals the following principles have been applied:
- a applications made under the Planning Acts should be dealt with in as efficient and effective manner as possible;
 - b decisions should be made at the appropriate level having regard to the significance of the development in planning terms and its likely impact on the economy and environment of the city;
 - c safeguards are in place to maintain appropriate levels of openness, accountability and inclusiveness in the decision making processes;
 - d maintain and build on the use of information technology to ensure that Members applicants, agents consultees and those other third parties who have an interest in the decision making process can be involved and have access to information;
 - e officers are granted powers to determine a wider range of applications maintaining the ability to refuse permission and grant permission in cases where

the Director considers that permission is warranted where the application departs from the development plan in a non-significant way;

- f elected Members are able to focus on more controversial and complex applications of strategic significance including those proposals which are significant departures from the development plan, but are recommended for approval; and those applications which are subject to an objection from a statutory consultee or a level of objection above a prescribed minimum level;
 - g the revised scheme is compatible with the provisions of Section 43A of the Planning Etc (Scotland) Act 2006 .
- 4.18 In drafting the proposals for an amended Scheme of Delegation the practices adopted by other Councils in Scotland has been reviewed and many have now adopted the practice of setting a threshold of numbers of objections as one criterion for delegation. The issue has also been discussed among the Council's benchmarking partners who have all recently taken the opportunity to amend their Schemes and have been able to demonstrate efficiencies in the management of the development management service.
- 4.19 In terms of this latter issue it is assessed that the proposed Interim Revised Scheme of Delegation will lead to an improvement in the Council's annual performance returns by a factor of approximately 6% all other influences accepted. Had the revised Scheme been applied to applications determined during the period January 2007 to September 2008 it is estimated that the statutory performance outcomes would have changed as follows:

	Actual	Revised
% householder applications determined in two months	74%	80%
% all applications determined in two months	54%	57%

Although (under the new Act) all written delegated reports on applications will require to be enhanced into *Reports of Handling*, reduced Committee agendas will result in the speedier determination of householder applications in particular.

Deputations and Committee Procedures

- 4.20 For many years the Committee has encouraged applicants/agents and objectors to take the opportunity to ask the Committee to hear brief (seven minute) oral presentations. Since October 2007, prior to each Committee, the Council has taken the additional step of writing to agents and objectors specifically inviting them participate in the work of the Committee in this regard. Since this practice was introduced there has been a perceptible increase in the number of deputation requests.
- 4.21 Members hear all deputations at the beginning of the meeting before proceeding to determine the applications before them in agenda order. If Members are minded to agree with the recommendation on the application subject of the deputation request and the deputation is in support of the application, the deputation may not be heard.

- 4.22 Should Members be minded to introduce a revised Scheme of Delegation there will be a reduction in the number of opportunities to request the hearing of deputations. However, the deputations involved will relate to applications raising more complex planning issues and therefore add greater value to the debate. The new secondary legislation will prescribe those categories of application which shall be the subject of mandatory hearings. However, this is likely to apply to categories of application which will fall for determination by Committee in any event. Beyond this requirement Councils will be open to design their own hearings arrangements.
- 4.23 The following revised deputation arrangements are recommended:
- a The present arrangements for inviting deputation requests is maintained except that the correspondence should be addressed to the applicant as opposed to the agent. This should ensure a more efficient means of communication within a restricted timescale;
 - b Applications which are the subject of heard deputations are determined immediately following the hearing of the deputation. This arrangement is more convenient for waiting deputations and for Members in discharging business;
 - c Where there are more than one deputation request in respect of any application, parties should be asked to agree a single presentation or, alternatively, share the allocated time available. Agents/applicants should come to similar arrangements. This should avoid repetition of common arguments and promote the focussing of the presentation on key issues;
 - d The time period for each deputation presentation (single and combined) should be limited to 5 minutes with the Convener using his/her discretion to extend this period for particularly complex applications. This should still allow the focusing of the presentation on key relevant issues.
- 4.24 It has not been the Committee's practice to invite the Director to present an oral summary of each application report. Such a practice is established in the procedures of most other Councils. Such a practice would be of benefit to the Committee under the proposed revised Scheme of Delegation and would provide a context for the questioning of the Director, any deputation presentation and the formal debate to follow.
- 4.25 The Planning and Transportation Department is well advanced in the employment of ICT techniques in respect of its business policies. It is considered that such practices could be rolled out to the Development Quality Committee process. The implementation of such a strategy, if it were accepted in principle, would have to be fully evaluated and costed and be the subject of a separate report to Committee. The objective should be to reduce the amount of paper reporting, the increased and more efficient use of electronic means of communication and the employment of electronic visual aids at Committee.
- 4.26 In terms of the dates and times of Committee meetings the following is recommended:
- a Consideration by the Council should be given to reducing the membership of the Development Quality Committee and be the subject of a separate report to

Committee at the time of reporting on proposed arrangements for the establishment of a Local Review Body as required by the new Act;

- b The report referred to in a) above should also consider the option of holding the Committee meetings during daytime as opposed to the evening arrangements as at present.

Decisions on such matters will eventually need to be considered alongside the Council's arrangements for establishing a Local Review Body.

Accordingly, pending the above it is recommended that no immediate change is made to the dates and times of Development Quality meetings.

5 CONCLUSIONS

- 5.1 In the light of the above a number of options have been identified and evaluated with the following conclusions;

Option A: Do nothing. It is considered, in the light of the views of Members and the content of the new Act, that maintaining existing practices and the existing Scheme of Delegation is not in the best interests of efficient decision making and is not a preferred option.

Option B: Amendments to the Scheme of Delegation as described above and outlined in detail in Appendix 4 of this report plus the revised proposals in respect of deputations as outlined in Para 4.24 above.

Option C: Option B plus the acceptance of the suggestions for the revised hearings arrangements and Committee meeting arrangements as outlined in Paras 4.23 to 4.26 above. **This option is recommended.**

6 POLICY IMPLICATIONS

- 6.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

7 CONSULTATIONS

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

- 8.1 The following background papers have been referred to in the preparation of this report:
 - a Standing Orders of the Council and Schemes of Administration May 2007;
 - b The Planning Etc (Scotland) Act 2006 Section 43A;

- c Development Management Consultation Paper Scottish Government January 2008;
- d The Draft Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2007;
- e Minutes of the Meeting of the Development Quality Committee 15 September 2008;
- f Article II of the Minutes of the Development Quality Committee of 17 March 2008 and Report 88-2008 (Development Management consultation paper);
- g Article II of the Minutes of the Development Quality Committee of 21 April 2008 and Report 176-2008 (Modernising Planning Appeals);
- h Article II of the Minutes of the Development Quality Committee of 19 May 2008 and Report 234-2008 (Performance Indicators);
- i Development Quality Committee agendas and reports 2007 and 2008.

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Appendix 1: Current Scheme of Delegation (Development Quality)

The Director of Planning and Transportation has delegated authority for the following activities:

- 1 The determination of all applications for planning permission, for listed building consent, for conservation area consent and consent to display advertisements **EXCEPT** the following:
 - a all applications in respect of which a valid written objection is received within the timescales specified in notifications or press notices; and the application is recommended for approval. In the case of applications where the recommendation is for refusal, in line with the Development Plan, and objections have been received, these applications will be dealt with under delegated powers;*
 - b any application which a member, within two weeks of the publication of the appropriate weekly list, has requested in writing be submitted to the Development Quality Committee;
 - c all applications which are to be recommended for approval despite their being contrary to the Council's Local Plan policies or any guidelines adopted by the Council;
 - d all applications for large scale development, viz:
 - industrial developments over 10,000 square metres;
 - warehouse developments over 5,000 square metres;
 - retail and other commercial developments over 2,500 square metres;
 - housing developments over 20 units.
 - e all applications for the removal or amendment of conditions originally imposed at the specific request of members;
 - f all applications for Hazardous Substance Consent;
 - g and any others which in the Director of Planning and Transportation's view ought to be referred, notwithstanding there are no requests from members to refer it to the Committee.
- 2 Determining whether a proposal to vary the details of a planning permission is material and, if not, to determine the proposed variation, as provided by Section 64 of the 1997 Act, as amended.
- 3 Approving matters of detail which have been reserved when previously granting a conditional approval of a detailed planning application, eg details of landscaping.
- 4 To decline to determine repeat applications which fall within Section 39 of the Town and Country Planning (Scotland) Act 1997, as amended (following consultation with local members).

- 5 In consultation with the Depute Chief Executive (Support Services), entering into agreements under Section 75 of the Act following indication of approval of the related application for planning permission by the Development Quality Committee.
- 6 Granting of statutory permission to carry out work on trees or to remove trees included within a Tree Preservation Order or granting such permission in relation to trees within a conservation area or protected by planning conditions.
- 7 In consultation with the Depute Chief Executive (Support Services), the serving of a Building Preservation Notice or a Tree Preservation Order under Part VII of the 1997 Act, as amended, with the proviso that the serving of any such Order shall be reported as soon as practicable thereafter to the Committee.
- 8 In consultation with the Depute Chief Executive (Support Services), initiation of enforcement action or interdict action under Parts VI and/or XIV of the 1997 Act as amended, with the proviso that the Development Quality Committee shall be advised of any such action as soon as practicable thereafter.
- 9 The granting or otherwise of a Certificate of Lawfulness of Existing or Proposed Use or Development as provided under Sections 150 and 155 of the 1997 Act.
- 10 To authorise a person to enter upon any land at any reasonable time for the purposes mentioned in Sections 269 and 270 of the 1997 Act.
- 11 To determine prior notification applications relating to demolition and the erection or significant alteration or extension of agricultural and forestry building as provided for under Part 6 and Part 7 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.
- 12 In consultation with the Depute Chief Executive (Support Services), the serving of an Amenity Notice under Section 1790 of the 1997 Act, as amended.

*Note: Irrespective of this clause it has become the established practice of the Development Quality Committee to consider all applications attracting one or more valid objections irrespective of the Director's recommendation.

Appendix 2: Analysis of Decisions taken by DQ Committee in 2007

Date	Decisions			Decisions		EIA Approval	"Significant" ³ Departure Dev Plan	Stat Consultee Obj	LPA Member Appl	Nat ⁴ Develop- ment	"Major" ⁵ Cat Applics	"Local" ⁶ Proposals Under Sch 1
	App	Ref	Total	Refused against Rec	Approved against Rec							
January	18	3	21	2	0	0	0	2	0	0	0	6
February	10	5	15	2	0	0	0	3	0	0	0	3
March	14	5	19	0	1	0	0	0	0	0	0	7
April	13	8	21	0	0	0	0	3	0	0	0	5
4 June	12	3	15	0	0	0	0	0	0	0	0	0
16 June	10	10	20	3	0	0	0	0	0	0	0	5
August	12	7	19	1	0	0	0	0	0	0	1	0
September	13	5	18	0	0	0	0	2	0	0	1	0
October	11	9	20	5	0	0	0	1	0	0	0	5
November	19	1	20	0	0	0	0	2	0	0	0	2
December	16	9	25	3	0	0	0	1	0	0	1	1
TOTAL	148	65	213¹	16²	1	0	0	14	0	0	3	34

Notes

1 22% of all applications determined in 2007.

2 1.6% of all applications determined in 2007; 7.5% of all applications determined by Committee in 2007.

3 Assumed to be where the departure is so significant that to approve the application would seriously compromise the objectives of the development plan, its strategy or implementation.

4 As defined in Draft National Planning Framework 2 and its successors.

5 As defined in the Draft Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2007.

6 As defined in Regulation 4 and Schedule 1 of the Draft Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2007.

Appendix 2 (Continued)

Applications Subject to those Levels of Objection								Deputation Requests		
Date	1	2-5	6-10	11+	Petition ⁷	Householder	Non Householder	Householder	Non Householder	Referrals to Scottish Ministers ¹⁰
January	7	6	0	0	1	4	17	2	5	1
February	5	3	2	1	1	3	12	3	10	1
March	6	9	1	0	1	3	16	5	8	0
April	4	10	1	1	1	5	16	1	11	0
4 June	6	7	0	0	0	6	9	1	4	1
16 June	6	4	4	1	0	1	19	1	10	0
August	13	2	1	0	0	6	13	2	11	1
September	7	4	2	2	1	5	13	3	10	1
October	11	5	0	1	1	7	13	7	4	0
November	9	5	1	0	0	5	15	1	9	0
December	9	5	3	2	1	8	17	4	7	0
TOTAL	65	60	15	8	7	53 ⁸	160 ⁹	30	89	5

7 Few petitions contained over 100 signatures.

8 5.4% of all applications determined in 2007; 25% of all Committee applications determined in 2007.

9 16.3% of all applications determined in 2007; 75% of all Committee applications determined in 2007.

10 For the five cases involved the referral was due either to cases where the Council had an interest or where there was an objection from a relevant consultee drawn from Article 15 of the Procedure Order.

Appendix 3: Schemes of Delegation

SCHEMES OF DELEGATION

The following outlines the Scottish Government's proposals in respect of Schemes of Delegation as outlined in the Consultation Paper "Modernising Planning Appeals" February 2008 and reported to the Development Quality Committee on 21 April 2008 and contained in the Draft Town and Country planning (Schemes of Delegation)(Scotland) Regulations 2008.

- a Under the new Act each planning authority is required to prepare a Scheme of Delegation;
- b Ministers are allowed to prescribe the form and content of Schemes;
- c Schemes of Delegation will enable certain applications within the category of "local developments" to be determined by an officer of the Council rather than by elected Members;
- d It is proposed that officials will take a full range of decisions on applications (eg approval, approval with conditions, refusal);
- e Schemes of Delegation are to be reviewed at intervals of no more than five years;
- f Decisions taken by officers under delegated powers will be linked to a local review process rather than an appeal to Scottish Ministers as at present;
- g Only delegated decisions made under the Scheme of Delegation introduced by new Section 43A of the 1997 Act will be subject to these new review procedures. This means that other types of application, eg listed building consent, conservation area consent or advertisement consent which may be determined under delegated powers under the provisions of the Local Government (Scotland) Act 1973 will still be subject of the appeals process to Scottish Ministers as these types of application have not been included within the provisions of Section 43A;
- h It is intended that "local developments" which are neither complex nor controversial should be delegated for decisions to officials "to promote efficiency" (paragraph 15);
- i However, certain applications will continue to be dealt with by Members (ie no delegation):
 - applications subject to an unresolved objection from a statutory consultee;
 - applications made by the planning authority or a Member of the planning authority;
 - applications relating to land in the ownership of the planning authority or to land in which the planning authority have a financial interest;
 - applications requiring an Environmental Impact Assessment;
 - applications relating to development that is "significantly" contrary to the terms of the Development Plan;

- applications subject to a "substantial" body of objections; and
- applications of a class mentioned in S38A of the 2006 Act (these being applications subject to enhanced scrutiny, including a pre-determination hearing by the planning authority).

Notes

- 1 The terms "significantly" and "substantial" are not defined in the Act or the Draft Regulations (see Reg. 3(5)).
- 2 By inference all applications defined in the Draft Regulations as "national" or "major" will not fall within the Scheme of Delegation.

Appendix 4: Proposed Interim Amendments to the Scheme of Delegation (Development Quality)

The Director of Planning and Transportation has delegated authority for the following activities:

- 1 The determination of all applications for planning permission, listed building consent, conservation area consent, consent to display advertisements, and applications for Certificates of Lawfulness of Existing or Proposed Use or Development, including the unconditional approval of applications, the approval of applications with conditions and the refusal of applications, **EXCEPT** the following categories of application:
 - a all applications in respect of which six or more valid written objections received within the timescales specified in statutory notifications or press notices; and the application is recommended for approval. In the case of applications where the recommendation is for refusal, in line with the Development Plan, and objections have been received, these applications will be dealt with under delegated powers (see Note 1 for definition);
 - b all applications which attract a valid timeous objection from a statutory consultee and the application is recommended for approval (see Note 2 for definition);
 - c all applications which are to be recommended for approval in circumstances where they are significantly contrary to the development plan (see Note 3 for definition);
 - d all applications for large scale development, viz:
 - industrial developments over 10,000 square metres;
 - warehouse developments over 5,000 square metres;
 - retail and other commercial developments over 2,500 square metres;
 - housing developments over 20 units;
 - EIA applications (see Note 4 for definition).
 - e all applications for the removal or amendment of conditions originally imposed at the specific request of members;
 - f all applications for Hazardous Substance Consent;
 - g and any others which in the Director of Planning and Transportation's view ought to be referred to the Committee;
 - h any application submitted by or on behalf of an Elected Member of the Council or an officer of the Council involved in the statutory planning process;
 - i applications made by the Council and applications relating to land in the ownership of the Council or in relation to land in which the Council has an interest;
 - j applications which had been determined subject to a planning agreement (planning obligation) and which now formally require to be determined as a consequence of the Council and the applicant and interested parties to the agreement not being able to conclude the agreement within a reasonable period of

time. This provision will apply in cases where the original decision was taken by Committee.

- 2 Determining whether a proposal to vary the details of a planning permission is material and, if not, to determine the proposed variation, as provided by Section 64 of the 1997 Act, as amended.
- 3 Approving matters of detail which have been reserved when previously granting a conditional approval of a detailed planning application, eg details of landscaping.
- 4 To decline to determine repeat applications which fall within Section 39 of the Town and Country Planning (Scotland) Act 1997, as amended (following consultation with local members).
- 5 In consultation with the Depute Chief Executive (Support Services), entering into agreements under Section 75 of the Act following indication of approval of the related application for planning permission by the Development Quality Committee.
- 6 Granting of statutory permission to carry out work on trees or to remove trees included within a Tree Preservation Order or granting such permission in relation to trees within a conservation area or protected by planning conditions.
- 7 In consultation with the Depute Chief Executive (Support Services), the serving of a Building Preservation Notice under Sections 3 and 4 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, or a Tree Preservation Order under Part VII of the 1997 Act, as amended, with the proviso that the serving of any such Order shall be reported as soon as practicable thereafter to the Committee.
- 8 In consultation with the Depute Chief Executive (Support Services), initiation, progression and conclusion of enforcement action or interdict action under Parts VI and/or XIV of the Town and Country Planning (Scotland) Act 2006; or Chapter 4 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, or Part VII of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 and related legislation. For the avoidance of doubt this delegated authority relates to:
 - Planning Contravention Notices;
 - Enforcement Notices;
 - Breach of Condition Notices;
 - Amenity Notices;
 - Stop Notices;
 - Hazardous Substances Contravention Notices;
 - Tree Replacement Notices;
 - Prosecution of the above as necessary and the giving of evidence in Court.

but EXCLUDES

- the taking of Direct Action under the terms of Section of the 1997 Act.
- 9 The determination of instances where in the light of the provisions of the development plan and other material considerations it is expedient not to take enforcement action.

- 10 The granting or otherwise of a Certificate of Lawfulness of Existing or Proposed Use or Development as provided under Sections 150 and 155 of the 1997 Act.
- 11 To authorise a person to enter upon any land at any reasonable time for the purposes mentioned in Sections 156, 158, 160-163, 167, 172-175, 177, 269 and 270 of the 1997 Act.
- 12 To determine prior notification applications relating to demolition and the erection or significant alteration or extension of agricultural and forestry building as provided for under Part 6 and Part 7 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

Note 1

For the purposes of this Interim Revised Scheme of Delegation a valid representation (letter or statement) shall require to meet the following criteria:

- a be in the form of a signed and dated letter or statement or an e-mail indicating the name and postal address of the sender **specifically indicating an objection to the application concerned**. The letter/statement shall bear a legible name of the signatory and the signatory's address;
- b be received by the Council no later than 21 calendar days from the date on which the application was declared as valid by the Council or no later than 21 calendar days of any subsequent Neighbour Notification, or in the case of applications which have the subject of statutory advertisement, no later than three calendar days following the expiry of the period specified in the advertisement;
- c where more than one letter/statement of representation per household is received this shall be defined as the Council having received one letter/statement;
- d where a single letter/statement is received even if on a pre printed template jointly signed by more than one signatory this shall be defined as the Council having received one letter/statement. This will also apply to petitions in that, no matter the number of signatories, such petitions will be defined as a single objection by the first name and address on the petition;
- e for the avoidance of doubt pre printed letters or cards which are not individually addressed and signed will not be entertained as valid and acknowledged as such. Photocopied standard template letters will be valid as long as they are signed and dated and bear the postal address of the sender;
- f to be valid a representation must contain matters which relate to the application involved and raise matters material in planning terms to the application concerned;
- g the content of invalid letters/statements will not be referred to in Director's reports and similarly non-material matters referred to in valid letters of representation will not be referred to or taken into account in the determination of the application;
- h the Director of Planning and Transportation shall, in cases of doubt, determine whether an objection or other representation is valid or timeous.

Note 2

For the purposes of this Interim Revised Scheme of Delegation a statutory consultee shall be taken to be consultees referred to in Article 15 of the Town and Country Planning (General Development) Procedure (Scotland) Order 1992 as amended and will include a Community Council or officially recognised Neighbourhood Representative Structure.

Note 3

For the purposes of this Interim Revised Scheme of Delegation a proposed development is “significantly contrary to the development plan” if the departure concerned, in the judgement of the Director of Planning and Transportation, is directly related to the achievement of the core objectives of any element of the development plan and the approval of the application would seriously compromise the achievement of the development plan’s objectives and compromise its other policies and proposals. For the avoidance of doubt a proposal will not necessarily be significant if, for example, it fails to meet the terms on one or more policies or one or more of the criteria in any criteria based policy.

Note 4

An application which is determined by the Director of Planning and Transportation to be an application requiring the submission of an Environmental Impact Statement in terms of the Environmental Impact Assessment Regulations 1999, as amended.