

REPORT TO: POLICY & RESOURCES COMMITTEE - 27 APRIL 2009

REPORT ON: SCHEME OF DELEGATION

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 200-2009

1 PURPOSE OF REPORT

- 1.1 To make recommendations concerning the form and content of the Council's mandatory Scheme of Delegation which it is required to prepare and submit to Scottish Ministers for approval by 30 June 2009.

2 RECOMMENDATIONS

- 2.1 It is recommended that:

- i The Committee endorses the Draft Mandatory Scheme of Delegation outlined in Annex A to this report as the Scheme which the Council wishes to adopt in accordance with the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 as inserted by of the Planning etc (Scotland) Act 2006 and of the Town and Country Planning (Schemes of Delegation and Local Review Procedures) (Scotland) Regulations 2008 as a basis for discussion prior to its formal adoption at the Policy & Resources Committee on 8 June 2009;
- ii The Committee endorses the Draft Discretionary Scheme of Delegation outlined in Annex B to this report as a basis for discussion prior to its formal adoption at Policy & Resources Committee on 8 June 2009.

3 FINANCIAL IMPLICATIONS

- 3.1 Although there are no direct financial implications arising from this report, if the Scheme of Delegation is approved by Scottish Ministers improved resource efficiencies are likely to result leading to a more focussed and proportionate allocation of Member and officer resources. It is not possible to quantify any financial savings resulting from such efficiencies.
- 3.2 The report also on this agenda in relation to Local Review Bodies discusses in greater detail the resource implications of those procedures which arise as a consequence of how the Council sets its scheme of Delegation.

4 BACKGROUND

- 4.1 Reference is made to the following:

- a The Council's Interim Revised Scheme of Delegation as approved by the Policy and Resources Committee on 9 February 2009;
- b Report 101-2009 to the Policy & Resources Committee of 9 February 2009;
- c Report 491-2008 to the Development Quality Committee of 17 November 2008; and

- d Report 176-2008 to the Development Quality Committee of 21 April 2008.
- 4.2 Section 43A of the now consolidated Town and Country Planning (Scotland) Act 1997 was inserted by the Planning Etc (Scotland) Act 2006. The Town and Country Planning (Schemes of Delegation and Local Review Procedures) (Scotland) Regulations 2008 came/come into effect on 6 April 2009 (in respect of Schemes of Delegation) and on 3 August 2009 (in respect of Local Review Bodies).
- 4.3 Separate but linked reports have been prepared for Committee advising on the Planning Hierarchy and in respect of the establishment, role, and operations of the Council's Local Review Body. Reports 52-2008 and 195-2009 elsewhere on this agenda refer. All these reports inter-relate and should be read in conjunction with one another.
- 4.4 Scottish Ministers have indicated the planning authorities should submit Schemes of Delegation to them for approval by 30 June 2009¹ and as soon as practicable after the relevant provisions of the legislation come into force on 6 April 2009.
- 4.5 This report includes at Annex A, for the Committee's consideration and endorsement, its Mandatory Scheme of Delegation for submission to Scottish Ministers for approval. Annex B sets out a proposed Discretionary Scheme of Delegation which establishes the Council's comprehensive arrangements for the delivery of a range of development management decisions and has been drafted to complement the proposed Mandatory Scheme of Delegation. The Discretionary Scheme does not require to be formally submitted for approval to Scottish Ministers. It builds on experience which the Council has gained from the operation of its existing revised scheme and its predecessor.
- 4.6 The statutory requirements for the drawing up and submission of the Scheme of Delegation are outlined in the primary and secondary legislation referred to above. In many matters the Council has no discretion and have formed the basis for the recommended submission. These, in summary are as follows:
- a Councils must prepare and submit for approval to Scottish Ministers a Scheme of Delegation and to keep the approved Scheme under review;
 - b Reviews of the approved Scheme must be undertaken at intervals of no greater than five years²;
 - c Councils must not adopt their Schemes until they have been approved by Scottish Ministers;
 - d Councils are required to make copies of the Scheme available for public inspection and publish them on the internet;
 - e Schemes must describe the classes of development³ to which the Schemes apply and to set out which applications are to be determined by an appointed

¹ "Delivering Planning Reform" Scottish Government and Stakeholder Signatories October 2008.

² There is no indication in the Regulations that reviews must be submitted to and approved by Ministers.

³ As outlined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

officer⁴ and to outline the circumstances under which that delegation is to be undertaken;

- f The only types of application which can be the subject of delegation are:
 - i applications for planning permission; and
 - ii applications for the approval of conditions imposed on a grant of planning permission⁵.
- g For the types of application outlined in (f) only local developments⁶ can be the subject of Local Review procedures;
- h There are certain kinds of planning application which cannot be determined by the "appointed officer". These are:
 - i applications by the Council itself;
 - ii applications by members of the Council;
 - iii applications relating to land in the Council's ownership or in which the Council, as planning authority, has a financial interest.

(Members are asked to note that compared to the Draft Regulations commented on last year several other restrictions on delegation have been removed from in the final Regulations (Para (i) of Appendix 3 to Report 491-2008 refers).

- 4.7 It should be noted the provisions of the Regulations do not cover certain categories of application which will as a consequence mean rights of appeal to Scottish Ministers is retained. These are:
- i listed building consent
 - ii conservation area consent
 - iii consent to display advertisement
 - iv hazardous substances consent

Nevertheless it is still possible for Councils in their Discretionary Scheme of Delegation to decide whether or not these categories of application should be delegated. However, any appeal must still have to be made to Scottish Ministers and not the Local Review Body.

- 4.8 The 2006 Act (Section 43A(6)) provides that a Council may determine that it wishes to decide an application in Committee which would otherwise have been decided by the "Appointed Officer" under their Mandatory Scheme of Delegation. For each case where the authority (not an individual Member or the Convener) decides to do this, it

⁴ A person appointed in a Scheme of Delegation by the planning authority to determine an application.

⁵ New procedures introduced by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 to replace the Reserved Matters category of application. These applications are to be submitted to discharge details following the grant of an outline permission.

⁶ This is a class of development which represents all developments which are neither classed as national nor major developments within the Regulations outlined in Footnote 3.

must supply the applicant with a statement giving reasons why they have made such a determination. Although it is open for the Council to invoke such a provision it is envisaged that it would wish to do so only in exceptional circumstances given the detailed consideration it has given to its mandatory and discretionary schemes. Each such case must be determined individually by Members and procedurally these arrangements will inevitably add significantly to processing timescales, a direction at odds with the philosophy underlying the reform process.

- 4.9 Despite the above restrictions, the Council retains broad discretion to design a Discretionary Scheme of Delegation which suits local circumstances.
- 4.10 The arguments in favour of a relatively wide Discretionary Scheme of Delegation set out in Report 491-2008 continues to be relevant and the proposals in Annex B to this report takes this into account.
- 4.11 Equally the content of the Council's Interim Revised Scheme of Delegation approved in February 2009 has influenced the current proposals.
- 4.12 In drawing up its Scheme of Delegation it is important for members to appreciate that the detail of the Scheme will bear a direct relationship to the workload of the Local Review Body.

5 APPEALS AND LOCAL REVIEWS

- 5.1 As noted above, Members will appreciate that there is a direct inter-relationship between the content of its Mandatory Scheme of Delegation (Annex A) and procedures for appeal.
- 5.2 In future where a decision on an application for planning permission for a "local development" is taken by an officer under delegated powers, the applicant will no longer be entitled to appeal to Scottish Ministers. Instead they may require the authority to review the decision. In all other instances the availability of appeal to Scottish Ministers is retained. It should be noted that where/if delegation takes place in respect of applications outwith the definition of "local" developments, (provided only for in the Local Government (Scotland) Act) then the review processes do not apply and appeal must be made to Scottish Ministers.
- 5.3 Report 195-2009 elsewhere on this agenda sets out recommended arrangements for the establishment and operations of a Local Review Body charged with delivering review requests.

6 CONCLUSIONS

- 6.1 Guided by the statutory requirements of primary and secondary legislation, Circular advice from Scottish Ministers, the content of the Council's Interim Revised Scheme of Delegation and its application, the Mandatory Scheme of Delegation outlined in Annex A is recommended for approval and submission to Scottish Ministers.
- 6.2 It is further recommended that the Discretionary Scheme outlined in Annex B be adopted by resolution to guide officers, members and the general public in relation to all development management matters where delegated decision-making is involved.

7 POLICY IMPLICATIONS

- 7.1 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.

8 CONSULTATIONS

- 8.1 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.

9 BACKGROUND PAPERS

- 9.1 The following background papers have been referred to in the preparation of this report:
- a The Planning Etc (Scotland) Act 2006 Section 43A;
 - b The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008;
 - c The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
 - d The Town and Country Planning (Hierarchy of Developments) Scotland 2008 - Draft Circular Scottish Government December 2008;
 - e Report 491-2008 to Development Quality Committee of 17 November 2008;
 - f Article II of the Minutes of the Development Quality Committee of 17 November 2008;
 - g Report 101-2009 to the Policy & Resources Committee of 9 February 2009.
 - h Minutes of the Policy & Resources Committee of 9 February 2009.

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IAR/MM

3 April 2009

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ANNEX A**Proposed Scheme of Delegation to be submitted for the approval of Scottish Ministers****Town and Country Planning (Scotland) Act 1997
Section 43A (1)****The Town and Country Planning (Schemes of Delegation and
Local Review Procedure) (Scotland) Regulations 2008****Regulations 3 and 4****SCHEME OF DELEGATION****OF****DUNDEE CITY COUNCIL****As approved by Dundee City Council for
submission to Scottish Ministers:****..... June 2009****As approved by Scottish Ministers:****..... 2009****Comes into effect in respect of applications submitted on and after 3 August 2009**

1 GENERAL

- 1.1 This Scheme of Delegation was prepared by Dundee City Council as required by Section 43A(1) of the Town and Country Planning (Scotland) Act 1997 as inserted by the Planning Etc (Scotland) Act 2006 and in accordance with Regulations 3 and 4 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The Scheme of Delegation was approved for submission to Scottish Ministers by the Development Quality Committee of Dundee City Council on 18 May 2009.

2 APPOINTED OFFICER

- 2.1 The Council's "Appointed Officer" as referred to in Regulation 3 of the above Regulations shall be the Director of Planning and Transportation (subsequently the Director of City Development) in whose name all decisions arising from this Scheme of Delegation shall be issued.

3 CLASSES OF DEVELOPMENT TO BE DETERMINED BY THE "APPOINTED OFFICER" OF THE COUNCIL

- 3.1 The following Classes of Development as defined in Sections 3A (4)(b) and 26A of the Town and Country Planning (Scotland) Act 1997 as inserted by the Planning Etc (Scotland) Act 2006 and supported by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 shall be determined by the "Appointed Person".

A ALL "LOCAL" CATEGORY DEVELOPMENTS EXCEPT those which fulfil the circumstances outlined below:

- i any application¹ 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;
- ii any application which attracts a valid timeous objection from a statutory consultee² and the application is recommended for approval;
- iii any application which is to be recommended for approval in circumstances where it is significantly contrary³ to the development plan;

¹ The meaning of "application" shall be taken to include applications for planning permission; planning permission in principle; applications for consent, agreement or approval required by condition imposed on a grant of consent for local developments.

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.

³ A proposed development is "significantly contrary to the development plan" if the departure concerned, in the judgement of the "appointed person" 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.

- iv any application where the Council has decided, under the provisions of Section 43 A(6) of the 1997 Act as inserted by the Planning Etc (Scotland) Act 2006 shall be decided by the authority and not by the Appointed Officer under delegated powers;
- v any application made by or submitted on behalf of the Council;
- vi any application in respect of land/buildings in which the Council has a financial interest;
- vii any application submitted on behalf of an Elected Member of the Council; and
- viii any application requiring the submission of an Environmental Impact Statement in terms of the Environmental Impact Assessment (Scotland) Regulations 1999 as amended.⁴

4 SUBSEQUENT SCHEMES OF DELEGATION

- 4.1 The Council will review or if appropriate adopt a revised Scheme of Delegation no later than a period of five calendar years following the approval of this Scheme of Delegation by Scottish Ministers⁴.

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.

APPENDIX B**Proposed Discretionary Scheme of Delegation in Relation to Development Management (Development Quality) as Provided for by the Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc (Scotland) Act 2006 and the Local Government (Scotland) Act**

Issue	Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council	Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)
1 General Powers to delegate Negotiations Planning Policy Entry to Land Day to Day Procedural Matters	The "APPOINTED PERSON" shall be the Director of Planning and Transportation. The appointed person's name shall appear on all decision notices issued by the Council. For day to day operational purposes the appointed person shall delegate authority for actions under the operational Scheme of delegation as he/she deems fit. Authority to negotiate with the private sector and other agencies for the purposes of securing the proper development of the city in accordance with the Council's objectives". Authority to advise the Council on land use planning matters for the purposes of securing the proper development of the city in accordance with the Council's objectives. Authority 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 as amended. The undertaking by the appropriate officer of the Council of all day to day procedural matters and other actions relevant to the Council's planning functions, as provided for in the planning and related legislation.	Change. Need to identify the APPOINTED PERSON in terms of the provisions of the Planning Etc (Scotland) Act 2006 and to specify any powers of delegation which are required by the appointed person Minor change. Improved wording. Better wording. Minor change. Picks up on the provisions of the Act relating to tree protection which are not covered by Section 269(c) of the Act. No change.
2 Hierarchy of Application Types	To determine with reference to the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 whether or not a description of a development falls into the categories of "major" and "local" respectively where a Pre Application Screening Notice is submitted to the Council.	New. In order to assist the implementation of Section 26A of the Act as inserted by the Planning Etc (Scotland) Act 2006 and The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Issue	Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council	Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)
3 Pre-application Consultation and Scrutiny	<p>The implementation and enforcement of pre-application procedures including:</p> <ul style="list-style-type: none"> • assessing and responding to pre-application Screening Notices; • assessing and responding to proposal of Application Notices; and • assessing pre-application Consultation Reports. 	<p>New. In order to assist the implementation of Section 35A, B & C of the Act as inserted by the Planning Etc (Scotland) Act 2006 and Regulations 4-7 of The Town and Country planning (Development Management Procedure) (Scotland) Regulations 2008.</p>
4 Determination of Planning Applications	<p>“the determination of all applications for planning permission and planning permission in principle; applications for the approval of matters specified in conditions attached to planning permissions and planning permissions in principle; listed building consent applications; conservation area consent applications; applications for consent to display advertisements (including the unconditional approval of applications), EXCEPT:</p> <ul style="list-style-type: none"> • "national" and "major " categories of application; • "local" category applications which the Council has decided in its Scheme of Delegation, approved by Scottish Ministers, should be determined by it as opposed to the Appointed Officer; • all applications for the removal or amendment of conditions originally imposed at the specific request of members; • all applications for Hazardous Substance Consent; • any application submitted by or on behalf of an officer of the Council involved in the statutory planning process; and 	<p>Changes. This Section reflects the terms of the Council's Formal Scheme of Delegation with additions.</p>

Issue	<p style="text-align: center;">Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council</p>	<p style="text-align: center;">Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)</p>
	<ul style="list-style-type: none"> • applications which had been determined subject to a planning agreement (planning obligation) and which now require to be determined as a consequence of the Council and the applicant and other 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. 	
<p>5 Reasons for Decisions</p>	<p>"issuing to applicants reasons for the decisions in respect of all planning and related applications made by the Council".</p>	<p>New. In order to assist the implementation of Section 43 (1A) of the Act as inserted by the Planning Etc (Scotland) Act 2006 and Regulation 28(3) of the Town and Country Planning (Development Procedure) (Scotland) Regulations 2008.</p>
<p>6 Attachment of Conditions at the Request of Scottish Ministers</p>	<p>"to consider whether to impose a condition directed by Scottish Ministers in respect of a planning application referred to them".</p>	<p>New. In order to assist the implementation of Section 43 (1)(aa) of the Act as inserted by the Planning Etc (Scotland) Act 2006.</p>
<p>7 Processing Agreements</p>	<p>" where necessary to negotiate and agree with applicants and other parties to the agreement, the terms of Processing Agreements</p>	<p>New. Although not statutory requirement (not mentioned in the Act or Regulations) this is advocated as best practice for complex applications.</p>
<p>8 Determination of the Validity of Objections and Representations</p>	<p>"determining whether a representation or objection in respect of a planning or related application is timeous, valid or material in respect of the application under consideration".</p>	<p>New See Note 1 attached. Reflects the Revised Interim Scheme.</p>
<p>9 Variations to Planning Permissions</p>	<p>Determining whether a proposal to vary the details of a planning permission is material and if not to approve the variation , as provided for by Section 64 of the 1997 Act as amended".</p>	<p>Minor Change. As included in the Interim Revised Scheme.</p>

Issue	<p style="text-align: center;">Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council</p>	<p style="text-align: center;">Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)</p>
<p>10 Variations to Planning Applications Not Yet Determined</p>	<p>To determine whether or not to agree to a variation by the applicant to a submitted application and if the variation is considered to be material or that the description of the application is substantial to not agree to such a variation to decide that the application should be withdrawn and a fresh application submitted.</p> <p>To determine what notice if any to give to other parties concerning such a variation if agreed.</p>	<p>New. To incorporate and reflect Section 32A of the Act as introduced by the Planning Etc (Scotland) Act 2006.</p> <p>The new Act does not prescribe what is meant by "notice" and authorities are left to decide this locally.</p> <p>The Act does not provide for the renotification of neighbours on an amended proposal. If the variation is to agree that neighbours should be notified of the variation then a new application should be sought and the original application returned to the applicant undetermined.</p>
<p>11 Approval of Matters of Detail Covered by Conditions</p>	<p>"approving matters of detail which have been reserved when previously granting the conditional approval of a detailed planning application".</p>	<p>Minor change.</p>
<p>12 Determination of Repeat Applications</p>	<p>"the authority to decline to determine applications which fall within Section 39 of the 1997 Act as amended".</p>	<p>Minor change.</p>
<p>13 Consultation on Applications Submitted to Neighbouring Planning Authorities</p>	<p>"the authority to express views on behalf of the Council when it is statutorily or informally consulted by neighbouring planning authorities on planning applications submitted to them for determination".</p>	<p>New. This takes place at present but is not covered under the present Scheme.</p>

Issue	<p style="text-align: center;">Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council</p>	<p style="text-align: center;">Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)</p>
14 Environmental Impact Assessments	"the authority to provide informal and formal Screening and Scoping Opinions and to assess submitted Environmental Statements, all in terms of the provisions of The Environmental Impact Assessment (Scotland) Regulations 1999 as amended".	New. Not covered under the present Scheme.
15 Requests for Further Information on Applications	"the authority to identify and seek further information from applicants to enable the Council to deal with applications and to provide scoping opinions as necessary".	New. To implement Regulations 9-12 and 24 of The Town and Country Planning (Development Procedure) (Scotland) Regulations 2008.
16 Legal Agreements/ Planning Obligations	"In consultation with the Depute Chief Executive (Support Services), negotiating, concluding and enforcing planning agreements (planning obligations) under Section 75 of the 1997 Act as amended".	
	"In consultation with the Depute Chief Executive (Support Services), to discharge amendments to Agreements which do not significantly alter their general provisions already concluded under Section 75 of the 1997 Act, as amended".	New. To expedite minor amendments to Agreements which do not significantly alter their general provisions.
17 Certificates of Lawfulness of Existing or Proposed Development	"in consultation with the Depute Chief Executive (Support Services) to determine all applications for Certificates of Lawfulness of Existing Development and Certificates of Lawfulness of Proposed Development".	
18 Good Neighbour Agreements: Modification and Discharge	NO DELEGATION (Community interest; "political")	New. Relates to Sections 75D to G of the Act as inserted by Planning Etc (Scotland) Act 2006.

Issue	<p style="text-align: center;">Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council</p>	<p style="text-align: center;">Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)</p>
<p>19 Enforcement</p>	<p>“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 & Country Planning (Scotland) Act 1997 as amended by Part 4 of the Planning Etc (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:</p> <ul style="list-style-type: none"> • Planning Contravention Notices; • Enforcement Notices; • Making reports to the Procurator Fiscal as necessary; • Breach of Condition Notices; • Amenity Notices; • Stop Notices; • Serving of Temporary Stop Notices (New Act); • Serving of Fixed Penalty Notices (New Act); • Hazardous Substances Contravention Notices; • Tree Replacement Notices; and 	<p>Changes in interest of comprehensiveness and as required by the New Act.</p>
	<p>but EXCLUDES</p> <ul style="list-style-type: none"> • the taking of Direct Action in pursuit of any of the above. 	
	<p>"to undertake and enforce the procedures requiring developers to inform the Council of the initiation and completion of development and in relation to the display of notices indicating development being carried out".</p>	<p>New. Relates to new Sections 27A, 27B and 27C of Planning Etc (Scotland) Act 2006.</p>

Issue	Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council	Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)
	"the issuing and enforcement of notices requiring the owner of land, where planning permission has not been granted but development has been carried out, to make an application for planning permission".	New. Relates to new Section 33A of Planning Etc (Scotland) Act 2006.
20 Prior Notifications	"the authority to determine prior notification applications relating to the demolition of buildings under Section 26 (4)(g) of the 1997 Act as amended by the Town and Country Planning (Demolition which is not Development) (Scotland) Direction 1995 and Class 70 of the GPDO; and the erection or significant alteration or extension of agriculture or forestry building as provided for under Part 6 and 7 of Schedule 1 to the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 as amended".	Minor Change.
	"to determine prior notification applications relating to the demolition of or the erection of, or the significant alteration or extension of agricultural and forestry buildings as provided for under Part 6 and Part 7 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended".	Minor wording change. For clarity.
21 Building Preservation Notices	"In consultation with the Depute Chief Executive (Support Services) the serving of a Building Preservation Notice under Sections 3 & 4 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended".	Wording change for clarity in relation to relevant legislation and to separate the issues presently joined in Para 2.1.7.
22 Tree Preservation	"the authority to determine the need to make Tree Preservation Orders and to vary or revoke existing Tree Preservation Orders".	New. In relation to Part VII of the Act as amended by Part V, the new Act is in respect of the review of existing TPOs.
	"In consultation with the Depute Chief Executive (Support Services) the drafting and service of Tree Preservation Orders and Emergency Tree Preservation Orders under Part VII of the 1997 Act, as amended by Part V of the Planning Etc (Scotland) Act 2006, with the proviso that the serving of any such Order shall be reported to the Planning and Transport Committee together with recommendations concerning the confirmation or otherwise of the Order".	Wording change for clarity and in relation to the amending legislation. In relation to relevant legislation and to separate the issues presently joined in Para 2.1.7.
	"In consultation with the Depute Chief Executive (Support Services), determining the appropriateness of the serving of Tree Replacement Notices under Section	New.

Issue	Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council	Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)
	168 of the 1997 Act as amended and once served to monitor implementation and enforce as necessary".	
	"granting or refusal of statutory permission to carry out work on trees subject of a Tree Preservation Order or the granting or refusal of such permission for works in relation to trees within a Conservation Area or protected by planning condition".	Minor change.
	"In consultation with the Depute Chief Executive (Support Services), the enforcement of Tree Preservation Orders under Section 171 of the 1997 Act as amended with the proviso that the action taken shall be reported to the Planning and Transport Committee as soon as practicable thereafter".	New. Relates to the reporting of breaches to the Procurator Fiscal.
23 Appeals and Inquiries	"to prepare and deliver written and oral evidence in respect of all appeals and public inquiries relating to the determination of planning and related applications; the enforcement of planning control; and tree preservation all with the proviso that the outcome of each appeal/inquiry shall be reported to the Development Quality Committee as soon as practicable".	New. For comprehensiveness and the avoidance of doubt.
	"to determine the appropriateness of claiming, on behalf of the Council, expenses from appellants in accordance with the terms of Circular 6/1990".	New. For comprehensiveness and the avoidance of doubt.
24 Road Construction Consents	"the issuing of Road Construction Consents under Section 21 of the Roads (Scotland) Act 1984 as amended, the calculation of annual revenue implications for the Council of each consent, and the negotiation and the imposition of road bonds under Section 17 of the Roads (Scotland) Act 1984 with the proviso that the actions taken shall be reported to the Planning and Transport Committee as soon as practicable thereafter. However, where a valid objection is received by the Council then the application will be referred to the Planning and Transport Committee for determination".	New. These measures will further improve the efficiency of the service whilst at the same time keeping Members appraised of progress. This is at present the remit of the P&T Committee. It is proposed that this remit be transferred to the DQ Committee.
	"to serve Failure to Comply with Roads Construction Consent Notices under Section 21(5) of the Roads (Scotland) Act 1984 and to report breaches of Roads Construction Consent Notices under Section 22 of the Roads (Scotland) Act 1984 with the proviso that the actions taken shall be reported to the Planning and Transport Committee as soon as practicable thereafter".	New. These measures will further improve the efficiency of the service whilst at the same time keeping Members appraised of progress.

Issue	Proposed Scheme The Director of Planning and Transportation shall undertake the following under powers delegated to him/her by the Council	Comment (including changes from the Council's existing Operational Scheme as revised by the Interim Scheme)
	"on satisfactory completion of roads to which the provisions of Section 21 of the Roads (Scotland) Act 1984 apply, and if so requested by the applicants to enter these roads on the List of Public Roads for the purposes of management and maintenance in consultation with the Director of Finance and Conveners of the Finance and Planning and Transport Committees".	New. These measures will further improve the efficiency of the service whilst at the same time keeping Members apprised of progress.
25 Authority to Enter Upon Land	"to authorise a person to enter upon any land at any reasonable time for the purposes mentioned in Sections 156, 158, 160-163, 167, 172-177, 178, 269 and 270 of the 1997 Act as amended by the Planning Etc (Scotland) Act 2006 and similar provisions in the legislation relating to listed buildings, conservation areas and hazardous substances".	Changes. Range extended for comprehensiveness and accuracy

Note 1

For the purposes of the Council's Scheme of Delegation as approved by Scottish Ministers and this operational 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 3 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 letter or petition is received which is signed by more than one person, each signatory must provide a valid postal address, otherwise they will not be considered as a valid representation;
- 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; and
- 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 the Council's Scheme of Delegation as approved by Scottish Ministers and this operational 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 the Council's Scheme of Delegation as approved by Scottish Ministers and this operational 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.