

South Ayrshire Council

**Report by Assistant Director – Place
to Council
of 13 October 2022**

Subject: Revision to Scheme of Delegation for Planning

1. Purpose

- 1.1 The purpose of this report is to revise the Planning Scheme of Delegation in relation to the determination of applications submitted under Planning and related legislation.

2. Recommendation

2.1 It is recommended that the Council:

2.1.1 approves the revised Planning Scheme of Delegation; and

2.1.2 agrees that the approved Scheme of Delegation is submitted to the Scottish Ministers for approval.

3. Background

- 3.1 In accordance with the Planning etc (Scotland) Act 2006 and associated secondary legislation, the Council operates a Scheme of Delegation for the determination of planning applications, and this requires to be approved by Scottish Ministers. The Scheme of Delegation allows planning applications to be dealt with at an appropriate level within the organisation. It is considered that the current Scheme of Delegation requires to be refreshed to streamline the current working arrangements.

4. Proposals

- 4.1 Appendix 1 contains a comparison table between the current and the Proposed Scheme of Delegation. The majority of the revisions in the Proposed Scheme of Delegation provide greater clarity in relation to various types of applications which are not specifically mentioned in the current Scheme of Delegation, while there are two specific changes that require highlighting relating to Community Council objections and the requirements for Local applications to be heard by Regulatory Panel (Planning).

- 4.2 In relation to Community Councils, it is proposed that the geographical criteria is removed. Thus when a Community Council objects, and the recommendation from the Service Lead is for approval, the Community Council area no longer needs to border the application site to be allowed to object. This will be fairer and more transparent for Community Councils and streamline the process.

- 4.3 In relation to Local applications, the current Scheme of Delegation requires there to be objections from more than 5 (five) separate householders. It is considered that this is not the most specific nor democratic criteria and therefore, it is proposed that this threshold would be changed to 10 individual objections (no household criteria). The new criteria strikes the balance between the opportunity for individual voices to be heard while ensuring that the threshold is not so low as would trigger multiple Local applications going before Regulatory Panel (Planning). Appendix 2 provides a version of the Proposed Scheme of Delegation to be submitted to the Scottish Government for approval.

5. Legal and Procurement Implications

- 5.1 There is a legal requirement to review the Planning Scheme of Delegation at intervals of not less than 5 years. The last review was approved by Scottish Ministers in December 2013, and therefore this review requirement has not been met. It is understood that this has been as a result of the high turnover of key senior staff in the service over the past several years, however the current report will now set the review process in place once again.
- 5.2 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 There will be no direct financial implications for the Council in relation to this report

7. Human Resources Implications

- 7.1 There are no human resources implications.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

- 8.1.1 There are no risks associated with adopting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

- 8.2.1 There is a risk that if the recommendations are rejected that the streamlining and modernisation of the delivery of the Planning Service will be negatively impacted. In addition, the statutory requirement for a review of the Planning Scheme of Delegation every 5 years will be further delayed.

9. Equalities

- 9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as Appendix 3.

10. Sustainable Development Implications

- 10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy, or strategy.

11. Options Appraisal

- 11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

- 12.1 The matters referred to in this report contribute to Commitments 4 of the Council Plan: South Ayrshire Works/ Make the most of the local economy; and A Better Place to Live/ Enhanced environment through social, cultural and economic activities.

13. Results of Consultation

- 13.1 Consultation has taken place with Councillor Bob Pollock, Portfolio Holder for Economic Development, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking Purposes

- 14.1 If the recommendations above are approved by Members, the Assistant Director – Place will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the ‘Council Decision Log’ at each of its meetings until such time as the decision is fully implemented:

Implementation	Due date	Managed by
Submit the proposed Scheme of Delegation to the Scottish Ministers for approval	October 2022	Service Lead - Planning and Building Standards
Implement the approved Scheme of Delegation	January 2023 (subject to SM processing period)	Service Lead - Planning and Building Standards

Background Papers **The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**

Report to Leadership Panel of 5 November 2013 – [Proposed Amendment to the Planning Applications Scheme of Delegation](#)

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Date: 3 October 2022

Proposed changes to the Scheme of Delegation

*Unless captured below, there are no other proposed changes to the Scheme of Delegation.

Existing	Proposed
<p>The appointed person has the delegated authority to approve and refuse:</p> <p>planning permission</p> <ul style="list-style-type: none"> • planning permission in principle; • matters specified in conditions; • variations; • further applications; including • Consent, agreement or approval by condition imposed on a grant of planning permission or a related Consent 	<p>The appointed person has the delegated authority to unconditionally approve, approve with conditions and refuse the below:</p> <p>All Local Development applications (as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009) for:</p> <ul style="list-style-type: none"> • planning permission and related Consents, Certificates and Notifications; • planning permission in principle; • matters specified in conditions; • variations; • further applications including; Consent, agreement or approval by condition imposed on a grant of planning permission or a related Consent • Refusal of applications where an applicant/ agent has not supplied sufficient information; <p>The appointed person also has the delegated authority to:</p> <ul style="list-style-type: none"> • In respect of the Electricity Act 1989 (as Amended), to provide consultation responses on all applications in terms of Section 37; • Provide screening and Scoping Opinions under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017; • In respect of The Town and Country Planning (Scotland) Act (1997) Pursue enforcement action including the serving of Notices and making and confirming Orders and; • In respect of The Town and Country Planning (Scotland) Act (1997) the making of Tree Preservation Orders where trees of significant value are under imminent threat
<p>Except in the following circumstances:</p>	<p>Except in the following circumstances (where the application or matter will be referred to the Regulatory Panel):</p> <ul style="list-style-type: none"> • The application is a national development as designated in the National Planning Framework • The application is a major development as defined in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

Existing	Proposed
<ul style="list-style-type: none"> 5 or more competent written objections have been received from separate householders, organisations, premises or third parties or other premises. 	<ul style="list-style-type: none"> 10 or more competent written objections have been received from individuals, organisations or third parties and the recommendation is to approve.
<ul style="list-style-type: none"> In the case of planning applications which relate to land in the ownership of the planning authority or to land in which the planning authority have a financial interest and 1 or more competent written objections have been received. 	<ul style="list-style-type: none"> In the case of planning applications which relate to land in the ownership of the Council or to land in which the Council have a financial interest and 1 or more competent written objections have been received.
<ul style="list-style-type: none"> A competent written objection has been received from the Community Council within whose boundary all or part of the application site lies, and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the said Community Council. 	<ul style="list-style-type: none"> A competent written objection has been received from a Community Council, via their designated contact person(s), and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the Community Council.
<ul style="list-style-type: none"> The application is made by or a member of the Planning Authority 	<ul style="list-style-type: none"> The application is made by an Elected Member or a member of the Planning Authority; specifically the appointed persons for the purposes of Section 43A of the Town and Country Planning (Scotland) Act 1997 being the Council's Director of Housing, Operations and Development, Assistant Director – Planning and Development, Service Lead – Planning and Building Standards, Place Planning and Planning Strategy Co-ordinators and the Supervisory Officers within the Planning Service.
<p>The opposite are proposed additions that do not exist in current Scheme of Delegation</p>	<ul style="list-style-type: none"> Any application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove/ vary/ modify conditions that the Regulatory Panel specifically imposed on an earlier permission, that were in addition to the officers recommendation.
	<ul style="list-style-type: none"> In respect of the Electricity Act 1989 (as Amended), to provide consultation responses on all applications in terms of Section 36.
	<ul style="list-style-type: none"> Where the Director of Housing, Operations and Development, Assistant Director – Planning and Development or Service Lead – Planning and Building Standards under S43A (6) of the Planning Etc. (Scotland) Act 2006 considers that it would be appropriate for members of the planning authority to take the decision on the application for reasons, including the application raising new or significant issues meriting determination at Regulatory Panel. In each such case the applicant/agent will be provided with a statement giving the reasons for the application not being determined by the Appointed Officer.
	<ul style="list-style-type: none"> In respect of The Town and Country Planning (Scotland) Act (1997) (Section 159 to 178), the making and confirmation of Tree Preservation Orders.

Proposed Scheme of Delegation

1) Except in the circumstances outlined in paragraph (2) below, the appointed person has the delegated authority as follows:

to determine, including unconditionally approve, approve with conditions and refuse all Local Development applications (as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009) for:

- planning permission and all related Consents, Certificates and Notifications;
- planning permission in principle;
- matters specified in conditions;
- variations;
- further applications including; Consent, agreement or approval by condition imposed on a grant of planning permission or a related Consent
- Refusal of applications where an applicant/ agent has not supplied sufficient information;
- In respect of the Electricity Act 1989 (as Amended), to provide consultation responses on all applications in terms of Section 37;
- To provide screening and Scoping Opinions under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
- In respect of The Town and Country Planning (Scotland) Act (1997) to pursue enforcement action including the serving of Notices and making and confirming Orders and;
- In respect of The Town and Country Planning (Scotland) Act (1997) for the making of Tree Preservation Orders where trees of significant value are under imminent threat.

2) The delegated authority outlined in paragraph 1(a) and (b) above will not apply in the following circumstances, where matters will require to be referred to the Regulatory Panel (Planning) for determination:

- The application is a national development as designated in the National Planning Framework
- The application is a major development as defined in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009
- 10 or more competent written objections have been received from individuals, organisations or third parties and the recommendation is to approve.
- In the case of planning applications which relate to land in the ownership of the Council or to land in which the Council have a financial interest and 1 or more competent written objections have been received.
- A competent written objection has been received from a Community Council, via their designated contact person(s), and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the Community Council.
- The application is made by an Elected Member or a member of the Planning Authority; specifically, the appointed persons for the purposes of Section 43A of the Town and Country Planning (Scotland) Act 1997 being the Council's Director of Housing, Operations and Development, Assistant Director – Planning and Development, Service Lead – Planning and Building Standards, Place Planning and Planning Strategy Co-ordinators and the Supervisory Officers within the Planning Service.

- Any application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove/ vary/ modify conditions that the Regulatory Panel specifically imposed on an earlier permission, that were in addition to the appointed officer's recommendation.
- In respect of the Electricity Act 1989 (as Amended), to provide consultation responses on all applications in terms of Section 36.
- Where the Director of Housing, Operations and Development, Assistant Director – Planning and Development or Service Lead – Planning and Building Standards under S43A (6) of the Planning Etc. (Scotland) Act 2006 considers that it would be appropriate for members of the planning authority to take the decision on the application for reasons, including the application raising new or significant issues meriting determination at Regulatory Panel. In each such case the applicant/agent will be provided with a statement giving the reasons for the application not being determined by the Appointed Officer.
- In respect of The Town and Country Planning (Scotland) Act (1997) (Section 159 to 178), the making and confirmation of Tree Preservation Orders.

South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: <https://www.south-ayrshire.gov.uk/equalities/impact-assessment.aspx>

Further guidance is available here: <https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities/>

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. [FSD Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018 and revised in October 2021. See information here: <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>

1. Policy details

Policy Title	Revision to Scheme of Delegation for Planning
Lead Officer (Name/Position/Email)	Craig Iles Service Lead Planning & Building Standards craig.iles@south-ayrshire.gov.uk

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	N/A	N/A
Disability	N/A	N/A
Gender Reassignment (Trans/Transgender Identity)	N/A	N/A
Marriage or Civil Partnership	N/A	N/A
Pregnancy and Maternity	N/A	N/A
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	N/A	N/A
Religion or Belief (including lack of belief)	N/A	N/A
Sex – (issues specific to women & men or girls & boys)	N/A	N/A

Community or Groups of People	Negative Impacts	Positive impacts
Sexual Orientation – person’s sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	N/A	N/A
Thematic Groups: Health, Human Rights & Children’s Rights	N/A	N/A

3. What likely impact will this policy have on people experiencing different kinds of social disadvantage i.e. The Fairer Scotland Duty (This section to be completed for any Strategic Decisions). Consideration must be given particularly to children and families.

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	N/A	N/A
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	N/A	N/A
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	N/A	N/A
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	N/A	N/A
Socio-economic Background – social class i.e. parent’s education, employment and income	N/A	N/A

4. Do you have evidence or reason to believe that the policy will support the Council to:

General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low Positive
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low Positive
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low Positive

General Duty and other Equality Themes Consider the 'Three Key Needs' of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Increase participation of particular communities or groups in public life	Low Positive
Improve the health and wellbeing of particular communities or groups	Low Positive
Promote the human rights of particular communities or groups	Low Positive
Tackle deprivation faced by particular communities or groups	Low Positive

5. Summary Assessment

Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out if impacts identified as Medium and/or High)	No
Rationale for decision: Not required as there is no specific impact on communities, groups of people, employees or thematic groups.	
Signed : Craig Iles Service Lead - Planning & Building Standards Date: 12 September 2022	