

**NORTH LANARKSHIRE COUNCIL
REPORT**

To: PLANNING & TRANSPORTATION COMMITTEE		Subject: PLANNING REFORM – SCHEME OF DELEGATION	
From: HEAD OF PLANNING & DEVELOPMENT			
Date: 29 JUNE 2009	Ref: PK/SL		

1. PURPOSE OF REPORT

The purpose of the report is to advise committee of proposed changes to the Planning Development Management System to be introduced in August 2009, and to seek approval for the Scheme of Delegation which requires to be submitted to Scottish Ministers by end of June 2009.

2. BACKGROUND

As part of the Planning Reform agenda, the aim of the Scottish Government is to have a planning system that responds in a more proportionate way by ensuring that planning applications are dealt with in a way that is appropriate to their scale and complexity. As a result, the Planning etc (Scotland) Act 2006 introduces significant changes to the way in which planning applications are handled, setting out a Hierarchy of development and requiring councils to prepare a "Scheme of Delegation" to identify those applications which will be determined by officers and not the planning committee. The Scottish Government expects that schemes of delegation will provide maximum scope for officers to determine planning applications, reflecting the principles of Modernising Planning that members should be dealing with strategy and policy and only with major proposals and that the introduction of the category of Local Development to be dealt with by officers will make the system more responsive and efficient.

Decisions taken under the new Scheme can no longer be appealed to the Scottish Ministers, but can have the officer's decision reviewed by a Local Review Body, which is a committee of the council.

It should be further noted that for National and Major applications (both as defined in Appendix1) where the proposal if approved would be a significant departure from the development plan, the decision must be taken by the full council, following a Hearing.

A separate report on both these matters is being submitted to the Policy and Resources Committee.

3. SCHEME OF DELEGATION

- 3.1 North Lanarkshire Council currently has a scheme of delegation in terms of the Local Government (Scotland) Act 1973, however the Planning etc (Scotland) Act 2006 requires an additional scheme which has to be submitted to the Scottish Ministers by June of this year and reviewed at regular intervals of no longer than every 5 years. Regulations prescribe types of applications which may not be delegated to officers and which must be decided by the committee. Thereafter it is for each authority to set its own level of delegation.
- 3.2 Delegation requires to be to an "appointed officer". The current scheme identifies The Head of Planning and Development, the Development Control Manager, the Strategic Planning Manager and the three area Team Leaders as having delegated power to take decisions. It is recommended that for the purposes of this Scheme the delegation level is the same (with the designations adjusted to reflect the post – restructuring posts)
- 3.3 The Scheme can only cover planning applications, not advertisement applications or those for listed building consent or conservation area consent. Some of these are covered in the Council's existing scheme and can remain to be dealt with accordingly. Applications can be granted or refused under the new Scheme.
- 3.4 The categories of application which may **not** be delegated to officers are-
- National or Major applications as identified in the Hierarchy of Applications which is Appendix 1 to this report
 - Any application made by or on behalf of the Planning Authority itself
 - Any application made by a Member of the Planning Authority
 - Any application relating to land in which the Council has a financial interest
- 3.5 With regard to the hierarchy, only Local applications (ie those which do not fall within the categories of national or major) can be included in the Scheme of Delegation and the maximum thresholds for applications which can be delegated are set out in Appendix 1.
- Consideration has been given to these thresholds and to reflect the local circumstances in North Lanarkshire it is proposed that our Scheme of Delegation does not delegate to officers the following -
- Housing more than 25 units and flatted development over 2 stories
 - retail or office development more than 2500m²
 - electricity generation – any windfarm or turbine over 50m
 - waste management –any development.
 - minerals – any development
- 3.6 Other categories proposed to be excluded from delegation are
- Applications for telecommunication masts over 20 m or with material objections and
 - Housing in the countryside of over 5 houses
- 3.7 A further exclusion proposed is where an application has attracted significant objection. This is difficult to define as it is a balance of the number and the materiality of the representations in relation to the proposal, however criteria need to be specified so that the Scheme can be applied consistently. It is proposed, therefore, that any more than 3 objections to an application be accepted as the threshold for committee determination so long as the objections are material and received within the 21 day period.

3.8 Lastly the Regulations make provision for applications delegated under the Scheme to be determined by the planning authority, however in these circumstances the applicant must be given a formal statement of reasons. It is proposed therefore that any request for an application to be dealt with by Committee, whether by a member or an officer, would require to be made in writing to the Head of Planning and Development, stating the reasons for the request. It is further proposed that in such cases the decision to refer the application for a committee determination is delegated to the Head of Planning and Development following consultation with the Convener of the Planning and Transportation Committee.

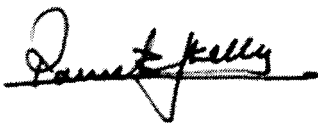
3.9 A recommended Scheme of Delegation is set out in Appendix 2 to this report.

4 CONCLUSION AND RECOMMENDATION

The benefits of the above proposals are that applications can be dealt with more efficiently, that the committee can focus on the larger applications and strategic matters, and that appeals on local planning proposals are dealt with locally.

It is recommended that the Committee

1. Approves for the submission to the Scottish Ministers the Scheme of Delegation as set out in Appendix 2, including the identification of the "Appointed persons" and delegation to them, and in the event of the approval of the Scottish Ministers being obtained, the adoption of the Scheme



HEAD OF PLANNING AND DEVELOPMENT

(15th June 2009)

Local Government Access to Information Act: for further information about this report, please contact Shirley Linton, on 01236 616405

Appendix 1 Hierarchy of Development

Appendix 2 Scheme of Delegation - Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2009

SCHEDULE
Major Developments

<i>Description of development</i>	<i>Threshold or criterion</i>
1. Schedule 1 development	
Development of a description mentioned in Schedule I to the Environmental Impact Assessment (Scotland) Regulations 1999(a) (other than exempt development within the meaning of those Regulations).	All development
2. Housing	
Construction of buildings, structures or erections for use as residential accommodation.	(a) The development comprises 50 or more dwellings; or (b) The area of the site is or exceeds 2 hectares.
3. Business & General Industry, Storage and Distribution	
Construction of a building, structure or other erection for use for any of the following purposes-	(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres; or (b) The area of the site is or exceeds 2 hectares.
(a) as an office;	
(b) for research and development of products or processes;	
(c) for any individual process; or	
(d) for use for storage or as a distribution centre.	
4. Electricity Generation	
Construction of an electricity generating station.	The capacity of the generation station is or exceeds 20 megawatts.
5. Waste Management Facilities	
Construction of facilities for use for the purpose of waste management or disposal.	The capacity of the facility is or exceeds 25,000 tonnes per annum. In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge.
(a) S.S.I. 1999/1, as amended by S.S.I. 2006/616, regulation 3	

<i>Description of development</i>	<i>Threshold or criterion</i>
6. Transport and infrastructure projects	
Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.	The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres.
7. Fish Farming	
The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.	The surface area of water covered is or exceeds 2 hectares.
8. Minerals	
Extraction of minerals.	The area of the site is or exceeds 2 hectares.
9. Other Development	
Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above.	(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or (b) The area of site is or exceeds 2 hectares.

APPENDIX 2

SCHEME OF DELEGATION

Section 43(A) of the Town & Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, and the Town & Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008.

In terms of the above, the Appointed Officers for North Lanarkshire Council are as follows-

Head of Planning & Development
Business Manager, Planning Development Management
Assistant Business Managers, Development Management
Assistant Business Manager, Planning & Building Standards

North Lanarkshire Council delegates to the officers identified above, the power to determine any application for planning permission or any application for consent, agreement or approval required by condition imposed on a grant of planning permission, within the category of local developments as defined in the Town & Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, subject to the exceptions as listed below.

Any application made by, or on behalf of, North Lanarkshire Council
Any application made by a Member of North Lanarkshire council
Any application relating to land in which North Lanarkshire Council has a financial interest or owns
Any application made by a member of staff of the Planning & Development Service
Any application which, if approved, would require to be notified to the Scottish Ministers
Any application subject of an Environmental Impact Assessment
Any application subject of objection by a Community Council
Any application which raises significant objections (three or more all of which raise material planning issues)
Any application which due particular or sensitive circumstances is agreed by the Head of Planning & Development together with the Convener of the Planning and Transportation Committee to be determined by the Planning and Transportation Committee
Any application which if approved would be contrary to the development plan
Any application with an associated application for Listed Building Consent
Any application for residential development over 25 units or flatted development greater than 2 stories
Any windfarm or Turbine application over 50 m in height
Any application for telecommunications masts greater than 20 metres in height
Any applications for the deposit or treatment of waste or extraction of minerals
Any applications for retail or office development over 2500m²