

FALKIRK COUNCIL

Subject: SCHEME OF DELEGATION
Meeting: FALKIRK COUNCIL
Date: 3 OCTOBER 2007
Author: ACTING DIRECTOR OF LAW AND
ADMINISTRATION SERVICES

1. INTRODUCTION

- 1.1 The purpose of this report is to recommend to Members an alteration to the Scheme of Delegation as it refers to the determination of town and country planning decisions.
- 1.2 The amended Scheme of Delegation will represent an interim position pending further amendments that will be required consequent upon Regulations which are anticipated to be forthcoming in terms of the Planning (Scotland) Act 2006.

2. BACKGROUND

- 2.1 The current Scheme of Delegation has been in place, with some minor amendments, since 1999. Insofar as planning decisions are concerned, the current Scheme delegates authority to the Director of Development Services to take a variety of decisions, having regard to and within the context of the policy framework determined by Members. Decisions which would not be determined under delegated powers are those where:
 - (a) the nature of the application has been deemed controversial by the Director of Development Services (but the receipt of objections to the application will not, of itself, mean that the application is controversial), or
 - (b) determination of the application may result in a departure from the approved Development Plan, or
 - (c) for any other reason, the Director of Development Services considers it inappropriate to determine the application under delegated powers.
- 2.2 Those Members who attended the training session on planning matters which took place prior to the summer recess will recollect the Director of Development Services reflecting upon the definition of “controversial” within the context of the Scheme and noting that there can be differing views on the circumstances which would justify a matter being deemed “controversial”. The Director intimated the need to clarify the terminology in the interests of transparency and public accountability. Members have also have intimated concern about what

might be perceived as a lack of certainty over those applications which would be determined by Committee and those which would be determined under delegated powers. Moreover, Members have expressed a wish for a more defined role for themselves in referring matters of public interest to Committee, which might otherwise have been decided by Officers.

3. PLANNING ETC. (SCOTLAND) ACT 2006

- 3.1 Members in office prior to the 2007 elections will recollect reports to Committee and Council outlining the impact of the Planning etc. (Scotland) Act 2006 which received the Royal Assent on 20 December 2006. This Act represents a significant culture change in the delivery of town and country planning in Scotland. While only some of the provisions of the Act have been brought into effect to date, it is anticipated that the majority of the Act's provisions will be fully operational in 2008/09. This will involve significant amounts of secondary legislation and much consultation thereon over the next year to eighteen months.
- 3.2 The Act introduces a new hierarchy of national, major and local developments for handling and determining planning applications. It also provides for a new statutory Scheme of Delegation for determining planning applications. This will see most local development applications decided by Officers but with the right to a review of those decisions by Members. Consultation on the form of the Scheme of Delegation is anticipated before the end of the year with the Regulations likely to be brought into force next summer. Further reports will be brought to Members as this matter progresses.

4. INTERIM POSITION

- 4.1 Pending introduction of the Regulations under the 2006 Act, an interim amendment to the Council's existing Scheme of Delegation is suggested as shown in the Appendix to this report. While maintaining the position that the majority of planning applications will be determined by Officers, in the interests of efficiency and within the policy framework already determined by Members, the adjusted Scheme provides a route whereby Members can refer decisions to Committee in certain circumstances.
- 4.2 The proposed amendments to the Scheme involve giving members two opportunities within the development control process when an application can be referred to Committee, the first of which would be within 14 days of issue of the planning list which members have been accustomed to receiving weekly and which details all applications received during that reporting period. The second opportunity will involve the introduction of a new list which will be issued to members at the stage when planning officers have determined their professional recommendations. This "recommendations list" will include a summary of the officer recommendations. Members will have a period of 7 days from issue of this list to refer any matter on it to Committee for determination or to withdraw an earlier referral.

5. CONCLUSION

- 5.1 The amendments to the Scheme of Delegation as it refers to the Regulatory Committee are addressed at responding to concerns expressed about the operation of the Scheme as it currently exists. The amendments represent an interim position only. A more radical approach to the Scheme of Delegation will be required as the Planning etc. (Scotland) Act 2006 evolves and will be the subject of future reports to members.

6. RECOMMENDATIONS

- 6.1 It is recommended that Council approves the amendments to the Scheme of Delegation as outlined in this report and as detailed in the appendix hereto.

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Acting Director of Law and Administration Services

Date: 17 September 2007

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