

**Falkirk Council Scheme of Delegation under the Provisions Contained in
Planning etc (Scotland) Act 2006 and
Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland
Regulations 2008**

TERMS OF REFERENCE TO COUNCIL

The Following Matters Are Reserved to Council:-

1. To appoint the Provost and Depute Provost.
2. To appoint Conveners and Depute Conveners of Standing Committees and Sub-Committees.
3. To appoint Members to represent the Council on other bodies where such power is not expressly delegated to another Committee or Sub-Committee.
4. To determine a Scheme of Delegation for the discharge of Council functions by Standing Committees, Sub-Committees or Officers and, in particular, to fix the constitution, functions and powers of Standing Committees and Sub-Committees and to amend the same from time to time as Council may decide.
5. To set the Council tax and business rate.
6. To set Council house rents.
7. To make and amend Byelaws and Management Rules.
8. To consider reports from the Commissioner for Local Administration where there has been a finding of maladministration.
9. To promote or oppose private legislation.
10. To consider statutory reports from the Monitoring Officer, Chief Finance Officer and Head of Paid Service.
11. To approve the management and political structure of the Council.
12. To agree the Structure Plan.
13. To agree the Strategic Community Plan
14. To consider Boundary Commission proposals.
15. To delegate new powers and duties and exercise new discretion not already delegated to a Committee or officer.
16. To receive an annual report from the Convener of the Policy and Resources Committee.
17. To deal with appropriate matters relating to the election of Councillors.
18. To deal with all matters relating to the Conduct of Members, other than that specifically described elsewhere in these Standing Orders.
19. To appoint a Civic Events Panel.
20. To agree significant policy initiatives which affect the whole of the Council area.

21. Any other matter which is required by statute to be considered by Council.
22. The determination of all planning applications which fall within S 38A (1) of the Town and Country Planning (Scotland) Act 1997

PLANNING COMMITTEE

For the avoidance of doubt, under S 56 (6A) of the 1973 Act, there is reserved to full Council, the determination of all applications which fall within S 38A (1) of the Town and Country Planning (Scotland) Act 1997. These are applications which require a mandatory pre-determination hearing prior to determination and include “national developments” as set out in a National Planning Framework and major developments which are significantly contrary to the development plan.

Terms of Reference

1. To discharge the Council's regulatory and enforcement functions, in accordance with Council policy and so far as not delegated to the Planning Review Committee or any other Committee or Officer, which relate (but not exclusively) to:-
 - (i) Town and Country Planning;
 - (ii) Roads and Transportation;
 - (iii) Building Control;
 - (iv) Other matters of a regulatory or enforcement nature.

Powers

2. In relation to development control matters, to determine applications, other than those which require to be determined by the Council in terms of the provisions of s56(6A) of the 1973 Act for:-
 - (i) planning permission
 - (ii) listed building and conservation area consent
 - (iii) discharge, amendment or deletion of conditions
 - (iv) certificates of lawfulness of existing or proposed development
 - (v) advertisement consent
 - (vi) hazardous substances consent
 - (vii) decisions on permitted development

In relation to major and local developments in terms of s 26A(1) subsections (b) and (c) respectively of the Town and Country Planning (Scotland) Act 1997, in circumstances where:-

- (i) the application has been made by the Council,
 - (ii) the application has been made by a member of the Council or by an officer involved in the statutory planning process
 - (iii) the application relates to land in the ownership of the Council or to land in which the Council has a financial interest,
 - (iv) determining the application (whether by grant or refusal) would result in a contravention of the development plan or a contravention of the Council's policies, whether or not objections have been made
 - (v) where it is proposed to approve the application and there is a formal objection from a statutory consultee which would trigger referral of the application to Scottish Ministers,
 - (vi) there has been a request from an elected member to refer any matter to committee within 7 days of the periodical recommendations list being issued, in which case reasons must be stated or
 - (vii) for any other reason, the Director of Development Services considers it inappropriate to consider the application under delegated powers
3. To hear and determine unresolved objections to any order proposed for the regulation of traffic and the implementation of traffic management schemes under the Road Traffic Regulation Act 1984, the Roads (Scotland) Act 1984 and the Local Roads Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1987, and to conduct any hearings required under those acts and Regulations.
 4. To consider and determine any of the regulatory and enforcement matters relating to the Council's functions as Roads Authority, in terms of the Roads (Scotland) Act 1984, the Road Traffic Regulation Act 1984, the Town and Country Planning (Scotland) Act 1997 or any other relevant Acts or Regulations, where the nature of the matter has been deemed controversial by the Director of Development Services.
 5. To conduct hearings under the Building (Scotland) Acts 1959-70 and to make appropriate determinations.
 6. To agree the procedures relating to conduct of any review carried out by the Planning Review Committee, other than those already set out in regulations or a development order.
 7. In carrying out any of their powers hereunder, the Committee may:-
 - (i) conduct hearings in such manner as they consider appropriate, having regard to the subject matter under consideration and the requirements of law;
 - (ii) visit any site connected with a matter under consideration if it would assist the Committee in the discharge of their functions;
 - (iii) authorise the institution, entering appearance in or defending of any proceedings before any Court, Tribunal or Inquiry (where not authorised elsewhere in these Schemes of Delegation) where Council involvement is necessary to protect or uphold the interests of the Council and its community in respect of any matter within the remit of the Committee, provided that it will remain open to any Chief Officer to provide the

foregoing authority where time limits or an emergency situation requires immediate action to ensure the Council's participation in the proceedings.

8. Any regulatory or enforcement powers or duties conferred or imposed on the Council in terms of law, apart from those detailed herein as being within the remit of the Council, the Planning Committee or the Planning Review Committee will be executed by the Chief Officer for the relevant Service and, in the event of there being any conflict as to which is the relevant Service, the Chief Executive will be entitled to decide. Without prejudice to the generality of the foregoing, it is specifically acknowledged that the Director of Development Services will have power to:-
- (i) vary or otherwise any planning permission where the variation sought is not material, under section 64 of the Town and Country Planning (Scotland) Act 1997
 - (ii) advertise applications for planning permission when considered necessary or desirable
 - (iii) decide whether the topping, lopping or felling of trees subject to Tree Preservation Orders is necessary in terms of section 160 of the Town and Country Planning (Scotland) Act 1997 and the authorisation of such activities
 - (iv) make emergency Tree Preservation Orders
 - (v) issue stop notices and instruct action for interim interdicts
 - (v) issue breach of condition and planning contravention notices
 - (vi) pursue enforcement action
 - (vii) issue statutory notices in terms of the Building (Scotland) Act 2003 and any Regulations made there under or any amendment thereof

PLANNING REVIEW COMMITTEE

Terms of reference

- 1 to discharge the planning authority's functions in terms of s.43A (8) of the Town and Country Planning (Scotland) Act 1997 in connection with the review of any planning decision taken by an officer appointed for that purpose in terms of s.43A (1) of the said Act

Powers

2. when required to do so by the applicant to review any application which has been dealt with by an officer appointed in terms of s43A (1) above where
- (i) the application has been refused
 - (ii) the application has been granted subject to conditions or
 - (iii) the application has not been determined within such period as may be prescribed by regulations or a development order.
3. to uphold, reverse or vary any determination made in terms of 2(i) or 2(ii) above
4. to determine any application which has not already been determined in terms of 2(iii) above

5. to conduct any review in accordance with regulations or a development order made in terms of s.43A (10) of the said Act or as decided by the Planning Committee, which shall, without prejudice to the foregoing include the power to:-
- (i) hold pre-examination meetings to determine the manner in which the review is to be conducted
 - (ii) invite written submissions
 - (iii) hold hearing sessions
 - (iv) undertake site visits

PART 3

SCHEME OF DELEGATION TO OFFICERS

7. The Council's chief officers may authorise other officers to exercise powers delegated to them., including for the avoidance of doubt, in the case of a chief officer dealing with planning matters, to appoint persons to determine planning applications in terms of s. 43(A) (1) of the Town and Country Planning (Scotland) (Act) 1997. However, actions taken under that authority must be taken in the name of the chief officer concerned, and remain his or her responsibility.