West Lothian Council

COUNCIL EXECUTIVE

PLANNING REFORM: STATUTORY SCHEME OF DELEGATIONS TO OFFICERS

REPORT BY CHIEF EXECUTIVE

A. PURPOSE OF REPORT

The Planning Etc (Scotland) Act 2006 sets out a wide range of changes to the planning system. One aspect is the principle that local development applications should largely be decided by officers, and the council is required to make a Scheme of Delegations for that purpose. That Scheme has been prepared, approved by the council, and submitted to the Scottish Ministers for their approval. That approval has now been given and this report covers the last stages of the process of adoption.

B. RECOMMENDATION

1. To note that the Scottish Minsters have approved the council's statutory Scheme of Delegations to Officers in terms of section 43A of the Town and Country Planning (Scotland) Act 1997 and Regulation 4 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008;

2. To adopt that Scheme of Delegations in terms of said Regulation 4;

3. To note that copies of the adopted Scheme shall thereafter be available for inspection at West Lothian House, Livingston, and when appropriate at the Civic Centre in Livingston; at County Buildings, Linlithgow; at all public libraries in West Lothian; and shall be published on the council's website;

4. To note that the Scheme will come into effect for applications for local development submitted on or after 3 August 2009; and

5. To amend the council's Scheme of Administration and Scheme of Delegations to Officers accordingly.

C. SUMMARY OF IMPLICATIONS

I	**Council Values**	Being honest, open and accountable.
II	**Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)**	Town and Country Planning (Scotland) Act 1997. Planning Etc. (Scotland) Act 2006. Town and Country Planning (Schemes of

		Delegation and Local Review Procedure) (Scotland) Regulations 2008
III	**Resources - (Financial, Staffing and Property)**	None.
IV	**Consultations**	Partnership and Resources PDSP, Council Executive, Legal Services.

D. TERMS OF REPORT

The reforms flowing from the Planning etc. (Scotland) Act 2006 require planning authorities to make a Scheme of Delegations to Officers with a view to having applications for local developments, as far as possible, determined by officers, allowing elected members to focus on the more complex and controversial cases.

The Council Executive approved the council's Statutory Scheme of Delegations on 19 May 2009. The Scheme as approved is set out in Appendix 1.

As required by the legislation, the Scheme was sent to the Scottish Minsters for approval on 20 May 2009. They have now replied, by email dated 22 June 2009, to say that approval has been given and that a letter to that effect will be sent to the council on 23 June. The email from the Ministers dated 22 June is reproduced in Appendix 2.

The next stage in the statutory process is for the Scheme to be formally adopted.

Thereafter, copies will be kept available for public inspection at West Lothian House, the Civic Centre, County Buildings and all public libraries in West Lothian. It will also be published on the council's website.

The Scheme will apply to applications made on or after 3 August 2009, and the first decisions will be made towards the end of that month.

Decisions made in this way will be subject to appeal to the council's Local Review Body and not to the Scottish Ministers.

The Scheme requires to be reviewed at least every five years, and any proposed changes will require to go to the Ministers for approval.

The council has already approved an amended version of its well-established Scheme of Delegations in respect of other types of planning applications (the Part B Scheme), and this statutory scheme will sit alongside and complement that.

E. CONCLUSION

These final decisions will complete the process of adopting a Statutory Scheme of Delegations for deciding applications for local developments, and will enable the council to deal with local applications as is required by the reform of the planning system.

F. BACKGROUND REFERENCES

Town and Country Planning (Scotland) Act 1997

Planning Etc. (Scotland) Act 2006

Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008

Council Executive, 19 May 2009

Appendices/Attachments: 1 Statutory Scheme of Delegations to Officers

2 Email dated 22 June 2009 confirming approval of the Scheme.

Contact Person: James Millar, Solicitor/Committee services Manager, West Lothian House

01506 777223, James.Millar@westlothian.gov.uk

Alex Linkston, Chief Executive, West Lothian House

Date: 23 June 2009

APPENDIX 1

The scheme of delegation under section 43A of the Town and Country Planning (Scotland Act) 1997, as amended by the Planning Etc. (Scotland) Act 2006

The council's Part 'A' Scheme

The following decisions on planning applications for local developments, as defined in the Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009, shall be determined by a person appointed by the council for the purposes of section 43A of the principal Act instead of by them:

(i) the granting of all local applications with no objections;

(ii) the granting of all local applications with no material planning objections;

(iii) the granting of all local applications with only 'out of time' objections;

(iv) the granting of all local applications which are potentially contrary to the development plan with fifteen or less objections;

(v) the granting of all local applications that are in accordance with the development plan, irrespective of the number of objections;

(vi) the granting of all local applications that are in accordance with an approved council policy or supplementary planning guidance, irrespective of the number of objections;

(vii) the determination of all local applications subject to an objection from a statutory consultee in accordance with the terms of Circular 3/2009;

(viii) the refusal of all local applications that are contrary to the development plan;

(ix) the refusal of all local applications, irrespective of the number of representations of support;

(x) the refusal of all local applications that are contrary to an approved council policy or to supplementary planning guidance, irrespective of the number of representations of support; and

(xi) all applications for consent, agreement or approval required by a condition imposed on a grant of consent for a local development.

The following categories of applications for local developments, as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, shall be determined by the council's development management committee:

(i) all local applications made by West Lothian Council;

(ii) all local applications made by a member of West Lothian Council;

(iii) all local applications which relate to land in the ownership of West Lothian Council;

(iv) all local applications in which West Lothian Council has a financial interest;

(v) all local applications that have attracted more than 15 objections that the development management manager is otherwise minded to grant ;

(vi) all local applications that have attracted an objection from a community council which the development management manager is otherwise minded to grant;

(vii) any local application at the discretion of the development management manager but in consultation with the chair of the development management committee and all local ward members;

(viii) any local application so requested by the chair of the development management committee or a local ward member when the application is for land within that local member's ward with the provision that in exceptional circumstances when the impacts of a development impact in planning terms on an adjacent or adjoining ward, any local member of those adjacent or adjoining wards.

APPENDIX 2

From: John.McNairney@scotland.gsi.gov.uk [mailto:John.McNairney@scotland.gsi.gov.uk]
Sent: 22 June 2009 14:59
To: Norman, Chris
Cc: Millar, James; McCorriston, Craig; Kristen.Anderson@scotland.gsi.gov.uk; Rosie.Leven@scotland.gsi.gov.uk
Subject: RE: West Lothian Council: Scheme of Delegation

Chris,

I refer to your Council's scheme of delegation which we have discussed informally.

A letter confirming the Scottish Ministers' approval of the scheme is in preparation. I expect the letter to issue tomorrow, however please let me know should you wish to discuss further.

Kind regards

John

John McNairney
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Edinburgh
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0131-244-7528

From: Norman, Chris [mailto:Chris.Norman@westlothian.gov.uk]
Sent: 20 May 2009 17:06
To: McNairney J (John)
Cc: Millar, James; McCorriston, Craig
Subject: West Lothian Council: Scheme of Delegation

John

Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008

At its meeting yesterday the Council Executive of West Lothian Council approved a revised scheme of delegation as so required by the Planning Etc.(Scotland) Act 2006.

A copy of the report which sets out the justification to the council's scheme, as well as the scheme itself, is attached and is herby submitted to you under Regulation 4 of the 2008 Regulations.

The Council's Part 'A' scheme is the mandatory scheme required by the Act

The Part 'B' scheme is the operational scheme and reflects that largely in operation at the present time.

I trust that you will find that the details comply with the terms of the 2008 Act and 2008 Regulations and I would be pleased to receive your response in early course.

Regards

Chris Norman
Development Management Manager