



# **Appendix 1: Updated Scheme of Delegation for Planning May 2024**

## **Agenda Item 6**

### **National Park Authority Board Meeting**

10 June 2024

Paper for information

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**THE LOCH LOMOND AND THE TROSSACHS NATIONAL  
PARK AUTHORITY**

**SCHEME OF DELEGATION TO OFFICERS RELATIVE TO PLANNING**

**UNDER**

- (1) SECTION 43A (1) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**
- (2) THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AND  
OTHER LEGISLATION**
- (3) THE NATIONAL PARKS (SCOTLAND) ACT 2000**
- (4) THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION  
AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**
- (5) THE LOCH LOMOND AND THE TROSSACHS NATIONAL PARK  
DESIGNATION, TRANSITIONAL AND CONSEQUENTIAL PROVISIONS  
(SCOTLAND) ORDER 2002/201**

## **LOCH LOMOND AND THE TROSSACHS NATIONAL PARK AUTHORITY**

### **SCHEME OF DELEGATION TO AN APPOINTED OFFICER RELATIVE TO PLANNING**

#### **1. INTRODUCTION**

- 1.1 The Loch Lomond and The Trossachs National Park Authority (“Park Authority”) as planning authority for the Loch Lomond and The Trossachs National Park have adopted this Scheme of Delegation to an Appointed Officer (as hereafter defined) relative to Planning (“Scheme of Delegation”).
- 1.2 In keeping with the aims of the Scottish Ministers that the planning system should respond in a more proportionate and efficient way to proposals that come before it and to ensure that applications for planning permission for Local Development (as hereafter defined) and other planning and related matters are dealt with in a way that is appropriate to their scale and complexity this Scheme of Delegation has been prepared and adopted by the Park Authority. This Scheme of delegation also takes into account the National Planning Circular 5/2013 Schemes of Delegation and Local Reviews.
- 1.3 This Scheme of Delegation consists of a Part A and a Part B and has been prepared in accordance of the provisions of (1) Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) (“1997 Act”) (2) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (3) the National Parks (Scotland) Act 2000 (“2000 Act”) and (4) the Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002/201 (“Designation Order”) and specifically delegates powers to an Appointed Officer to determine applications for and related to Local Development (as hereinafter defined) and all as set out in Part A of this Scheme of Delegation.
- 1.4 In addition to powers of delegation granted to an Appointed Officer under Part A of this Scheme of Delegation, this Scheme of Delegation also delegates other specific planning powers to an Appointed Officer under (1) the 2000 Act and (2) the Designation Order, all as set out in Part B of this Scheme of Delegation.
- 1.5 The meaning of all words and phrases used within this Scheme of Delegation, where not otherwise given, will be as provided for under the various Acts and Regulations referred to. References to any Act of the Scottish or UK Parliament (or associated secondary legislation) shall include any modification, extension or re-enactment thereof for the time being in force and any regulations made thereunder. Further, words importing one gender shall be construed as importing any other gender and words importing the singular shall be construed as importing the plural and vice- versa.

#### **2. Local Development**

- 2.1 “Local Development” for the purposes of this Scheme of Delegation will include all development other than (1) “national development”, within meaning given by section 3A(4)(b) of the 1997 Act or (2) “major development” within the meaning of section 26A (1) (b) of the 1997 Act and also as identified in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

#### **3. Appointed Officer-PART A and PART B**

- 3.1 The Appointed Officer who shall be entitled to exercise the delegated powers set out below in Part A and Part B of this Scheme of Delegation shall be the officer employed by

the Park Authority who is for the time being (1) the Director of Place (who is also undertaking the duties of the Chief Planning Officer for the Park Authority appointed under s1A of the 1997 Act) and where he/she so determines, the Park Authority's Planning Manager Development Management or such other appropriate Director, Manager or Senior Planning Officer employed by the Park Authority.

#### **4. General Requirements – Determinations- PART A and PART B**

4.1 An Appointed Officer exercising delegated power under the terms of this Scheme of Delegation must observe the following general requirements:-

4.1.1 All determinations shall be carried out in accordance with the provisions of the local development plan adopted by the Park Authority from time to time and the Scottish Ministers' national planning framework that may be adopted by them from time to time (which collectively are referred to as the "Statutory Development Plan") unless material considerations indicate otherwise;

4.1.2 No determination shall be made which conflicts with a decision made by the Planning and Access Committee or the Park Authority Board on a previous similar application or enforcement matter on the same site unless there has been a significant change in the Statutory Development Plan or the material considerations applicable;

#### **5. Specific Exclusions from this Scheme of Delegation PART A and PART B**

5.1 For the avoidance of doubt (1) the determination of planning applications for major development shall not be determined by an Appointed Officer and (2) the following categories of planning applications shall not be delegated to either the Appointed Officer or the Planning and Access Committee and shall be determined by the Park Authority Board:-

5.1.1 Planning applications for national development; and

5.1.2 Planning applications for major development where the Director of Place determines that there would be a significant departure from the Statutory Development Plan if the application were to be approved.

#### **6. Reporting on Park Authority Weekly Planning Schedule**

6.1 All determinations on planning applications made under PART A of this Scheme of Delegation shall be reported, for information only, on the first available Park Authority Weekly Planning Schedule.

#### **7. Exercise of Professional Judgement -PART A and PART B**

7.1 In a number of the categories of delegation there may be the need for a degree of judgment and interpretation on the part of an Appointed Officer. As with all schemes of delegation this is unavoidable. However, rather than set artificial thresholds, it is considered more appropriate for an Appointed Officer to use their professional planning judgement to determine those matters which must otherwise be considered by the Planning and Access Committee or the Park Authority Board (as the case may be).

**PART A: POWERS DELEGATED TO AN APPOINTED OFFICER TO DETERMINE PLANNING APPLICATIONS FOR LOCAL DEVELOPMENT UNDER SECTION 43 A (1) OF 1997 ACT AND SECTIONS 8, 10 AND SCHEDULE 1 (PARAGRAPH 17) OF THE 2000 ACT AND THE DESIGNATION ORDER**

**1 Applications for Local Development**

- 1.2 Part A of this Scheme of Delegation is prepared in accordance with the provisions of Section 43A (1) of the 1997 Act and Sections 8 and 10 and Schedule 1 (Paragraph 17) of the 2000 Act and the Designation Order.
- 1.3 Part A of this Scheme of Delegation relates to the delegation of authority to an Appointed Officer to determine applications for Local Development. Accordingly, an Appointed Officer (subject to the exclusions below) is authorised to determine:
  - 1.3.1 applications for planning permission for a development within the category of Local Development;
  - 1.3.2 applications for consent, agreement or approval required by a condition imposed on a grant of planning permission for a Local Development;
- 1.4 Determinations of the Appointed Officer (including a deemed refusal) under paragraphs 1.3.1 and 1.3.2 above shall be subject to the right of an applicant to serve notice on the Park Authority that the Local Review Body of the Park Authority must review the case under section 43A (8) of the 1997 Act.

**2 Exclusions to PART A**

- 2.1 For the avoidance of doubt an Appointed Officer under PART A is not entitled at any time to determine a planning application for national development or major development nor to determine an application for consent, agreement or approval required by a condition imposed on a planning permission for national development or major development. Please note that specific powers of delegation (subject to exclusions) are given to an Appointed Officer in PART B to determine an application for consent, agreement or approval required by a condition imposed on a planning permission for national development or major development. Further, the determination of planning applications falling into one or more of the following categories will not be delegated to an Appointed Officer and must be determined by the Planning and Access Committee or the Park Authority Board (as the case maybe):-
  - 2.1.1 Planning applications for Local Development that would, be considered by an Appointed Officer to be a significant departure from the Statutory Development Plan and where an Appointed Officer's recommendation is to approve;
  - 2.1.2 Planning applications for Local Development that in the opinion of an Appointed Officer raise a significant new planning issue on which Statutory Development Plan or planning policy provides very limited or no guidance;
  - 2.1.3 Planning applications for Local Development that have been the subject of formal objection from a neighbouring planning authority and where an Appointed Officer's recommendation is to approve;
  - 2.1.4 Planning applications for Local Development which, for whatever reason, require to be notified to the Scottish Ministers;

2.1.5 Planning applications for Local Development where a statutory consultee, including (but not limited to the foregoing speciality) SEPA, Scottish Water, NatureScot, the Community Council (in whose area the Application is located), or local authority departments (e.g. roads, flooding, environmental health, housing), have formally objected on valid planning grounds and where an Appointed Officer's recommendation is to approve;

2.1.6 Planning applications for Local Development which, in the opinion of an Appointed Officer, has been the subject of a significant level of valid objection;

2.1.7 Planning applications for Local Development requiring applications to be handled jointly with a neighbouring planning authority;

2.1.8 Planning applications for Local Development which, would adversely affect a statutory heritage designation or would otherwise raise significant conflicts with the first aim and the other three aims of the Park Authority as set out in Section 9(6) of the 2000 Act and where an Appointed Officer's recommendation is to approve;

2.1.9 Planning applications for Local Development where the application is made by or on behalf of:

1. a Member of the Park Authority;
2. the Chief Executive of the Park Authority;
3. a Director, Head of Service or Manager of the Park Authority;
4. a member of staff of the Park Authority directly involved in providing town and country planning advice to the Park Authority;

**3** The powers delegated to an Appointed Officer under Part A are further qualified to the extent outlined in Section 43 A (6) of the 1997 Act, in which case the Director of Place may decide that the particular circumstances of an application for Local Development which would in the normal course of events be dealt with under this Scheme of Delegation PART A, are such that the application for Local Development should be determined by the Planning and Access Committee or the Park Authority Board (as the case may be).

**PART B: POWERS DELEGATED TO AN APPOINTED OFFICER TO DETERMINE VARIOUS APPLICATIONS, PLANNING MATTERS AND ENFORCEMENT MATTERS UNDER SECTIONS 8, 10 AND SCHEDULE 1 (PARAGRAPH 17) OF THE 2000 ACT**

**4 Various Applications, Planning Matters and Enforcement Matters**

- 4.1 PART B of this Scheme of Delegation is prepared in accordance with the provisions of Sections 8 and 10 and Schedule 1 (Paragraph 17) of the 2000 Act and the Designation Order and relate to the following applications, planning matters and enforcement matters. Accordingly, an Appointed Officer (subject to the exclusions below) is authorised to determine and deal with :-

**4.1.1 Non Material Variations**

requests for a non- material variation of a planning permission under Section 64 of the 1997 Act;

**4.1.2 Approvals required by Planning Condition**

applications for consent, agreement or approval required by a condition imposed on the grant of a planning for national development or major development;

**4.1.3 Planning Obligations – Modification and Discharge**

applications (including agreements to modify or discharge) to modify or discharge planning obligations under Section 75A of the 1997 Act and the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 declaring that this shall not apply where the modification or discharge relates in a reduction in (1) a financial contribution or (2) delivery of affordable housing or (3) other infrastructure required by the planning obligations;

**4.1.4 Listed Buildings**

applications for listed building consent or conservation area consent submitted under the provisions of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ("Listed Buildings Act 1997");

**4.1.5 Advertisement Consent**

applications for advertisement consent submitted under the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984;

**4.1.6 Hazardous Substances**

applications for hazardous substances consent submitted under the Planning (Hazardous Substances)(Scotland) Act 1997;

**4.1.7 Prior Approvals, Notifications and Determinations**

All matters relating to submissions for prior approval in accordance with the procedures required by the Town and Country Planning (General Permitted Development)(Scotland) Order 1992.

**4.1.8 Responses to Scottish Ministers**

Responses to the Scottish Ministers upon the receipt of notices of applications made under the provisions of Section 36 or 37 of the Electricity Act 1989, in respect of electricity generating infrastructure and/or the installation or replacement of overhead electric lines.

#### **4.1.9 Appeals, Notices of Local Review and Call-ins**

Responses to planning appeals or notices of local review or in relation to ministerial call-ins and participation on behalf of the Park Authority in any further procedure in relation to any appeal, notice of local review or call-in of any application including responding to further information requests, and presenting the Park Authority's case at any hearing or inquiry;

#### **4.1.10 Environmental Impact Assessment Report**

Determination ('Screening Opinions') on whether or not an application for planning permission should be accompanied by an Environmental Impact Assessment Report pursuant to Regulations 5 and 7 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and the adoption of Scoping Opinions under Regulation 17 of said Regulations;

#### **4.1.11 Pre-Application Consultation Screening (National and Major Applications)**

On receipt of a 'pre-application screening notice', provision of a Screening Opinion on potential planning applications for national or major developments to determine whether an application requires to be the subject of a statutory Pre-Application Consultation under Section 35A(3) of the 1997 Act.

#### **4.1.12 Proposal of Application Notice (National and Major Applications)**

On receipt of a 'Proposal of Application Notice', provision of formal comment within 21 days on the consultations the applicant proposes to undertake under Section 35B(7) of the 1997 Act, notifying persons (other than those who are to be consulted as respects a proposed application) who should receive the Proposal of Application Notice and of any other consultation activity that must be undertaken as regards the proposed development;

#### **4.1.13 Certificates of Lawful Use**

The determination of applications for (1) certificates of lawfulness of existing use or development and (2) certificates of proposed lawfulness of use or development under the provisions of Section 150 and 151 respectively of the 1997 Act;

#### **4.1.14 Tree Preservation Orders and Trees in Conservation Areas**

(1) Making a tree preservation order in terms of section 160 of the 1997 Act and confirmation of tree preservation under Section 161 of the 1997 Act where there is no valid objection made to the order (declaring that the Appointed Officer shall be obliged to record a statement of reasons in relation to that confirmation), (2) serving an enforcement notice under section 168 or section 174 of the 1997 Act including acting on behalf of the Park Authority in any related appeal or any related compensation claim and (3) reporting any offences relating to protected trees to the procurator fiscal. For the avoidance of doubt a tree preservation order that is subject to a valid objection must be put to the Planning and Access Committee for a decision on whether or not it should be confirmed under section 161 of the 1997 Act.



**4.1.15** Determination of minor or uncontroversial applications for the lopping, topping or felling of trees protected by a Tree Preservation Order, and to respond to notifications relating to works to trees in Conservation Areas.

**4.1.16 Land Entry**

Authorisation of appropriate officers or persons to enter land pursuant to:

- 1 Sections 156, 176, and 269 of the 1997 Act;
- 2 Section 76 of the Listed Buildings Act 1997;
- 3 Section 33 of the Hazardous Substances Act 1997;
- 4 Sections 24 and 26 of the Land Reform (Scotland) Act 2003; and

and authorisation of applications for warrants to be made in connection with the exercise of these powers.

**4.1.17 Notice of Offences Relating to Waste Disposal**

Authorisation of appropriate officers or persons to issue notices pursuant to sections 33A and 88 of the Environmental Protection Act 1990

**4.1.18 Notice Requiring Application for Planning Permission for Development Already Carried Out**

Where there is a breach of planning control to issue a Notice under Section 33A of the 1997 Act requiring the owner of the land in, on, over or under which the development has been carried out to make a retrospective planning application for the unauthorised development that has taken place.

**4.1.19 Enforcement Notices<sup>1\*</sup>**

The service of an Enforcement Notice under the provisions of Sections 127 of the 1997 Act or Section 34 of the Listed Buildings Act 1997.

**4.1.20 Stop Notices\***

The service of a Stop Notice under the provisions of Section 140 of the 1997 Act.

**4.1.21 Temporary Stop Notices\***

The service of a Temporary Stop Notice under the provisions of Section 144A of the 1997 Act.

**4.1.22 Planning Obligations\***

Enforcing the terms of any planning obligation and doing so through court action if necessary.

**4.1.23 Interdicts\***

the making of an application for an Interdict to an appropriate court under the provisions of Section 146 of the 1997 Act.

**4.1.24 Advertisements\***

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<sup>1\*</sup> In all cases the Appointed Officer shall consult with the Chair (or in their absence the Depute Chair) of the Planning and Access Committee  
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In respect of any advertisement displayed in contravention of the provisions of the 1984 Regulations, the making of an application for an Interdict to an appropriate court under the provisions of Section 146 of the 1997 Act.

#### **4.1.25 Notices Requiring Proper Maintenance of Land (Amenity Notices)\***

Service of an 'Amenity Notice' under the provisions of Section 179 of the 1997 Act.

#### **4.1.26 Minor or Technical Breaches of Control**

In respect of any minor or technical breach of planning control, where no significant harm is caused to public amenity, to determine that it would not be expedient for the Park Authority to take enforcement action in order to remedy the situation.

#### **4.1.27 Requisitions for Information**

To require the submission of information as to interests in land under the provisions of Section 272 of the 1997 Act.

#### **4.1.28 Planning Contravention Notices**

To serve a Planning Contravention Notice under the provisions of Section 125 of the 1997 Act, together with the power to receive any representations at a meeting held pursuant to the Notice.

#### **4.1.29 Breach of Condition Notices\***

To serve a Breach of Condition Notice under the provisions of Section 145 of the 1997 Act, or an Enforcement Notice relating to a breach of a condition under the provisions of Section 127 of the 1997 Act.

#### **4.1.30 Advertisement Enforcement Notices**

To serve an Enforcement Notice\* under the provisions of Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984

To exercise powers conferred by Section 187 of the 1997 Act, in relation to the removal or obliteration of placards and posters.

To serve a notice requiring the discontinuance of the display of an advertisement under the provisions of Regulation 14 of the 1984 Regulations.

### **Exclusions that apply to PART B**

The exclusions set out in paragraphs 2.1.1- to 2.1.9 (inclusive) of PART A as they apply to planning applications for Local Development shall apply to any determinations or decision making of an Appointed Officer on any application or request under this PART B. Further, the Director of Place may decide that the particular circumstances of a matter which would in the normal course of events be dealt with under this Scheme of Delegation PART B, are such that the matters should be determined by the Planning and Access Committee or the Park Authority Board (as the case may be)