

Shetland Islands Council

Scheme of Delegations Planning Service

July 2009

Approved by report PL-32-09-F, Special SIC 15 July 2009 – Minute Ref: 104/09

Special Planning Board, 15 July 2009 – Minute Ref: 30/09

Scheme of Delegation

Land Based Planning and Marine Aquaculture

Notes:

1 Officer interest

Any determination on an application involving the direct interests of a member of a Planning Service section involved in the assessing the merits of an application must be taken by the Planning Board or the Council. Any decision involving the interests of the Head of Planning must be taken by the Council, advised by the Executive Director, Infrastructure Services.

2 Council interest

Applications subject of this Scheme in which the Council has an interest and where there are objections will be referred to the Planning Board for a decision.

SEDD Planning Advice Note 82 states that there are different ways in which local authorities might have an "interest" in a development, and therefore stand to benefit in some way from development proceeding. For example:

- Where the council, as well as being the planning authority, is also the developer.
- Where the council has an ownership or financial interest in the land to which the application relates.
- Where the authority is working in partnership with other bodies.
- Where the authority is likely, in future, to enter into a contract or be a future operator in relation to the development.
- Where the developer is financially supported or sponsored by the local authority.

In circumstances when the development is significantly contrary to development plan or is subject to objections from a Government agency, applications will require further referral to the Scottish Ministers.

(Town and Country Planning (Notification of Applications)(Scotland) Direction 2009, SEDD Planning Circular 3/2009 and PAN 82 Local Authority Interest Developments.

3 Head of Planning includes his/her nominee where appropriate.

4 In terms of section 43(A) 1 – the Appointed Person shall be Head of Planning, Service Manager or Lead Officer.

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(and other legislation where indicated)**

National Planning Framework

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
National Planning Framework		1	Recommendations for content of National Planning Framework			x

Development Plans

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Development Plans Strategic Development Plan	4 - 14	1	Representations on Strategic Development Plans			x
Local Development Plans, Development Plan Schemes, Action Programmes and Supplementary Guidance	15-19, 19A, 20, 20A, 20B, 21 & 22	2	Decision to carry out surveys and pursue all other tasks necessary in the preparation and review of the Local Development Plan, Development Plan Schemes, Action Programmes and Supplementary Guidance, including the form and extent of publicity to be undertaken, provided that the expenditure to be incurred is within the appropriate budgets for such work and that no invoice for any item of expenditure exceeds the amounts prescribed by Standing Orders H2 (a) and (b) which, in this Scheme, includes any amendment or replacement of such Standing Orders, from time to time; this includes the work involved in preparing shorter-term or ad hoc policy; contributing to joint studies with other agencies which will provide material for the development plan; commissioning external consultants to undertake studies or projects; and the preparation of guidance notes or leaflets for the public which, explain or illustrate policy, and secure them an opportunity to make representations.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
		3	Decision to adopt, significantly alter, repeal or replace a Local Development Plan.			x
		4	Decision to hold a local inquiry to consider objections to a Local Plan or proposals for the adoption, alteration, repeal or replacement of a Local Plan.	x		
		5	Decision to formulate and circulate Development Plan, Interim Planning Policy or Supplementary Guidance draft policies for public consultation.		x	
		6	Decision to approve a new Development Plan Scheme		x	
		7	Decision to approve any revisions to a Development Plan Scheme, which are of a minor nature in the opinion of the Head of Planning.	x		
		8	Decision to approve new Action Programmes		x	
		9	Decision to approve any revisions to Action Programmes which are of a minor nature in the opinion of the Head of Planning.	x		
		10	Decision to adopt new Interim Planning Policy and Supplementary Guidance			x

Development Management

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(Ss 32, 32A 34, 36, 36A., 39, 43)	1	Decisions relating to the procedures to be applied in handling applications, pre-applications, appeals and negotiations under the Planning and related Acts under relevant regulations including decisions to modify the design, content or layout of application forms, a decision to decline to determine an application, the methods of payment acceptable, the completeness or otherwise of any application, the notification, publicity and consultation arrangements to be made, the need for environmental assessment, the maintenance of the Planning Register and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation in relation to a planning application, provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x		
Various inc. Town and Country Planning (Scotland) Act 1997 Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 Planning (Hazardous Substances) (Scotland) Act 1997	(Ss 46, 47 47A, 48, 130, 131 & 169) (Ss 6, 9, 17, 66 & 68) (Ss 18, 19)	2	All decisions relating to the handling of: planning appeals; appeals relating to Listed Building Consent and Conservation Area Consent; appeals against Enforcement Notices; hazardous substances consent appeals; appeals against Notices issued under S 168; negotiations; or the calling in of applications including : (a) the preparation and presentation of the authority's case; and (b) the procedure to be adopted (written representations or public inquiry) except where, in relation to the handling of a call-in or appeal, the Head of Planning or his staff cannot be involved for professional reasons, i.e. where the Council wish to pursue a case which in the opinion of the Head of Planning is not defensible in terms of sound planning. In such cases an external consultant may be engaged to act for the Council.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(Ss 37,38, 38A, 39,41,42 and Part 1 of Schedule 3)	3	<p>Determination of applications for planning permission for National Developments.</p> <ul style="list-style-type: none"> • Pre determination hearings • final decision taken by Full Council. <p>Major Developments which are in the opinion of Head of Planning significantly contrary to the development plan.</p> <ul style="list-style-type: none"> • Pre determination hearings. • final decision taken by Full Council. <p>All Other Major Developments</p> <ul style="list-style-type: none"> • All determinations in line with policy, other than statutory exceptions. • Statutory exceptions, i.e. (a) where application is made by (i) the planning authority or (ii) a member of the planning authority or (b) the application relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest. • Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council, has specifically objected to a proposal, and conditions cannot address those issues. 			
					X	X
				X		
					X	X
					X	
Town and Country Planning (Scotland) Act 1997	(Ss 37,38, , 39,41, 42, 43A and Part 1 of Schedule 3)	4	<p>Determination of applications for planning permission Local Developments</p> <ul style="list-style-type: none"> • All determinations other than specified exceptions. • Statutory exceptions, i.e. (a) where application is made by (i) the planning authority or (ii) a member of the planning authority or (b) the application relates to land in the ownership of the planning authority or to land in which the planning authority have a financial interest. <p>Where a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council, has specifically objected to a proposal, and conditions cannot address those issues.</p>	Appointed person		
					X	
						X

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997 Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997		5	Determination of applications for consent, agreement or approval required by conditions attached to consents.	Appointed person		
Town and Country Planning (General Permitted Development) (Scotland) Order 1992		6	Discharge of conditions requiring the submission and approval of schemes and details in respect of permitted development.	x		
Local Review Body (Town and Country Planning (Scotland) Act 1997)	(S43A)	7	Appeals by applicants against decisions taken by the appointed person on proposals that are classed as Local Developments will be determined by the Planning Board sitting as the Local Review Body.		Local Review Body	
Pre- Application Consultations (Major Developments)	(Ss 35A, 35B)	8	Response to statutory pre-application consultation.	x		
Scheme of Delegation	(S43A)	9	Approval of the Scheme of Delegation to be put before the Scottish Ministers.			x
Good Neighbour Agreements	(S75D)	10	Participation in the promotion and development of good neighbour agreements.	x		

Enforcement

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Enforcement Town and Country Planning (Scotland) Act 1997	(S 61)	11	Decision to serve or withdraw a completion notice where in the opinion of the planning authority the development will not be completed within a reasonable period.	x		
Fixed Penalty Notices Town and Country Planning (Scotland) Act 1997	(Ss 136A, 145A)	12	Decision to serve Fixed Penalty Notice	x		
Temporary Stop Notices	(Ss 144A – D)	13	Decision to serve Temporary Stop Notice	x		
Enforcement Charters	(S158A)	14	Decision to adopt enforcement Charter	x		
Town and Country Planning (Scotland) Act 1997	(S64)	15	Decisions to permit non-material variations of planning permissions, i.e. which do not depart significantly from the proposal originally approved.	x		
	(S65 & 66)	16	Decision to make an order to revoke or modify planning permission where the owner, lessee or occupier of land affected or such other person who in the opinion of the Head of Planning will be affected by the order has objected to the order.		x	
	(S65 & 67)	17	Decision to make an order to revoke or modify planning permission where the owner, lessee and occupier of the land affected and all persons who, in the opinion of the Head of Planning will be affected by the decision, have notified the planning authority in writing that they do not object to the order.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
	(S71 and Schedule 8)	18	Decision to serve an order requiring the discontinuance of a use, the compliance with conditions on the continuance of a use, or the removal of buildings or structures (see Note 1).	x		
Town and Country Planning (Scotland) Act 1997	(Ss88-99)	19	Decisions in response to a Purchase Notice		x	
	(Ss101-122)	20	Decisions in response to a Blight Notice		x	
Town and Country Planning (Scotland) Act 1997	(S125)	21	Decision to serve a Planning Contravention Notice	x		
	(S126)	22	Decision to report any alleged offence in connection with a Planning Contravention Notice to the Procurator-Fiscal.	x		
	(Ss127-129)	23	Decision to serve an Enforcement Notice, within policy or where the Planning Board or Council have made a decision to refuse a proposal.	x		
	(Ss135,136, 170)	24	Decision, following a failure to comply with an Enforcement Notice, or a Notice issued under S.168, to enter land, take action required by the Enforcement Notice or Notice issued under S.168 and attempt to recover costs reasonably incurred in so doing, provided that the estimated costs are within a budget approved for the purpose or available through delegated virement.	x		
	(Ss135,136, 170)	25	Decision, following a failure to comply with an Enforcement Notice or Notice issued under S.168, to enter land, take action required by the Enforcement Notice or Notice issued under S.168 and attempt to recover costs reasonably incurred in so doing, when the estimated costs exceed the approved budget.			x
	(S136)	26	Decision to report to the Procurator-Fiscal any instance of non-compliance with an Enforcement Notice.	x		
	(Ss140,141)	27	Decision to serve a Stop Notice (following, or at the same time as, service of an Enforcement Notice) (see Note 1).	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(S144)	28	Decision to report to the Procurator-Fiscal any instance of non-compliance with a Stop Notice	x		
	(S145)	29	Decision to serve a Breach of Condition Notice	x		
	(S145)	30	Decision to report to the Procurator-Fiscal any instance of non-compliance with a Breach of Condition Notice	x		
	(S146)	31	Decision to seek interdict to restrain a breach of planning control.	x		
	(S146)	32	Decision to seek interdict to restrain a breach of planning control in a case of urgency following approval of the action by the Executive Director Infrastructure Services Director, Infrastructure Services.	x		
	(Ss148,149)	33	Decision to report to the Procurator-Fiscal any instance of failure to comply with an order under S.71 and Schedule 8 of the Act requiring the discontinuance of a use, compliance with conditions on the continuance of a use, or the removal of a building or structure.	x		
	(S150)	34	Decision to issue, or to refuse to issue, a Certificate of Lawfulness of Existing Use or Development, or to issue a letter of comfort.	x		
	(S151)	35	Decision to issue or to refuse to issue a Certificate of Lawfulness of Proposed Use or Development.	x		
Town and Country Planning (Scotland) Act 1997	(S153)	36	Decision to report to the Procurator-Fiscal any instance of the making knowingly of false or misleading statements in connection with any application for the foregoing Certificates.	x		
	(Ss156, 161A,176)	37	Decision to authorise any person to enter land without a warrant in the circumstances specified by the Act.	x		
	(Ss157,177)	38	Decision to apply to the Sheriff for a warrant to enter land.	x		

Special Controls (including trees and waste land)

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(Ss160-162)	1	Decision to make a Tree Preservation Order	x		
	(Ss160-162)	2	Decision to confirm, vary or revoke a Tree Preservation Order			x
	(Ss168)	3	Decision to serve a notice requiring the replacement of trees.	x		
	(Ss171,172)	4	Decision to report to Procurator-Fiscal any offence with respect to a Tree Preservation Order or any tree in a Conservation Area.	x		
	(Ss160)	5	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is in accordance with policy and there have been no objections.	x		
	(Ss160)	6	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is in accordance with policy but there has been an objection.		x	
	(Ss160)	7	Decision to grant consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where the proposed decision is not in accordance with policy.			x
	(Ss172-175)	8	Decision, following notification by a person wishing to undertake the cutting down, topping, lopping or uprooting of a tree in a Conservation Area, to advise the person that the Council consents to the act in question.	x		
	(Ss172-175)	9	Decision to report to the Procurator-Fiscal any act resulting in the cutting down, topping, lopping, uprooting or wilful damage or destruction of trees within a Conservation Area.	x		
	(S179)	10	Decision to serve a Waste Land Notice, within policy.	x		
	(S179,S135)	11	Decision following a failure to comply with the terms of a notice served under S179, to enter land, take action required by the Notice and attempt to recover costs reasonably incurred in so doing, provided that the estimated costs are within a budget approved for such purposes or available through delegated virement.	x		

(S179,S135) 12 Decision, following a failure to comply with the terms of a notice served under S179, to enter land, take action required by the Notice and attempt to recover reasonable costs, reasonably incurred in so doing when the estimated costs exceed the approved budget.

x

Assessment

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Assessment of Planning Authority's performance or Decision Making Town and Country Planning (Scotland) Act 1997	(Ss 251A – D)	1	Preparatory work and agreeing scope of assessment with Scottish Government.	x		
		2	Response to assessment and Action Plan.		X	

Business Improvement Districts

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Planning etc. (Scotland) Act 2006,(Part IX) and BID (Scotland) Regs 2007	33 35-49	1	Participation and development in Business Improvement Districts.	x		
		2	The Council will act as facilitator in the BIDs process, however any proposals relating to the retrieval of a BID Levy as a result of ballots taken by the members of the BIDs group will be subject to the approval by full Council.			x

Miscellaneous & Other Provisions

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(S186)	1	Decision to report to the Procurator-Fiscal any instance of an advertisement displayed in contravention of the Advertisement Regulations.	x		
	(S186)	2	Decision to take enforcement action in respect of an advertisement displayed without consent.	x		
	(Ss186,187)	3	Decision to serve a discontinuance notice in respect of an existing advertisement displayed with deemed consent.		x	
	(S187)	4	Decision to remove or obliterate any placard or poster displayed in contravention of Advertisement Regulations.	x		
Town and Country Planning (Scotland) Act 1997	(S188)	5	Decision to acquire or exchange land or buildings by agreement (after consideration by Planning Board).			x
	(S189)	6	Decision to acquire land compulsorily.			x
	(S191)	7	Decision to dispose of land held for planning purposes (after consideration by Planning Board).			x
	(Ss193,196)	8	Decision to develop or manage land held for planning purposes.			x
Town and Country Planning (Scotland) Act 1997	(Ss 202,207, 208)	9	Decision to promote the stopping up or diversion of a road, footpath or bridleway (after consideration by Infrastructure Committee and Planning Board).			x
	(Ss203,204)	10	Decision to convert road into footpath or bridleway (after consideration by Infrastructure Committee and Planning Board).			x
	(S205)	11	Decision to enhance the amenity of a road reserved for pedestrians (after consideration by Infrastructure Committee and Planning Board).			x
	(S206)	12	Decision to extinguish public rights of way over land held for planning purposes, (where there are no objections after the exercising of the proper processes, in all other cases the decision rests with the Council).		x	

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Town and Country Planning (Scotland) Act 1997	(S269)	13	Decision to authorise any person to enter land for the purposes specified in the Act.	x		
	(S272)	14	Decision to serve notice on an occupier or on a person who receives rent in respect of any land requiring information about the land.	x		
	(S272)	15	Decision to report to the Procurator-Fiscal any instance of failure to provide information in response to a notice under S.272, or of knowingly or recklessly making a mis-statement.	x		
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	(Ss 3,4,5, 54,55,67)	1	Decision to serve a Building Preservation Notice when the decision to do so is outwith Council policy.			x
	(Ss 3,4,5, 54,55,67)	2	Decision to serve a Building Preservation Notice when the decision to do so is within Council policy.		x	
	(Ss 3,4,5, 54,55,67)	3	Decision to serve a Building Preservation Notice in a case of urgency, following approval of the action by the Executive Director Infrastructure Services.	x		
	(Ss 6,7,9,66)	4	Decisions relating to the procedures to be applied in handling applications relating to Listed Building Consent and Conservation Area Consent, including decisions to modify the design, content or layout of application forms, the completeness or otherwise of any application, the publicity and consultation arrangements to be made and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation in relation to such an application, provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2(a) and (b).	x		
	(S8)	5	Decision to refer cases of unauthorised works to a listed building to the Procurator Fiscal.	x		
	(Ss 6,9, 17,66,68)	6	Decision (subject, in appropriate cases, to confirmation by the Scottish Ministers) to grant Listed Building Consent (including consent for demolition) or Conservation Area Consent for demolition, or to vary or discharge conditions attached to a Listed Building Consent or Conservation Area Consent.	x		
	(Ss 21,22)	7	Decision to make an order to revoke or modify Listed Building Consent or Conservation Area Consent where the owner, lessee or occupier of land affected or such other person who in the opinion of the Head of Planning will be affected by the order has objected to the order.			X

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	(Ss 21,23)	8	Decision to make an order to revoke or modify Listed Building Consent or Conservation Area Consent where the owner, lessee or occupier of land affected and all persons who, in the opinion of the Head of Planning will be affected by the decision, have notified the planning authority in writing that they do not object to the order.	x		
	(Ss 28-30)	9	Decisions in response to a Listed Building Purchase Notice.			x
	(S34)	10	Decision to serve Listed Building Enforcement Notice.		x	
	(S34)	11	Decision to serve Listed Building Enforcement Notice in cases of urgency following approval of the action by the Executive Director Infrastructure Services.	x		
	(S38)	12	Decision to enter land, carry out works required by a Listed Building Enforcement Notice and attempt to recover costs.	x		
	(S39)	13	Decision to report to the Procurator-Fiscal any instance of non-compliance with a Listed Building Enforcement Notice.	x		
	(Ss 42,54,55)	14	Decision to acquire compulsorily a Listed Building in need of repair (subject to authorisation from the Secretary of State).			x
	(S43)	15	Decision to serve a Repairs Notice as preliminary to compulsory acquisition.			x
	(S45)	16	Decision to make a direction for minimum compensation in the case of a building deliberately left derelict.			x
	(Ss 48 & 59)	17	Decision to develop or manage land held for planning purposes.			x
(Ss 49,54, 55, 68)	18	Decision to carry out urgent works for the preservation of unoccupied listed buildings where the expenditure involved exceeds the amounts prescribed by Standing Orders H2 (a) and (b) but is within the approved budget following approval of the action by the Executive Director Infrastructure Services.	x			

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	(Ss 49,54, 55,68)	19	Decision to carry out urgent works for the preservation of unoccupied listed buildings where the expenditure involved is within the approved budget and does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x		
	(S50)	20	Decision to seek recovery of expenses incurred in the carrying out of urgent works under S.49 of the Act.	x		
	(Ss 51, 52 & 81(6))	21	The making or alteration of policy in connection with grant assistance for historic buildings or areas (including the development of projects or schemes of works to improve areas and associated grant schemes).		x	
	(Ss 51, 52 & 81(6))	22	Decision as to whether a proposal is eligible for Conservation Grant.	x		
	(Ss 51, 52 & 81(6))	23	Decision to offer Conservation Grant which fall within policy.	x		
	(Ss 51, 52 & 81(6))	24	Decisions on applications for Conservation Grant which are contrary to policy.		x	
	(Ss 60,65)	25	Decision as to whether proposal would affect the character or appearance of a Conservation Area or the setting of a Listed Building, thus determining the arrangements for publicity and representations.	x		
	(Ss 61,62, 64)	26	Decision to carry out survey work in connection with the designation of Conservation Areas.	x		
	(Ss 61,62, 64)	27	Decision to designate, vary or cancel the designation of a Conservation Area).			x
(S63)	28	Decision to formulate proposals for the preservation or enhancement of any Conservation Area.	x			

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997	(S63)	29	Decision to publish proposals for the preservation or enhancement of any Conservation Area.		x	
	(S63)	30	Decision to adopt, following a public meeting, proposals for the enhancement of Conservation Areas.		x	
	(S76)	31	Decision to authorise any person to enter land for the purposes specified in the Act.	x		
	(S79)	32	Decision to seek interdict to restrain a breach of listed building or conservation area control.		x	
	(S79)	33	Decision to seek interdict to restrain a breach of listed building or conservation area control in a case of urgency following approval of the action by the Executive Director Infrastructure Services.	x		
Planning (Hazardous Substances) (Scotland) Act 1997	(Ss 7,8,11-14,16 & 17)	1	Decision to grant, to refuse to grant, to revoke or to modify Hazardous Substances Consent.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
	(S21)	2	Decision to report to the Procurator-Fiscal any contravention of hazardous substances control.	x		
	(S25)	3	Decision to seek interdict to restrain a breach of hazardous substances control.		x	
	(S25)	4	Decision to seek interdict to restrain a breach of hazardous substances control in a case of urgency following approval of the action by the Executive Director Infrastructure Services.	x		
	(S33)	5	Decision to authorise any person to enter land for the purposes specified in the Act	x		
The Countryside (Scotland) Act 1967	(Ss 10-29)	1	Decision to enter into any access agreement, enforce any such agreement, or acquire land in connection with access provision.		x	
	(Ss 30-31)	2	Decision to create, by order or agreement, a public path.		x	
	(S45)	3	Decision to authorise the erection of stiles, gates or other works on a right of way.	x		
	(S46)	4	Decision to take legal action to assert, protect and keep open any public right of way.		x	
	(S46)	5	Decision to take steps, short of legal action, to assert, protect and keep open any right of way.		x	
		6	Decision to deviate Right of Way.	x		
		7	Decision to divert Right of Way where the schedule and procedures for diverting the right of way have been followed and there have been no objections.		x	
		8	Decision to divert right of way where there have been objections (which in the opinion of the Head of Planning cannot be resolved and will result in a Public Inquiry).			x
	(S 52)	9	Decision to undertake works to help people enjoy the countryside, environmental improvement or regeneration (where the works are not included in the Development Plan or other approved council strategy or programme) provided that the expenditure to be incurred is within the appropriate budgets for such work and that no invoice for any item of expenditure exceeds the amounts prescribed by Standing Orders H2 (a) and (b) which, in this Scheme, includes any amendment or replacement of such Standing Orders, from time to time.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Part 1 of the Land Reform (Scotland) Act 2003		1	Decision to assert, protect and keep open an access route (this includes the sanctioning of improvements to that route to facilitate better access including the provision of stile, gates and bridges etc).	x		
		2	Decision to establish the Access Forum.		x	
		3	Decision to develop the Access Strategy.	x		
		4	Decision as to the finalisation Core Path Plan for Shetland.		x	
		5	Decision as to the entering into a path agreement with landowner and tenants.		x	
		6	Decision as to the creation of a path order.		x	
		7	Decision for the temporary removal of access rights from land.	x		
		8	Decision as to the permanent removal of access rights.		x	
The Coast Protection Act 1949	(S4 and onwards)	1	Decisions as to the policies to be operated in connection with the coast protection functions of the authority, including the level of financial resources to be made available for these functions.			x
	(S4 and onwards)	2	Any decision to proceed with, to permit or to offer financial assistance with, any works where such a decision would be contrary to Council policy.			x
	(S4 and onwards)	3	Decisions to approve or to vary any programme of work to be carried out under the Council's coast protection functions provided that, in the opinion of the Head of Planning, that programme or any variation of it is in accordance with the Council's policies and the financial resources made available by the Council for such purposes.		x	
	(S4 and onwards)	4	Decisions required in connection with the implementation of any programme of named coast protection projects approved by the Planning Board, provided that such decisions are in accordance with that programme and the Council's policies and the expenditure proposed to be incurred on each project does not exceed the amount allocated to that project in the approved programme.	x		
	(S4)	5	Decisions to offer grant assistance to any person proposing to undertake coast protection work where the proposal is in accordance with Council policy and the grant assistance to be offered is within the limits for the time being determined by the Council for this purpose.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
	(S12)	6	Any decision to serve a notice requiring the owner to maintain or repair coast protection works.		x	
	(S12)	7	Any decision to carry out urgent works in the circumstances specified in the Act following approval of the action by the Executive Director Infrastructure Services.	x		
	(S13)	8	Any decision to recover from the landowner the cost of repair or maintenance work carried out by the Authority in the circumstances specified in the Act.			x
	(Ss 4, 14)	9	Any decision to acquire land in connection with the Authority's coast protection functions, whether compulsorily or by agreement.			x
	(S16)	10	Decision to serve a notice requiring the removal of unauthorised coast protection works.		x	
	(S16)	11	Decision to recover expenses from an owner when the Council has removed unauthorised works on his or her land.			x
	(S16)	12	Any decision to permit the undertaking of coast protection works by persons other than the Council where the decision to be taken about the works is in accordance with Council policy but an objection has been received.		x	
	(S16)	13	Decisions to permit the undertaking of coast protection works by persons other than the Council where the proposed works are in accordance with Council policy and no objections have been received.	x		
	(S16)	14	Decision to report to the Procurator-Fiscal the carrying out of any coast protection work without the written consent of the Council.	x		
	(S26)	15	Decision to require occupiers of land to provide information about their interest in land.	x		
	(S27)	16	Decision to obtain compulsorily a right of passage over land in connection with coast protection work.		x	
	(S27)	17	Decision to obtain by agreement a right of passage over land in connection with coast protection functions.		x	

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Flooding Prevention and Land Drainage (Scotland) Act 1997		1	Decision submit the Biennial Flood Report		x	
		2	Decision to undertake assessment of watercourses.	x		
		3	Decision to undertake works to a watercourse that will reduce the flooding of non agricultural land.			x
		4	Decision to prepare a flood prevention scheme.			x
Environmental Assessment (Scotland) Act 2005 and the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004			Decision relating to the procedures to be applied in undertaking strategic environmental assessment of any plan, policy or programme being developed by the Planning Service.	x		
The Environmental Impact Assessment (Scotland) Regulations 1999			Decision on the opinion to be given, on receipt of a request in writing, as to whether a proposed development would require an environmental impact assessment and as to the content of an environmental statement, and all other decisions ancillary thereto.	x		
Electricity Act 1989		1	Decisions relating to the procedures to be applied in handling applications, notifications and pre-applications under relevant regulations, the notification, publicity and consultation arrangements to be made, and expenditure on any advice or survey necessary to the making of any decision or the preparation of any recommendation provided that the total cost of such advice or survey in relation to any one application does not exceed the amounts prescribed by Standing Orders H2 (a) and (b).	x		
		2	Decision on content of response to an application to the Scottish Ministers for consent.			x

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
Consultations from external bodies on proposed changes to legislation, guidance, advice etc. under various Acts			Content of response where these consultations cover areas delegated to the Head of Planning i.e. procedural matters.	x		
Consultations from external bodies on proposed changes to legislation, guidance, advice etc. under various Acts			Content of response where these consultations cover areas which may result in future changes to policy.		x	
The Building (Scotland) Acts 1959 and 1970	(S4)	1	Decision to refuse a Relaxation of the Building Standards Regulations.		x	
	(S4)	2	Decision to approve a Relaxation of the Building Standards Regulations.	x		
	(S4)	3	Decision on an appeal against refusal of a Relaxation of the Building Standards Regulations by the Building Control Sub-Committee.		x	
	(S6)	4	Decision to issue, or to refuse to issue, a Building Warrant.	x		
	(Ss6, 9)	5	Decision to report to the Procurator-Fiscal any contravention of the Building Acts.	x		
	(S9)	6	Decision to issue, or to refuse to issue, a Certificate of Completion.	x		
		7	Decision to issue, or to refuse to issue, a 'letter of comfort'.	x		
	(Ss10, 13)	8	Decision to issue a Notice relating to a contravention of the Building Regulations.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Building (Scotland) Acts 1959 and 1970	(Ss10, 13)	8	Decision to issue an Order relating to a contravention of the Building Regulations.		x	
	(S13)	9	Decisions necessary to safeguard the public and property, including decision to appoint contractor to undertake repairs or demolition.	x		
The Building (Scotland) Act 2003	(S9)	1	Decision to grant, or refuse to grant, a building warrant.	x		
	(S12)	2	Decision to refer an application to the Scottish Ministers for a View.	x		
	(S18)	3	Decision to accept, or to reject the submission of a completion certificate.	x		
	(Ss22,23)	4	Decision to impose, discharge or vary continuing requirements.	x		
	(S25)	5	Decision to serve, withdraw or vary a building regulations compliance notice.	x		
	(S26)	6	Decision to serve, withdraw or vary a building continuing requirement enforcement notice.	x		
	(S27)	7	Decision to serve, withdraw or vary a building warrant enforcement notice.	x		
	(Ss28,29)	8	Decision to serve, withdraw or vary a defective or dangerous building notice.	x		
	(S29)	9	Decision to carry out urgent work to prevent access and reduce or remove the danger.	x		
	(Ss25, 26, 27, 28, 30)	6	Decision to carry out the work necessary when a notice has not been complied with.		x	
	(S42)	11	Decision to evacuate buildings.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Building (Scotland) Act 2003	(S47)	12	Appeals under Section 47(1) (a) decision under s.3 refusing a dispensation or relaxation. (b) decision under s.9 refusing to grant a building warrant or amendmen. (c) decision under s.14 refusing to extend the period of a limited life building. (d) decision under s.18 rejecting a completion certificate. (e) decision under s.22 imposing continuing requirements. (f) decision under s.23 refusing to discharge or vary a continuing requirement. (g) a building regulations compliance notice, a continuing requirement enforcement notice, a building warrant enforcement notice, a defective building notice and a dangerous building notice.	x		
	(S48)	13	Decision to report to the Procurator-Fiscal any contravention of the Building Acts.	x		
The Building (Scotland) Act 2003		14	Decision to issue, or refuse to issue, a 'letter of comfort'.	x		
The Theatres Act 1968		1	Decision to issue a Licence	x		
		2	Decision to refuse to issue a Licence		x	
The Cinemas Act 1985		1	Decision to issue a Licence	x		
		2	Decision to refuse to issue a Licence		x	
The Hypnotism Act 1952		1	Decision to issue a Licence	x		
		2	Decision to refuse to issue a Licence		x	

Marine Based Developments (except Aquaculture)

Note: this section should be a copy of that at land/marine aqua planning.

Notes:

- 1 Any decision involving the interests of a member of staff in the Marine Management Department must be taken by the Planning Board or the Council. Any decision involving the interests of the Coastal Zone Manager must be taken by the Council, advised by the Executive Director Infrastructure Services.
- 2 Applications subject of this Scheme in which the Council has an interest and where there are objections will be referred to the Planning Board for a decision.

SEDD Planning Advice Note 82 states that there are different ways in which local authorities might have an "interest" in a development, and therefore stand to benefit in some way from development proceeding. For example:
 - o Where the council, as well as being the planning authority, is also the developer.
 - o Where the council is the landowner, and so would gain a capital receipt for sale or lease of its land.
 - o Where the authority is working in partnership with other bodies.
 - o Where the authority is likely, in future, to enter into a contract or be a future operator in relation to the development.
 - o Where the developer is financially supported or sponsored by the local authority.
- 3 In circumstances where the decision will be within policy, and the only objections are either non-material considerations, minor in nature or number, or can be dealt with by condition, delegated powers shall be granted to *Head of Planning*, after consultation with the Chair of the Planning Board or his / her nominee.
- 4 *Head of Planning* includes his/her nominee.

Marine Based Development

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Zetland County Council Act 1974 (as amended*) (powers in connection with Works Licences)	(S11)	1	Decision to approve or amend policy relating to the licensing of works in the coastal area.			x
	(S11)	2	Decision to approve or refuse the granting of a Works Licence or any variation or transfer of an existing licence when such a decision would be, in the opinion of the Head of Planning, contrary to or not covered by Council policy.			x
	(S11)	3	Decision to approve or refuse the granting of a Works Licence or any variation or transfer of an existing licence where the proposed decision is, in the opinion of the Head of Planning, within Council policy where an objection has been received.		x	
	(S11)	4	Decision to approve or refuse the granting of a Works Licence or any variation or transfer of an existing licence where the proposed decision is, in the opinion of the Head of Planning, within Council policy and no objection has been received.	x		
	(S12)	5	Decision to approve or refuse the granting of a Licence to Dredge or any variation or transfer of an existing licence when such a decision would be, in the opinion of the Head of Planning, contrary to or not covered by Council policy.			x
	(S12)	6	Decision to approve or refuse the granting of a Licence to Dredge or any variation or transfer of an existing licence where the proposed decision is, in the opinion of the Head of Planning, within Council policy where an objection has been received.		x	
	(S12)	7	Decision to approve or refuse the granting of a Licence to Dredge or any variation or transfer of an existing licence where the proposed decision is, in the opinion of the Head of Planning, within Council policy and no objection has been received.	x		

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Zetland County Council Act 1974 (powers in connection with Works Licences) (continued)	(S14)	8	Decision to report to the Procurator-Fiscal any alleged breach or contravention of the provisions of the Act.	x		
	(S11)	9	Decision to revoke a Works Licence where there are no objections to doing so.	x		
	(S11)	10	Decision to revoke a Works Licence where there are objections to doing so.		x	
	(S13)	11	Give effect to any requirement made by Scottish Ministers under subsection 4 following appeal of Council decision on works licence application.	x		

The Town and Country Planning (Marine Fish farming)(Scotland) Order 2007 amends the ZCC Act such that works licences shall not be granted for fish farm developments. For such developments the Scheme of Delegation in relation to planning applications shall apply with any necessary modifications in light of the 2007 Order.

Legislation/ Subject Matter	Section(s)	No.	Decision	Head of Planning	Planning Board	Council
The Environmental Impact Assessment (Scotland) Regulations 1999*	Reg 5	1	Decision on the opinion to be given, on receipt of a request in writing, as to whether a proposed development would require an environmental impact assessment and as to the content of an environmental statement, and all other decisions ancillary thereto.	x		
	Reg 7	2	Decision that an application for planning permission cannot be granted until the Council has considered environmental information.	x		
	Regs. 10, 13*, 14 & 19	3	Decisions relating to the scope of environmental information, procedures to be applied in response to the submission of environmental information accompanying an application for planning permission, including decisions relating to the publicity and consultation arrangements to be made, expenditure within an approved budget and of no more than the amounts prescribed by Standing Orders H2 (a) and (b) on any advice necessary to judge the environmental information; and decisions relating to the completeness, or otherwise, of the environmental information; and decisions relating to the charges to be made for providing copies of an environmental statement.	x		

*As amended by the Town and Country Planning (Marine Fish Farming)(Scotland) Order. Preparation of guidance notes and additional information will be delegated to the Head of Planning