CARLISLE CITY COUNCIL

Report to:- **The Mayor and Members of the Annual Council**

Date of Meeting:- 22 May 2006 **Agenda Item No:-**

Public	**Operational**	**Delegated: Yes**

Accompanying Comments and Statements	**Required**	**Included**
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	Yes
Personnel Comments:	No	No
Impact on Customers:	No	No

Title:- COUNCIL SCHEME OF DELEGATION 2006/07

Report of:- Director of Legal and Democratic Services

Report reference:- LDS.31/06

Summary:-

As required under the Council's Procedure Rules the Council's Scheme of Delegation for municipal year 2006/07 is attached.

Recommendation:-

That the Council's Scheme of Delegation for 2006/07 as attached be received and approved.

Contact Officer: Ian Dixon **Ext:** 7033

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

Part 3

Responsibility for Functions

APPENDIX 1

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

References in this Constitution to "the Functions Regulations" means the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)

Function	Decision making body	Membership	Delegation of functions
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Functions Regulations, or other than a licensing, consent, permission or registration function (including development control functions)	The executive	The leader and between 2 and 9 other members of the authority, appointed by the leader	See the leader's scheme of delegation in Part 3 for details.
2. Any function under a local Act in respect of a licensing, consent, permission or registration function (including development control functions)	Regulatory Panel or (in respect of any development control functions) Development Control Committee	12 members of the authority respectively	The Director of Legal and Democratic Services in respect of the grant (but not refusal) of such licenses, consents, permissions or registrations (other than in respect of development control functions) and in respect of the commencement of any enforcement proceedings relating to such matters. The Director of Development Services in respect of licences, consents, permissions or registrations in respect of any development control functions.

Function	Decision making body	Membership	Delegation of functions
3. The determination of an appeal against any decision made by or on behalf of the authority including (but without limitation) appeals in respect of matters relating to disciplinary and employment, licensing, housing scheme of allocation, grant applications, homelessness determinations, excess charge notices, housing and Council tax benefits and determining complaints under the Council's complaints procedure.	Appeals Panels (3)	3 members on each Panel	-
4. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998	The Council	52 members of the authority	-
5. The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999 (as amended).	Overview and scrutiny committees (3)	8 members of the authority on each Overview and Scrutiny Committee	Overview and scrutiny Committees carry out best value reviews in areas allocated to them by the Overview and scrutiny management committee and make recommendations to the executive and the Council

Function	Decision making body	Membership	Delegation of functions
6. Any function relating to contaminated land (other than a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of a person or the enforcement of any of the above)	The executive	The leader and between 2 and 9 other members of the authority appointed by the leader	The Director of Community .Services. See the Leader's Scheme of Delegation in Part 3 for details
7. Any function relating to contaminated land involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above	Regulatory Panel	12 members of the authority	The Director of Community Services in respect of the grant (but not refusal) of such licence, approval, consent, permission or registration and the service of any notice and commencement of any enforcement proceedings
8. The discharge of any function relating to the control of pollution or the management of air quality other than a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	The executive	The leader and between 2 and 9 other members of the authority appointed by the leader	The Director of Community Services See the Leader's Scheme of Delegation in Part 3 for details

Function	Decision making body	Membership	Delegation of functions
9. The discharge of any function relating to the control of pollution or the management of air quality involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above	Regulatory Panel	12 members of the authority	The Director of Community Services in respect of the grant (but not refusal) of such licence, approval, consent, permission or registration and the service of any notice and the commencement of enforcement proceedings
10. The service of an abatement notice in respect of a statutory nuisance	Regulatory Panel	12 members of the authority	The Director of Community Services in respect of the service of such notices and the Director of Legal and Democratic Services in respect of the commencement of enforcement proceedings
11. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	The executive	The leader and between 2 and 9 other members of the authority appointed by the leader	-

Function	Decision making body	Membership	Delegation of functions
12. The inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above	Regulatory Panel	12 members of the authority	The Director of Community Services in respect of the grant (but not refusal) of such licence, approval, consent, permission or registration and the service of any statutory notice and the commencement of enforcement proceedings
13. Matters relating to the inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance other than matters involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	The executive	The leader and between 2 and 9 other members of the authority appointed by the leader	The Director of Community Services See the Leader's Scheme of Delegation in Part 3 for details

Function	Decision making body	Membership	Delegation of functions
14. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Development Control Committee and (in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only) the executive	12 members of the Development Control Committee and the leader and between 2 and 9 other members of the authority appointed by the leader in respect of the executive	The relevant Director in respect of the service of such notices in their relevant areas of responsibility and in addition the Director of Legal and Democratic Services in respect of both the service of any such notices and subsequent enforcement action for non-compliance
15. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The executive (in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only) and the Development Control Committee and the Regulatory Panel in connection with each of their respective functions	The leader and between 2 and 9 other members of the authority appointed by the leader in respect of the executive, 12 members in respect of the Development Control Committee and 12 members in respect of the Regulatory Panel	The relevant Director in respect of service of such notices in their relevant areas of responsibility and in addition the Director of Legal and Democratic Services in respect of both the service of any such notices and subsequent enforcement action for non-compliance
16. The making of agreements for the execution of highways works (to the extent that the authority has power to do so)	Development Control Committee	12 members of the authority	The Director of Legal and Democratic Services on instruction from either of the Directors of Community or Development Services.

Function	Decision making body	Membership	Delegation of functions
17. The appointment or revocation of the appointment of any individual to any office (other than an office in which he/she is employed by the authority) or to any body (other than the authority or a joint committee of two or more authorities) or to any committee or sub-committee of such a body	The executive in connection with functions which are the responsibility of the executive and the Council in all other cases	The leader and between 2 and 9 other members of the authority appointed by the leader in respect of the executive and 52 members of the authority in respect of the Council	-
18. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	The executive, except to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the executive, where the function will be the responsibility of the Council.	The leader and between 2 and 9 other members of the authority appointed by the leader in respect of the executive and 52 members of the authority in respect of the Council	-

2A. **RESPONSIBILITY FOR COUNCIL FUNCTIONS**

Committee	Membership	Functions	Delegation of functions
Development Control Committee	12 members of the authority	**Planning and Conservation** Functions relating to town and country planning and development control as specified in Schedule 1 to the Functions Regulations **Trees and hedgerows** The exercise of powers relating to the preservation of trees and the protection of important hedgerows as specified in Schedule 1 of the Functions Regulations **Highways use and regulation** The exercise of powers relating to the regulation of the use of highways and public rights of way (including the making of limestone pavement orders) as set out in Schedule 1 to the Functions Regulations in so far as the Council has power to do so. For the avoidance of doubt, the above powers and functions include power in respect of any approval, consent or other matter for which the Committee is responsible: • to impose any condition, limitation or other restriction or other terms. • to determine whether and in what manner to enforce any failure to comply with the same. • to amend, vary, modify or revoke the same or any condition, limitation or term thereof.	See Section 2B for details of the delegation of town and country planning and development control functions and functions relating to trees, hedgerows and highways to the Directors of Development and Legal and Democratic Services.

Committee	Membership	Functions	Delegation of functions
Regulatory Panel	12 members of the authority	**Taxi, gaming, food, miscellaneous licensing and health and safety functions (other than Licensing Act 2003 functions)** Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations **(other than Licensing Act 2003 functions)** together with power to make closing orders with respect to take-away food shops and all other licensing functions for which the Council may be responsible. For the avoidance of doubt, this includes power in respect of any approval, consent, licence, permission or registration for which the Committee is responsible :- • **to set the amount of any charge to be made** • **to impose any condition, limitation or other restriction or other terms** • **to determine whether and in what manner to enforce any failure to comply with the same** • **to amend, vary modify or revoke the same or any condition, limitation or term thereof** **Health and Safety** Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.	See Section 2B for details of the delegation of licensing and registration functions to each of the Directors of Legal and Democratic, Community and Development Services.

Committee	Membership	Functions	Delegation of functions
Licensing Committee	12 members of the authority	**Functions under the Licensing Act 2003** All functions relating to licensing and registration set out in the Licensing Act 2003 insofar as they are not specifically designated in the Act as being the function of the Council or some other body. Note: For the avoidance of doubt, the Licensing Committee will be empowered (as far as it is legally able to do so) to form such sub-committees as it thinks fit to deal with any matter which the Committee itself is empowered to deal with.	The Licensing Committee will establish sub-committees of 3 members each and operate a scheme of delegation in accordance with Schedule 1 to this Section 2A. See Section 2B for details of the delegation of Licensing Act 2003 functions to the Director of Legal and Democratic Services, and the Licensing Manager.

Committee	Membership	Functions	Delegation of functions
Standards Committee	5 members of the authority other than the Leader, 1 Parish Council Member and 2 Independent Members	**The promotion and maintenance of high standards of conduct within the Council** To advise the Council on the adoption or revision of its Code of Conduct. To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under Section 80- of the Local Government Act 2000. **Assistance to members and co-opted members of the authority** To ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code. **Other functions** • Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000. • Advising the Council on the adoption or revision of any relevant supporting protocols relating to standards of conduct by members, monitoring the operation of such protocols and providing training for members on them, and determining any allegations of a breach of such protocols by members in accordance with procedures adopted by the Committee.	

Committee	Membership	Functions	Delegation of functions
		• Granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members Code of Conduct. • Dealing with reports from case tribunals or interim case tribunals and the Monitoring Officer. • Overview of internal and external audit, complaints handling and Ombudsman investigations and whistle blowing policy. **Parish Council functions** • To carry out all the above functions in respect of Parish Councils and their members for which the City Council is responsible in accordance with Section 55 of the Local Government Act 2000.	
Employment Panel	6 members of the authority including at least one member of the Executive	To shortlist and interview candidates for Chief Officer posts and recommend appointments to the full Council. To take decisions in connection with the appointment of staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal) but only to the extent that such matters have not been reserved to the Council, the Appeals Panels or delegated to any officer or other body under this Constitution.	

Committee	Membership	Functions	Delegation of functions
Audit Committee	7 members of the authority excluding members of the Executive and the Chairs of the Overview and Scrutiny Committees.	To undertake all the functions of an Audit Committee in accordance with the Rules of Governance set out in the following pages.	Such functions as may be delegated under the Rules of Governance set out in the following pages.

AUDIT COMMITTEE

RULES OF GOVERNANCE

1. STATEMENT OF PURPOSE

1.1 The purpose of an Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

2. TERMS OF REFERENCE

2.1 Audit Activity

To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.

To consider summaries of specific internal audit reports as requested.

To consider reports dealing with the management and performance of the providers of internal audit services.

To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.

To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

To consider specific reports as agreed with the external auditor.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To liaise with the Audit Commission over the appointment of the Council's external auditor.

To commission work from internal and external audit.

2.2 Regulatory Framework

To maintain an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Regulations and financial Codes of Conduct and Behaviour.

To review any issue referred to it by the Town Clerk and Chief Executive or a Director, or any Council body.

To monitor the effective development and operation of risk management and corporate governance in the Council.

To monitor Council policies on “Raising Concerns at Work” and the anti-fraud and anti-corruption strategy and the Council’s complaints process.

To oversee the production of the authority’s Statement on Internal Control and to recommend its adoption.

To consider the Council’s arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

To consider the Council’s compliance with its own and other published standards and controls.

2.3 **Accounts**

To review the Annual Statement of Accounts and to make recommendations to Council in respect of the approval of the Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

To consider the external auditor’s report to those charged with governance on issues arising from the audit of the accounts.

3. ACCOUNTABILITY

3.1 The Audit Committee will be a stand alone Committee of the Council. All Audit Committee members will act in the interests of the Council and not on behalf of any political party, constituency, ward, or interest group.

3.2 The Chairman of the Audit Committee will be appointed by the Committee. The Chairman and the Committee will ensure that relevant issues are promptly brought to the attention of the Executive, Overview and Scrutiny and Regulatory Committees or the full Council.

3.3 The Chairman of the Audit Committee will present an Annual Report on the work of the Audit Committee to the full Council.

4. AUTHORITY AND ACCESS

4.1 The Audit Committee has a right to request relevant information from appropriate or relevant Members and Officers of the Council.

4.2 The Audit Committee will not be able to transact the powers, functions and duties reserved to the full Council, the Executive, Overview and Scrutiny and other Regulatory Committees.

4.3 The Audit Committee will have access to in-house financial, legal and any other professional advice necessary to carry out its functions.

4.4 The Chairman of the Audit Committee and the external and internal auditor will meet as necessary and the Council's Head of Audit Services will provide necessary services and support and assistance to the Audit Committee.

4.5 Any Member, Officer or member of the public who has any concern covered by the Terms of Reference of the Audit Committee may raise the matter with the Chairman of the Committee who will obtain, if necessary, relevant advice from the Council's Monitoring Officer or the Section 151 Finance Officer before taking any action with regard to the same.

5. MEMBERSHIP

5.1 Audit Committee members will be appointed by the Council and consist of 7 members in accordance with the rules governing political balance. No member of the Executive and no chair of the Overview and Scrutiny Committees will be eligible to be a member of the Audit Committee.

5.2 The Audit Committee will be provided with administrative support by the Legal and Democratic Services Department and reports/decisions of the Audit Committee will be recorded and published on CMIS in the usual way. The People, Policy and Performance Directorate will provide technical support to the Committee when required. As the decisions of the Audit Committee will not be of an and executive nature, the decisions will not be the subject of a request for call-in. If any Member is concerned about any decision of the Audit Committee, s/he should raise the matter with the Chairman of the Audit Committee, the Monitoring Officer, the Section 151 Finance Officer and/or ask an oral question of the Chairman of the Audit Committee at the Council meeting in accordance with the relevant Council Procedure Rules.

6. ATTENDANCE

6.1 The Audit Committee shall meet on a regular basis as provided for in paragraph 7 below. Officers and others may attend all or part of the meeting at the invitation of the Committee. Attendees will usually include:

- The Leader or Deputy Leader
- The Portfolio Holder for Finance
- Town Clerk and Chief Executive
- Director of Corporate Services (Section 151 Finance Officer)
- Director of Legal and Democratic Services (Monitoring Officer)
- Head of Audit Services
- Other Directors and Managers, as required

6.2 Subject to the relevant meeting complying with the Access to Information paragraphs for the exclusion of members of the public, the Audit Committee will at least annually meet :

(i) in private, with the external and internal auditors together; and/or

(ii) in private, with the external auditor.

7. MEETINGS

7.1 The Audit Committee will meet at least four times a year in accordance with the schedule of meetings agreed by the Council. The External Auditor or the Head of Audit Services may request a meeting if they consider it necessary and other special meetings may be called in accordance with the Council's Procedure Rules. Appendix A contains an outline Audit Committee timetable.

7.2 The members of the Audit Committee will commit to receiving appropriate training and development necessary to fulfil their roles.

8. QUORUM

8.1 The quorum for any meeting will be one quarter of the elected members of the Committee, subject to there being not less than two elected members present at any time.

9. WORK PROFILE OF THE AUDIT COMMITTEE

9.1 In furtherance of the Terms of Reference and not otherwise, the Audit Committee is likely to receive and advise upon the following areas of work :

- Whether there is an appropriate culture of risk management and related control throughout the Council;
- the annual Statement on Internal Control (SIC);

- the annual Statement of Accounts, including changes in and compliance with accounting policies and practices, major judgemental areas and significant adjustments resulting from the audit;
- significant changes required to Financial Procedure Rules and the Contracts Procedure Rules.
- the framework and processes for risk assessment, analysis and management within the Council;
- the effective co-ordination between internal and external audit;
- the budget needed to resource effective internal and external audit and other responsibilities of the Audit Committee; and
- generally, on how the Audit Committee could add value to the work and operation of the Council.

9.2 External Audit and Inspection Agencies

- To note the fees and terms of engagement of the external auditor.
- To review the planned programme of work with the external auditor.
- To consider the annual statutory audit and to advise the Executive on any response to any audit management letters, reports and investigations, including Value for Money studies and other inspection reports.
- To review whether agreed external or internal audit or inspection recommendations have been implemented by the Executive as timetabled.
- To discuss with the external auditor any problems, reservations or issues arising from the interim or final audit or other investigations.
- To review the external auditor's independence and objectivity and annually appraise the Executive on the effectiveness and value for money of the external audit service.

9.3 Corporate Governance Framework

- To review and advise the Executive on the embedding and maintenance of an effective system of corporate governance including internal control and risk management.
- To give an assurance to the Council that there is a sufficient and systematic review of the corporate governance, internal control and risk management arrangements within the Council.

- To review the Statement on Internal Control and make appropriate recommendations to the Council, the Executive, the Overview and Scrutiny and Regulatory Committees.
- To ensure that any significant weaknesses identified are remedied.
- To commission, if necessary, any relevant investigations into matters of particular concern relating to internal control.
- To ensure that the impact of any alleged or fraudulent activity on the Council's framework of internal control is reviewed and, where necessary, to recommend changes to strengthen the control framework.
- To receive reports relating to those aspects of whistle blowing or alleged or actual fraudulent activity which relate to the Terms of Reference of the Audit Committee.

9.4 Internal Audit

To review and make recommendations to the Executive regarding :

- The effectiveness of internal audit;
- the internal audit function to ensure it is adequately resourced;
- the internal audit strategy, annual plan and to monitor delivery of the plan;
- any internal audit protocols and policies;
- significant audit findings, together with the response from managers to these reports;
- any difficulties encountered by internal audit including any restrictions on the scope of activities or access to required information;
- agreed internal audit recommendations to ensure they are implemented by management as timetabled; and
- the annual report from the Head of Audit Services.

9.5 Other

To consider and make recommendations to the Executive on :

- the selection and terms of appointment of other appropriate advisors and consultants;
- governance issues relating to the operation of the Audit Committee, and

- the proportionality, independence, and appropriateness of any of the Council's policies relating to any audit or governance matters;
- such other matters of an audit, financial or governance nature as fall within the terms of reference of the Committee or as may be referred by the Council;

APPENDIX A

DRAFT AUDIT COMMITTEE TIMETABLE

	Agenda Item/Issue	April	July	October	January
1	Review of internal audit annual plan.	X			
2	Review of internal audit progress reports and summary of key findings.	X	X	X	X
3	Review of final accounts timetable and plans.				X
4	Review of annual account progress.	X			
5	Review of Statement on Internal Control to accompany the final accounts.	X			
6	Review of external audit annual plan.	X			
7	Receipt of annual internal audit report.		X		

8	Review of audited final accounts and financial statements.		X		
9	Review of External Audit annual letter.				X
10	Private discussions with internal and external audit			X	
11	Self assessment of Audit Committees' effectiveness				X
12	Briefing/update sessions			X	X
13	Review of other reports and policies as appropriate e.g. changes to Financial Regulations.	X	X	X	X

SECTION 2A

SCHEDULE 1

LICENSING COMMITTEE DELEGATION OF FUNCTIONS

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Applications for interim authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	

2B DELEGATION OF COUNCIL FUNCTIONS TO THE COUNCIL'S OFFICERS

1. Town and Country Planning and Development Control, trees and hedgerows and highways use and regulation matters delegated to the Director of Development Services

1.1 In consultation with the Chairman of the Development Control Committee to determine all planning applications and to make observations on all statutory and other notifications except:-

(i) Where the determination or observation would be contrary to the provisions of an approved development plan eg Regional Spatial Strategy, the Cumbria and Lake District Joint Structure Plan, the Carlisle District Local Plan or any successor plan.

(ii) Where the determination or observation would be contrary to an approved City Council Planning Policy or to an approved City Council Supplementary Planning guidance.

(iii) Where the determination or observation would be contrary to a previous decision of either the Development Control Committee or the Council.

(iv) Where the determination or observation would be contrary to a recommendation of a Statutory Consultee.

(v) Where the determination or observation rests upon issues which are not addressed by specific Council policies or guidance.

(vi) Where, within 21 days of publication in the press or the despatch of written consultation or the erection of a site notice, the proposal or application generates written or verbal comments from more than three objections from separate households or other interested parties and which are contrary to the prospective decision, unless:

(a) The written or verbal comments do not refer to a material planning consideration.

(b) The objections relate to a matter where the Council relies on expert opinion from a statutory consultee, and that statutory consultee’s views concur with the prospective decision on the application.

(c) The application is in respect of a reserved matters application or a renewal of a permission and the objections refer to the principle of that development rather than the details of the application and there have been no material alterations in

terms of the policy background since the approval of the earlier application for the development.

(d) The objections are in respect of a reserved matters application or renewal of a permission and relates to minor changes in detail or materials.

(e) The application is in all respects fully in accordance with the Development Plan and other Planning Policy Guidance.

(vii) Where any Member notifies the Director of Development Services in writing within 21 days of the despatch of the weekly list of planning applications that he or she wishes the application to be referred to the Development Control Committee for determination.

(viii) Where the Director of Development Services in consultation with the Chairman is of the view that the application or matter should be referred to the Development Control Committee for determination.

1.2 To refer to the Office of the Deputy Prime Minister applications for listed building consent submitted by the City Council for alterations or additions to listed buildings owned by the City Council and for which the Secretary of State's consent would be required.

1.3 To approve or disapprove any of the following matters when reserved or made the subject of conditions, in a Planning Consent:

(i) Materials to be used externally on buildings

(ii) Landscaping and tree planting proposals and tree replacements

(iii) Finish of boundary walls and fences

(iv) Finish of parking areas

1.4 To determine applications submitted under Section 64 of the Town and Country Planning Act 1990 (whether planning permission is necessary) and to determine whether development that falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 requires an Environmental Impact Assessment.

1.5 To determine applications for Certificates of Lawful Use or Development

1.6 To exercise the powers and duties of the Council under Sections 211 to 214 of the Town and Country Planning Act 1990 in so far as they relate to responding to notifications of intention to fell trees in Conservation Areas in respect of garden trees and to compiling a register under Section 214 of the said Act.

1.7 To approve or refuse works to trees including felling, pruning and requirements to replant in respect of trees subject to Tree Preservation Orders.

1.8 To authorise in writing such person or persons as he deems fit in order to exercise the right of entry conferred by Section 324 of the Town and Country Planning Act 1990 ie to survey land for the purposes of development in connection with applications for planning permission etc and the maintaining and servicing of orders or notices under the Act. Further to authorise in writing such person or persons as he deems fit in order that such person or persons may exercise the rights of entry for enforcement purposes set out in Sections 11 of the Planning and Compensation Act 1991 and 196A, 196B and 196C of the said 1990 Act (Planning Control); Section 23 of the said 1991 Act and Sections 214B, 214C and 214D of the said 1990 Act (Trees); and Section 25 and Schedule 3 of the said 1991 Act and Sections 88, 88A and 88B of the Planning (Listed Buildings and Conservation Areas) Act 1990; and Sections 35, 36A and 36B of the Planning (Hazardous Substances) Act 1990 (Hazardous Substances) and Section 95 of the Building Act 1984 and Sections 12 and 13 of the Hedgerow Regulations 1997 and Section 74 of the Anti-Social Behaviour Act 2003.

1.9 In consultation with the Director of Legal and Democratic Services to make and, in the absence of any objections, to confirm Tree Preservation Orders.

1.10 To take any action which may be required to be taken by or on behalf of the Council pursuant to its duties and responsibilities under the Hedgerow Regulations 1997 made under the Environment Act 1995.

1.11 To act as Appointing Officer under Section 10(8) of the Party Wall Etc Act 1996.

1.12 To carry out such other functions relating to town and country planning and development control, trees and hedgerows and highways use and regulation as are set out in Schedule 1 to the Functions Regulations as may be delegated by the Development Control Committee from time to time.

1.13 To approve amendments to S.106 Agreements after prior consultation with the Director of Legal and Democratic Services.

1.14 To authorise the service of any notice, order or other document or proceedings of whatever nature in respect of any matter relating to the functions of the Development Control Committee after consultation with the Director of Legal and Democratic Services in respect of any proposal to institute Court proceedings.

1.15 For the avoidance of doubt, all the powers and duties referred to in paragraphs 1.1 to 1.14 inclusive of Part 2B set out above may also be exercised by the Head of Planning and Housing Services

2. **Town and Country Planning and Development Control, trees and hedgerows and highways use and regulation matters delegated to the Director of Legal and Democratic Services**

2.1 To institute, defend or participate in any legal proceedings in respect of any matter relating to the functions of the Development Control Committee (including the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Development Control Committee or any officer acting under delegated powers or in any case where the Director of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

3. **Taxi, Gaming, Food, Miscellaneous Licensing and Health and Safety functions (other than functions under the Licensing Act 2003) delegated to each of the Directors of Legal and Democratic, Community and Development Services and the Licensing Manager.**

3.1 **Powers delegated to each of the Director of Legal and Democratic Services and the Licensing Manager.**

3.1.1 To grant or renew (but not refuse) any licence, registration, permission or consent for which the Regulatory Panel is responsible other than those delegated in paragraphs 3.2 and 3.3 below to the Directors of Community and Development Services.

3.1.2 To suspend private hire and hackney carriage drivers and operators who contravene the conditions of licence or other relevant legislation until the next meeting of the Regulatory Panel. For the avoidance of doubt, the powers of suspension in this paragraph 3.1.2 may also be exercised by the Licensing Manager.

3.1.3 To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions referred to in this paragraph 3 (including, where not delegated to any other officer, the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Regulatory Panel or any officer acting under delegated powers or in any case where the Director of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

3.2 **Powers delegated to the Director of Community Services**

3.2.1 To exercise any function for which the Regulatory Panel is responsible, including the service of any notice or order, the exercise of any powers of entry and the taking of any other action or proceedings under any relevant legislation or otherwise (after consultation with the Director of Legal and Democratic Services in respect of any proposal to institute court proceedings) in respect of matters relating to:

(i) contaminated land

(ii) the control of pollution or the management of air quality

(iii) the inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance including the service of any abatement notices.

(iv) functions relating to health and safety for which the Regulatory Panel is responsible including, without prejudice to the generality of the foregoing, the service of any Improvement or Prohibition Notices and the institution of legal proceedings under the Health and Safety at Work Etc Act 1974.

3.2.2 All Environmental Health Officers employed by the Council shall be empowered to serve Improvement and Prohibition Notices under the Health and Safety at Work Etc Act 1974 and notices in respect of Statutory Nuisance under the Environmental Protection Act 1990 or any other relevant legislation on having satisfied the Council as to their competence.

3.2.3 In so far as the Council may have such powers:-

- Power to grant a street works licence
- Power to permit deposit of builder's skip on highway
- Power to license planting, retention and maintenance of trees etc in part of highway
- Power to authorise erection of stiles etc on footpaths or bridleways
- Power to license works in relation to buildings etc which obstruct the highway
- Power to consent to temporary deposits or excavation in streets
- Power to dispense with obligation to erect hoarding or fence
- Power to restrict the placing of rails, beams etc over highways
- Power to consent to construction of cellars etc under street
- Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators
- Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highway, and related powers
- Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980
- Power to authorise stopping up or diversion of highway.

3.3 **Powers delegated to Director of Development Services**

- To represent the Council on the Safety Advisory Group which makes recommendations to Cumbria County Council in respect of the issue, amendment or replacement of safety certificates (whether general or special) for sports grounds and the issue, cancellation, amendment or replacement of safety certificates for regulated stands at sports grounds

4. **Functions under the Licensing Act 2003 delegated to the Director of Legal and Democratic Services and the Licensing Manager**

4.1 **Powers delegated to each of the Director of Legal and Democratic Services and the Licensing Manager**

4.1.1 To determine applications for a personal licence where no Police objection is made.

4.1.2 To determine applications for a premises licence and a club premises certificate where no relevant representation is made.

4.1.3 To determine applications for a provisional statement where no relevant representation is made.

4.1.4 To determine applications to vary a premises licence or a club premises certificate where no relevant representation is made.

4.1.5 To determine applications to vary the designated premises supervisor in cases where there is no Police objection.

4.1.6 To determine all requests to be removed as a designated premises supervisor.

4.1.7 To determine applications for the transfer of a premises licence where no Police objection is made.

4.1.8 To determine applications for interim authorities where no Police objection is made.

4.1.9 To determine whether a complaint is irrelevant, frivolous, vexatious etc.

4.2 **Powers delegated to the Director of Legal and Democratic Services**

To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions referred to in this paragraph 4 (including, where not delegated to any other officer, the service of any notice or order or the

exercise of any power of entry) in any case where such action is necessary to give effect to the decisions of the Licensing Committee or any sub-committee or officer acting under delegated powers or in any case where the Director of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

5. **Electoral Registration and Election Matters delegated to the Town Clerk and Chief Executive and the Director of Legal and Democratic Services**

5.1 All functions and powers relating to elections set out in Schedule 1 of the Functions Regulations and (to the extent that they are the functions of the Council and not the executive) all functions and powers relating to electoral registration other than those functions and powers reserved to the full Council under Article 4.02.

5.2 The Director of Legal and Democratic Services shall also be empowered to exercise any of the functions referred to in paragraph 5.1 above.

6. **Calculation and Determination of Council Tax Base Matters Delegated to the Director of Corporate Services**

6.1 Pursuant to its powers under Section 101 of the Local Government Act 1972 and all other enabling powers, the Council delegates to the Director of Corporate Services all the powers and functions of the Council in respect of the calculation and determination of the Council Tax Base referred to in Section 67(2A) and all other relevant sections of the Local Government Finance Act 1992, as amended by Section 84 of the Local Government Act 2003.

7. **Appointment and Management of Officers**

7.1 Under the Officer Employment Procedure Rules in Part 4 of this Constitution the appointment of all officers, other than chief officers as designated under Article 12, is the responsibility of the head of paid service or his/her nominee. Annexed to the Officer Employment Procedure Rules is a protocol prepared by the head of paid service delegating to chief officers responsibility for the appointment of officers within their relevant areas of responsibility and setting out the arrangements to be followed in connection with such appointments.

Responsibility for shortlisting and interviewing chief officers is delegated to the Employment Panel with the Council confirming such appointments.

7.2 Under the Officer Employment Procedure Rules, responsibility for taking disciplinary action against officers (including dismissals) is the responsibility of the head of the authority's paid service or his/her nominee. Annexed to the Officer Employment Procedure Rules is a protocol prepared by the head of paid service delegating to chief officers responsibility for taking disciplinary action against and for the dismissal of officers within their relevant areas of responsibility and setting out arrangements to be followed in connection with such matters.

7.3 Any question arising in respect of the alleged misconduct of a chief officer shall, under the Officer Employment Procedure Rules, also be dealt with by the head of paid service.

7.4 In so far as they are the functions of the Council and not the executive and are not the responsibility of the head of paid service under the Officer Employment Procedure Rules, the Council delegates to chief officers responsibility for all matters relating to the effective management of all officers within their respective areas of responsibility. In particular, for their terms and conditions, deployment, direction, assessment, development and severance in accordance with the Council's plans, strategies, employment policies and conditions of service. Without prejudice or limitation to the generality of the above, this delegation includes responsibility for authorising:

- exceptional leave of absence in accordance with the Council's policies
- the designation of officers as "essential" or "casual" car users or entitlements to a leased car
- any special conditions of service whether for potential or existing officers
- attendance by officers at training courses in accordance with the Council's officer training schemes or at conferences and external meetings
- incremental advancement to new entrants to the Council's service and to officers on lower grades beyond the minimum provision in recognition of special merit

- payment of installation charges and rental calls for staff for whom it is essential that they should have a telephone in their homes
- the implementation of reorganisations and changes within their service unit structures, establishments and areas of responsibility within approved budgets
- the declaration of posts to be redundant and, in consultation with the Director of People, Performance and Policies, to serve or secure the service of any notices and take any other steps which might be necessary to implement such redundancies

7.5 The Director of People, Performance and Policies shall also be empowered to implement national salary and pay awards and changes in subsistence and travelling allowances for officers in accordance (where applicable) with the decisions and recommendations of any national negotiating body relevant to such officers.

8. **General provisions relating to the exercise of delegated powers by Officers**

8.1 Any exercise of any function delegated to an officer by the Council shall be in accordance with the following:

8.1.1 The plans, strategies and policies approved or adopted by the Council.

8.1.2 The budget approved by the Council.

8.1.3 The Contracts Procedure Rules and Financial Procedure Rules of the Council.

8.1.4 The Council's Codes of Practice and Conditions of Employment.

8.1.5 Any legal constraints relating to the exercise of such powers.

81.6 Taking, where necessary, any appropriate financial, legal, valuation and personnel advice.

81.7 Maintaining a close liaison with the appropriate chairman of a committee, sub-committee, panel or working group.

9. Unless otherwise stated, any officer to whom powers have been delegated may, if he/she considers it necessary, arrange for any matter delegated to him/her to be exercised by another officer of suitable seniority.

2C DESIGNATION OF "PROPER OFFICERS"

The following are the Proper Officers of the Council under the enactments shown below. The alternative Proper Officer is also authorised to act.

Section of the Local Government Act 1972 And Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Town Clerk and Chief Executive	Director of Legal and Democratic Services
84 Receipt of Declaration of Resignation of Office	Town Clerk and Chief Executive	Director of Legal and Democratic Services
88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chairman	Town Clerk and Chief Executive	Director of Legal and Democratic Services
89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Town Clerk and Chief Executive	Director of Legal and Democratic Services
96 (1) Receipt of notices of pecuniary interest	Director of Legal and Democratic Services	Town Clerk and Chief Executive
96 (2) Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96 (1)	Director of Legal and Democratic Services	Town Clerk and Chief Executive
115 (b) Receipt of money due from officers	Director of Legal and Democratic Services	Deputy Section 114 Officer
146 (1) (a) and (b) Declarations and service with regard to securities	Director of Corporate Services	Deputy Section 114 Officer

Section of the Local Government Act 1972 And Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
151 Responsibility for the proper administration of the Council's financial affairs	Director of Corporate Services	Deputy Section 114 Officer as appointed by Director of Corporate Services
191 Functions with respect to ordnance survey	Director of Development Services	Head of Planning Services
210 (6) and (7) Charity functions of holders of offices with existing authorities transferred to holders of equivalent offices with new authorities or, if there is no such office, to Proper Officer	Director of Legal and Democratic Services	Town Clerk and Chief Executive
212 (1) Local Register for Land Charges	Director of Legal and Democratic Services	Legal Services Manager
225 (1) Proper Officer function - deposit of documents	Director of Legal and Democratic Services	Town Clerk and Chief Executive
228 (3) Accounts of any Proper Officer to be open to inspection by any Member of the Authority	Director of Corporate Services	Deputy Section 114 Officer
229 (5) Certification of Photographic copies of Documents	Director of Legal and Democratic Services	Town Clerk and Chief Executive
234 Authentication of Documents	Officer authorised in that connection by Standing Orders, by a general delegation or otherwise, or the Director of Legal and Democratic Services in the absence of such authority	Town Clerk and Chief Executive
234 Officer authorised to sign forms of notice to give effect to planning applications	Director of Development Services	Head of Planning Services

Section of the Local Government Act 1972 And Proper Officer's Functions	Proper Officer	Alternative Proper Officer
236 (9) To send copies of byelaws to Parish Council	Director of Legal and Democratic Services	Town Clerk and Chief Executive
238 Certification of byelaws	Director of Legal and Democratic Services	Town Clerk and Chief Executive
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Director of Legal and Democratic Services	Town Clerk and Chief Executive
Schedule 12, Para 4 (3) Receipt of notice regarding address to which summonses to meetings are to be sent	Director of Legal and Democratic Services	Town Clerk and Chief Executive
Schedule 14 Para 25 (7) Certifying resolutions applying or disapplying provisions of Public Health Acts 1875-1961	Director of Legal and Democratic Services	Town Clerk and Chief Executive

Other "Proper Officer" designations are as follows:

1. Local Government (Access to Information) Act 1985 amending the Local Government Act 1972

Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
S.100B (2) Circulation of papers and reports	Director of Legal and Democratic Services	Town Clerk and Chief Executive
S.100B (5) Withholding of reports containing exempt information	Director of Legal and Democratic Services	Town Clerk and Chief Executive

Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
S.100B (7) (c) Supply of papers to press	Director of Legal and Democratic Services	Town Clerk and Chief Executive
S.100C (2) Summaries of Minutes	Director of Legal and Democratic Services	Town Clerk and Chief Executive
S.100D Inspection of background papers	Director of Legal and Democratic Services	The Chief Officer, as appropriate
S.100F Members' right to papers	Director of Legal and Democratic Services	Town Clerk and Chief Executive

2. Representation of the People Acts and Regulations made thereunder

Representation of the People Acts and Regulations made thereunder and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Registration Officer, Returning Officer and Proper Officer functions	Town Clerk and Chief Executive	Director of Legal and Democratic Services

3. Local Government Finance Act 1988

Section of the Local Government Finance Act 1988 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 114 Duty to report etc	Director of Corporate Services	Deputy Section 114 Officer

4. Local Government and Housing Act 1989

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 4 Head of Paid Service	Town Clerk and Chief Executive	
Section 5 Monitoring Officer	Director of Legal and Democratic Services	Deputy Monitoring Officer as appointed by the Director of Legal and Democratic Services
Section 19 and regulations made thereunder. Notices of Members' Interests	Director of Legal and Democratic Services	Town Clerk and Chief Executive
Section 2 and Section 3 Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Director of Legal and Democratic Services	Town Clerk and Chief Executive

5. Party Wall Etc Act 1996

Section of the Party Wall Etc Act 1996 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 10(8) Appointing Officer	Director of Development Services	Building Control Manager

6. National Assistance Act 1948, National Assistance (Amendment) Act 1951 and Public Health (Control of Infectious Diseases) Act 1984 and Regulations made thereunder

Section of the National Assistance Act 1948, National Assistance (Amendment) Act 1951 and Public Health (Control of Infectious Diseases) Act 1984 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Proper Officer functions including the issuing of any notice on behalf of the local authority under Regulation 9 and Schedule 3 and Schedule 4 of the Public Health (Infectious Disease) Regulations 1988 and the making of applications under Section 47 of the National Assistance Act 1948 and functions for the purposes of the Milk and Dairies (General) Regulations 1959 including the issuing of notices on behalf of the authority as provided for by Part VII of those Regulations.	Director of Public Health and the Consultant/Specialist or Nurse Specialist in Health Protection	

7. Local Government Act 2000 and Regulations made thereunder

Local Government Act 2000 and Regulations made thereunder and Proper Officer functions	Proper Officer	Alternative Proper Officer
Proper Officer functions	Director of Legal and Democratic Services	Town Clerk and Chief Executive

8. Freedom of Information Act 2000	Proper Officer	Alternative Proper Officer
Section 36 – the “qualified person”	Monitoring Officer (Director of Legal and Democratic Services)	Town Clerk and Chief Executive (in the absence of the Monitoring Officer)

9. Miscellaneous	Proper Officer	Alternative Proper Officer
Section 41 Local Government (Miscellaneous Provisions) Act 1976 – Certifying true copies of minutes	Director of Legal and Democratic Services	Town Clerk and Chief Executive
Section 606 Housing Act 1985 Representations and reports on unfit housing	Director of Community Services	
Section 321 (3) Highways Act 1980. Certifying copies of approved plans	Director of Development Services	
Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990. Lists of protected buildings	Director of Development Services	
Housing Grants Construction and Regeneration Act 1996. Financial assistance towards improvement works	Director of Community Services	Housing and Health Partnership Manager
Officers authorised to issue authorisations to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000.	Director of Community Services 3 Principal Environmental Health Officers Director of Development Services Head of Planning Services Development Control Manager Street Scene Manager Director of Corporate Services Head of Revenues and Benefits Services Revenues Manager Benefits Manager Audit Services Manager Town Clerk and Chief Executive Director of Legal and Democratic Services Legal Services Manager	
Service of Improvement and Prohibition Notices under the Health and Safety at Work etc Act 1974	Director of Community Services and all Environmental Health Officers having satisfied the Council as to their competence.	

9. Miscellaneous	Proper Officer	Alternative Proper Officer
Regulation of Investigatory Powers Act 2000, Chapter II Designated Person (Access and Disclosure of Communications Data)	Legal Services Manager	
The Money Laundering Regulations 2003	Director of Corporate Services	Head of Revenues and Benefits liaises with Audit Manager.