

Notice of Review Form Guidance Notes

Introduction

The 'Notice of Review' form allows you to request a review by the Council's Local Review Body of a decision made by an officer appointed to determine a planning application for a Local development. It also allows you to apply for a review where in such a case the appointed officer has not reached a decision within the prescribed period.

Local developments are those which do not fall into the categories of either National development or Major development as defined in the regulations. For further information on these categories please see the separate guidance note on the *Categories of Development*.

Where an officer is appointed to determine a planning application, the case is often referred to as a 'delegated application'. Planning authorities are required to identify the classes of applications that would be suitable for delegation to an appointed officer under a framework known as a '*Scheme of Delegation*'.

When To Use This Form

This form should be used if you have submitted a planning application in the category of Local developments; your application has been delegated to an appointed officer for determination under the planning authority's scheme of delegation and, your application has:

- been refused by an appointed officer;
- been granted subject to conditions that you do not agree with; or
- not been determined within the prescribed period by the appointed officer.

You can use this form if you seek a review on any of the following application types to which the review provisions relate:

- Applications for planning permission;
- Applications for planning permission in principle; and
- Further applications.
- Applications for approval of matters specified in conditions.

This form can only be used to request a review of your application if it is served on the Local Review Body within three months of either the date of the decision notice or from the date of expiry of the period allowed for determining the application.

When Not To Use This Form

This form should not be used for other types of planning application including proposals which fall under the category of Major or National developments. Neither should it be used for other types of applications, such as an application for listed building consent, hazardous substances consent, conservation area consent or consent to display advertisements. Such applications can be appealed to Scottish Ministers by submitting the relevant appeal form to the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA).

Decisions on applications within the category of Local developments which have been determined by a committee of the Council should be appealed to Scottish Ministers. A review should not be requested where an appeal to Scottish Ministers is available.

Local Review Body

Reviews are determined by the Council's Local Review Body. The Local Review Body is a committee of the Council made up of six elected members, with one representative from each administrative Area of Aberdeenshire. While reviews are held in public, there is no automatic right for an applicant or third party to make oral representations. Local reviews are conducted in a transparent and equitable manner.

Appeal or Review?

At the time of acknowledging receipt of your application, the planning authority will advise you of the statutory time period for determining your application and that, in the event that they fail to determine your application within the statutory period, you have either a) a right to appeal the application to Scottish Ministers or, b) a right to request a review by the Local Review Body.

The planning authority may not however, be able to advise you of the exact procedure for challenging the decision on your application until your application has progressed further. This is because the Council's *Scheme of Delegation* contains procedures that may prevent an application from being determined by an appointed officer. For example, the scheme requires that, where an application for Local development is being recommended for approval and more than 5 objections have been received, the application has to be determined by a committee.

A decision notice must, in the case of refusal or approval subject to conditions, be accompanied by a notice advising you that you have a right to either appeal the application to Scottish Ministers or request a review by the Local Review Body.

If you are unsure of the correct procedure to follow you should contact the planning authority for advice before completing this form.

In cases where the planning authority receive an application for planning permission for a Local development and the proposal to which the application relates also requires another type of consent that does not attract the review procedures e.g. listed building consent, it may be necessary for both applications to be determined by a committee to ensure that any appeals are to Scottish Ministers. The planning authority should be able to advise you on this matter.

Submitting a Notice of Review

Before submitting this form to the Local Review Body, you should ensure that you have completed all the required information within the form. The minimum information which you must provide with your Notice of Review is:

- The name and address of the applicant;

- The date and reference number of the application which is the subject of review;

- The name and address of the representative of the applicant (if any) and whether any notice or correspondence required in connection with the review should be sent to the representative rather than the applicant; and

- A statement setting out the applicant's reasons for requiring the review and by what procedure (or combination of procedures) the applicant wishes the review to be conducted.

It is expected that the majority of cases coming before the Local Review Body will be accompanied by sufficient information in order for the review to be determined quickly without further procedure. However, in some cases, including those involving non-determination of the planning application, it might be necessary for the Local Review Body to obtain additional information. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

All matters which you intend to raise in the review, along with all documents, materials and evidence which you intend to rely on, must accompany your Notice of Review. The local review regulations provide that you may submit further documents or information at a later stage only in very limited circumstances, so it is important that you make your full case at the outset.

Your included statement should clearly outline the reasons for seeking a review and all matters you consider should be taken into account in determining the review. You should not however, raise any new material which was not before the appointed person at the time your application was decided (or at the time of expiry of the period of determination) unless you can demonstrate:

- that the new material could not have been raised before that time; or

- that it not being raised before that time is a consequence of exceptional

circumstances.

You should submit this form, together with the necessary supporting statement, documents and evidence. Insufficient or inaccurate information or failure to complete all parts of the form may result in a delay to the review of your application, or possibly invalidate your review request.

Time Limits for Conducting the Review

Where an applicant seeks a local review on the grounds that the appointed officer has not determined the application, if within two months after submitting a Notice of Review the Local Review Body has not commenced the review process, the planning authority shall have been deemed to have refused the application, and you will automatically have a right to appeal to Scottish Ministers.

Address for Submission of Notice of Review Form and Documents

The completed form and enclosures should be sent to:

Head of Legal and Governance
Corporate Services
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

Email: committee.services@aberdeenshire.gov.uk

Telephone: 01224 665117

Relevant legislation

Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on Local Developments.

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

Circular 7/2009 Schemes of Delegation and Local Reviews.