

Consolidated Schemes of Delegation for Planning and Related Applications

Local Government Act (Scotland) 1973 – Section 56

Town and Country Planning (Scotland) Act 1997 – Section 43A

The Chief Officer (Strategic Place Planning) of or an officer of the Council appointed by him/her (referred to as the “Appointed Officer”) - currently the Development Management Manager - has the power –

1. To determine applications for –
 - a) planning permission (including planning permission in principle) and
 - b) applications for the approval of consent, agreement or approval required by a condition imposed on a grant of planning permission or planning permission in principle **except** where that application –
 - i. has been made by or on behalf of;
 - o an elected member of the Council or a member of staff employed within the Strategic Place Planning function of the planning authority; or
 - o the Chief Executive or any other member of the Corporate Management Team of the planning authority,all as determined from the contents of the application form;
 - ii. requires to be the subject of formal notification to the Scottish Ministers as defined in the Schedule to the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 (or any other Scottish Government Direction);
 - iii. is an Environmental Impact Assessment (EIA) application for which a validated EIA has been submitted;
 - iv. is being recommended for approval and has been the subject of formal timeous objectionⁱ by the local Community Council within whose area the application site falls;
 - v. is being recommended for approval and has been the subject of six or more timeous letters of representationⁱⁱ (following advertisement and/or notification) that express objection or concern about the proposal;
 - vi. is being recommended for approval and has been the subject of formal objection from the Roads Authority or the Council’s Environmental Health service;
 - vii. is being recommended for approval and is considered by the Appointed Officer to be contrary to the adopted development plan strategy.
2. Under the terms of section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) and section 69 of the Local Government (Scotland) Act 1973, and following consultation with the Chief Officer (Governance) –
 - a) in relation to applications for major and local developments as defined by the Hierarchy of Development (Scotland) Regulations 2009 to –
 - i. negotiate and conclude legal agreements related to planning and other related applications decided by the Appointed Officer;

- ii. negotiate and conclude legal agreements related to planning and other related applications decided by Full Council, committee or Scottish Ministers provided the Appointed Officer considers such agreements to be in accordance with the original decision on the application;
 - iii. determine applications for Modifications or Discharge of Planning Obligations under section 75A in relation to planning applications determined by the Appointed Officer.
 - b) in relation to applications for local developments as defined by the Hierarchy of Development (Scotland) Regulations 2009 to determine applications for modifications or discharge of legal agreements under section 75A in relation to planning applications determined by Full Council, Committee or Scottish Ministers as applicable, provided the Appointed Officer considers the modification or discharge to be in accordance with the original decision on the application;
 - c) to participate in the promotion and development of Good Neighbour Agreements under section 75D.
3. To determine, following consultation with the Chief Officer (Governance), the Convener of the Planning Development Management Committee and the Business Manager, whether to appeal a decision of the Scottish Ministers which overturned or modified a decision of the committee or Full Council and thereafter, if applicable, to instruct the making of such an appeal.
 4. To determine planning and other applications given a willingness to approve at the Planning Development Management Committee and for which Section 75 Agreements are not completed or developer obligations are not paid within 6 months of the date on which the committee agreed a willingness to approve.
 5. To determine applications for Listed Building consent and Conservation Area consent subject to any of the applicable exceptions contained in paragraph 1 above and provided that the Scottish Ministers, if notified, have either made no observations or where observations have been made which can competently be made the subject of appropriate planning conditions, to determine these applications with those conditions attached.
 6. To determine Hazardous Substance Consent applications under the Planning (Hazardous Substances) (Scotland) Act 1997 and the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.
 7. To determine whether planning or other applications that have been lodged or pre-application proposals require planning or other consent.
 8. To determine requests for non-material variation of major and national planning applications in terms of section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).
 9. To issue planning consents where Full Council or any relevant committee of the Council are minded to grant a development and the Scottish Ministers, having been notified, indicate no objections or intention to intervene, or the period for so indicating has expired.
 10. To deal with Proposal of Application Notices in terms of section 35B of the Town and Country Planning (Scotland) Act 1997 (as amended) and Pre-Application Screening Notices in terms of section 35A(3) of that Act.
 11. To determine applications for advertisement consent.
 12. To determine, in accordance with the applicable Environmental Impact Assessment Regulations, whether or not a particular planning application requires to be supported by an Environmental Statement (Screening Opinion) and the scope of any such Statement (Scoping Opinion).
 13. To determine applications related to Prior Notification or Prior Approval made under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 Schedule 1 for the following –
 - a) Part 1A - Class 6G: Free standing wind turbine within the residential curtilage;
 - b) Part 1B - Class 6K and 6L: Biomass facilities on agricultural or forestry land;

- c) Part 6 - Class 18: Agricultural buildings;
- d) Part 7 - Class 22: Forestry buildings and operations;
- e) Part 13 - Class 39 and 40: Public gas transporters and electricity undertakings;
- f) Part 20 - Class 67: Development by electronic communications code operators;
- g) Part 23 - Class 70: Demolition of buildings;
- h) Part 24 - Class 71: Toll road facilities;
- i) Any other types of prior notification or prior approval that might come forward in future amendments to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 Schedule 1.

14. To determine Certificates of Lawfulness under the Town and Country Planning (Scotland) Act 1997 (as amended) where, in the opinion of the Appointed Officer, there is no reasonable doubt that the use or development is or would be:-

- a) lawful without further planning approval; or
- b) unlawful

15. To give, serve, issue and sign the following notices, all under the Town and Country Planning (Scotland) Act 1997 (as amended), following consultation with the Chief Officer - Governance:

- a) Notices under section 33A requiring an Application for Planning Permission for a Development already carried out;
- b) Planning Contravention Notices under section 125;
- c) Stop Notices under section 140;
- d) Temporary Stop Notices under section 144A;
- e) Breach of Condition Notices under section 145;
- f) Fixed Penalty Notices under section 136A;
- g) Completion Notices under section 61;
- h) Notices in terms of Land Adversely Affecting the Amenity of Neighbourhood under section 179

16. To instruct applications for interdict in terms of section 146 of the Town and Country Planning (Scotland) Act 1997 (as amended) in order to restrain breaches of planning control.

17. To develop and maintain a Development Management Charter and Enforcement Charter under section 158A of the Town and Country Planning (Scotland) Act 1997 (as amended).

18. To take, following consultation with the Chief Officer - Governance, any necessary enforcement action in respect of unauthorised advertisements, poster panels (hoardings) or fly posting.

19. To make an order to revoke or modify planning permission where any owner, lessee or occupier of land affected, or such other person who in the opinion of the Appointed Person will be affected by the order, have notified the planning authority in writing that they do not object to the order under sections 65 and 67 of the Town and Country Planning (Scotland) Act 1997 (as amended).

20. To determine all applications for Certificates of Appropriate Alternative Development under section 25 of the Land Compensation (Scotland) Act 1963.
21. To issue a deemed refusal under section 39 of the Town and Country Planning (Scotland) Act 1997 (as amended) where, in the opinion of the Appointed Officer, a similar application has been refused within the previous 2 years and there has been no significant change in the relevant parts of the development plan or other material considerations since the last decision.
22. To make observations on behalf of the planning authority on routine proposals by statutory undertakers.
23. To make observations on behalf of the planning authority to consultation requests from Aberdeenshire Council in respect of applications for development in Aberdeenshire.
24. To make observations on behalf of the planning authority on consultation requests from Marine Scotland in respect of development applications.

Definitions

ⁱ A “*timeous objection*” from the Community Council means any written representation - stating explicitly that it is objecting - received from the Community Council within whose area the application is located either –

- (i) no later than 3 full days after the expiry of the time period specified for representations to be made following the date of notification or, if applicable, advertisement of the application (whichever is the later); or
- (ii) later than a date agreed in writing with the planning authority prior to expiry of the period in (i) above.

ⁱⁱ A “*timeous letter of representation*” means –

- (i) any written electronic representation, or hardcopy hand delivered, representation received on or before the expiry of the time period specified for representations to be made following the date of notification or, if applicable, advertisement of the application (whichever is the later); or
- (ii) any hardcopy representation received via the postal service (i.e. Royal Mail) no later than 3 full days after the expiry of the time period specified for representations to be made following the date of notification or, if applicable, advertisement of the application (whichever is the later).

“*Letter of representation*” is to be construed in light of the following –

- if more than one representation is submitted from a single individual or a single e-mail address, this only counts as one representation.
- a single letter with a number of signatures from one postal address counts as only one representation.
- a petition (i.e. the same comment or letter submitted on behalf of and signed by multiple individuals from the same or different addresses) is counted as one representation.
- a representation will only be counted if it is from a specified e-mail address or street address and from a specified individual(s).