

Deciding local planning applications

NOTES FOR GUIDANCE

Introduction

Changes to the way planning applications are decided were introduced across Scotland in August 2009. Planning applications submitted to the Council are now termed either *major applications* or *local applications*.

This guidance note explains the procedures that Stirling Council has adopted for determining *local* planning applications. A separate guidance note sets out the procedure for determining *major* applications.

There are different ways in which major and local applications are determined by Stirling Council. Whether you are an applicant or a person who has commented on an application, it is important that you are aware of the category of application in which you are interested. A member of the Council's Development Management staff can advise you of this.

The determination process for local planning applications

When a local planning application is received, the Council will check to ensure it contains all the necessary information needed to decide on the proposal. The applicant may be asked by the Council to provide additional information. The Council's Development Management staff will publicise the application, by either writing to the occupiers, owners and lessees of premises within 20m of the site and/or by advertising the proposal. Depending on the nature of the application, the Council will then consult certain key organisations.

In deciding the local application, professional planners from the Council will visit the site and will assess the proposal in accordance with the development and consider whether there are any other material considerations which should be taken into account. Once the merits of the application have been assessed and all the consultation responses and representations have been closely examined, a recommendation on the application will be made by the planning officer. In some cases, this may lead to a request to alter the application or provide more information. If the changes that are required are significant, the applicant may be asked to withdraw the application and re-submit it to allow further neighbour notification to be undertaken. A new application for a similar development does not normally require a fee provided it is submitted within one year of the registration of the previous application,.

Before the decision is issued, other procedures have to be followed.

The Council has up to two months to determine a local application, unless it agrees a longer period with the applicant. If the decision has not been made and the applicant has not agreed to an extended period, the applicant can ask for a review of the case from the Council's Local Review Body on the grounds of non-determination. To do so, the applicant should contact the Local Review Body administrative officer at the Council's offices at Old Viewforth, Stirling

Procedures that we follow

The Council has what is termed a *Scheme of Delegation* that sets out the determination process for local and major planning applications. Copies of the scheme of delegation are on the Council's website, the weekly planning schedule or available from Planning Services, Viewforth, Stirling.

The Scheme of Delegation means that there are several ways in which a local application can be decided.

Generally, Local Developments will be determined by an Appointed Officer in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 and the Council's Section 43A Scheme of Delegation which is published below.

There are seven exceptions listed (a) to (g) below where Local Developments will either be determined by the Planning Panel or appear as a Planning Schedule Recommendation.

Planning - Section 43A Scheme of Delegation

The following is an excerpt from the Council's Scheme of Delegation:

This part of the Scheme of Delegation is operated under Section 43A of the Town and Country Planning (Scotland) Act 1997 and Part 2 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008. Subject to the Scottish Ministers' approval under Regulation 4 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 this part of the Scheme shall commence on 3 August 2009.

The Appointed Officer, being the Officer appointed under Section 43A(1) of the Town and Country Planning (Scotland) Act 1997 and V85 above, is authorised to determine any application for planning permission and any application for consent, agreement or approval required by condition imposed on a grant of planning permission and being applications which fall within the definition of a local development as specified in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 under the following exceptions:-

(a) Planning Authority Applications

The application (a) is made by the planning authority or a member of the planning authority or by members of staff directly involved in the planning process or (b) relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest.

(b) Section 43A(6) Remit to Planning Panel

Prior to either (a) the determination of the application by the Appointed Officer or (b) the request by the Applicant for a review on the grounds of non-determination under section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Planning Panel or the Head of Planning or any officer authorised by him (including the Appointed Officer) decide that the application should be remitted to the Planning Panel for determination under section 43A(6) of the Town and Country Planning (Scotland) Act 1997.

(c) Member Remit to Planning Panel

Prior to either (a) the determination of the application by the Appointed Officer or (b) the request by the Applicant for a review on the grounds of non-determination under section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Head of Planning receives from a Member a written request setting out relevant planning reasons that the application should be remitted to the Planning Panel for determination and the Head of Planning, in consultation with the Chair and Vice Chair of the Planning Panel, agrees to the request.

(d) Significant Local Objection

Prior to either (a) the determination of the application by the Appointed Officer, or (b) the request by the Applicant for a review on the grounds of non-determination under Section 43A(8)(c) of the Town and Country Planning (Scotland) Act 1997, the Head of the Planning receives significant local objections and is satisfied that the objections disclose relevant planning reasons.

(e) Contrary to local development plan

The application is a significant departure from the local development plan.

(f) Scottish Ministers

The application requires to be notified to the Scottish Ministers.

(g) Listed Building Consent etc

Any application which also requires any or all of the following: (i) Listed Buildings Consent, (ii) Conservation Areas Consent; (iii) Hazardous Substances Consent; and (iv) Control of Advertisements Consent.

Any application that falls within exceptions (a) to (c) shall be determined by the Planning Panel.

Any application that falls within exceptions (d) to (g) shall be determined through the Weekly Planning Schedule under V99 above.

With reference to exception (d) a written objection from a Community Council is deemed to be one objection.

Only exceptions (a), (b), (f) and (g) shall apply to applications for a householder development falling within Classes 1 to 6 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or a sundry minor operation falling within Classes 7, 8, or 9 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Applications falling within these categories are wholly delegated to officers and there is no ability for these to be referred to the Planning Panel.

It is important that you keep in contact with the planning officer who is responsible for your application. The case officer will be able to advise you of the determination method for your planning application and the key dates in this procedure.

Details of the committee dates and the councillors who make up the committee can be obtained from www.stirling.gov.uk

Decisions by the Appointed Officers

Under the Scheme of Delegation, specified planning officials within the Planning Service can approve or refuse local planning applications without them being considered by the Planning Panel. After assessing the local application, the Council's planners will prepare a report of handling to accompany the decision notice, setting out the reasons for the decision and this will be issued to the applicant and/or agent. The decision will also appear on the Council's weekly Planning Schedule, which is available from Development Management, Viewforth, Stirling and on the Council's website.

If the application is refused or it contains conditions unacceptable to the applicant, the applicant can, within three months of the decision, ask for a review of the case by the council's Local Review Body.

A separate guidance note setting out the procedures involved in a statutory review is available on request and will also be enclosed with the Council's decision notice on the local planning application.

What is the Local Review Body?

The Council's Local Review Body is normally a group of three councillors who will review the decision of the Appointed officer. The Local Review Body can either accept the decision of the Appointed officer or can alter it. The Local Review Body has a statutory framework in which it must operate and can deal with reviews in different stages. There is no right of appeal against the outcome of a review other than by challenging the way the decision was taken for legal reasons.

Decisions by the Planning Panel

If a local application is referred to the Planning Panel for determination, it will be placed on the agenda of the next appropriate monthly meeting. The applicant and those making representations on the application will be informed of the meeting and can request that they be given the opportunity to speak at the meeting. This is called a *Hearing*. This request can be made to the planning officer dealing with the application, or can be made directly to the Chief Planning Officer, the Chairperson of the Planning Panel or any elected member who can then pass on the request to officers. Generally this will occur only where it is felt that this will further inform the Panel in its consideration of a Planning Application and will only be used when considering more complex and contentious issues. Contributions will generally be limited to 5 minutes from each side.

The Planning Panel can decide to approve or refuse the planning application. If the local application is refused planning permission by the committee or it contains conditions that the applicant finds unacceptable, the applicant can appeal to Scottish Ministers within three months of the decision. Details of the means of appealing will accompany the council's decision notice.

What is the Planning Panel?

The Planning Panel is comprised of eight councillors. The Panel meets at the Council's main offices in Viewforth, Stirling. Members of the Panel receive reports on each application in advance of its monthly meetings. All valid representations that have been received are circulated to members of the Panel for their information and consideration and the specific points that have been raised by objectors will have been assessed and evaluated by professional planning officers. The report concludes by making a recommendation to the Panel. The Panel is not obliged to accept the recommendations of officers. Details of the committee dates and the councillors who make up the committee can be obtained from www.stirling.gov.uk

Do the members of the Panel and the Local Review Body visit application sites?

Site visits are only carried out when the members of the Planning Panel and the Local Review Body deem it necessary and in instances where they consider it would aid their consideration of the issues. All members of the Planning Panel and the Local Review Body should attend the organised visits. However, if a Councillor cannot attend a site visit, he/she will not be able to discuss or vote on the application at a subsequent meeting. Applicants and objectors may attend the site meetings to observe but should not take part in the discussion or ask questions unless asked to clarify certain matters by members. The purpose of the site visit is to allow councillors to familiarise themselves with the characteristics of the site and its surroundings.

Members or officers will not discuss the merits of the case with anyone present on the site during the visit.

If an application is referred to the Planning Panel can I speak at the meeting?

An applicant, an objector or a supporter, or their professional agents can attend the meeting and, if it is agreed that a Hearing will be held, may also address councillors for a period not exceeding five minutes.

Once it has been established that a Hearing will take place a letter or e-mail will be sent to the applicant and those who have made a representation to ask whether they wish to make a representation. If a number of objectors wish to speak on a particular application, it would be preferable if a single spokesperson represents them.

Unfortunately, we may give you only a few days notice of the meeting and you are strongly advised to keep in contact with the case officer who can tell you of the progress of the application.

In the event of the application being withdrawn from the agenda, as can sometimes happen, we will try to contact applicants and objectors to let them know and avoid a wasted journey. It is therefore important that you provide a daytime telephone number or e mail address on your correspondence.

It should be noted that you may speak only if the planning application is being dealt with by the Planning Panel. There is no provision for speaking if applications are decided by the Appointed Officers under delegated powers.

How can I obtain a copy of the report on an application which is to be considered by the Planning Panel?

When an application is to be determined by the Planning Panel, the agenda and reports can be obtained five working days before the meeting and are available from Committee Services staff at the Council offices in Viewforth, Stirling. Copies can also be downloaded from www.stirling.gov.uk

The information contained in this note is for your guidance only. If you are in any doubt about any of the procedures you should contact staff at Development Management, Viewforth, Stirling, FK8 2ET. Tel 01786 442515 or e-mail planning@stirling.gov.uk