

Guidance notes for Notice of Review form

Relevant legislation:

- Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) for decisions on Local Developments (referred to in this document as 'the act')
- The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (referred to in this document as 'the regulations')
- Circular 5/2013: Schemes of delegation and local reviews

Introduction

1. You should read these guidance notes with Circular 5/2013: Schemes of delegation and local reviews.
2. The 'notice of review' form allows you to ask the planning authority ('the local review body') to review a decision made by an officer appointed to decide a planning application for a 'local development'. It also allows you to apply for a review if the appointed officer has not reached a decision within two months of the date your application is confirmed as being valid. Under Section 43 (A) (17) of the act you have the right to appeal to the Scottish Ministers if the local review body have not started the review process within two months of the date of your request.
3. Local developments are those which do not fall into the categories of either 'national development' or 'major development' as defined in the [regulations](#).
4. If an officer is appointed to decide a planning application, the case is often referred to as a 'delegated application'. Planning authorities must 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

5. You should use this form if you have made an application in the category of local developments, your application has been delegated to an appointed officer to be decided under the planning authority's scheme of delegation, and the appointed officer has:
 - refused your application;

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- granted your application but set conditions that you do not agree with; or
 - not made a decision on your application within two months after your application was confirmed as being valid.
6. You can use this form to ask for a review on any of the following types of application:
- applications for planning permission;
 - applications for planning permission in principle;
 - applications for approval of matters specified in conditions; and
 - further applications.
7. You can only use this form to ask for a review of your application if you serve it on the planning authority within three months of either the date of the decision notice or, if you are asking for a review because you have not received a decision, the end of the two-month period allowed for deciding the application (Regulation 9 (2) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013).

When not to use this form

8. You should not use this form for other types of planning application including proposals which fall under the category of 'major or national developments'. And you shouldn't use it for other types of applications, such as an application for mineral development, listed building consent, hazardous substances consent, conservation area consent or consent to display advertisements. For these applications you can appeal to the Scottish Ministers by filling in the relevant appeal form and sending it to the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA).
9. If your application is in the category of local developments and has been decided by elected members, you have the right to appeal to the Scottish Ministers. You should not ask for a review if you have the right to appeal to the Scottish Ministers.

Local review bodies

10. Reviews are decided by a local review body. A local review body is a committee of the planning authority which contains at least three elected members. Although reviews are held in public, the main legislation and the regulations do not give you or anyone else an automatic right to speak at the review. For more information on the structure and procedures for local review bodies, please see the guidance issued by the Convention of Scottish Local Authorities (COSLA) and the Improvement Service, or contact your planning authority.

Appeal or review

11. When the planning authority acknowledge your application, they will tell you that if they fail to make a decision on your application within a certain period you have either the right to appeal to the Scottish Ministers or to ask for a review by the local review body.
12. The planning authority may not be able to tell you the exact procedure for challenging the decision on your application until your application has progressed further. This is because the planning authority's scheme of delegation may contain procedures that would prevent your application from being decided by an appointed officer. For example a procedure may state that if a delegated application has received a lot of objections, it must be decided by the planning committee. If the planning authority refuse your application, or approves it but sets conditions which you must meet, their decision notice must include a notice telling you that you have the right to either appeal to the Scottish Ministers or ask for a review by the local review body.
13. If you are unsure of the correct procedure to follow, you should contact the planning authority for advice before filling in this form.
14. If the proposals included in your application for planning permission for a local development also need another type of permission (for example, listed building consent), it may be necessary for both applications to be decided by the Scottish Ministers. The planning authority should be able to give you more advice on this.

Sending in a notice of review form

15. Before sending this form to the planning authority, you should make sure that you have included all the necessary information on the form. Under the terms of the regulations governing the local review procedure, the minimum information which you must provide with your notice of review form is:

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- your name and address;
- the date and reference number of the application you want to be reviewed;
- the name and address of your representative (if any) and whether the review body should send any notice or correspondence to them rather than to you; and
- a statement setting out your reasons for wanting the review and which procedure (or combination of procedures) you want to be used during the review.

It is expected that most cases coming before the local review body will include enough information to allow the review to be decided quickly. However, in some cases, including those where a decision has not been given, the local review body may need to ask for extra information. They may ask you to provide the extra information under one or a combination of procedures such as written submissions, holding one or more hearing sessions, or inspecting the land the review relates to.

16. When you send your notice of review form to the planning authority, you must include details of all matters which you intend to raise in the review, along with all documents, materials and evidence you plan to rely on. Under the local review regulations you can only provide further documents or information at a later stage in very limited circumstances, so it is important that you make your full case at the start.
17. Your statement should clearly outline the reasons for asking for a review and all matters you consider should be taken into account in deciding the review. You should not raise any new material which the appointed person did not have when they decided your application (or at the end of the time allowed for deciding your application) unless you can show that:
 - the new material could not have been provided before that time; or
 - exceptional circumstances meant it was not possible to provide the new material before that time.
18. You should send this form to the planning authority together with the necessary supporting statement, documents and evidence. If the information you provide is not accurate, or if you do not provide enough information or fill in all parts of the form, there may be a delay in the review of your application or your request for a review may not be valid.

Time limits for the review

19. If you ask for a local review because the appointed officer has not given you a decision on your application, and within two months after sending in a notice of review form the local review body has not started the review process, you can consider the planning authority to have refused the application for a review, and you will automatically have the right to appeal to the Scottish Ministers under section 47(1) of the act.

Online applications

20. Under The Town And Country Planning (Development Management Procedure) (Scotland) Regulations 2013, please note that by sending in your application electronically, you are agreeing that:
- all communication relating to the application will be made electronically; and
 - the email address you have used is the one which will be included in the application.

If you want to withdraw your agreement to using electronic communication, you should tell the planning authority in writing, giving at least seven days' notice.