

Notes for Guidance

For reviews under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning Etc (Scotland) Act 2006 in respect of decisions on local developments

Background

If an **applicant** for planning permission is aggrieved by the decision of the Planning Authority to refuse permission or to any conditions attached to a grant of permission, there is a right of appeal within **3 months** of the date of the decision notice. Further information on the scope of local reviews is provided below.

For all **local developments** determined under delegated powers, applicants have the right to request a review by the Local Review Body. This is called a **Local Review**.

The right of appeal only applies to the **applicant**. There is no third party right of appeal available.

Please note that a Notice of Review **must** be submitted within **3 months** of the decision date. Late submissions cannot be considered.

Notice of Review Process

The applicant (or their appointed agent) is required to complete the **Notice of Review** form that is available from ePlanning.scot via the Council's website. Or you can request the form by sending an email to committeeservices@north-ayrshire.gov.uk. The Notice of Review must then be submitted to North Ayrshire Council, Committee Services, Cunninghame House, Irvine KA12 8EE.

Please note that local reviews can only consider matters which were the subject of the planning application: new matters cannot be introduced. For the avoidance of doubt, alternative sites for a development that was refused planning permission cannot be considered by the Local Review Body. In such circumstances, a further planning application should be submitted.

For cases of non-determination reviews, the applicant has 3 months from the 2-month expiry application during which to request a local review.

If the local review proceedings are not commenced within 2 months of receipt, it is deemed to have been refused and the applicant can appeal to Scottish Ministers.

North Ayrshire Council Local Review Body (NAC LRB)

Local Reviews are considered and determined by the Council's Local Review Body. The LRB is a Committee of the Council which will normally meet every 3 weeks. It is composed of 10 Elected Councillors.

The LRB will decide if it has enough information to make a decision on the day of the first LRB meeting or whether the case should be continued for further information, a site visit or a hearing. A decision will be taken at the end of the process and a Decision Notice issued. The Decision will either: grant or refuse the review. In granting the review of a planning application which was refused, the LRB has the power to impose conditions. These will be provided on the Decision Notice. A reason will be given on the Decision Notice for reviews that are refused.

The decision of the LRB is final. There is no further right of appeal either to the Council or to Scottish Ministers.

The applicant may question the validity of the LRB decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

When to use the Notice of Review Form

The Notice of Review form should only be used if you have submitted an application in the category of local development and your application has been decided under the Council's statutory scheme of delegation which may have:-

- 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 (normally 2 months after the validation date unless you have agreed upon an extension of time with the planning authority before the expiry date).

The local review provisions only relate to the following types of application:-

- applications for planning permission;
- applications for planning permission in principle; or
- applications for approval of matters specified in conditions.

NOTE - Appeals in relation to applications for listed building consent, conservation area consent, advertisement consent and certificates of lawfulness cannot be dealt with by the LRB. Appeals in respect of major and national developments cannot be dealt with by the LRB. Appeals in relation to these matters must be directed to the Scottish Government Directorate for Planning and Environmental Appeals (DPEA).

Your **planning application acknowledgement letter** will advise you whether you can appeal or request a review in the event of non-determination within the prescribed timescale.

Your **decision notice** will inform you of how the decision was taken and whether it is subject to appeal or local review.

What the Local Review Body Support Team will do:

When your request for a review is received, it will be checked for completeness and then any parties who made representations or were consulted in respect of your application will be notified of the request for a review. You will receive an acknowledgement of your request for a review and a date for the meeting of the NAC LRB to which your case will be presented.

If the case is continued by the NAC LRB you will be informed of further procedures.