



From mountain to sea

# **Scheme of Governance**

## **Part 2C - Planning Delegations**

10 March, 2023



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## List of Planning Delegations

This document sets out how planning applications and local development matters are dealt with at Aberdeenshire Council. This document lists all delegations relating to the determination of planning applications including those powers reserved to Full Council. This document also contains guidance on objections, material considerations and appeals.

### A. INTRODUCTION

Aberdeenshire Council is responsible for determining applications seeking planning permission and for various consents. These other consents include but are not limited to listed building consent, conservation area consent, advertisement consent and high hedges consent.

The law governing the decision-making processes in terms of such applications is largely contained within the Town and Country Planning (Scotland) Act 1997 (*as amended*) and the Local Government (Scotland) Act 1973.

The Planning Authority must set out a Scheme of Governance relating to how decisions on Local Development Applications are to be made. It is for Aberdeenshire Council to determine what application types are determined by **Members** sitting as the Planning Authority and which others may be taken by Council **Officers**.

The purpose of this Scheme is to provide the reader with a clear understanding of **who determines which applications** on behalf of the Planning Authority.

There is also guidance on how to make either an **objection** or to express **support** as well as the procedures when it comes to **Pre-Determination Hearings** for both national and major development applications. Further guidance is also provided in respect of the Local Member Notification process.

This document also details the general powers under **development management** which ensure effective operation of the planning system.

Information on the rights of applicants to **appeal** is included, whether this is to the Local Review Body or to the Scottish Government.

This document is subject to all exceptions, limitations and delegations in the Scheme of Governance. It is important to note under the List of Officer Powers in Part 2B of the Council's Scheme of Governance that where powers have been delegated to officers, they may choose not to exercise the power and instead make a recommendation to the appropriate committee for the application to be determined.

There is a **glossary of terms**, including hyperlinks for easy navigation and process **flow charts**.

This document does not cover delegations in respect of environmental planning, planning enforcement nor for the development of the Local Development Plan. The details of these are included within the Council's Scheme of Governance.

## B. WHAT DOES THE JARGON MEAN?

The table below explains some of the technical language we have to use in this document.

	Explanation
"Advertisement consent"	The regulations <sup>1</sup> provide that where a person seeks to display an advertisement, they should in certain circumstances seek the consent of the Local Authority.
"Appointed Officer"	For purposes of Local Development only means the Officer exercising the delegated power on behalf of the Head of Planning and Economy.
"Area"	The areas are Banff and Buchan, Buchan, Formartine, Garioch, Marr and Kincardine and Mearns.
"Area Committee"	Aberdeenshire Council is divided into six administrative areas. Each administrative area has an Area Committee to which certain decision-making powers are delegated. The areas are Banff and Buchan, Buchan, Formartine, Garioch, Marr and Kincardine and Mearns.
"Certificate of Appropriate Alternative Development"	An application under the Land Compensation (Scotland) Act 1963 and 1973 (as amended) and the Land Compensation (Scotland) Order 1975.

<sup>1</sup> The term 'advertisement' is defined in the Town and County Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended by the Town and County Planning (Control of Advertisement) (Scotland) Amendment Regulations 1992).

“Certificate of Lawfulness”	An application under s.150 and 151 of the Town and Country Planning (Scotland) Act 1997.
“Conservation Area Consent”	An application under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
“ <u>departure</u> ”	A departure application is a planning application that is not in line with, or 'departs from', the Development Plan.
“ <u>development</u> ”	Building, engineering or other operations that take place in, on, over or under the land, or any material change of use of any building or other land. <sup>2</sup>
“ <u>Development Plan</u> ”	As defined in section 24 of the Town and Country Planning (Scotland) Act 1997, as may be amended from time to time, and which plan directs decision-making on all land use planning issues and planning applications in Aberdeenshire.
“Full Council”	A Meeting of Aberdeenshire Council.
“Hazardous Substance Consent”	An application in terms of the Planning (Hazardous Substances) (Scotland) Act 1997 and the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.
“hierarchy of development”	All Development is classified as either <u>National</u> , <u>Major</u> or <u>Local</u> .
“Infrastructure Services Committee”	The Policy Committee of the Council with the delegated decision-making power to deal with planning matters.

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<sup>2</sup> Defined in Section 26 of the Town and Country Planning (Scotland) Act 1997

“Listed Building Consent”	An application in terms of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
<u>“local development”</u>	Defined as all developments other than national developments and major developments. <sup>3</sup>
“Local Ward Members”	<p>Aberdeenshire is divided into nineteen Multi Member Wards. All Wards are represented by either three or four Members.</p> <p>In the event of a vacancy in a Multi Member Ward, referral from at least two of the total number of Local Members in the relevant ward (including the vacancy) are necessary to refer to <u>Area Committee</u>.</p>
“minor departure”	A slight technical departure which is in the opinion of the Planning Service insignificant.
“major development”	Described in Schedule 1 to the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
<u>“national development”</u>	Development or classes of development designated as such in planning policy as set out by Scottish Ministers in accordance with section 3A(4)(b) of the Town and Country Planning (Scotland) Act 1997, as may be amended from time to time.
“Planning Service”	This is defined for the purposes of criterion C.3.1j in relation to applications made by Officers directly involved in the assessment and/or determination of applications and consents within the wider Planning and Economy Service. This includes all staff within the Development Management and Development Planning (Policy) Teams and any other staff within the Service appointed to deal

<sup>3</sup> Reg. 2(2) of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

with any of the application types set out in these Planning Delegations.

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“Pre-Determination Hearing”	These Hearings, where required, enable the views of applicants and those who have made representations to be heard at Committee before a planning decision is taken. These Hearings are only used for National Developments and Major Developments which are classed as significant departures. The procedures can be found in <a href="#">Appendix C</a> .
“Regional Significance”	Where in the professional opinion of the Head of Planning and Economy the proposed development has an Aberdeenshire wide impact and not a localised impact.
“Review of Old Minerals Permissions”	An application under s.74 and Schedules 9 and 10 of the Town and Country Planning (Scotland) Act 1997.
Section 42 Applications for variation or removal of conditions	An application under s.42 The Town and Country Planning (Scotland) Act 1997.
Section 75A Applications for Modification of Section 75 agreement	An application under Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.
<u>“significant departure”</u>	<b>Significantly</b> in conflict with the Development Plan. See <a href="#">Appendix A</a> .
“valid objection”	Please see further details at <a href="#">Section D</a> .
<u>“valid representation”</u>	Please see further details at <a href="#">Section D</a> .

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Section C, contains the delegations that Aberdeenshire Council has made relating to planning decisions. Any amendment to these delegations must be made by [Full Council](#) through a two-stage process.

Section D, contains guidance.

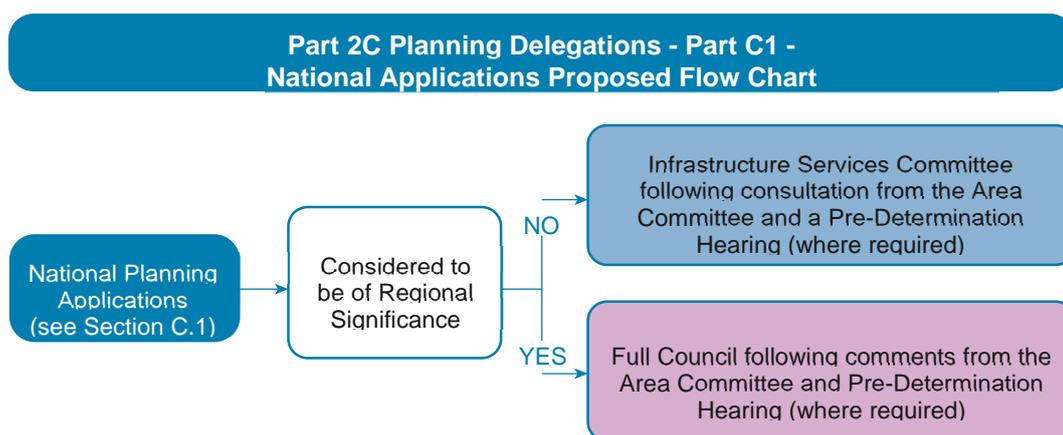
## C. DELEGATIONS

### 1. National Development

This section applies to all planning applications for national development.

- 1.1 All planning applications for national development will be determined by Infrastructure Services Committee following consultation with the relevant Area Committee(s) and a Pre-Determination Hearing where required unless the application, in the opinion of the Head of Planning and Economy, is considered to be of Regional Significance. Applications for national development which are considered to be of Regional Significance will be determined by Full Council.

#### Flow Chart



- 1.2 All applications for Matters Specified in Conditions, applications under Section 42 and Section 75A of the Town and Country Planning (Scotland) Act 1997 relating to National Planning Applications are Delegated to Officers unless subject to the criteria set out in Section 3.2 of the Planning Delegations.

### 2. Major Development

This section applies to planning applications for major development.

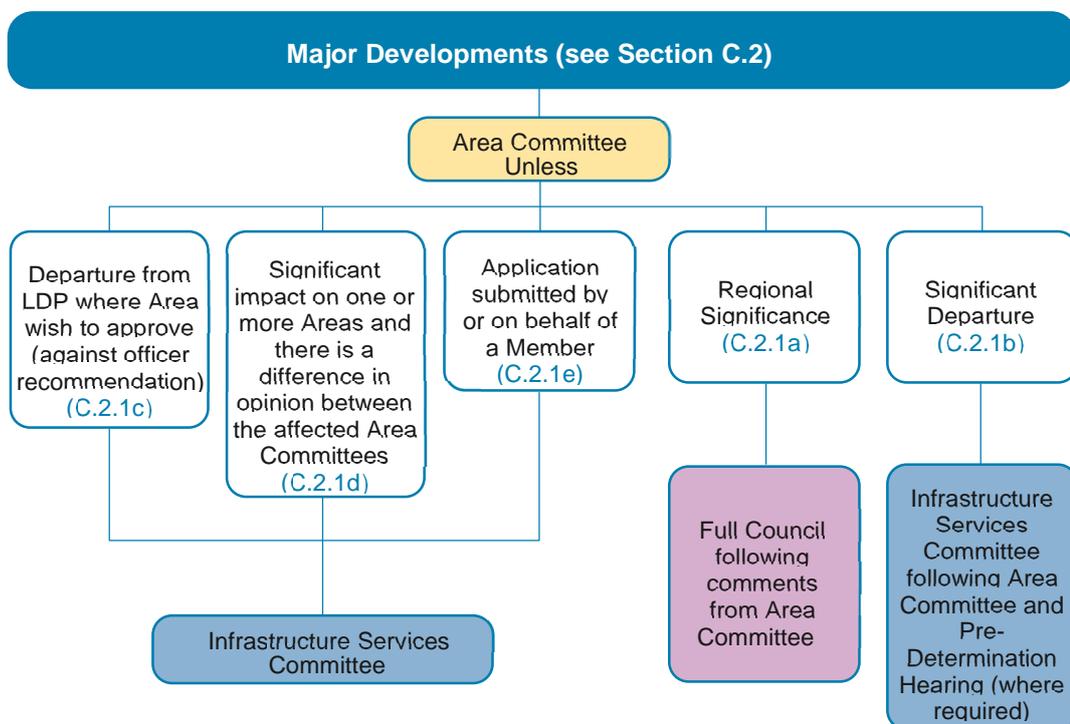
- 2.1 All planning applications for major development will be determined by Area Committee **except** where any of the following apply:-
- a. The application, in the opinion of the Head of Planning and Economy, is of Regional Significance then the application will be determined by Full Council. Such applications will be referred to the relevant Area Committee to provide comments before determination by Full Council.

- b. The Head of Planning and Economy is of the professional opinion that it is a significant departure from the Development Plan there shall be a Pre-Determination Hearing, where required followed by a view from the Area Committee then it shall be referred to Infrastructure Services Committee for final determination.
- c. The Head of Planning and Economy is of the professional opinion that the approval of an application would be a departure, albeit not a significant departure, from the Development Plan and the application is recommended for refusal, and the Area Committee decide to support the application, the application shall be referred to the Infrastructure Services Committee for determination.

For the avoidance of doubt:

- a. Where the Area Committee under part 2b or 2c decide to refuse the application in line with Officer's recommendations, the application does not require to be referred to Infrastructure Services Committee.
- b. Approval of an application for development which in the opinion of the Head and Planning and Economy, is simply a minor departure from the Development Plan can be determined by the relevant Area Committee.
- d. In the professional opinion of the Head of Planning and Economy, a proposal has a significant impact on more than one Area, the relevant Area Committee where the development is located or is substantially located will determine the application following consultation with the adjacent Area Committee(s). Where there is a difference of opinion between Area Committees then the application will be referred to Infrastructure Services Committee for determination.
- e. An application submitted by, or on behalf of, a Member of the Authority, or their spouse or partner. Such applications shall be determined by Infrastructure Services Committee.

Flow Chart



- 2.2 Following consultation with the Chair and Vice Chair of the determining Committee for applications initially dealt with by Area Committee, the Head of Planning and Economy can refuse planning applications for which Section 75 Agreements are not completed or Developer Obligations are not paid within six months from the date of the Committee and Local Ward Members shall be notified of any such refusal.
- 2.3 All applications for Matters Specified in Conditions, applications under Section 42, and Section 75A of the Town and Country Planning (Scotland) Act 1997 relating to Major Planning Applications are Delegated to Officers unless subject to the criteria set out in Section 3.2 of the Planning Delegations. For the avoidance of doubt, any matters explicitly agreed by elected members either within papers or by specific determination cannot be varied by Officers without the prior agreement of the relevant elected members.

### 3. Local Development

This section applies to all planning applications falling within the category of local development governed by the Town and Country Planning (Scotland) Act 1997. This section deals with all local development in terms of Section 43A. Applications for Planning Permission in Principle and Full Planning Permission are considered in Section 3.1. Certain provisions, as set out in Section 3.2, are also relevant to the following application types:

- Conservation Area Consent.
- Hazardous Substance Consent.
- Review of Old Minerals Permissions.
- Advertisement consent.
- All Applications for agreement of Matters Specified in Conditions (MSC).
- All Applications under Section 42 for the variations or removals of conditions.
- Listed Building Consent.
- All Applications made under Section 75A for the Modifications of S75 agreements.

Substitute the words “Head of Planning and Economy for “Appointed Officer” where they appear for applications other than local developments.

- 3.1 The Appointed Officer is authorised to determine all applications for Planning Permission in Principle and Full Planning Permission within the category of local development **except** where any of the following apply:-
- a. The application, in the opinion of the Head of Planning and Economy, is of Regional Significance then the application will be determined by Full Council. Such applications will be referred to the relevant Area Committee to provide comments before determination by Full Council.
  - b. In the professional opinion of the Appointed Officer, a proposal has a significant impact on more than one Area, the relevant Area Committee where the development is located or is substantially located will determine the application following consultation with the adjacent Area Committee(s). Where there is a difference of opinion between Area Committees then the application will be referred to Infrastructure Services Committee for determination.
  - c. An application for development which is a departure from the Development Plan and is recommended for approval, such applications will be determined by the relevant Area Committee.
  - d. An application for development that, in the professional opinion of the Head of Planning and Economy, would be a Significant Departure from the Development Plan, the application shall be referred to the Infrastructure Services Committee for determination.

For the avoidance of doubt, the requirement to refer an application to Infrastructure Services Committee exists in the case of applications where the Area Committee wishes to approve an application considered to be a significant departure. Where the Area Committee refuse the application, the application does not require to be referred to Infrastructure Service Committee. Delegated Authority exists for the Appointed Officer to refuse applications which are significant departures without referral to the Area Committee provided they are not required to be referred under other Criteria or following Local Member Notification.

- e. Applications recommended for approval that are in **accordance** with the Development Plan where there has been **valid objection** from third parties and 50% or a majority of **responding Local Ward Members in the Ward** in which the development is proposed, having been given prior notification of the Planning Officer's recommendation to grant permission, request in writing within five clear working days, that the application be **referred** to the relevant Area Committee and provide **valid material planning considerations** for the request.
- f. Applications recommended for approval where there is an **unresolved objection** from a consultee (including a community council within whose area the proposed development is to take place). Such applications will be determined by the relevant Area Committee.
- g. Applications recommended for **refusal** that are **contrary** to the Development Plan where in the professional opinion of the Head of Planning and Economy, there has been a **substantial body of support** for the development. Appendix B provides guidance on this point. Such applications will be determined by the relevant Area Committee.
- h. Applications recommended for **refusal** where 50% or a majority of **responding Local Ward Members in the Ward** in which the development is proposed, having been given prior notification of the Planning Officer's recommendation to refuse planning permission, request in writing within five clear working days, that the application be referred to the relevant Area Committee and provide valid **material planning considerations for the request**. Such applications will be determined by the relevant Area Committee.
- i. Applications which have been submitted by or on behalf of one of the following:
  - i) a member of staff in the Planning Service, where the application is subject to valid objections and the application is recommended for approval;
  - ii) the Local Authority, or is made by a third party and relates to land where the Local Authority has a financial interest, where the application is subject to valid objections and the application is recommended for approval

shall be determined by Area Committee unless otherwise requiring referral to Infrastructure Services Committee under other criteria set out in section 3.1.

- j. An application submitted by, or on behalf of, a Member of the Authority, or their spouse or partner shall be determined by the Infrastructure Services Committee.

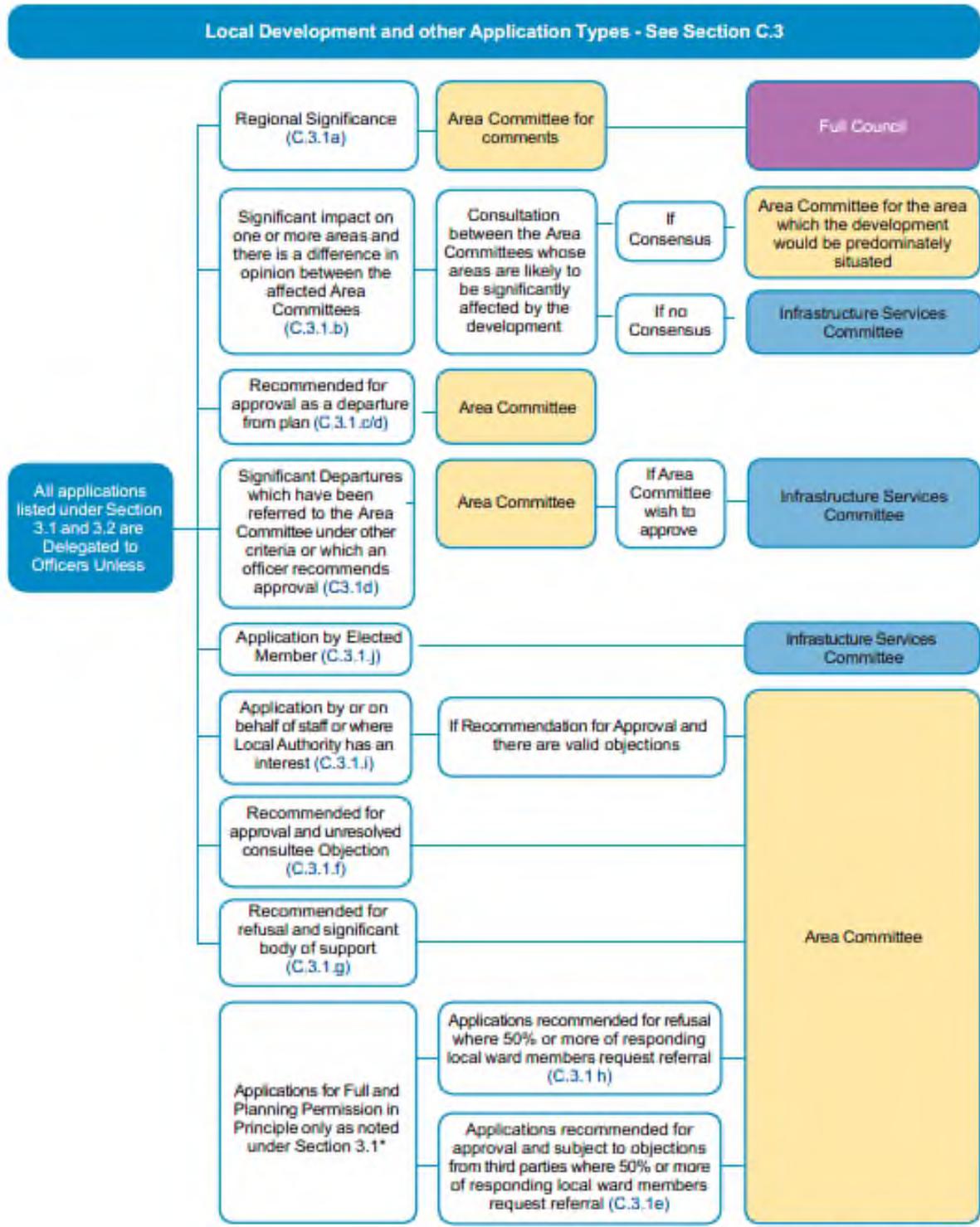
3.2 The Appointed Officer is authorised to determine applications of the following application types **except** where Criteria 3.1 a, b, c, d, f, g, i, or j apply:

- Conservation Area Consent.
- Hazardous Substance Consent.
- Review of Old Minerals Permissions.
- Advertisement consent.
- All Applications for agreement of Matters Specified in Conditions (MSC).
- All Applications under Section 42 for the variations or removals of conditions.
- Listed Building Consent.
- All Applications made under Section 75A for the Modification of Section 75 agreements.

3.3 The following provisions relate only to applications which are subject to Section 75 Agreements or Developer Obligations.

- a. For applications dealt with by Officers under delegated powers, the Head of Planning and Economy can refuse planning applications for which Section 75 Agreements are not completed or Developer Obligations are not paid within four months from the date of instruction to Legal & People.
- b. Following consultation with the Chair and Vice Chair of the determining Committee, the Head of Planning and Economy can refuse planning applications for which Section 75 Agreements are not completed or Developer Obligations are not paid within four months from the date of the Committee. Local Ward Members shall be notified.

Flow Chart – Local Development



\*Applications for Full and Planning Permission in Principle are subject to all of the criteria noted on this flowchart

## 4. High Hedges Consent

- 4.1 All applications for High Hedges Consent in terms of the High Hedges (Scotland) Act 2013 shall be determined by Officers.

## 5. Development Management for all types of Development

- 5.1 Council Officers have delegated authority from the Council:-

- a. To invalidate applications which are deficient in information or detail to enable a proper assessment to be completed in terms of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- b. To refuse planning applications where the applicant has not provided all requested information within the timescale clearly set out in the request for that information or such other date as may be agreed in writing.
- c. To decline to determine applications in terms of Section 39 of the 1997 Act.
- d. To determine when Environmental Impact Assessments require to be submitted by developers.
- e. To enter Processing Agreements with applicants for planning applications where considered appropriate in the professional opinion of the Officer.
- f. To approve detailed matters that have been reserved by condition in the granting of permission/consent by a Committee or by Officers or by the relevant appeal body, subject to the restrictions limiting matters specified in conditions applications.
- g. To vary,
  - (i) planning permissions; and (ii) Section 75 Agreements by written agreement, where the variation is non-material in planning terms (to be determined, in the case of, planning permissions by the Appointed Officer; and Section 75 Agreements in consultation with other Services as appropriate).

Following any agreed variations made under this delegation, the Appointed Officer shall inform the Chair and Vice Chair of the Determining Committee and the Local Ward Members of the agreed variation/s in writing.

- h. To determine all applications for:

- Prior notification and prior approval in respect of development permitted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).
  - Certificates of Lawfulness
  - Certificates of Appropriate Alternative Developments
- i. To process, administer and defend planning appeals, after consultation with other Services as appropriate, to Scottish Ministers either by written representation, hearing or inquiry Sessions, where the Committee has agreed with Officers' recommendations.
- j. To deal with non-statutory notifications for Council developments, where there have been no objections from the public or other Council Services.
- 5.2 Full Council, Infrastructure Services Committee and Area Committees may also be consulted on applications determined by other public bodies such as, but not limited to, applications for windfarms in terms of Section 36 of the Electricity Act 1989.
- 5.3 All Development Frameworks and Masterplans as required by the provisions of the Local Development Plan will be agreed by the Area Committee(s) relevant to where the development/site is located.

## **6. Cairngorms National Park Authority**

- 6.1 The following provisions relate to any application for a proposed development within the Cairngorms National Park which fall within the following statutory provisions:-
- a. Section 46 of the Town and Country Planning (Scotland) Act 1997;
  - b. Section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997; and
  - c. Section 18 of the Planning (Hazardous Substances) (Scotland) Act 1997.

The Council must notify the Cairngorms National Park Authority of any such application within five days of receipt.

- 6.2 Where such an application is notified to the Cairngorms National Park Authority, the Authority may choose to exercise the functions of the Council as planning authority where it considers the application raises a planning issue of general significance to the aims of the Cairngorms National Park. In such circumstances the application shall be determined by the Authority.

The following Section D provides guidance:-

## D. GUIDANCE

### 1. Representations (Objections or Support)

For an objection to be considered valid it must be:-

- a. In writing,
- b. From an individual or body with a postal address,
- c. On planning grounds material to the application,
- d. Received no later than twenty-one days from any neighbour notification (or where there is a statutory advertisement, no later than the specified period in the advert, whichever is later).

For support to be considered valid it must be:-

- a. In writing,
- b. From an individual or body with a postal address who is not the applicant,
- c. On planning grounds material to the application,
- d. Received no later than 21 days from any neighbour notification (or where there is a statutory advertisement, no later than the specified period in the advert, whichever is later).

Where a representation has been received which is marked as neither in support or objection to an application, the Appointed Officer will need to consider whether the representation raises any concerns with the development proposal and whether those concerns have been reasonably addressed in respect of the information submitted or any intended conditions. If such matters have not reasonably been addressed, then the representation should be considered as an objection for the purposes of the Scheme of Governance.

Petitions, either in support or objecting to the application, will be treated as one submission. All petitions should state clearly the relevant planning considerations which form the basis of their representation.

**A Community Council, within whose boundary the proposed development is to take place**, will be treated as statutory consultees. This does not preclude any other Community Councils from making a representation which will be taken into account in the same manner as any representation from a member of the public.

### 2. Making a Comment on a Planning Application

The Council must determine all applications in accordance with the **Local Development Plan** and any relevant “**material**” **considerations**. The Council can only take into account 'material planning considerations' when

looking at submitted comments from consultees and members of the public. The most common of these (although not an exhaustive list) are shown below:

- Local, strategic, regional and national planning policies.
- Government Circulars, orders and statutory instruments.
- Adequacy of parking/loading/turning.
- Archaeology.
- Compensation and awards of costs against the Council at public enquiries.
- Design, appearance and materials.
- Effect on listed building and conservation area.
- Equalities.
- Hazardous materials.
- Highway safety.
- Landscaping.
- Layout and density of building.
- Loss of light or overshadowing.
- Loss of trees.
- Nature conservation.
- Noise and disturbance resulting from use.
- Overlooking/loss of privacy.
- Previous planning decisions (including appeal decisions).
- Road access.
- Smells.
- Sustainability or Energy Efficiency.
- Traffic generation.
- Visual amenity (but not loss of private view).

For applications for **Advertisement Consent** the only two material considerations are “in the interests of public safety or amenity” as defined in Part II Section 4 (2 (a) and (b)) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended by the Town and Country Planning (Control of Advertisements) (Scotland) Amendment Regulations 1992.)

We cannot take into account matters which are sometimes raised but are not normally planning considerations such as:

- Boundary disputes.
- Ownerships disputes over rights of way.
- Personal morals or views about the applicant.
- Private disputes between neighbours.
- Restrictive covenants.
- The perceived loss of property value.
- The loss of a view.
- The impact of construction work or competition between firms.

Please note it is important to understand that the **material considerations** relevant to any particular application will need to be **weighed in the final decision process**.

Anonymous submissions commenting on an application cannot be considered and we will publish your name and address alongside your comment. We operate a specific procedure for handling submissions or comment which include remarks which are of a racist or otherwise offensive nature. Such submissions will not be considered, and the writer will be advised of our concerns and asked to amend their submission within the statutory timescale for comment on the particular application, or it will be withdrawn.

It is important to understand what the application seeks when making comment. There are certain applications, Matters Specified in Conditions Applications for example, which are applications relating to detailed applications only and not the principle of the development itself.

### **3. Making a Request to Speak at Committee**

Should you wish to make a request to speak on a Planning Application, whether in support or in opposition, please see the Council's Standing Orders detailing when requests should be made and to whom they should be made.

### **4. Appeals**

For Local Developments there are different routes to appealing a planning decision depending on whether the decision to be appealed was taken by a Council Officer or a Council Committee.

#### **Appealing a Decision taken by an Appointed Officer – Local Development**

If a decision was on an application for Local Development (including MSC and S42 applications related to Local Developments) has been taken by the Appointed Officer using the delegated powers as detailed in this document, an applicant who wishes to appeal can ask for the decision to be reviewed by the **Local Review Body**. Please note whilst some decisions on certain application types may be delegated to officers such as Listed Building Consent applications or S42 applications relating to a Major applications these applications are still appealed to the Scottish Government. The route of appeal is set out within the advisory notes on the relevant decision notice for that application.

The Local Review Body is a panel of Councillors from across Aberdeenshire who sit on a monthly basis and consider requests by applicants to review the decision that was taken by an Appointed Officer.

A request for a Review must be submitted to the Local Review Body by way of a [Notice of Review Form](#) and will be considered as a valid appeal if it is for a local development and the Appointed Officer has:-

- Refused an application for planning permission (for a local development) or for consent, agreement or approval,
- Granted planning permission subject to conditions and the applicant wishes to appeal those conditions, or
- Not determined it within such period as may be prescribed by regulations or a development order (presently 2 months), then the applicant may require the planning authority to review the case (non-determination).

A [guidance note](#) for consideration by applicants or their agents should be considered before the submission of a Notice of Review to ensure that it is competent.

### **Appealing a Decision taken by a Council Committee**

These appeals are dealt with by the Planning and Environmental Appeals Division of the Scottish Government. Guidance can be found at their [website](#).

All [Area Committees](#) have the power to receive reports back on the outcome of planning appeals referred to and approved by the Reporter relevant to their area.

## **5. Local Member Notification Process**

Depending on the recommendation made by the Appointed Officer certain types of applications require to be notified to Local Members who represent the Local Authority Ward where the application site is located. Following a notification, Local Members will have five working days to consider the application and decide whether the application should be referred for further consideration by the Area Committee. The process operates as a check and balance and allows for appropriate Local Member involvement in determining local applications which (i) attract objections and are recommended for approval; and (ii) which are recommended for refusal.

Irrespective of whether a Ward has three or four Local Ward Members, the Local Member Notification process requires at least 50% or a majority of those members within that Ward who respond to the notification to refer the application to the Area Committee. Planning grounds for this referral must be provided. Should this occur then, the application must be determined by the relevant Area Committee. For the avoidance of doubt, if a Member does not respond to the notification or the response does not contain a valid planning reason it will be discounted. Only responses by Members who respond to the notification will be considered in forming part of the 50% or majority required to refer that application to the Area Committee.

### Local Ward Member Declaration of Interest

Local Ward Members must declare an interest if their connection to application is so significant that it would likely prejudice, or be perceived to prejudice, their discussion or decision making. This declaration is made based on their understanding of the application and the parties involved at the time of the notification. Should an interest, in terms of the Councillors' Code of Conduct, become apparent to a Local Member following the notification and the application is referred to Area Committee, this should be declared at the Committee. Members who declare an interest through the Local Ward Member Notification process will not count as a responding Member.

### Questions during notification period

Members may legitimately ask questions of the Planning Officer as part of the notification process although these questions should be limited to those of a factual nature and points of clarity. The response from the Planning Officer should be shared with all Ward Members. Members should bear in mind it may not always be possible to answer or respond to questions raised by Members within the notification period.

### Outcomes of Local Member Notification Process

Where 50% or a majority of Local Ward Members whom respond to the notification provide a valid planning reason for requesting referral to Area Committee, then the application must be determined by the Area Committee. In the event this criteria is not met then the application will be determined by the Appointed Officer. Referring an application to Area Committee should not be read as that a Local Member disagrees with the Officer recommendation, rather that the application raises planning issues which merit further discussion by the Area Committee.

## **APPENDIX A - Guidance on what is considered a significant departure**

All decisions made by Aberdeenshire Council are made in **accordance** with the Local Development Plan **unless** there are **material planning considerations** which outweigh the policy and are persuasive enough to justify a departure from policy. Each planning application has to be carefully considered against the policies and material considerations before the application can be determined. A proposed development may “tick all the boxes” in relation to most policies but not all. Decision-makers must weigh each consideration and decide whether material considerations are enough to outweigh the policy.

Some proposed developments would be **significantly contrary** to the Local Development Plan. Irrespective of the application’s place in the hierarchy of development. Officers cannot determine applications that are significantly contrary to the Plan and need to go to Infrastructure Services Committee as appropriate.

It is not possible to pre-empt every type of application that may be considered a significant departure and each application has to be considered on its own merits. “Significance” must be relevant to that application when weighed against the relevant policies. However, any development which would or could by reason of its scale or nature, or the location of the development, significantly prejudice the implementation of the Development Plan’s policies and proposals is likely to be considered significant.

However, in order to assist Officers and applicants, the types of applications which are likely to be considered as significant departures are:

- Medium to large scale housing developments (typically 8 or more houses) within the Countryside which are not located on an allocated site identified in the Development Plan unless considered to comply with the Local Development Plan as enabling development.
- Applications for Category B listed buildings where Members overturn a recommendation of refusal (in accordance with the Historic Scotland Removal of Notification procedure).
- Proposals on allocated sites that do not accord with the allocation in the development plan and would significantly prejudice the deliverability of the development plan e.g., Non-industrial development on sites allocated for industrial uses.
- Large Scale Employment Development in the countryside which the Planning Service consider would impact on the deliverability of allocated employment sites within the Local Development Plan.

## **APPENDIX B – Substantial Bodies of Support**

When considering whether the strength of public support is a significant material planning consideration, the Council as the Planning Authority, will take account of all of the following factors:

- a. the number of representations in support of the proposal, in the context of the locality;
- b. where representation in support is from a group or organisation, the extent to which it may be representative of the community; and
- c. the relevance, in planning terms, of those representations.

For the avoidance of doubt the number of letters or individuals in support will not be the sole deciding factor as to whether the body of support could be considered substantial. The Council as the Planning Authority will also take account of how the number and location of supporters relates to the local and wider population that could legitimately claim to be affected by the development. The quality and relevance of the arguments presented will be paramount.

## **APPENDIX C - Pre-Determination Hearing Procedures**

These Hearings, where required, enable the views of applicants and those who have made representations to be heard at Committee before a planning decision is taken and are only used for National Developments and for Major Developments which are classed as significant departures.

### **1. At the Hearing**

- a. The Chair welcomes the parties, explains the purpose and format of the Hearing. The Chair asks those who wish to speak to indicate at the start so that the sequence can be agreed.
- b. The Chair explains that the Hearing has been arranged to allow third parties (not necessarily objectors) to give their views with a benefit of statement from a Planning Officer and description of the proposal from the applicant, before the Committee reaches a (final) decision on the planning application.
- c. The Chair explains that third parties should focus their comments on their views already expressed in writing, although if any new information is presented by the applicant or the planning official or any previous misunderstanding is clarified, comment is allowed.
- d. The Planning Officer will identify (in no more than ten minutes) the planning policies against which the application is to be assessed and draw attention to any other key material considerations.
- e. Any other relevant Officer will identify their concern(s).
- f. The applicant/agent (in no more than ten minutes) shall outline the application and address the written representations.
- g. Those wishing to make representation (in no more than ten minutes) will be heard, with precedence being given to representatives of Community Councils and other community bodies, followed by those who are speaking on behalf of several bodies and then by individuals.
- h. If any party wishes longer than the recommended ten minutes, the Chairman should seek the views of other parties present and make a decision following discussion with other members of the Hearing in the light of the current circumstances.
- i. Councillors appointed to hold the Hearing are allowed to ask questions of any of the parties to clarify points raised and, if necessary, may recall a previous participant to give a view to clarify a point.

- j. After all parties have concluded their presentations, the Chair will ascertain that other members of the Hearing have had all their requirements for information met.
- k. The Chair will ask if the parties are satisfied with the way in which the Hearing has been conducted, such agreement to be recorded in the note of the meeting and, if dissatisfied, advises any objector to write to Council.
- l. If appropriate, the Chair will indicate that a Report of the Hearing and an Officer's Report will be considered at a Committee meeting in the near future.
- m. The Chair will close the meeting.