

Update to Agents and Developers September 2022

Local Development Plan 2022

Please find attached a link to a media release we have issued following the adoption of the Proposed Local Development Plan 2020 as modified.

<https://online.aberdeenshire.gov.uk/apps/news/release.aspx?newsID=8630>

Coronavirus Temporary Modifications

In response to the pandemic, the Scottish Government introduced several temporary legislative provisions to enable aspects of the planning system to continue operating in the context of coronavirus restrictions. Those temporary provisions which remain in place will cease to apply after 30 September 2022. These are:

- Extensions to the duration of planning permission, listed building consent and conservation area consent (where a permission or consent would expire on or before 30 September 2022 if development is not begun, then the duration has been extended to 31 March 2023);
- Suspension of requirements for physical public events in pre-application consultation (PAC) requirements (see below for changes to PAC from 1 October); and
- Suspension of requirements on the physical availability for inspection of Environmental Impact Assessment Reports.

New Planning Legislation Coming into Force

The following regulations come into force on 1 October 2022:

- [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(legislation.gov.uk\)](#) (The PAC Regulations)
- [The Planning \(Scotland\) Act 2019 \(Commencement No. 9 and Saving and Transitional Provisions\) Regulations 2022 \(legislation.gov.uk\)](#) (The Commencement Regulations).

Pre-application Consultation

The PAC Regulations change the PAC provisions to require:

- A minimum of two public events;
- Newspaper notices in relation to each such statutory public event (and indicating where additional information can be obtained and how comments can be made to the prospective applicant);
- Consultation with relevant community councils;
- Feedback to be provided at the second statutory/ final public event; and
- Compliance with new statutory requirements on the content of PAC report.

There are [transitional arrangements](#) in place covering the change from old to new PAC requirements and taking into account the temporary changes to PAC to address Coronavirus.

The changes to PAC also introduce new exemptions from PAC requirements in certain cases, with necessary changes to the required content of PAC screening notices.

Broadly speaking, the statutory criteria provide a PAC exemption where a proposal for essentially the same development has been through PAC before and an earlier application was then made within the previous 18 months.

Commencement of Planning (Scotland) Act 2019 Provisions

The Commencement Regulations bring into force changes to the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) in respect of:

- Duration of planning permission and planning permission in principle (Sections 58 and 59 of the 1997 Act) – specifies the period within which development must be started or permission lapses. From 1 October 2022, duration is to be specified in a condition attached to the planning permission or planning permission in principle.
- Planning permission in principle (Section 59 of the 1997 Act) – currently the time periods for making applications for approval of matters specified in conditions is prescribed by the 1997 Act. From 1 October 2022, that statutory framework will be removed and it will be for planning authorities to consider such periods and to specify them in conditions.
- Declining to determine planning applications (Sections 39 the 1997 Act) – planning authorities currently have discretion to refuse to determine “repeat” planning applications in certain circumstances. From 1 October 2022, the period over which that discretion applies (provided the criteria for doing so are met) will be extended from 2 to 5 years. New Section 39A requires Scottish Ministers to publish guidance on the application of aspects of Section 39.
- Completion notices (Section 61 and 62 of the 1997 Act) – planning authorities may issue a notice requiring completion of a development. From 1 October 2022, these procedures will be streamlined: not every such notice will require to be confirmed by the Scottish Ministers.

A revised Development Management Procedure Circular will be published (replacing Circular 3/2013), which incorporates changes to address the new provisions. This will include the guidance required by Section 39A.

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