

## **Local Review Body Standing Orders**

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### **Commencement**

**These Standing Orders shall apply from 7<sup>th</sup> December 2020**

### **Definitions section**

Advisor	A person employed by the Park Authority or otherwise who is suitably qualified and who has had no direct involvement in the decision of the Appointed Officer which is the subject of the Review and who is responsible for (a) providing advice and assistance to the LRB in respect of procedure and these Standing Orders, or on any other relevant matter upon which the LRB considers advice is required and (b) (if required) for minuting meetings of the LRB and drafting decision notices, minutes and other administrative tasks;
Applications	Any application for planning permission for a development within the category of local development or any application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development determined by an appointed officer (including a Deemed Refusal) under the Scheme of Delegation;
Appointed Officer	The officer of the Planning Authority designated as such in the Scheme of Delegation;
Assessor	Any individual appointed to assess a specified issue or specified issues in line with Regulation 21 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013;
Clear Days	When referring to service of Notices, the term “clear days” refers to weekdays, excluding weekends, public holidays (as designated by the Authority), the day the Notice is posted and the day the meeting is held;
Clerk	The Officer responsible for minuting a meeting of the LRB;
Local Development	Has the meaning ascribed to it in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
LRB	Means the Local Review Body of the Park Authority;

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Member	A Park Authority Board Member appointed to serve on the LRB (including the Chair and the Depute Chair);
Regulations	Means the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013;
Review	A Review may take place by: (a) a review where the LRB considers it has sufficient information (b) examining written submissions by an applicant and the Park Authority (c) a hearing; (d) an inspection of the relevant land; or (d) any combination of (b), (c) and (d);
Scheme of Officer Delegation	The appended document Scheme of Delegation Relative to Planning which outlines the classes of development upon which the Officers of the Park Authority may make a decision without referring a particular application to the Planning and Access Committee, and the circumstances in which that is legitimate;
The Act	Means the Town and Country Planning (Scotland) Act 1997;
The Chair	The Member appointed by the Park Authority to preside at any LRB meeting;
The Depute Chair	The Member appointed by the Park Authority to preside at any LRB meeting in the absence of the Chair.

### Applicability of these Standing Orders and the Remit of the LRB

1. These Standing Orders (the LRB Standing Orders) govern the procedure of meetings of the LRB). The procedures set out in the LRB Standing Orders are consistent with and must be interpreted in accordance with the requirements of the Regulations and any relevant planning legislation including the Town and Country Planning (Scotland) Act 1997 (as amended) and the Planning (Scotland) Act 2019. In the event of any conflict between these LRB Standing Orders and the Regulations, the Regulations will take precedence. In addition to these Standing Orders, the National Park Authority Standing Orders also apply to meetings of the LRB where appropriate. In the case of conflict between the two sets of Standing Orders, the LRB Standing Orders take precedence unless the Advisor advises otherwise.
2. References to any (UK) Act of Parliament or Act of the Scottish Parliament or Statutory Instrument shall include any modification, extension or re-enactment thereof for the time

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being in force.

3. The LRB is only entitled to review the decision on an application made in terms of the Scheme of Delegation for Planning (including a deemed refusal). All such applications relate to Local Development. Applications in respect of Local Development are initially decided by an Appointed Officer of the Authority. References in the LRB Standing Orders to decisions of the Authority refer to decisions taken by the Appointed Officer in terms of the Scheme of Delegation.
4. Notice of the place and time of an LRB meeting shall be given by or on behalf of the Clerk to the LRB, and interested parties and the public. All LRB meetings will take place in public subject to any legislative requirements allowing the LRB to meet virtually.
5. The LRB will be advised by the Adviser.

### **Where a Review is required.**

6. A Review will be required as a result of three possible eventualities:
  - 6.1 An applicant wishes a review of the decision of the Park Authority made in respect of their application;
  - 6.2 An applicant wishes a review of a condition attached to a permission issued to in respect of their application; or
  - 6.3 An applicant wishes a review of their application because the Park Authority has failed to come to a decision in respect of their application within the statutory timeframe (Deemed Refusal).
7. The Regulations require that the Notice of Review must be submitted by the applicant within three months of:
  - 7.1 The date on the relevant decision notice; or
  - 7.2 The date by which the Park Authority ought to have reached its decision. (8 weeks from the date of validation of the relevant planning application)
8. The Regulations require that the Notice of Review must be in writing and the Notice of Review must contain the following information:
  - 8.1 The name and address of the applicant;
  - 8.2 The date and the reference number of the relevant application;

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- 8.3 The name and address of the representative of the applicant (if any) and whether any notice or other required correspondence should be sent to the representative instead of the applicant; and
- 8.4 A statement setting out the applicant's reasons for requesting the LRB to review the case and by what procedure (written submissions, hearing or site visit) or combination of procedures the applicant wishes the review to be conducted.
9. The Regulations require that all matters which the applicant intends to raise in the Review and all documents, materials and evidence upon which the applicant intends to rely in the Review must be set out in or accompany the Notice of Review. The applicant may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulation 15 of the Regulations and the Hearing Session Rules.
10. A new matter which was not before the Appointed Officer at the time of original determination will not be permitted to be raised in a Review unless the applicant can demonstrate that it could not have been introduced earlier in the process or that it arises due to exceptional circumstances. This does not affect any requirement or entitlement for the LRB to have regard to (a) the provisions of the development plan or (b) any other material consideration.
11. In cases where any party, in the opinion the Advisor in consultation with the Chair, raises a new matter the Clerk shall serve notice to that effect on the party so doing providing that party with 14 days within which to provide a justification for that new matter. On receipt of that response, the Clerk will then provide the other parties to the Review with 14 days within which to respond. The LRB will on advice from the Advisor decide at its initial meeting whether to accept or refuse that new matter.

### **Agenda Papers/Notice of Meeting**

12. The agenda and papers will be made available to all relevant parties prior to the relevant LRB meeting.

### **Membership and Quorum**

13. The membership of the LRB is up to five Members of the Park Authority. The quorum of the LRB is three Members, where one such Member must be either the Chair or the Depute Chair. Should the Chair or Depute Chair not be available the LRB Members must elect a Chair for the purpose of that meeting. The membership of each LRB will be drawn from the Authority's Planning and Access Committee. Members must be present at the start of a Review in order to participate. A Review starts when the Chair invites the LRB to commence consideration of written submissions, or the Chair invites an attendee to make the first submissions at a hearing or the LRB enters onto a

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property with the intention of carrying out a site visit. If a Member arrives after the start of any Review, they may not participate in either the debate or any vote relative to that Review.

14. If, ten minutes after the time set for the start of a meeting of the LRB, a quorum is not present, the meeting will be abandoned and it will be recorded that no business was considered because there was no quorum. In those circumstances, the meeting will be adjourned to another time on the same day, or to another date and time at the Chair's discretion.

### Conflicts of Interest - Declaration of Interest

15. Members who consider in terms of the Members' Code of Conduct, that they have a financial or non-financial interest in any matter are required to declare that interest. If a member of the LRB realises that they must declare an interest in any application due to be considered, whether financial or non-financial, they must immediately inform the Advisor. For the avoidance of doubt the conflicted Member should take no part in the discussions or decisions of the LRB and must immediately withdraw from the meeting.

### Initial Procedure

16. On receipt of a valid Notice of Review the notification procedure will take place. The Clerk will write to "interested parties" to make them aware of the Notice of Review. Interested parties include any statutory consultees or other parties who have made, and not withdrawn, representations (e.g. objections) in connection with the planning application. Interested parties are entitled to make further representation in writing to the LRB within 14 days of notification, and any such further representation will then be copied to the applicant by the LRB and the applicant, in turn, will have a further 14 days to make comments to the LRB.
17. In cases where the Review follows a failure by the appointed officer to determine the application, the LRB shall obtain a Review report from the Appointed Officer as part of the initial procedure and shall copy this to the applicant and any interested parties, who shall then have a period of 14 days to comment in writing. The Review report and any comments from the applicant or interested parties shall form part of the Review documents.
18. After this process is completed, the relevant papers will be issued for the next available meeting of the LRB. These papers will also be published in terms of the Regulations.
19. At the first meeting to consider a Review the LRB may determine that the review documents provide sufficient information to enable them to determine the Review, whereupon they may determine the Review without further procedure.

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20. The Advisor shall prior to the LRB deciding where or not it has sufficient information to undertake the Review provide the LRB with a verbal summary of the application, the reasons why the application was refused; the grounds set out in the Notice of the Review and a description of the relevant provisions of the Park Authority's adopted development plan (Development Plan) and any material considerations. The Advisor will also provide advice on the admissibility of any new matter raised by the Applicant.
21. In the event that the LRB decide at the first meeting that they require further procedure before they can determine the Review, then they will consider what further procedure is required.

### **Further Review Procedure**

22. It is for the LRB to decide the method of determination which will be used in each Review in accordance with the Regulations.
23. If the LRB requires further information, it may but is not obliged to hold a pre-examination meeting to determine the most appropriate procedure for the Review to consider the manner in which the Review or any part of the Review is to be conducted. This will not be appropriate in every case. However, where, for example, there is a range of issues to be examined or more than one procedure is likely to be used to support the review process, such a meeting can clarify for the applicant and interested parties the procedures and their respective roles and help ensure the Review is conducted efficiently and expeditiously. A pre-examination meeting will not be necessary in all but the more complex cases. The LRB will determine the date, time and venue of any pre-examination meeting, and will provide reasonable notice to the interested persons in accordance with the requirements of the Regulations.
24. The Regulations further provide that the procedures available to the LRB include written submission, hearing and/or site inspection or a combination of these methods. Where an applicant has requested a particular review procedure the LRB will have regard to the applicant's preference, but reserves the right to determine in its own discretion the most appropriate procedure for the Review.

### **Attendance at Hearings**

25. Where the procedure adopted by the LRB is a hearing those eligible to appear at the hearing will be the applicant and/or any other party who has received Notice of a Review and who notifies the LRB of their intention to appear at the hearing in writing within fourteen days of the date of such Notice. The Clerk will acknowledge receipt of such notification.

### **Review Procedures – Hearings**

26. If the LRB decides that a hearing is the appropriate procedure for the Review it will

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- proceed in accordance with the Hearing Session Rules that are set out in Schedule 1 of the Regulations. There is no right for any person to be heard at a hearing. The LRB will determine the procedure to be adopted at the hearing. The LRB will hear verbal representations from relevant parties as they feel appropriate. Representations to the LRB can only be made by parties who have participated in the original planning process – i.e. the applicant, statutory consultees, formal representatives and objectors or supporters.
27. In accordance with the Regulations the LRB will decide what matters are to be considered at the hearing. These are referred to as specified matters. The LRB will not hear from parties on any matters other than specified matters.
  28. Parties may only address the LRB on relevant planning issues. Parties will not be heard on other matters. The LRB will decide the relevance of oral submissions to the application that is the subject of the Review.
  29. Subject to the requirements of a fair hearing the Chair shall determine the duration of oral representations made by any interested party. In the event that there are a large number of parties wishing to make oral representations, the Chair will be entitled to specify that parties wishing to make identical or similar representations must nominate one spokesperson to speak on the behalf of all parties. This is to ensure the efficiency of the hearing process.
  30. Other than in exceptional circumstances (which will be a matter for the LRB to determine) only interested parties who arrive before the Review has started will be allowed to make an oral representation.
  31. If any party has requested to make an oral representation and does not attend the meeting or does not arrive before the Review has started, the LRB may proceed to determine the Review.
  32. Requests from interested parties to continue any Review to another date to allow them to attend will not normally be considered other than in exceptional circumstances (which will be a matter for the LRB to determine).
  33. After each submission, the LRB may put any relevant questions to the speaker. There will be no opportunity for any speakers to question other speakers, planning officers or Members except where a party is invited by the Chair to do so. In this instance, the Chair is entitled to direct the specific issue to which the questioning is to be restricted.
  34. If, in the opinion of the Chair, the behaviour of any individual(s) attending any meeting of the LRB is unacceptable, the Chair may halt consideration of the matters before the LRB and call an adjournment. The Chair is entitled to ask an individual to leave the meeting.

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### **Review Procedures – Written Submissions**

35. Where the LRB has indicated that the Review will be carried out wholly or in part by reference to written submissions made by the relevant parties it will proceed in accordance with the Regulations. The LRB will give written notice to the applicant or to any other body or person from whom it requires further representations or information.
36. Such a written notice must contain:
  - 36.1 Details of the information required of that party;
  - 36.2 The date by which the written submissions must be sent to the LRB; and
  - 36.3 The names and addresses of any other body or person to whom a written notice requesting further information has been served.
37. A copy of any written submissions supplied must be sent to the applicant and any other party to whom the LRB has sent a written notice by the date specified in the written notice.
38. The recipient of further submissions is entitled to submit comments to the LRB in response, and when doing so must also submit a copy of their comments to the applicant and any other party named in the written notice. The further submissions must be sent to the LRB within 14 days of the receipt of the written notice.

### **Review Procedures – Site Inspections**

39. Where it is considered necessary to carry out a site visit the LRB will proceed in accordance with the Regulations. When a suitable time for the site visit has been arranged officers will formally notify all Members and interested parties in writing. Further consideration of the Review may then be made at a hearing after the site visit, unless the Chair otherwise directs.
40. A site visit may be carried out by the LRB alone or accompanied by any party invited by the Chair, normally the applicant, the relevant planning officer and/or any other interested party. The decision on whether to carry out an accompanied or unaccompanied site inspection shall be made by the Chair who will consult with the other Members of the LRB. Only Members who attended the site visit may participate in the determination of the Review.
41. No oral representation as to the merits of the case will be permitted at a site visit. Members of the public may observe a site visit, but may not participate other than if invited by the Chair to provide clarification.



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42. If, in the opinion of the LRB, any person attending the site visit is acting inappropriately the Chair may halt the site visit and direct that the person leaves the site. Only when the Chair is satisfied that there will be no further inappropriate behaviour will the site visit continue.
43. Subject to the requirements of a fair hearing, if any interested party fails to attend a site visit, the LRB is not bound to defer the site visit.
44. The Review shall not be determined at the site visit, but shall be continued to a future meeting of the LRB for determination.

### **Miscellaneous Procedural Information**

45. Where, following any written submissions, hearing and/or site inspection, new evidence or information is proposed by any interested party and has been accepted by the LRB (subject to that evidence being supplied to all interested parties within a set timescale), the LRB will not conclude the Review without affording all other relevant parties the opportunity to make representations on that evidence or information. Depending on the circumstances, the Chair may direct that it is appropriate to adjourn the meeting of the LRB or postpone it until a later time/date.
46. At any time until a Review is concluded, the LRB may request that any interested party provides as many additional copies of any relevant documents as they may specify to the LRB and/or to any other interested party.
47. In accordance with the Regulations, the LRB may appoint an assessor to attend a Review and provide a report on such matters as are specified to that assessor in advance of the Review. If it intends to do so, the LRB must notify all interested parties of its intention to appoint an assessor, identify that assessor, and indicate the matters upon which the assessor will be reporting. Copies of the Assessor's Report are to be made available to all interested parties as soon as is reasonably practicable (but for the avoidance of doubt no less than one clear day) in advance of the consideration of that case. Publication on the Park Authority's website of the report will be considered an acceptable means of dissemination.

### **LRB Decisions**

48. The LRB must give a Decision Notice to the applicant, and notify any party who has made a representation to the LRB in relation to the Review that a decision has been made and where a copy of the Decision Notice may be viewed.
49. The Decision Notice must contain the following information:
  - 49.1 The outcome of the Review;

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- 49.2 The reason(s) for reaching that outcome;
  - 49.3 The planning application reference number;
  - 49.4 A description of the location of the proposed development (including postal address where possible);
  - 49.5 A description of the proposed development (including identification of all current plans and drawings);
  - 49.6 A description of any variation made to the application in terms of s32A of the Act;
  - 49.7 Any conditions to which the decision is subject;
  - 49.8 Any direction that a planning permission is to expire after any period other than three years, or that a planning permission in principle is to expire after any period other than two years;
  - 49.9 Where the terms of any section 75 Agreement to be entered into in terms of the application may be viewed; and
  - 49.10 Details of the relevant Development Plan and any other material considerations to which the LRB had regard in determining the application.
50. For the avoidance of doubt, the LRB may uphold, reverse or vary the Appointed Officer's determination of an application.
51. Any decision of the LRB is to be made by a vote by a show of hands. Unless the meeting is being held under Park Authority Board Standing Order 25 and in which case Members will indicate their voting intentions by verbal confirmation. Prior to voting each Member will provide a justification for their decision and that rationale shall be minuted. After the Members have given their views the Chair will summarise their positions and make their own view known. Decisions will be by majority and in the event of equality of votes the Chair shall have the casting vote.

### **Procedural Motions – Adjourning or Cancelling a Meeting**

- 52. The Chair may adjourn any meeting for a reasonable interval if they decide there is a good reason to do so.
- 53. The LRB may adjourn any meeting for a reasonable interval or to another date as they may agree then, or failing that, the Chair may decide then or afterwards.
- 54. Meetings may be postponed or cancelled by the Chair, acting in consultation with the Director of Rural Development and Planning, where there is insufficient business, or

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where there are other good reasons to do so. One week's notice (unless the Chair in consultation with the Director of Rural Development and Planning considers that this is not reasonably practicable) must be given of the postponement or cancellation of any Meetings.

### **Scheme of Delegation**

55. The approved Scheme of Officer Delegation for the purposes of discharging the Planning functions of the Authority will form part of these Standing Orders attached as Appendix 1.