



Each case is unique and must be considered on its merits. It is for the person appointed to determine the case to satisfy him/herself that the application of the practice contained in this note is appropriate to the circumstances of the case. A reporter who intends to depart from the guidance should advise his/her SGL so issues emerging can be considered for future case work.

<b>Guidance note:</b>	<b>Time limits on planning permissions</b>
<b>Relating to:</b>	<b>Planning permission in principle</b>
<b>Background/ legislative and policy framework:</b>	<p>Section 59 of the Town and Country Planning (Scotland) Act 1997, from 1 October 2022, provides that grant of planning permission in principle must be subject to a condition on its duration.</p> <p>Planning permission in principle is defined (in summary) as planning permission subject to a condition that the development in question will not be begun until certain matters have been approved by the planning authority or (as the case may be) the Scottish Ministers.</p> <p>The condition must provide that the development to which the permission relates must be begun not later than the expiration of either:</p> <ul style="list-style-type: none"> <li>• Five years from the date of grant of permission or</li> <li>• such other period as the planning decision-maker may specify when granting permission.</li> </ul> <p>If no condition on duration is expressly attached to a grant of planning permission, then the permission is deemed to be subject to a condition limiting the duration of the permission to five years. Planning permission lapses if the development is not commenced as required by the condition.</p> <p>There is no provision on the duration of an approval of matters specified in conditions (AMC) separate from the provision for the duration of the planning permission in principle.</p>
<b>DPEA practice:</b>	It will be normal DPEA practice for reporters to include an express condition setting the duration of the permission. Where an application is expressly made for planning permission in principle, the condition will set the duration at five years unless there is a material reason for providing a different duration.
<b>Process:</b>	<p>The standard condition would normally be in this form:                  “The development to which this permission in principle relates shall be begun no later than the expiration of five years beginning with the date of grant of this permission.”</p> <p>If a non-standard duration is to be applied to permission, then the word “five” in this condition can be amended as required.</p> <p>A condition (including a deemed condition) setting the duration of planning permission may be the subject of a section 42 application</p>

	<p>to develop land without compliance with conditions previously attached, with a view to extending the period for the development's commencement. A section 42 application can only be made, though, before the existing permission expires.</p> <p>In a case involving an appeal or application in respect of approval of matters specified in conditions (AMC) in planning permission in principle, reporters should bear in mind that, if the planning permission in principle expires, there will be no basis for considering the AMC application or appeal further. In practice, parties are likely to make an application to renew planning permission in principle in such circumstances.</p>
<p>Permissions issued before 1 October 2022:</p>	<p>The previous form of section 59, which applied before 1 October 2022, included statutory provision requiring an AMC application to be made within three years of grant of planning permission in principle. This was subject to the exception that one further AMC application could be made within 6 months after a previous AMC application was refused, notwithstanding that being more than three years after grant of the planning permission in principle. A grant of AMC then had a duration of two years. These periods could be varied by direction of the granter of the permission. The <a href="#">Planning (Scotland) Act 2019 (Commencement no. 9 and Saving and Transitional Provisions) Regulations 2022 regulation 3</a> confirms that this arrangement continues to apply to planning permission granted before 1 October 2022. If there is no reference to such a direction on the face of such permission, it should be understood that these standard durations apply.</p> <p>Reporters may find that they are dealing with AMC applications and appeals under planning permission in principle issued before 1 October 2022 for some years to come. When they receive an AMC case, they should note the date on which planning permission in principle was issued, so that they are clear whether the old or new arrangements on duration apply.</p> <p>It is not possible to make a section 42 application solely in respect of the statutory duration of such a planning permission in principle, because duration is not regulated by condition, but by statute or direction. Grant of an application under section 42 made in respect of conditions regulating other matters in such a permission would, though, result in a planning permission in principle that would have to have attached to it a condition in respect of the permission's duration as required by section 59 as it applied after 1 October 2022.</p>