



## 2011 CHAPTER 25

### Part 3

#### Planning control

##### *Appeals*

#### **Appeals**

**58.**—(1) Where an application is made to a council—

- (a) for planning permission to develop land; or
- (b) for any consent, agreement or approval of the council required by a condition imposed on a grant of planning permission; or
- (c) for any approval of the council required under a development order;

then if that permission, consent, agreement or approval is refused or is granted subject to conditions, the applicant may by notice in writing appeal to the planning appeals commission.

(2) Subsection (1) shall not apply to any application referred to the Department under section 29.

(3) Any notice under this section must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be specified by development order.

(4) Where an appeal is brought under this section from a decision of a council, the planning appeals commission, subject to subsections (5) to (7), may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance.

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*Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Cross Heading: Appeals. (See end of Document for details)*

(5) Before determining an appeal under this section, the planning appeals commission must, if either the applicant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(6) If at any time before or during the determination of an appeal under this section it appears to the planning appeals commission that the appellant is responsible for undue delay in the progress of the appeal, it may—

- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and
- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

(7) Subject to subsection (5), sections 41, 42, 45, 52, 53, 54 and 55 shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this section as they apply to an application for planning permission.

#### **Modifications etc. (not altering text)**

- C1** Pt. 3 applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), 2 (with regs. 3-10)
- C2** S. 58 applied with modification(s) (1.4.2015) by [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/84\)](#), regs. 1(1), 2, **Sch.** (with reg. 11(7))
- C3** S. 58 applied with modification(s) (1.4.2015) by [The Planning \(Control of Advertisements\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/66\)](#), regs. 1, 15, **Sch. 4 Pts. 1, 2**

#### **Commencement Information**

- I1** S. 58 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I2** S. 58 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

### **Matters which may be raised in an appeal under section 58**

**59.—**(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council or, as the case may be, the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—

- (a) that the matter could not have been raised before that time, or
- (b) that its not being raised before that time was a consequence of exceptional circumstances.

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—

- (a) the provisions of the local development plan, or

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(b) any other material consideration.

**Modifications etc. (not altering text)**

- C4** S. 59 applied with modification(s) (1.4.2015) by [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/84\)](#), regs. 1(1), 2, **Sch.** (with reg. 11(5)(7))
- C5** S. 59 applied with modification(s) (1.4.2015) by [The Planning \(Control of Advertisements\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/66\)](#), regs. 1, 15, **Sch. 4 Pts. 1, 2**

**Commencement Information**

- I3** S. 59 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I4** S. 59 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

**Appeal against failure to take planning decision**

**60** Where any such application as is mentioned in section 58(1) is made to a council, then unless within such period as may be specified by a development order, or within such extended period as may be agreed upon in writing between the applicant and the council, the council either—

- (a) gives notice to the applicant of its decision on the application; or
- (b) gives notice to the applicant that the application is one to which section 29 applies; or
- (c) gives notice to the applicant that it has exercised its power under section 46 or 48 to decline to determine the application,

section 58 shall apply in relation to the application—

- (i) as if the permission, consent, agreement or approval to which it relates had been refused by the council; and
- (ii) as if notification of the council's decision had been received by the applicant at the end of the period so specified, or at the end of the said extended period, as the case may be.

**Modifications etc. (not altering text)**

- C6** S. 60 applied with modification(s) (1.4.2015) by [The Planning \(Control of Advertisements\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/66\)](#), regs. 1, 15, **Sch. 4 Pts. 1, 2**
- C7** S. 60 applied with modification(s) (1.4.2015) by [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/84\)](#), regs. 1(1), 2, **Sch.** (with reg. 11(7))

**Commencement Information**

- I5** S. 60 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I6** S. 60 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

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**Changes to legislation:**

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