

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 a Principal or Assistant Chief Reporter so issues emerging can be considered for future case work.

Guidance note:	Time limits on planning permissions
Relating to:	Planning permission (full)
Background/ legislative and policy framework:	<p>Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that, from 3 August 2009, the standard duration of any planning permission (i.e. the period within which the permission will lapse unless it has begun) is 3 years. It is therefore unnecessary to impose a condition setting this standard time limit.</p> <p>However, the reporter may <u>direct</u> that the standard time limit is not to apply, and replace it with a longer or shorter period (section 58(2)).</p> <p>Section 58 does not apply in certain specific cases – see below.</p>
DPEA practice:	<p>To ensure that the successful appellant and other parties are aware of the duration of the permission, a standard advisory note will be included when the standard 3 year permission applies. Where the reporter determines that an alternative period is appropriate, they will instead include a <u>direction</u> to this effect in the ‘decision’ part of the decision notice (and not in a condition).</p> <p>Section 58(4) sets out exceptions to which these general provisions do not apply. These are:</p> <ul style="list-style-type: none"> (a) planning permission granted by a development order; (b) planning permission for any development carried out before the grant of planning permission; (c) planning permission granted for a limited period; (ca) planning permission granted before 3 August 2009; (d) planning permission for minerals or minerals waste development which has conditions tying the beginning of development to the completion of other phases of development; (e) planning permission granted by an enterprise zone scheme; (f) planning permission granted by a simplified planning zone scheme; or (g) planning permission in principle (see Guidance Note 5).

Process:	<p>Grant of planning permission in cases to which section 58 applies</p> <p>Standard time limit</p> <p>Where the reporter considers the standard 3 year time period for planning permission is appropriate, the following advisory note should be included in the decision notice (following any conditions):</p> <p>Advisory note: duration of permission In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.</p> <p>Non-standard time limit</p> <p>Where a non-standard time limit is appropriate, the reporter should indicate this in the ‘decision’ part of the decision notice, as below:</p> <p style="padding-left: 40px;">I allow the appeal and grant planning permission subject to the [x] conditions listed at the end of this notice.</p> <p style="padding-left: 40px;">I direct that, unless the development hereby permitted has already begun, this permission will lapse after a period of [x] beginning with the date of this permission. This direction replaces section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) for this permission.</p> <p>The reason for the variation from the standard time limit will need to be explained in the ‘reasoning’ part of the decision notice.</p> <p>Grant of planning permission in cases to which section 58 does not apply</p> <p>The exceptions listed in section 58(4) most likely to arise are (b) where the permission is retrospective and (c) where the permission is itself time limited (e.g. wind farms and mineral extraction). In these cases, the time limit (irrespective of whether this is 3 years, or a longer or shorter period) should be the subject of a condition and the advisory note relating to the standard time limit should NOT be attached.</p> <p>Unless the matter has been raised in the submissions, it should not be necessary to explain why the advisory note has been omitted. This should be obvious from the content of the decision.</p> <p>Where the permission is time limited, a condition specifying the period in which development must be begun, and another</p>
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	<p>condition specifying the length of time that the permission is to last, are required.</p> <p>Section 41(1)(b) of the Act defines planning permission granted for a limited period as being a permission that requires the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of the specified period, and the carrying out of any works required for the reinstatement of land at the end of the period. This should also be borne in mind when drafting the appropriate conditions.</p> <p>Suitable conditions might be drafted as follows:</p> <ol style="list-style-type: none">1. The development shall be begun no later than five years from the date of this permission.2. The permission hereby granted shall endure for a period of 25 years from the date on which development starts on site.3. A condition requiring site restoration, including the removal of buildings and works and the discontinuance of the use of land. <p>The condition specifying the duration of the permission should not include a provision to the effect that it will expire at the end of that period unless the planning authority has expressly approved an extension on writing.</p>
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