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Planning permission

If you intend to alter or extend your premises, carry out a different trade from the premises or even construct a totally new building, you face two important questions. Do I need planning permission? If I do, how do I obtain it?



Planning is a complex and difficult area and professional advice is essential. Treat what follows as an outline of a system which has numerous exceptions and booby-traps for the unwary! Chartered surveyors understand planning law and practice and the effect that any development will have on the future use and value of the property and they can act as your personal agent in planning matters. Call them in before you hit problems. Don't wait till afterwards.

As a result of devolution, planning law, policy and guidance in Wales, Scotland and Northern Ireland differ from that in England. This section deals essentially with the position in England.

It also presumes that your property has not been listed for architectural or historic interest. If you own a listed building, or your premises are in a conservation area, different and stricter rules apply, and breaches of these consent regimes are a criminal offence.

When do I need planning permission?

Planning permission is required by law for all forms of 'development' – a broad term that may embrace even a change of use where no physical alterations are involved. The Town & Country Planning Act defines development as being:

'the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any building or other land.'

There are, however, exceptions to the general rule. Planning permission is not usually required, for example, for internal alterations (though alterations to listed buildings may require listed building consent). In addition, small external alterations, the construction of walls and fences below a certain height and certain changes of use may not require a planning application. In order to determine whether or not planning permission is required, you or your chartered surveyor may check informally with the local planning authority. Alternatively, for a fee you may obtain a formal decision from the authority known as a 'lawful development certificate'.

When does change of use require permission?

When you purchase or lease premises, there is likely to be an existing or established use attached to the premises. Change from this use may require permission. It is vital to find out if permission is required for the use you propose and, if so, whether or not permission is likely to be granted. The local planning authority may be able to provide advice on this point. Formal confirmation can be obtained from the local planning authority by way of the lawful development certificate procedure.

Change of use is regulated through categorising similar types of use into a 'use class'. Planning permission is not required where the proposed new use of the premises falls within the same use class as the existing use. In certain cases it is also possible to change the use between classes without needing permission.

Do I need planning permission if I run my business from home?

Working from home will not always require planning permission. For example, using just one room of your home as a personal office, as a doctor's or dentist's consulting room or for music or language teaching will not necessarily require permission, but there is a condition: the character of the house must remain that of a private dwelling and your activities must not result in disturbance to adjacent residents through, for example, generating additional traffic and parking. It is always advisable to check with the local planning authority to be on the safe side.

Does an extension require planning permission?

Planning permission will not always be required for minor extensions or additional buildings within the boundary of a property, but the rules are complex and you should take professional advice.

Do I need planning permission to build new premises?

Almost certainly, yes. Right at the outset you would be well advised to discuss your proposal informally with the local planning authority before submitting an application. They will be able to advise you whether or not planning permission is likely to be granted and how any difficulties with your proposal can be overcome. The planning officer's advice is strictly informal, however, and he or she cannot guarantee that planning permission will be granted.

How do I apply for planning permission?

Applications for planning permission should be made to the local planning authority on the appropriate forms, which can be downloaded from their web site or they will supply on request. There will be a fee to pay when you submit the application. Fee levels are the same across England, but the fee will differ according to what you wish to do.



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Who can submit a planning application?

Planning applications may be made by anyone, regardless of who owns the land or buildings. However, if the applicant is not the owner of the entire site, he or she must formally notify the legal owner or part-owners and certain others who have a legitimate interest.

You may make an application for planning permission personally or you may instruct a chartered surveyor or other suitably qualified person to submit the application on your behalf. You would be well advised to employ a chartered surveyor where applications are complex or likely to be contentious.

Should I discuss my proposals informally with the planning authority?

It is often advisable, particularly in complex cases, to meet with a planning officer to discuss the application and the information that the council will require. If you have appointed a chartered surveyor to submit your application, he or she can do this on your behalf. A fee may be payable to the local authority for this consultation.

However, there may be situations where the authority will feel unable to comment. In any case, informal remarks by planning department staff should never be construed as a guarantee that your proposal will gain permission. Planning committees can and do choose to overrule officers' advice, and sometimes new facts or problems do not emerge until the determination process has begun.

Are there different types of planning application?

Yes. Applications for planning permission fall into one of two categories: applications for 'outline planning permission' and applications for 'full planning permission'.

When should I apply for outline permission?

You should apply for outline planning permission only for new buildings and where you want to find out whether or not the proposal is acceptable in principle, without providing detailed drawings of the scheme. When outline permission is granted, you will subsequently need to obtain approval of all the details of the scheme (known as 'reserved matters') before work can begin.

What are the procedures for full planning permission?

To obtain full planning permission you must submit all details of the proposal, including detailed drawings, with the application. Applications for full planning permission must be made when you want permission for change of use, although detailed plans may not be necessary in this case. It may also make sense to apply for full planning permission in other instances where you want to save time and you know that the proposed development is acceptable to the council in principle.

Timetable for the planning decision

The statutory time limit for determining planning applications is eight weeks from the formal registration date of the application by the local authority. Do not rely on getting a decision within this timescale, however. In practice applications can take considerably longer, but the local authority will advise you if this is the case. You have the right to attend the planning committee meeting and certain local authorities also allow applicants or their agents to address the committee. If your scheme necessitates an Environmental Impact Assessment, the statutory limit is 16 weeks.

After the planning decision

Once the application is determined, you will receive a decision document from the local authority, saying whether planning permission has been granted or not and giving the reasons if it has been refused.

If planning permission is granted

If permission is granted, and unless the decision document states otherwise, the development must begin within five years of the grant of permission. If the permission is in outline only, you will be required to submit – within three years – further application(s) for the approval of the reserved matters before commencing the development.

Conditions attached to planning permission

Sometimes planning permission will be granted subject to certain conditions. These may restrict the use of the premises; restrict the hours of operation of a business or require specific approval for the materials to be used before the development can proceed. If a condition is not acceptable, you or your agent should discuss the matter with the local authority to see if an alternative can be negotiated. You may have to submit another application.



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What can I do if planning permission is refused?

If planning permission is refused, the decision document will clearly itemise the reasons for refusal. Again, discuss the decision with a planning officer to see whether, if you were to change your plans in a way that would overcome the objections, it would be worth making a further application.

If you do not wish to amend the proposal or if it is clear that the local authority objects in principle to the scheme, you then have the right to appeal (see below).

What if there is an unacceptable delay?

If you are not prepared to grant the local authority an extension to the eight week statutory period for making a decision, you may appeal to the relevant Secretary of State.

How does the appeals procedure work?

There are a number of situations in which you may appeal to the Secretary of State for the Environment or the Secretary of State for Wales against the local authority's decision. These obviously include outright refusal of planning permission, but also cover the imposition of conditions that you think are unreasonable and various other matters.

A planning appeal must be submitted to the Planning Inspectorate within six months of the date of the decision document from the local authority. If no decision has been issued, the appeal must be submitted within six months of the end of the period when the decision should have been made. Forms for submitting an appeal can be obtained from the Inspectorate's offices in Bristol.

Appeals may be dealt with in one of three ways. The chosen route is usually dependent upon the complexity of the case. Although you may submit an appeal on your own behalf, it is usually advisable to consult a chartered surveyor or other competent professional, in order to obtain professional advice as to which format will be most suitable for your particular case. Your adviser will also be able to submit the appeal on your behalf and suggest the most appropriate grounds of appeal.

How are planning decisions enforced?

If you carry out construction work or change the use of the premises without obtaining the necessary planning permission, the local planning authority may simply ask you to apply retrospectively for permission. Local planning authorities have to assess each application on its merits, in the light of the development plan and other material considerations. Therefore, you should not assume that an authority will be influenced into granting permission merely because the works have already been carried out. It may issue an 'enforcement notice', setting out what you must do to remedy the breach of planning control – which in extreme cases could involve demolishing the building that you have constructed. You do, however, have the right to appeal to the Secretary of State against an enforcement notice.

If you have failed to comply with a condition which forms part of a planning permission, the local authority may issue a 'breach of condition notice'. The notice will state what is required to comply with the condition. You have no right of appeal against such a notice.

Northern Ireland

This section assumes that your property does not lie within a Conservation Area or Area of Townscape Character.

The Planning (NI) Order 1991 is largely equivalent to The Town and Country Planning Act. With regard to changing uses the relevant legislation is the Planning (Use Classes) Order 2004 as amended. Fee levels in NI are set out in the Planning (Fees) Regulations 2012.

Some planning applications go to the District Council for their view before final decision but many are made by DoE Planning with consultation. Appeals are dealt with by the Planning Appeals Commission."



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