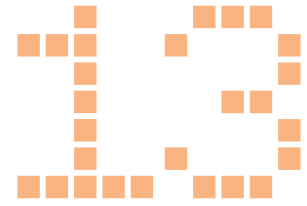


DEVELOPMENT CONTROL

Small Businesses and the Planning System



This is Sheet 13 of The Planning Pack. This pack has been written by Planning Aid, with assistance from Urban Forum. The Planning Pack is endorsed by the Royal Town Planning Institute

Introduction

This information sheet provides a brief introduction to the planning system for small businesses. It is Sheet 13 of a series of 17 information sheets that forms an information pack to help you understand and get involved in the planning system.

This information sheet aims to help owners of small business, for example shop-owners, farmers, hoteliers, garages, taxi services and manufacturers, understand the system a little better. It sets out the types of issues which might affect you when thinking about developing buildings and land. For example, what should you consider when starting up and looking for suitable premises; when expanding and moving to a new location; or when looking to diversify and change the use of existing buildings and land.

What is planning?

Planning is the system by which the use and development of land is managed for the benefit of all the community (for uses such as housing, schools, shops offices, factories, airports and community facilities). The overall aim of the system is to ensure a balance between enabling development to take place and conserving and protecting the environment and local

amenities. The idea is to create better places for people to live, work and play.

Local planning authorities are responsible for preparing plans and policies that guide the decisions they make on planning applications from house extensions to new airports.

Most contact with the system will start with your local planning authority (Unitary, Borough, District Council and National Park Authorities), who have a legal duty to control development within their area. Where County Councils exist they deal with all planning policies for, and control over, mineral and waste developments, and control over their own developments for example, new schools and libraries. Sheet 1 gives further details of how the system works. The remainder of this sheet gives a brief overview of the system with particular reference to small business.

Development Plans

Development Plans are public documents which contain policies to guide decisions made by the planning authorities in relation to the development of land and buildings. The Development Plan for any area is made up of the **Regional Spatial Strategy**, and local **Development Plan Documents**. The Regional Spatial Strategy provides strategic policies for the whole of your region.

For example it will tell you which cities or towns should be the focus of new development but it would not identify specific sites. More detailed policies and proposals affecting your local area are then drawn up in the Development Plan Documents prepared by your local planning authority.

It is in your interest to be aware of existing Development Plan policies and proposals in your area because these policies can have a big impact on ideas for future business planning. Look out for opportunities to speak up at key public consultation stages. Get a copy of your local planning authority's **Local Development Scheme** – this document will tell you which documents make up the Development Plan, and importantly which documents will be reviewed and when.

For more information on Development Plans see Sheets 2-5.

Development Control

Most new building work and changes in the use of a building or land require planning permission, which you must obtain in advance from the local planning authority. In some cases your proposal may be classed as **permitted development** and a planning application will not be necessary. Sheets 8 and 9 give further information on what is permitted development and how to make a planning application, but some business-specific information on requirements can be found below.

You should always allow proper time in your business planning to obtain the relevant permissions. Unauthorised development can be subject to **enforcement** procedures (see page 4) which may result in serious repercussions for your business. You should talk to your local planning authority officer at an early stage to discuss your ideas.

When is Planning Permission required?

Changing the use of premises

Planning Permission is normally required for change of use of buildings or land. In some cases the **Use Classes Order 1987** allows changes in use without the need for submitting a planning application. The 'Use Class order' allows changes within the same 'use class' (for example, changing the use of a shop from, say, greengrocer to shoe sales) or between certain 'use classes' (for example, from a café to a newsagents - but not the other way around because a café could have a greater impact on its surrounding than a newsagent). Some uses are not within any 'Use Class' and changes to or from that use will always require planning consent (for example nightclubs, scrap yards, and petrol filling station).

Before you lease or buy a property, it is advisable to talk to your local planning authority to discuss whether you need to obtain planning permission for your intended use. If you need

permission find out about your chances of getting it.

Extending or Altering Existing Premises

Minor extensions to premises, including the erection of additional buildings within the **curtilage** (immediate surroundings within property boundaries), may not need a planning application because the development may already be permitted by the **General Permitted Development Order 1995**. In the case of a factory or warehouse extension, for example, permission will not normally be required for an extension of less than 1000 m² of floorspace, and less than 25% of the volume of the original approved building, and below the height of the original building. These allowances are reduced in specific areas such as Conservation Areas, National Parks and Areas of Outstanding Natural Beauty. These allowances are only given once and any previous extensions will count against the total allowance. For example if you previously built an extension of 1000m² you would not be able to build another extension without applying for planning permission. Even with these allowances, permission is still required if the proposal materially affects external appearance, is within five metres of a site boundary, or reduces the space available for the turning or parking of vehicles. Temporary uses of land are also permitted, up to a limit of 14 or 28 days, depending on the use, in any one calendar year.

There are a variety of permitted development rights available to farmers in using land for agriculture (and forestry) depending on the size a land holding. These permitted development rights do not include any residential properties but apply to operational buildings. Generally operational buildings with a total area of less than 465 m² are allowed. Livestock, sewerage and slurry units cannot be erected without consent if within 400m of a protected building, normally a residential property not connected with agriculture.

Prior Notification

There is a legal requirement for you to give 28 days notice to the local planning authority of the intent to carry out certain works on agricultural holdings over 5 hectares. **This is referred to as a prior notification**. The following proposals require prior notification:

- >> the erection, extension or alterations to farm and forestry buildings; including any associated works;
- >> the formation or alteration of a farm or forestry road/track;
- >> the carrying out of excavations or the deposit of waste material which either collectively or individually exceeds 0.5 hectares;
- >> the placing or assembly of a tank in any water.

This 28 day period allows the local planning authority to consider how these proposals will fit into the surrounding countryside and, if necessary, seek alterations to the design,

materials and siting where appropriate.

For agricultural holdings under 5 hectares you are advised to approach the local planning authority for advice as to whether you require full planning permission for any of the above proposals.

Building New Premises

The building of new premises nearly always needs an application for planning permission. The Development Plan for your area will give you an idea of what is acceptable or not. Talk to your planning officer about your ideas; he or she may be able to assist in making your proposals more acceptable if necessary. Developments which are likely to have a significant impact on the environment, for example quarries, waste facilities, fish farms and factories over 1000 m², may require an **Environmental Impact Assessment** to accompany the application. Environmental Impact Assessments are a major undertaking and the need for them should be discussed at an early stage with the local planning authority.

In rural areas, farm building conversions, holiday accommodation and stabling for non-agricultural working horses (riding or breeding) are typical of the types of business diversification proposals which come forward and which would generally require planning permission. In all cases the planning authority should be consulted before projects are commenced.

Working from Home

Running a business from home does not always require planning permission. Whatever business you carry out, whether it involves using part of your home as a complementary therapist, using a room as your personal office, providing a child-minding service or storing goods connected with your business, the key test is: is it still mainly a home or will it become business premises? It depends on whether the overall character of the dwelling will change and whether the use will have a significant impact on your neighbours' amenity, for example through increase in traffic. If the answer to any of the following questions is 'yes', then permission will probably be needed:

- >> Will your home no longer be used mainly as a private residence?
- >> Will your business result in a marked increase in traffic or people calling?
- >> Will your business involve any activities unusual in a residential area?
- >> Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?

If the business exceeds acceptable limits and planning permission has not been obtained, enforcement action may be taken.

Lodgers, Bed-sits and bed and breakfast

Planning permission is not needed to rent rooms out to lodgers, providing that the total number of persons living in the house is no more than six and the occupants live together as one household, sharing cooking and washing facilities. If you are changing the use of a house to self-contained flats, bed-sitting rooms, bed and breakfast or to a guest house, you are likely to require planning permission. Always check with your local planning authority.

Listed Buildings, Conservation Areas, Tree Preservation and Hedgerow Protection

A **listed building** is one that has been given special protection due to its special architectural or historic interest. Any demolition, internal and external alterations which affect the building's character generally require permission; this is known as **listed building consent** and is in addition to any planning permissions you might require. Failure to gain consent before carrying out works on a listed building is a criminal offence and can result in large fines or even imprisonment. For any changes to be acceptable, the proposal must clearly 'fit in' with the character, and be necessary for the effective use, of the building.

Where an area is of special character and appearance, the authority can designate it as a **Conservation Area**. In such areas, special controls apply, even if buildings are not listed. **Conservation area consent** (in addition to any planning permissions you might require) must usually be obtained before any external demolition or removal of structures can take place. Also certain 'permitted development' rights are reduced.

These designations do not necessarily block all new development. New development might be acceptable if it is sympathetic to the character of a building and/or area, and if it is seen as positively enhancing those qualities which make it 'special' and protects important environmental assets such as trees. Businesses should be aware of any special designation affecting their premises and should discuss their needs and requirements with a planning officer.

See Sheet 11 for further information.

Enforcement

Local planning authorities have powers to intervene in cases where development does not have the required planning permission (unauthorised development). This **enforcement action** can be taken against the person carrying out the development and/or against anyone who has allowed it to occur (the land owner or anyone with an interest in the land).

An **enforcement notice** can require the demolition or alteration of any building works and/or the cessation of any activity, and will specify what needs to be done. Where urgent action is required, the authority can serve a **stop notice** which has the force of a court order. Action can also be taken against anyone ignoring the conditions attached to a planning permission, e.g. limiting hours of operation. Sheet 12 provides further information.

Advertisements, canopies and blinds

The display of advertisements and the erection of canopies and exterior blinds will often require consent under the Advertisement Regulations. The policy is generally to protect local amenity and maintain highway safety, but in rural areas stricter restrictions apply. The Regulations are complex and potential applicants are advised to consult with the planning authority before proceeding.

Certificates of Lawful Development

An application for a **Certificate of Lawfulness of Existing Use or Development (CLEUD)** can be made if you wish to establish that an existing building or land use is lawful and is therefore immune from enforcement action. Usually this applies to buildings and uses which have not been granted planning consent. For buildings, the applicant must be able to prove that the structure has been in existence for at least four years. For most changes of use, the time span required is ten years. Such Certificates can be reassuring for prospective purchasers or for banks to prove that no action will be taken. Applications can be made as per planning applications including an appropriate fee.

If you are uncertain whether your proposal requires consent you can apply for a **Certificate of Lawfulness of Proposed Use or Development (CLOPUD)**. Again this application can be made as per planning applications including an appropriate fee.

Other Consents

Often other consents, relevant to buildings and land, are needed in addition to planning permission, including:

Building Regulations

Any new building works or alterations to an existing building must comply with the Building Regulations. This can be demonstrated in two ways:

- >> by the preparation and submission of drawings and calculations for approval by your local authority's Building Control Department;
- >> by submitting a building notice, without drawings.

Licences and Permits

Depending on the type of development proposed you may need to obtain additional licences and permits from other bodies and local authority departments. For example you may require a licence to sell alcohol, to prepare and sell food, or certain tree felling operations.

Getting professional advice

Starting up or expanding a business always involves a certain amount of essential work. Getting planning permission, if required, is necessary and can be complicated. However it should always be borne in mind that planning control exists to protect the public and the environment - and being a 'good neighbour' has its business rewards. Getting proper advice and assistance in achieving the necessary permissions is always a beneficial road to go down. Your local authority is a good starting point for planning advice and for advice on business development and possible sources of grant aid.

Business advice is also available from a range business support organisations for example Federation of Small Businesses and Business Link.

You may require the assistance of a planning consultant to put together your planning application. A directory of professional Planning Consultants is available at www.rtpiconsultants.co.uk