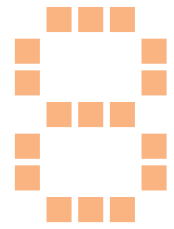


DEVELOPMENT CONTROL

Development Control: applying for planning permission



This is Sheet 8 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 Sheet provides a brief introduction to applying for planning permission. This is Sheet 8 of a series of 17 that forms an information pack to help you understand and get involved in the planning system.

It is strongly advised that you check with your local planning authority whether your proposal requires formal consent as there may be local restrictions to take into account.

When do you need Planning Permission?

This section will help you identify if your proposal is:

- 1) classed as 'development' in planning terms;**
- 2) a development requiring a planning application to your local planning authority.**

The Town and Country Planning Act 1990 states that planning permission is required to carry out 'development'. Development is defined by Section 55 of the Town and Country Planning Act 1990 as:

'... 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.'

Section 55 of the Town and Country Planning Act 1990 also specifies certain works and uses that are outside the definition of development uses and fall beyond planning control.

These include:

- >> Works of maintenance, improvement or other alteration of any building affecting only the interior of a building or which do not have a material effect on the external appearance. Importantly internal alterations, to retail buildings, that lead to an increase in the gross floorspace by more than 200 square meters, i.e. putting a mezzanine floor in retail stores, are considered to be development under the provisions of the recent Planning and Compulsory Purchase Act 2004.
- >> Works of maintenance or improvement to a road carried out by the highway authority.
- >> Works for inspection, renewal or repair of sewers, pipes carried out by a local authority or statutory undertaker
- >> Use of any buildings or land within the 'curtilage' of a 'dwellinghouse' (i.e a house) for any purpose incidental to the enjoyment of the dwellinghouse.
- >> Use of land and associated buildings for the purposes of agriculture or forestry
- >> The change of use of buildings or other land from one use to another use within the same use class, as defined by the

Town and Country Planning (Use Classes) Order 1987 (this is explained below).

Section 55 of the Town and Country Planning Act 1990 makes it clear that the subdivision of one dwellinghouse (i.e a house) into two or more separate dwellinghouses (such as flats, bed sits) is development. You will therefore need to apply for planning permission for example for dividing a house into flats.

The Town and Country Planning (Use Classes) Order 1987

The Town and Country Planning (Use Classes) Order divides ‘uses’ of land (for example retail, housing, business) into different classes (see table 1. below). To change from one use within a class to another use within the same Use Class is not ‘development’ and therefore does not require planning permission. For example, both a butchers and a book shop would

fall within Class A1 (Class A1 relates to shops open to visiting members of the public). Therefore to change from a butchers to a book shop would not be development and planning permission would not be required. To change between different Use Classes is development. For example, a change of use from a Bookshop (Class A1) to a Restaurant (Class A3) (Class A3 deals with ‘Restaurants and Cafes’) would be development and would require planning permission. It should be noted that some changes between Use Classes are granted planning consent by the General Permitted Development Order. There is more detail on this in the next section.

The different Use Classes are set out below in Table 1. Certain uses do not fall within any Use Class and are termed ‘Sui Generis’ (in a class of their own) and any change to or from such uses would be development and requires Planning Permission.

Table 1: Summary Guide to the Town and Country Planning (Use Classes) Order 1987 (as amended)

Class	Permitted Change
Part A	
A1 Shops (shops, hairdressers, post offices – Travel agents etc)	No Permitted Change (except to shop with single flat over)
A2 Financial & Professional Services (Banks, building societies etc)	Permitted Change to A1 where ground floor display window. (Also to A2 and Single flat over)
A3 Restaurants & Cafes	A1 or A2
A4 Drinking Establishments – bars and pubs.	A1, A2 or A3
A5 Hot Food Take Aways	A1, A2 or A3
Part B	
B1 Business (offices, research and development)	B8 – only where not more than 235m2
B2 General Industrial	B1, or B8 where not more than 235m2
B8 Storage and Distribution	B1 where no more than 235m2
Part C	
C1 Hotels (excluding hostels)	No Permitted Change
C2 Residential Institutions	No Permitted Change
C3 Dwelling Houses	No Permitted Change
Part D	
D1 Non-residential Institutions (places of worship, crèches, museums etc)	No Permitted Change
D2 Assembly and leisure (cinemas, sports halls, concert halls)	No Permitted Change
Sui Generis (in a class of their own): for example Retail Warehouse Clubs, Nightclubs, Hostels, Petrol filling stations etc.	Sui Generis uses have no Permitted Change

Town and Country Planning (General Permitted Development) Order 1995

After establishing whether or not your proposal is development, the next thing you need to find out whether it is granted consent through 'permitted development' rights. If so you do not need to submit a formal application to your local planning authority. If a planning application was required for every minor development the system would not be able to cope.

The Town and Country Planning (General Permitted Development) Order 1995, also referred to as the General Permitted Development Order (GPDO), grants planning consent for a range of minor developments. This means that if your development falls within the limitations and restrictions of the GPDO, then planning permission is automatically granted by the GPDO, and it is not necessary to make a planning application for that development to the local planning authority.

The GPDO is a complex document open to interpretation, and it is strongly advised that you clarify with your local planning authority whether or not your proposal is within permitted development rights. If you wish to clarify this formally you can submit an application for a Certificate of Lawfulness of Proposed Use or Development (CLOPUD).

Schedule 2 of the GPDO contains 33 separate parts and each relates to a different type of 'permitted development'. A brief description of the contents of the most commonly used parts of the GPDO is provided below:

- >> **Part 1** is the most commonly used. It grants permission for a range of extensions and alterations to 'dwellinghouses' subject to various limitations and restrictions such as the size and location of the extension. A free booklet called *Planning: A Guide to Householder Applications* is available from the Department for Communities and Local Government (DCLG) (see contacts list sheet 16)
- >> **Part 2** relates to minor operations such as the erection of fences, walls and gates and painting the exterior of a building.
- >> **Part 3** grants consent for certain changes of use between use classes, a summary of this part of the GPDO is provided in the table 1 on Use Classes above*
- >> **Part 4** deals with temporary buildings and uses such as markets, motor racing etc.

Some 'permitted development' rights can only be exercised after the local planning authority has given their 'Prior Approval'. Prior Approval is the process where by the local planning authority is notified of a development proposal, and may request a planning application within a certain period of time. If they do not request a formal application the development is granted consent by default. Agricultural development and some telecommunication masts are subject to these prior notification procedures.

Permitted development rights maybe restricted in certain areas including Conservation Areas, Areas of Outstanding Natural Beauty and National Parks. Local planning authorities also have the power to remove permitted development rights in certain cases. This can be through conditions on a planning permission or through the use of Article 4 directions (although these are rare). It is important to remember that the removal of permitted development rights does not mean that you (or anyone else) will not be allowed to make changes to your property. It simply allows the local planning authority to exercise a greater degree of control over development.

Conversely, in some areas 'Local Development Orders' may be in place. These 'orders' can extend the 'permitted development' rights that exist within a geographical area. Check with your local planning authority to find out if there is a Local Development Order in your area, or if one is proposed.

If your proposed 'development' is not covered by 'permitted development' then you need to apply to the local planning authority for planning consent.

It is your responsibility (not the local planning authority's) to find out what other legislation you need to comply with before starting work. Contact your local Building Control Department before starting any work/development, to make sure you get the necessary Building Regulations Approval. This is regardless of whether Planning Consent is required. Also check whether any legal covenants/ agreements or other legislation (e.g. The Party Wall Act) affect the development of your property or land.

Applying for Planning Permission

If your proposal requires planning permission, and it is not covered by 'permitted development' rights, it is necessary to make a planning application to your local planning authority. You must use the correct 'planning application' form. These are available from your local planning authority. There are different forms for full planning applications outline applications, householder applications and advertisement consent. When making an application you should include the following:

- >> a location plan;
- >> site plan (with application site edged in red, with any other land in the applicants ownership outlined in blue);
- >> plans showing the details of the proposed development (such as appearance, layout, car parking and layout); and
- >> a certificate of ownership.

Design and Access Statements are now required for all applications except for mining and engineering operations, applications for change of use and most household

applications, for example extensions. However, if your home is in a designated area such as a Conservation Area, Area of Outstanding Natural Beauty or a National Park and you propose development to your home, such as an extension, you will need to provide a design and access statement. Most local planning authorities include guidance notes and a checklist to help you fill in the form and some may provide additional help in person at the planning office reception.

When submitting your planning application make sure that you provide:

- >> the right number of copies of the application form and plans;
- >> the correct planning application fee, the amount depends on the nature of the planning application. The planning portal www.planningportal.gov.uk has a planning application fee calculator;
- >> certificate of ownership.

You do not have to own the land or buildings in question to make an application. If you do not own the land you must serve notice on the owner and any other parties with an interest in the land informing them that an application has been made.

Check with the local planning authority whether you will need to write a letter, statement or provide any other technical information to support your application. The local authority will have a document called a 'Statement of Community Involvement' (SCI). Check this document to see whether you are expected to carry out some pre-application consultation, it is a good idea to talk to your neighbours before you apply for planning permission. Refer to Sheet 7 for more information.

Types of Application

There are two main types of application, full applications and outline planning applications.

Full applications are the most common form of planning application. They require the submission of all the details of the proposal. For example access, layout and design, and operating hours. Full applications are required for proposals to change the use of buildings or land, for renewal of temporary permissions and for removal or change of conditions.

Outline applications can be submitted to find out whether a proposed development is acceptable in 'principle'. Outline applications do not require the submission of all the details of the proposal. This type of application is usually only acceptable in the case of 'major' applications. For example you may submit an outline application if you want to find out whether a large old industrial site is suitable for housing. You can choose whether or not to submit full details on the following

- >> access,
- >> appearance,

- >> layout,
- >> scale (i.e height, width and length of proposed buildings) and
- >> landscaping.

If you choose not to provide full details on access, layout and/or scale as a minimum you will need to let the local planning authority know:

- >> the area or areas where access points will be located (access),
- >> the approximate location of buildings, routes and open spaces (layout),
- >> and/or the upper and lower limits for the height, width and length of each building (scale).

Any of the details, mentioned above, that are not submitted at this stage are called 'reserved matters'.

The local planning authority may feel that they cannot judge the potential impact of your proposal without the submission of further information, such as the number of dwellings proposed and therefore may request further information from you. Discuss your proposal with the local planning authority before submitting an application to find out what level of information will be needed.

Following receipt of the outline application the local planning authority will then make a decision whether the development is acceptable in principle. If the principle of development is agreed, outline planning permission will be granted subject to the approval of the reserved matters. Work cannot commence until the local planning authority has approved all of these reserved matters.

Applications for the approval of the 'reserved matters' must be submitted within a specific period of time, normally three years from outline planning permission, otherwise the outline consent will lapse. The details for the 'Reserved Matters' can be submitted all together or at different times.

How is the Application Determined

Once an application has been submitted to the local planning authority it will be checked and entered into the 'Planning Register', which anyone can see. Then the local planning authority (or the applicant in certain circumstances) will carry out consultation and publicity. This consultation and publicity have to be in accordance with statutory requirements and where prepared, the local planning authority's Statement of Community Involvement. The Statements of Community Involvement provides information on who should be consulted, how they should be consulted and when they should be consulted, in relation to planning applications, and planning policy documents, see sheet 7 for more information. For information on how to comment on applications see Sheet 10

Reaching a Decision

To reach a decision on a planning application a planning officer will visit the application site, assess the likely impact and consider how the policies of the 'development plan' apply.

Every application must be treated on its merits although the 'development plan' is the most important consideration in deciding the application. Indeed Section 38 (6) of the Planning and Compulsory Act 2004 make it clear that applications must be determined in accordance with the 'development plan' unless material considerations indicate otherwise.

The 'Development Plan' includes the Regional Spatial Strategy, which provides regional planning policy, and Local Development Plan Documents. To find out what local planning policies have development plan status, refer to your local planning authorities 'Local Development Scheme'. For more information on Development Plans see sheets 2 and 4

Material Considerations include anything relevant to planning and relevant to that application, and include:

- >> Supplementary Planning Guidance or Supplementary Planning Documents,
- >> National Planning Policy,
- >> Regional Policy,
- >> Issues such as how a proposal fits in with the surroundings including the amenity of adjoining occupiers, layout, design, density and car parking.

There are two ways that a decision on a planning application can be made, by councillors at planning committee or by planning officers under 'delegated' powers.

Delegated Decisions

Local planning authorities normally have a set of criteria based on size and nature of the development to decide whether a decision will be made at officer level (i.e a delegated decision), or if the application should be considered at planning committee. If the application meets all the criteria for delegated decision making, it will not have to go to planning committee. After assessing the application the planning officer will issue a decision notice stating reasons for approval or refusal.

Committee Decisions

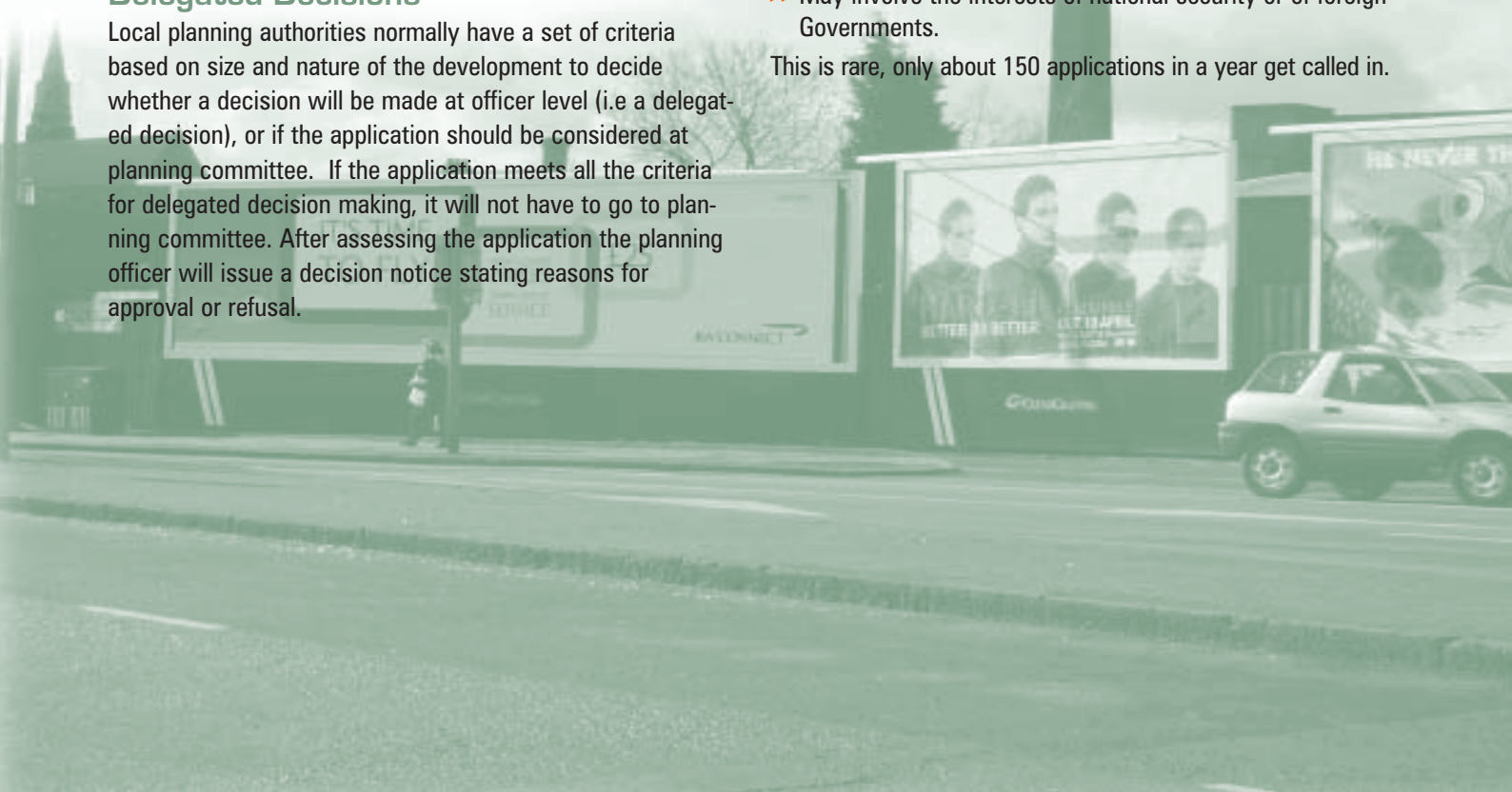
If the application goes to planning committee, after assessing the application, the planning officer will prepare a formal report on the proposal recommending whether or not permission should be granted. This report is then considered by the planning committee, which is composed of elected members. The planning committee usually follows the recommendation of the planning officer in reaching their decision,

Local planning authorities have a target of eight weeks, from the day after the application was received, to determine (decide) planning applications, with the exception of 'major applications' which should be determined within 13 weeks. If no decision has been made within this time, the applicant has the right of appeal to the Secretary of State on the grounds of non determination. The application is then treated as a deemed refusal and the local planning authority cannot make a decision on the application.

In exceptional circumstances an application may be 'called in' for a decision by the Secretary of State and in these cases a public inquiry will be held. This will be chaired by an Inspector who will report findings to the Secretary of State who will make the decision. Examples of applications that may be 'called' in include proposals that:

- >> Are a departure from the Development Plan.
- >> Are in conflict with national policies on important matters.
- >> Could have significant effects beyond their immediate locality.
- >> Give rise to substantial regional and national controversy.
- >> Raise significant architectural or urban design issues.
- >> May involve the interests of national security or of foreign Governments.

This is rare, only about 150 applications in a year get called in.



The Decision

The local authority can determine the planning application in one of three ways:

- >> By granting planning permission;
- >> By refusing planning permission; or
- >> By granting planning permission subject to conditions.

If planning permission is granted then it is likely that this will be subject to conditions. Nearly all approvals will be subject to a time limit condition requiring development to be commenced within three years from the grant of planning permission or the permission will lapse. The purpose of the time limit is to encourage development to take place at an early stage. The local planning authority has the ability to vary the time limit, for example in the case of major development where it might not be possible to start the development within three years.

Conditions are used to allow development to proceed when it would otherwise have been refused. Some conditions regulate the way a development takes place, for example requiring the prior approval of materials to be used or preventing occupation of new dwellings before roads are in place. Other conditions serve to control the development once it has taken place, for example restricting the opening hours of a restaurant or hot food takeaway to protect the amenity of nearby residents. For conditions to be valid they must only be imposed where they are necessary and reasonable, they must be relevant to planning and to the development in question and they must be precise and enforceable.

The local planning authority will notify the applicant of their decision in writing. If the application is approved the reasons for approval and any conditions and reasons for imposing them will be specified. If the application is refused, the decision letter will specify the reasons why. Unless specified by a condition the planning permission runs with the land and not with the individual who made the application.

Appealing against the decision

If you (the applicant) have been refused planning permission by the local planning authority or you consider that the conditions placed on the permission are unacceptable, you have the right to appeal to the Secretary of State against that decision. Any appeal must be made within six months of the local planning authority's decision. In the case of failure to determine an application the appeal must be lodged within 6 months of the expiry date of the determination period (for most applications this is 8 weeks). The appeal involves a reconsideration of the application by an independent planning inspector and can take the form of written representations, an informal hearing or a public inquiry.

'Written representations' are the most popular form of appeal. They are often the simplest, cheapest and quickest method. Both parties prepare a written statement of their case. An Inspector will visit the site and prepare a decision letter, in which the appeal will be upheld and planning permission granted or it will be dismissed and permission refused.

The informal hearing involves a 'round table' discussion, chaired by an inspector, a site visit and then a report will follow the hearing.

Public inquiries/formal hearings are generally used for the most controversial or difficult appeals. They will often be lengthy and resemble a 'courtroom' with the main parties employing legal representatives to present their cases and 'cross examine' witnesses. A site visit follows, after which the inspector makes a decision. In a small number of cases the inspectors' report and recommendation will be passed to the Secretary of State for decision.

Details of how to appeal will be included with the decision letter from the local authority or can be obtained from the Planning Inspectorate (see Sheet 16 for list of contacts/ publications). At this stage it may be advisable to seek professional help from a planning consultant or another support organisation such as Planning Aid if eligible.

An appeal decision can be challenged in the High Court on a point of law only and the costs of such action can often be prohibitive.