

The Need for Planning Permission



Introduction

Planning Departments probably receive more questions on the need for planning permission than on any other topic. Unfortunately, the law governing whether permission is required has become more and more complex in recent years.

This advice note is intended to set out as simply as possible the various rules and procedures that govern whether planning permission is required.

Although planning permission may not be required for a particular proposal, other consents may need to be obtained. This Advice Note should therefore be read in conjunction with Advice Note 7.

When is planning permission required?

Planning permission is needed for anything which amounts to “development”.

Development is defined in 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 buildings or other land”.

Building operations includes:-

Demolition of buildings;

Rebuilding;

Structural alterations of or additions to buildings; and

Other operations normally undertaken by a person carrying on business as a builder.

What is excluded?

The following works and uses are deemed not to amount to development and therefore do not require planning permission:

- o Works which affect only the interior of a building. The one exception is works that increase the amount of floorspace by more than 200 square metres in a building used for retail purposes. This restriction is intended to prevent the insertion of mezzanine floors which can often lead to an unwelcome increase in overall floorspace.
- o Works which do not materially affect the external appearance of a building (e.g. replacing windows with new ones of the same size and appearance).
- o Using buildings or land within the curtilage of a dwelling house for incidental purposes (e.g. keeping animals or birds, parking a touring caravan).
- o Using land and buildings for agricultural purposes.

Many changes that are carried out to land and buildings will amount to development. However, many of the changes that are made do not have a significant effect on their surroundings.

Because of this, there are two main pieces of legislation which allow many changes to be made without the need to apply for planning permission. These are known as

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the Use Classes Order (UCO) and the General Permitted Development Order (GPDO).

The Use Classes Order

This divides uses into different classes. To change from one use to another use *in the same class* does not normally require planning permission. The only exception is when such rights were removed when planning permission was first allowed.

A change of use to a use in a different class will usually (but not always) require permission. The different classes can be summarised as follows:

Class A1	Shops (includes sandwich bars, internet/cyber cafés).
Class A2	Financial & Professional Services (includes banks, building societies, betting offices).
Class A3	Restaurants and Cafés
Class A4	Drinking Establishments
Class A5	Hot Food Takeaways
Class B1	Business (includes offices, light industrial, “high-tech” uses).
Class B2	General Industrial (i.e. those uses that cause harmful effects such as noise, smells, fumes, dust, etc.).
Class B8	Storage and Distribution (includes warehouses, but not large retail outlets such as DIY or electrical stores).
Class C1	Hotels.
Class C2	Residential Institutions

	(includes care homes).
Class C2A	Secure residential accommodation (e.g. prisons, secure hospitals, military barracks).
Class C3	Dwelling Houses (excludes flats and other self-contained forms of multiple occupation. Thus, the conversion of one house into two or more separate units always needs planning permission).
Class D1	Non-residential Institutions (includes day centres, adult training centres, hospitals).
Class D2	Assembly and Leisure (includes cinemas, public halls, swimming baths).

In addition, certain uses are considered unique and do not fall within any use class. These include laundrettes, hostels, live/work units, petrol filling stations, the sale of motor vehicles, nightclubs, builder’s yards and scrap yards. A change to or from any of these uses will always require specific permission.

The General Permitted Development Order

The GPDO effectively grants planning permission for a whole range of minor developments. This is called “permitted development”. Schedule 2 of the Order contains some 38 different parts with each one relating to a different type of permitted development.

The most commonly used is Part 1, which permits certain alterations, extensions and other improvements to dwelling houses.

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Other development which may be allowed includes microgeneration; the erection of gates, walls and fences; the creation of a new vehicular access onto a non-classified road; the erection of various agricultural and industrial buildings; certain temporary uses of land and buildings; and the provision of telecommunications masts and equipment.

The GPDO permits statutory undertakers (water, gas, electricity companies etc.) to carry out certain works in the exercise of their functions. Likewise, local authorities can construct and carry out road repairs, erect and maintain small buildings, works and equipment in connection with any public service administered by them.

Town and Parish Councils can provide play equipment, erect public shelters, seats and village signs without the need for planning permission.

The GPDO, however, does contain a number of restrictions so that development does not harm the character or appearance of an area. This is particularly so on what can be carried out in a conservation area or on land within the curtilage of a listed building.

Certain development may only be permitted if the local authority is consulted beforehand. Prior notification is required for works involving:

- o demolition of a dwelling house
- o installation or alteration of some telecommunications equipment
- o the erection, alteration or extension of some agricultural buildings

The GPDO also makes it possible to carry out some changes of use (as set out in the UCO) without the need for permission. The most common of these are changes of use from Classes A4 (Drinking Establishments) or A5 (Hot Food

Takeaways) to Class A1 (shops), Class A2 (Financial and Professional Services) or Class A3 (Restaurants and Cafés); from Class A3 to Class A1 or A2; from Classes B2 (General Industrial) and B8 (Storage and Distribution) to Class B1 (Business Use); or from Classes B1 and B2 to B8 subject to the floor area not exceeding 235 sq m.

Local Development Orders

Since August 2006, local planning authorities are able to make a 'Local Development Order'. Such an Order would permit certain types of development for which planning permission would normally be required.

Other Restrictions

A local planning authority can remove permitted development rights (thereby requiring an application for the works). The two most common ways are:

- o by imposing a condition on a planning permission (e.g. by approving a new house and requiring a further application prior to any future extensions or windows in an elevation).
- o by issuing what is known as an Article 4 Direction. This prevents certain specified types of permitted development in an area which may have a special quality and which it is desirable to protect. This measure, which can lead to a claim for compensation, is rarely used.

How to find out?

In view of the many regulations, it may not always be easy to decide whether planning permission is required. It is therefore always advisable, as a first step, to contact the Council's Planning Services

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team for an opinion as to whether an application is needed.

In the first instance, a telephone call may be sufficient. However, in many cases the enquirer will be asked to write in and provide certain information, such as plans of what exists and what is proposed.

More information can be found on the Planning Portal website at <http://www.planningportal.gov.uk/permission>

It may nonetheless be necessary (and often advisable) for a developer to receive the formal opinion of the local planning authority. This is achieved by submitting an application for a 'Certificate of Lawful Use or Development'. The Council will consider this and give a definitive reply on whether an existing or a proposed use or works require planning permission.

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Please Note: This advice note is intended as a general guide. It should not be relied upon, or taken to be a full interpretation of the law.