

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.

When is planning permission required?

Planning permission is often needed for anything, which amounts to “development”. Development is defined in two basic ways and is either the:

- o Carrying out of works to buildings, engineering, mining or other works in, on, under or over land; or
- o Carrying out a change of use of any buildings or land.

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).
- 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 the Use Classes Order (UCO) and the General Permitted Development Order (GPDO). Details of these can be found in Advice Note 12.

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:

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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).
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In addition, certain uses are considered unique and do not fall within any use class. These include launderettes, hostels, live/work units, petrol filling stations, the sale of motor vehicles, nightclubs, builder’s yards and scrapyards. Change to 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 often called “permitted development”. Schedule 2 of the Order contains 33 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.

Other development which may be allowed includes the erection of gates, walls and fences; the creation of a new vehicular access; 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 erect and maintain small buildings, works and equipment in connection with any public service administered by them.

Parish Councils can 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. There are therefore often restrictions on what can be carried out in a conservation area or on

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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; or from Classes B2 (General Industrial) and B8 (Storage and Distribution) to Class B1 (Business Use).

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.

A Local Development Order cannot be made so as to grant planning permission for development affecting a listed building, Schedule 1 development under Environmental Assessment Regulations (see Advice Note 7) and certain sites of wildlife importance.

Other Restrictions

A local planning authority can remove permitted development rights. The two most common ways are:

- o by imposing a condition on a planning permission (e.g. by approving a new house and preventing any future

extensions or windows in an elevation). This does not prevent the applicant from applying to have the restrictions lifted.

- 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, however, is rarely used in South Cambridgeshire.

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 Development Services department to confirm whether an application is needed.

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

Alternatively, there is a facility on the Council's website known as the 'Planning Expert System'. This can be found at http://egov.scambs.gov.uk/expsys/Parsol_entry_pages/Parsol_1_Intro.htm

This allows the user to see what planning constraints affect a property and to establish whether planning permission is required.

It may nonetheless be necessary (and often advisable) for a developer to receive a more formal opinion. 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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Other Permissions

Even though planning permission may not be required, a developer may have to obtain other permissions before he can carry out his proposals. These include:

- o Listed Building Consent. Required for demolition or any works which affect the character of a building listed for its special architectural or historic content. Unlike planning permission, this may include internal works.
- o Conservation Area Consent. Required before most buildings and structures in a conservation area can be demolished.
- o Building Regulations Consent. Required for the majority of works to buildings whether they are internal or external.
- o Advertisement Consent. Required to display certain advertisements.
- o Hazardous Substances Consent. Necessary for the presence of a hazardous substance in an amount at or above its controlled quantity as defined by government regulations.
- o Authorisation to carry out works which affect trees protected by a tree preservation order, or situated within a conservation area.
- o Hedgerow Regulations. Permission is needed to remove most countryside hedgerows. The removal of hedges forming the boundary of a garden does not require permission unless they are subject to an approved landscaping scheme. They may, however, be the subject of control under the High Hedges legislation. This is covered in more detail in Advice Note 10.
- o Development by the Crown. Before June 2006, the Crown enjoyed a general immunity from planning control. Since then, it has had to apply for planning permission or listed building consent in most cases.

The Council's planning department can give advice on any of the above matters.

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.