



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Planning

Permission

A Guide for Business



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Part 1

Introduction

This booklet is a guide to the planning system for businesses. It provides guidance on when planning permission is required, how to make a planning application, and what happens afterwards. However, it is not an authoritative interpretation of the law. If after reading this booklet you are still unclear how to proceed, you should ask the planning department of your council for advice.

WHY PLANNING PERMISSION?

The planning system is used to make sure that things get built in the right place. It helps to balance the developments the country needs, for example, new homes, factories, offices and schools with our need to protect and improve the environment. This balance is essential to ensure that development and growth are environmentally sustainable; that is, meeting the needs of the present without affecting the ability of future generations to meet their own needs. It does not control how a building is constructed; that is the function of the Building Regulations. There are separate systems governing the display of outdoor advertisements, developments affecting "listed" buildings and demolition of unlisted buildings in conservation areas.

DEVELOPMENT PLANS

Each council prepare and adopt a development plan for its area, which will include policies relating to commercial and industrial development. The plan provides the basis for rational and consistent planning decisions by giving details of what types of development will and will not be permitted in the area. The public and businesses are encouraged to become involved in preparing the plans so that they can have a say in how their area is developed.

PLANNING APPLICATIONS

You apply to your council for planning permission. Planning applications are decided in line with the development plan unless there are very good reasons not to do so. Points that will be looked at include the following:

- ◆ number, size, layout, siting and external appearance of buildings;
- ◆ proposed means of access, landscaping and impact on the neighbourhood;
- ◆ availability of infrastructure, such as roads and water supply;
- ◆ proposed use of the development.



Part 2

Do you need to apply for planning permission?

You do not always need planning permission. It is not required, generally speaking, for changes to the inside of buildings, or for small alterations to the outside such as the installation of telephone connections and alarm boxes. Other small changes, for example putting up walls and fences below a certain height, have a general planning permission for which a specific application is not required.

How can you obtain advice on whether permission is needed?

You can check informally with the council whether your proposed development needs planning permission. For a fee, you can also apply for a formal decision. This is known as a lawful development certificate. If your council refuses a certificate, you can either apply for planning permission, or appeal to Welsh Ministers. A free booklet entitled "Making Your Lawful Development Certificate Application or Appeal" can be obtained from your council.

WORKING FROM HOME

You do not necessarily need planning permission to work from home. The key test is whether the overall character of the dwelling will change as a result of the business. 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 rise 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?

Whatever business you carry out from your home, whether it involves using part of it as a bed-sit or for "bed and breakfast" accommodation, using a room as your personal office, providing a childminding service, using rooms for hairdressing, dressmaking or music teaching, or using buildings in the garden for repairing cars or storing goods connected with a business- the key test is: is it still mainly a home or has it become business premises?



CHANGING THE USE OF PREMISES

In many cases, a change of use of building or land does not require planning permission. For example, a greengrocer's can be changed to a shoe shop without permission. Planning permission is not required when both the present and proposed uses fall within the same "class" as defined in the Town and Country Planning (Use Classes) Order 1987. It is also possible to change use between some classes without making an application. Details are given in Annex 1.

Before you negotiate a lease or buy a property, it may be advisable to consider whether you need to obtain planning permission for your intended use and, if so, your chances of getting it.

Flats over shops

You can convert the space over shops and other high street buildings to use as a flat (and convert back again) without planning permission, provided you do not change the outside appearance of the building.

EXTENDING EXISTING PREMISES

Minor extensions, including the erection of additional buildings within the curtilage, may not need a planning application because the development is already permitted under Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995. The guidance below indicates when, in general, an application for permission will or will not be required.

Factory or warehouse extensions

Planning permission **will not** normally be required if your extension is:

- (a) less than 1000 square metres of floor space; and
- (b) less than 25 per cent of the volume of the original building; and
- (c) below the height of the original building.

The extension must be related to the current use of the building or the provision of staff facilities.

Planning permission **will be** required if the extension:

- (a) materially affects the external appearance of the building; or
- (b) comes within five metres of the boundary of the site; or
- (c) reduces the amount of space available for parking or turning of vehicles.

Volume is calculated from external measurements. 'Original' means as first built, or as the building stood on 1 July 1948, if built before then. The allowance is once and for all; any previous enlargement of the building counts against these freedoms.

BUILDING NEW PREMISES

The construction of new premises nearly always needs an application for planning permission. The development plan in force in your area (see Introduction) will give you some indication of whether your proposal is likely to be acceptable, so it is worth talking to your council before submitting an application. If there are difficulties, officers may be able to suggest ways to make your proposal more acceptable. However, they cannot guarantee that planning permission will be granted.

Crime prevention

It is often possible to design a new building in a way that will help prevent crime. It is important that this aim should feature in discussions with your council at the beginning of the design process. Once a development has been completed, the main opportunity to incorporate crime prevention measures will have been lost. The police have Crime Prevention Officers and many also have Architectural Liaison Officers, who will be able to advise on appropriate measures to combat crime. Contact the Crime Prevention Department of your local police service headquarters for advice. Guidance on crime prevention – including the installation of security lighting – is set out in Welsh Office Circular 16/94, "Planning Out Crime". Much of the advice in "Lighting in the Countryside" (The Stationery Office 1997) is also applicable in towns.

Do you need to apply for planning permission?

Do you want to work from home?

Will it still be mainly a home? *(see page 5)*

YES

Planning permission
not needed



NO

Apply for planning
permission

**Do you want to change the use of
a building?**

Is this change within the same use class or permitted by the GPDO?
(see Annex 1)

YES

Planning permission
not needed



NO

Apply for planning
permission

**Do you want to alter or
extend the building?**

Will the extension be permitted by the GPDO? *(see page 7)*

YES

Planning application
not needed



NO

Apply for planning
permission

Part 3

Applying for planning permission

It is not necessary to make the application yourself. If you wish, you can appoint an agent (for instance, an architect, a solicitor, or a builder) to make it for you.

PREPARATION

Anyone can make an application, irrespective of who owns the land or buildings concerned. However, if you are not the owner, or if you have only part-ownership, you have to inform the owner or those who share ownership, including any leaseholder whose lease still has seven or more years to run, and any agricultural tenant.

Consultation

Before making an application, it is advisable to consult any neighbours who might be affected by your proposal, and the local town or community council. In more complicated cases, you should consider consulting other bodies who might have an interest, such as:-

- ◆ the Environment Agency or water and sewerage undertaker – to discuss any potential sewerage, water or flooding problems;
- ◆ the highway authority (usually the county council) – to discuss road safety and traffic issues; and
- ◆ the Health and Safety Executive – to discuss the use of any dangerous chemicals in your proposed development.

How long will a decision take?

In most cases a decision will be made within eight weeks. Large or complex applications may take longer. Your council should be able to give you an idea about the likely timetable.

Is there a fee?

Yes. Your council will tell you how much is payable. The amount varies according to the type of development proposed. The revenue from fees contributes towards the cost to the council of handling applications and the fee is not refundable unless the application is invalid. Article 5 of the Town and Country Planning (General Development Procedure) Order 1995 sets out the general provisions relating to applications.

Where the local planning authority fails to determine your application, or where you submit a valid application and then withdraw it at any time before it has been determined, the fee will not be refundable. However, if the local authority fails to determine your application, you can appeal (see Part 7).

Some applications are exempt from fees. When a previous application has been refused or withdrawn, one further application by the same applicant for the same type of development on the same site can generally be made free of charge within twelve months. It is for the council to decide whether this concession applies.

TYPES OF APPLICATION

Outline

For a new building, you can make an outline application to find out whether the development is acceptable in principle. This has the advantage that detailed drawings are not needed, but it will help to provide the council with as much information as possible. Once outline permission has been granted, you will need to ask for approval of the details (reserved matters) before work can start. These comprise siting, design, external appearance, means of access and landscaping. What you propose must be consistent with

the outline permission. If your proposals have changed in any way, you may need to reapply.

Full

A full planning application requires the submission of all details of the proposal. It is appropriate in the following circumstances:

- ◆ if you wish to change the use of land or buildings;
- ◆ if you want to start work quickly.

MAKING AN APPLICATION

The Council will give you a planning application form and any guidance on the information it expects you to provide. It is often a good idea to meet a planning officer for an informal discussion before you proceed. You will not be charged for this.

Meeting a Planning Officer

If you are meeting a planning officer you should be fully prepared to describe your proposals and show plans. You can:

- ◆ ask for an assessment of whether there seems a reasonable chance of getting permission;
- ◆ discuss site problems such as roads, footpaths, power cables, watercourses, sewers and telephone lines; and
- ◆ ask about potential problems such as noise and traffic and whether the council might impose conditions to overcome these problems rather than refuse planning permission.

The level of preparation required depends on what you propose to do. In simple cases it should be sufficient to look at the main issues governing the grant of permission (see Introduction) and decide which of these are relevant to your application. Say why you think your proposed development should be allowed to go ahead.

Because planning applications will normally be decided in accordance with the development plan you will need to justify any proposals which would constitute an exception to the plan. If the planning officer tells you that national policies could be an important consideration, you may wish to refer to planning guidance notes issued by the Welsh Assembly Government (see Annex 2).

What you must submit

Your application must be accompanied by a plan of the site, details of any proposed works and the fee. At least three copies of the form and plans are required, although some councils may ask for more. You must also complete a certificate to confirm that you own the land or have notified all owners of the land.



Progress of your application

If you feel the planning department is being slow in dealing with your application, you can ask them when a decision is likely. If you are still not satisfied, you can raise the matter with the council's monitoring officer or with your elected local councillor. Even if councillors are not on the planning committee themselves, they will be able to put your points to those who are.

It may be useful to find out the dates of future committee meetings. Making your application at the right time could gain you three or four weeks if your proposals get on to the agenda of an earlier committee meeting. You have the right to attend the council meeting deciding your application.

Some planning applications are decided by planning officers under powers delegated to them by councillors. In that case you will not have to wait for a council meeting. This does not prevent you making representations to councillors if you wish.

How to apply for planning permission?

Step One

Contact your council and tell it what you want to do

Step Two

If relevant, ask to see the Development Plan and discuss any potential problems

Step Three

Obtain an application form. Find out how many copies you will be required to submit

Step Four

Decide on the type of permission you wish to apply for

Step Five

If necessary, consult neighbours or others who will be affected by your proposals

Step Six

Submit application with certificate of ownership/notification and the fee

Step Seven

Find out when the decision is likely to be made

Part 4

After you have made an application

Before deciding your application, the council has to tell other people about what you propose and consider their views.

Publicity

Once your application has been accepted, a copy will be placed in the planning register to be available to anyone who wants to see it. The council will notify neighbours by letter or will fix a notice on or near the site, and may also advertise your application in a local newspaper. This gives the public the opportunity to express views. The town or community council will usually be notified, and other bodies such as the Environment Agency, or the Welsh Assembly Government may also need to be consulted.



Comments

Anyone can comment on your proposals. Your local council will assess the relevance of comments and, in the light of them, may suggest minor changes to the application to overcome any difficulties. A report will then be sent to the planning committee or the planning officer making the decision.

Part 5

When permission is granted

The council grants planning permission by sending you a letter notifying you of its decision.

When can you start work?

Generally, unless your permission says otherwise, you can begin the development at any time within five years of the granting of planning permission. If you have not started work by then, you will probably need to reapply. If the permission is subject to conditions, for example, requiring you to submit for approval details of a specified aspect of the development which was not fully described in the application, these must be dealt with before the development can begin.

If outline permission has been granted, you will need to submit a further application for approval of reserved matters before starting work. This must be done within 3 years of the grant of outline permission.

Can you alter details of your proposal?

It may be possible for you to make minor changes as you proceed but you should check the position with the council first. Any significant variation would require a further planning application.

Conditions

As an alternative to outright refusal, the council may grant permission subject to conditions, for example, restricting what you can do on the premises, or requiring you to get specific approval for aspects of the development, such as the materials to be used, before you can proceed. Again, the council has to give reasons for the conditions. If you are not prepared to accept the conditions, you can discuss the position with the planning officer, who may be able to suggest ways of overcoming the council's objections.

Can anybody implement a planning permission?

Planning permission runs with the land. Therefore, the question of who is to carry out development for which permission has been granted, or subsequently occupies the premises, is not normally relevant. This means that land or buildings can usually be sold or let with the benefit of planning permission. Occasionally, however, planning conditions (see above) may limit the use or occupation of land or premises to a named person or company. If you wish to sell or let a building or land which is subject to such a conditional permission you will need to apply to the council to remove the condition.



Part 6

What if your application is refused or delayed?

The council must give written reasons for refusing permission.

Outright refusal

If the council refuses your application outright, you have the right to appeal to Welsh Ministers (see Part 7).

Delayed decisions

If you do not get a decision within 8 weeks of making your formal application you also have the right to appeal to Welsh Ministers (see Part 7), unless you have agreed in writing to an extension of that period. If you appeal, your application will be out of the council's hands and it may take longer to decide than if you had persevered with the council.

Part 7

Appeals

Appeals are considered by an independent Planning Inspector, appointed by Welsh Ministers.

Most are handled in writing to take about 16 weeks to determine. Some are determined by an informal hearing before an Inspector; this type of appeal usually takes up to 22 weeks. A few are determined after a public inquiry, which often takes about 30 weeks. Further information is given in the booklet "Making Your Planning Appeal", which you can get free from the Planning Inspectorate, Cathays Park, Cardiff CF10 3NQ, telephone: 029 20 825670.

Is an appeal likely to succeed?

Appeals are dealt with purely on their merits. About one third of the appeals for business development are successful.

Is there a time limit on appeals?

You must send your appeal to the Planning Inspectorate to arrive within six months of the date of notice giving the council's decision or, if one has not been given, six months from the date by which the decision ought to have been made. This gives you time to sort out whether you can overcome the council's objections in other ways, either by negotiation or by amending your proposal.

How much will an appeal cost?

There is no charge for making an appeal but you will inevitably incur some expenses in presenting your case. The cost involved will depend on the procedure to be followed and on the complexity of the case.

In an inquiry or hearing, the council, or other people involved in the appeal, may apply for costs against one of the other parties for "unreasonable" behaviour, for example, failure to submit documents or attend a meeting. It would have to be shown that unnecessary costs had been incurred as a result of this behaviour. An award of appeal costs is not made on the basis of who "wins" the appeal. The arrangements for awarding costs are explained in detail in Welsh Office Circular 23/93, "Awards of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings". There is a further information in the Government's booklet "Costs Awards in Planning Appeals: A Guide for Appellants" which can be obtained from the Planning Inspectorate (see above for address).

Part 8

What if you have gone ahead without the required permission?

If you have gone ahead without the required permission the council may simply ask you to apply retrospectively. Much depends on the nature of the development and its effect on neighbours. If the council considers that the development involves a breach of planning control, it may take remedial enforcement action.

Enforcement action

This usually involves issuing an enforcement notice setting out the measures needed to remedy the breach, and the date by which these must be implemented. You may be required to cease your activities, or demolish all or part of the building. If you have not complied with a condition imposed on the grant of planning permission, the council may issue a breach of condition notice requiring you to carry out work to observe the terms of the condition.



There is a right of appeal to Welsh Ministers against an enforcement notice. If an appeal is dismissed and the notice becomes effective, it is an offence not to comply with it, and the council may decide to prosecute you. As enforcement proceedings are likely to be time-consuming and disruptive to your business, it is as well to consult the council before you go ahead with your proposed development.

There is no right of appeal against a breach of condition notice and you will risk prosecution if you do not comply with it.

A free booklet entitled "Making Your Enforcement Appeal" gives guidance on how to appeal against an enforcement notice. You can get a copy from your council and from the Planning Inspectorate (see Part 7).

Annex 1

Use Classes

The following classes of use are set out in the Town and Country Planning (Use Classes) Order 1987 (referred to in Part 2, page 6).

A1 Shops

Shops, post offices, travel agents, hairdressers, funeral directors, dry cleaners.

A2 Financial and professional services

Banks, building societies, betting offices, and other financial and professional services.

A3 Food and drink

Pubs, restaurants, cafes, and hot food take-aways.

B1 Business

Offices, research and development, light industry appropriate in a residential area.

B2 General industrial

B8 Storage and distribution

Including open air storage. Does not include use of a building or land for the storage of, or as a distribution centre for, radioactive material or radioactive waste.

C1 Hotels

Hotels, boarding and guest houses where no significant element of care is provided.

C2 Residential institutions

Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

C3 Dwellinghouses

Family houses, or houses occupied by up to six residents living together as a single household, including a household where care is provided for residents.

D1 Non-residential institutions

Surgeries, nurseries, day centres, schools, art galleries, museums, libraries, halls, churches.

D2 Assembly and leisure

Cinemas, concert halls, bingo and dance halls, casinos, swimming baths, skating rinks, gymnasiums or sports arenas (except for motor sports, or where firearms are used).

**CHANGE OF USE NOT REQUIRING
A PLANNING APPLICATION**

**These changes of use are permitted by the Town and Country
Planning (General Permitted Development) Order 1995**

From	To
A2 (professional and financial services) when premises have a display window at ground level	A1 (shop)
Sale of motor vehicles	A1 (shop)
A3 (food and drink)	A1 (shop)
A3 (food and drink)	A2 (professional and financial services)
B1 (business) (permission limited to 235 square metres of floor space in the building)	B8 (storage and distribution)
B2 (general industrial)	B1 (business)
B2 (general industrial) (permission limited to 235 square metres of floor space in the building)	B8 (storage and distribution)
B8 (storage and distribution) (permission limited to 235 square metres of floor space in the building)	B1 (business)

A planning application is not required for change of use in the following circumstances: from A1 to A1 plus a single flat above; and from A2 to A2 plus a single flat above. These changes are reversible without an application only if the part that is now a flat was, respectively, in either A1 or A2 use immediately before it became a flat.

CHANGE OF USE REQUIRING A PLANNING APPLICATION

Application for planning permission are always required for material changes of use involving amusement centres, theatres, scrap yards, petrol filling stations, car showrooms (except for material changes of use from car showrooms to Class A1 uses), taxi and car hire businesses and hostels.

Annex 2

Further Guidance

PLANNING GUIDANCE

Welsh Assembly Government planning policy is set out in “**Planning Policy Wales**” (March 2002), “**Local Development Plans Wales**” (December 2005), Ministerial Interim Planning Policy Statements* (“MIPPS”) and in Circulars. It includes MIPPS 02/2005 “Planning for Retailing and Town Centres”.

These have been complemented by a series of topic-based Technical Advice Notes (Wales)* (TAN(W)s), including:

- TAN 4 Retailing and Town Centres**
- TAN 7 Outdoor Advertisement Control**
- TAN 9 Enforcement of Planning Control**

*available on the Planning section of the Welsh Assembly Government website (www.wales.gov.uk) which together with the Planning Portal (www.planningportal.gov.uk) provide more information

- TAN 11 Noise**
TAN 18 Transport
TAN 19 Telecommunications

An Index of Planning Policy for Wales is available on the Planning section of the Welsh Assembly Government website.

Annex 3

Useful addresses

Confederation of British Industry

The Smaller Firms Council
Centre Point
103 New Oxford Street
London WC1A 1DU
Telephone 020 7379 7400

The Royal Town Planning Institute

41 Botolph Lane
London EC3R 8DL
Telephone 020 7929 9494

Royal Institution of Chartered Surveyors

Information Centre
Surveyor Court
Westwood Way
Coventry CV4 8JE
Telephone 02476 694757

Royal Institute of British Architects

66 Portland Place
London W1B 1AD
Telephone 020 7580 5533

Business Support in Wales

Business Eye is the gateway to business support services in Wales.

It includes an easily accessible entry point for all business support enquiries in Wales and is sponsored by the Welsh Assembly Government. Its role is to provide free, impartial information and signposting service for all new and existing businesses.

The service can be accessed by phone, a website and 28 local Business Eye offices that have been established throughout Wales.

For enquiries contact: **Business Eye on 0845 7969798**

Website: **www.busesseye.org.uk**

