

An Introduction to Planning



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What is Planning?

- Sets out a long term vision for places
- Provides a decision making framework to manage competing uses for space
- Balances economic, social and environmental objectives
- Provides legitimacy through consultation and the testing of evidence



What is Development?

The Town and Country Planning Act 1990, s55, defines development 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”



What is Development?

- Is there a material change to the external appearance of the building, or a material change of use of land?
- If yes, then it is probably 'development' which needs planning permission
- Some things are 'permitted development' and don't need planning permission
- Granted nationally by the:
 - Town and Country Planning (General Permitted Development) (England) Order 2015 or
 - Town and Country Planning Use Classes Order 1987



Permitted Development Rights

- Section 59 of the Town and Country Planning Act 1990 allows Secretary of State to grant planning permission through a development order
- Town and Country Planning (General Permitted Development) (England) Order 2015 is the current Order
- 2015 Order contains a number of Parts where permitted development rights are prescribed for example:
 - Part 1 – Development within a domestic garden
 - Part 2 – Minors operations such as walls and fences
 - Part 3 – Changes of use
 - Part 4 – Temporary buildings and uses
 - Part 6 – Agriculture and forestry
 - Part 7 – Extensions to non-domestic buildings
 - Part 12 – Development by local authorities
 - Part 14 – Renewable energy
 - Part 16 – Communications

Part 1 - Planning Portal Interactive House



Part 3 - Changes of Use – Use Classes Order (2015)

Use Class	Use	Permitted Change
A1 Shops	Shops, retail warehouses, post offices, ticket and travel agencies, sale of cold food for consumption off premises, hairdressers, funeral directors, hire shops, dry cleaners, internet cafes	<p>Permitted change to or from a mixed use as A1 or A2 & up to 2 flats</p> <p>Temporary permitted change (2 years) for up to 150 sq.m to A2, A3, B1 (interchangeable with notification)</p> <p>Permitted change of A1 or mixed A1 and dwellinghouse to C3 (subject to prior approval)</p> <p>Permitted change to A2</p> <p>Permitted change to A3 (subject to prior approval)</p> <p>Permitted change to D2 (subject to prior approval)</p>
A2 Financial and Professional Services	Banks, building societies, estate and employment agencies, professional services (not health or medical services)	<p>Permitted change to A1 where there is a display window at ground floor level. Permitted change to or from a mixed use for any purpose within A2 and up to 2 flats and for A1 and up to 2 flats, where there is a display window at ground floor level</p> <p>Temporary permitted change (2 years) for up to 150 sq.m to A1, A3, B1 (interchangeable with notification)</p> <p>Permitted change from A2 or mixed A2 and dwellinghouse to C3 (subject to prior approval)</p> <p>Permitted change to A3 (subject to prior approval)</p> <p>Permitted change to D2 (subject to prior approval)</p>
A3 Food and Drink	Restaurants and cafes	<p>Permitted change to Class A1 and Class A2</p> <p>Temporary permitted change (2 years) to A1, A2, B1 (interchangeable with notification)</p>
A4 Drinking Establishments	Public houses, wine bars or other drinking establishments	<p>Permitted change to A1, A2 or A3 subject to building not being an Asset of Community Value</p> <p>Temporary permitted change (2 years) to A1, A2, A3, B1 (interchangeable with notification/written request to LPA whether building has been nominated as an Asset of Community Value)</p>
A5 Hot Food Takeaways	For the sale of hot food for consumption off the premises	<p>Permitted change to A1, A2 or A3</p> <p>Temporary permitted change (2 years) to A1, A2, A3, B1 (interchangeable with notification)</p>

Part 3 - Changes of Use – Use Classes Order (2015)

Use Class	Use	Permitted Change
B1 Business	<ul style="list-style-type: none"> a) Office other than a use within Class A2 b) Research and development of products or processes c) For any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area) 	<p>Permitted B1 change to B8</p> <p>B1(a) office permitted change to C3 (subject to prior approval and until 30.05.16)</p> <p>Temporary permitted change (2 years) to A1,A2,A3 (interchangeable with notification)</p> <p>Permitted B1 change to state-funded school or registered nursery (and back to previous lawful use) (subject to prior approval)</p>
B2 General Industry	Industrial process other than that falling within Class B1	Permitted change to B1 and B8
B8 Storage or Distribution	Use for storage or as a distribution centre	<p>Permitted change to B1.</p> <p>Permitted change to C3 (subject to prior approval and until 15 April 2018)</p>
C1 Hotels	Hotels, boarding and guest houses (where no significant element of care is provided)	Permitted change to state-funded school or registered nursery (and back to previous lawful use) (subject to prior approval)
C2 Residential Institutions	Residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes	Permitted change to state-funded school or registered nursery (and back to previous lawful use) (subject to prior approval)
C2a Secure Residential Institutions	Prisons, young offenders' institutions, detention centres, secure training centres, custody centres, short term holding centres, secure hospitals, secure local authority accommodation, military barracks	Permitted change to state-funded school or registered nursery (and back to previous lawful use) (subject to prior approval)
C3 Dwellinghouses	<p>Use as a dwellinghouse (whether or not a main residence) by</p> <ul style="list-style-type: none"> a) A single person or by people to be regarded as forming a single household b) Not more than six residents living together as a single household where care is provided for residents; or c) Not more than six residents living together as a single household where no care is provided to residents (other than use within Class C4) 	Permitted change to C4

Part 3 - Changes of Use – Use Classes Order (2015)

Use Class	Use	Permitted Change
C4 Houses in multiple occupation	Use of a dwellinghouse by 3-6 residents as a 'house in multiple occupation' (HMO) NB Large HMOs (more than 6 people) are unclassified therefore sui generis	Permitted change to C3
D1 Non-residential Institutions	Clinics, health centres, creches, day nurseries, schools, non-residential education and training centres, museums, public libraries, public halls, exhibition halls, places of worship, law courts	Temporary permitted change (2 years) to A1, A2, A3, B1 (interchangeable with notification)
D2 Assembly and Leisure	Cinemas, concert halls, bingo halls, dance halls, swimming baths, skating rinks, gymnasiums, other areas for indoor and outdoor sports or recreations not involving motorised vehicles or firearms	Permitted change to state-funded school or registered nursery (and back to previous lawful/use) (subject to prior approval) Temporary permitted change (2 years) to A1,A2,A3,B1 (interchangeable with notification)

Use Class	Use	Permitted Change
Other changes of use	Agricultural buildings	Flexible changes to A1, A2, A3, B1, B8, C1, D2 (subject to limitations and prior approval process): new use is sui generis Permitted change to C3 (subject to prior approval) Permitted change to state-funded school or registered nursery (subject to prior approval)

Part 3 - Change of Use to Dwellinghouses

- Prior Approval Procedure for:
 - **Class M** – Retail to dwelling houses
 - **Class O** – Offices to dwelling houses
 - **Class P** – Storage and distribution to dwelling
 - **Class Q** – Agricultural buildings to dwellinghouses
- Subject to Exemptions and Limitations
 - Article 2(3) Land - conservation area or AONB
 - Heritage - SAM, listed building or within curtilage of listed building
 - Time limitations - implementation and historical use
 - Thresholds - floor area and number of residential units
 - Safety impacts - flooding, highways
 - Environmental impacts - noise, air quality and contamination
 - Building condition - structural stability?
- Deemed consent after 56 days

The Consultation Process

- Parish and Town Councils - Statutory Consultee on all “planning” applications
- 21 days to respond
- Importance of regular Parish/Town Council meeting or delegation
- e-planning
 - Receive electronically
 - Respond electronically



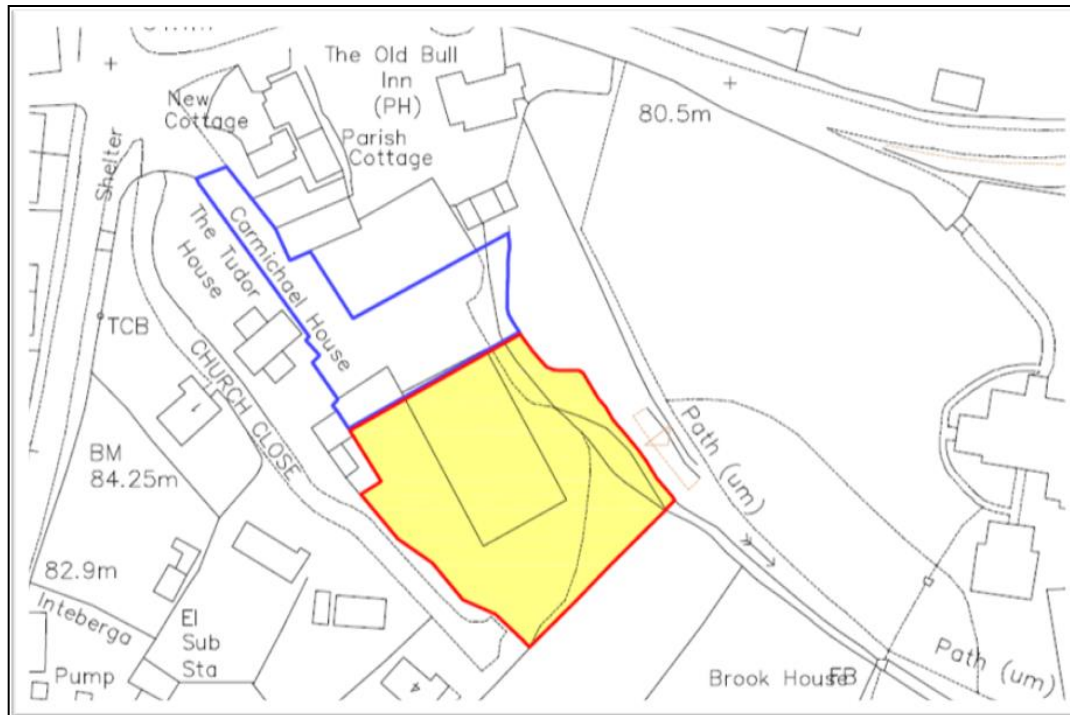
Different Types of Application

- Householder
- Full Planning
- Outline/Reserved Matters
- Change of Use
- Advertisement Consent
 - Highway safety & amenity only
- Listed Building Consent
- Agricultural Buildings Notifications
- Lawful Development Certificates (proposed & existing)
 - The “balance of probability” test
 - 4 year (structures) & 10 year (use) rule
- Prior Notifications (e.g. tree works, permitted development)



Understanding Planning Applications

- Forms & certificates
- Location plans
 - Red line – application site
 - Blue line – other land within applicants ownership/ or control



Understanding Planning Applications

- Planning Statement
- Design & Access Statement
- Statement of Significance (Heritage)
- Other supporting information/documents:
- Flood Risk Assessment
- Viability Assessment
- Transport Assessment
- Noise Assessment
- Agricultural Appraisal
- Ecological Survey
- Local requirements



Material Planning Considerations

- “An issue which may legitimately be taken into account when deciding a planning application or in an appeal against a planning refusal” - Section 70 of the Town and Country Planning Act 1990
- “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise” - Section 38 of the Planning and Compulsory Purchase Act 2004

Material Planning Considerations

- **Planning Law**

- Primary UK Legislation

- Town and Country Planning Act 1990 (as amended)
 - Listed Buildings and Conservation Areas Act 1990 (as amended)
 - Planning and Compulsory Purchase Act 2004
 - Planning Act 2008
 - Localism Act 2011
 - Growth and Infrastructure Act 2013

- Secondary Legislation/Regulations

- Community Infrastructure Levy 2010
 - Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)

- Others

- Ministerial statements
 - Case law established by the courts

Material Planning Considerations

- **Planning Policy**

- Development Plan (section 38(6) of the PCPA 2004)
 - Development Plan - SWDP, Neighbourhood Development Plans
- Central Government: National Planning Policy Framework (NPPF &PPG)
- Supplementary Planning Guidance/Statements (Design Guide)
- Parish Plans/Village Appraisal/Design Statements/other local information

- **Previous Planning Decisions**

- Planning history of the site
- Relevant appeal decisions

- **Site Constraints & Characteristics**

- Open Countryside, AONB, Brownfield Land
- Heritage assets - Conservation Area, Listed Building
- Tree Preservation Order
- Topography/levels
- Flooding & Drainage
- Archaeology



Material Planning Considerations

- **Physical Context**

- Layout, density, scale, plot coverage, overdevelopment, building lines
- Relationship to neighbours – conflict with their amenity?
 - Daylight/sunlight/privacy/overlooking/overbearing
 - Noise, smells, general disturbance

- **Natural Heritage**

- Trees & hedges, wildlife, protected species, landscape impact

- **Highway Safety**

- Access & visibility
- Parking, turning and loading/unloading
- Traffic generation
- Public Rights of Way (PROW)

- **Design**

- Individually or contextually, street scene, character of the area
- Objective assessment



Material Planning Considerations

The National Planning Policy Framework

- Published originally March 2012, amended in July 2018 and again in February 2019
- The purpose of the planning system is to contribute to the achievement of sustainable development
- Paragraphs 18 to 219, taken as a whole constitute the Government's view of sustainable development



Non-Material Planning Considerations

- Devaluation in property
- Loss of a personal view
- Personal circumstances of the applicant (rarely)
- Retrospective applications
- Covenants/private rights of way/party wall disputes
- Unfair competition
- Moral and religious issues
- Matters relating to other regulatory regimes e.g. building standards, health and safety & highways
- Disturbance during the constructions process
- Building maintenance
- “Just don’t like it” or “We don’t want any more development”

The Decision Making Process

- **Grant/Approve Permission**
 - Subject to conditions
 - Subject to planning obligations
- **Refuse Permission**
 - Reason for refusal
 - Demonstrate conflict with policy and planning harm
- **Withdrawal**



Planning Conditions

- National Planning Policy Framework (paragraph 54-56)

Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Planning conditions should be kept to a minimum

The 6 Tests

1. Necessary;
2. Relevant to planning;
3. Relevant to the development;
4. Enforceable;
5. Precise; and
6. Reasonable in all other respects



The Planning
Inspectorate



"We've been refused planning permission!"

Types of Appeal

- Householder (fast track) except where there is an associated LBC
- Written representations
- Hearings
- Public Local Inquiry



Reasons to Appeal

- Refusal of planning permission
- Refusal of other consents
 - Advertisement
 - Listed building consent
 - Lawful development certificates
 - Modifications to planning obligations
 - Tree preservation orders
- Imposition of a condition
- Enforcement Notices
- Non-determination



Evidence

- Grounds of appeal (appellant)
- Questionnaire (council)
- Statement of Case (both parties) written and hearings
- Proof of Evidence (both - all witnesses) Inquiries
- Statement of Common Ground (both)
- Third party comments



Getting Involved

- Public forum – anyone can attend
- Usually held at The Council House
- Hearings tend to be 1 or 2 days
- Inquiries tend for be multiple days



Parish/ Town Council roles

- Submit letter for written appeals
- Attend hearings and Inquiries as observer
- Participate at hearings
- Witness at Inquiries – Rule 6 Party
- Pros and cons
- Contribute to the evidence/case
- Depends on the merits/strength of the case
- Please talk to the case officer who will advise you on how best to participate

Costs

- Paragraphs 27-56 of the Planning Practice Guidance

“Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.”
- All parties and consultees can apply for costs and/or be subject to a claim for costs
- Determined by the Inspector
 - Full or partial costs can be awarded
- Examples of unreasonable behaviour
 - Late withdrawal or late new evidence
 - Lack of cooperation, delays, concealment
 - Not adhering to timeframes
 - Evidence which is manifestly inaccurate or untrue



Developer Contributions

- Section 106 of the Town and Country Planning Act 1990

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.



Enforcement

- What is a Breach of Planning Control?
- The carrying out of development without the required planning permission



- The failure to comply with any condition or limitation subject to which permission has been granted
- Failing to comply with any order or notice served, pursuant to statutory enforcement powers

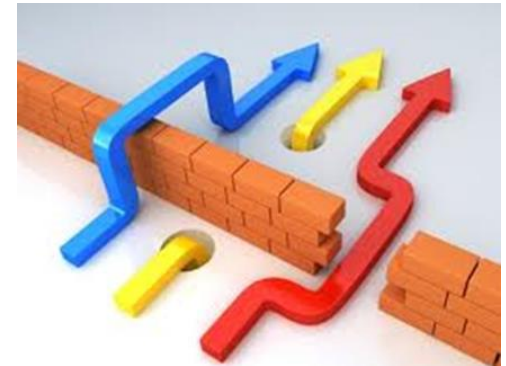
Enforcement

- Enforcement notice
- Breach of Condition Notice
- Prosecution under the Advertisement Regulations
- A notice served under section 215 of the T&CP Act 1990
- Stop Notice
- Planning Contravention Notice
- Injunction
- Remember enforcement is discretionary. It's about compliance not punishment

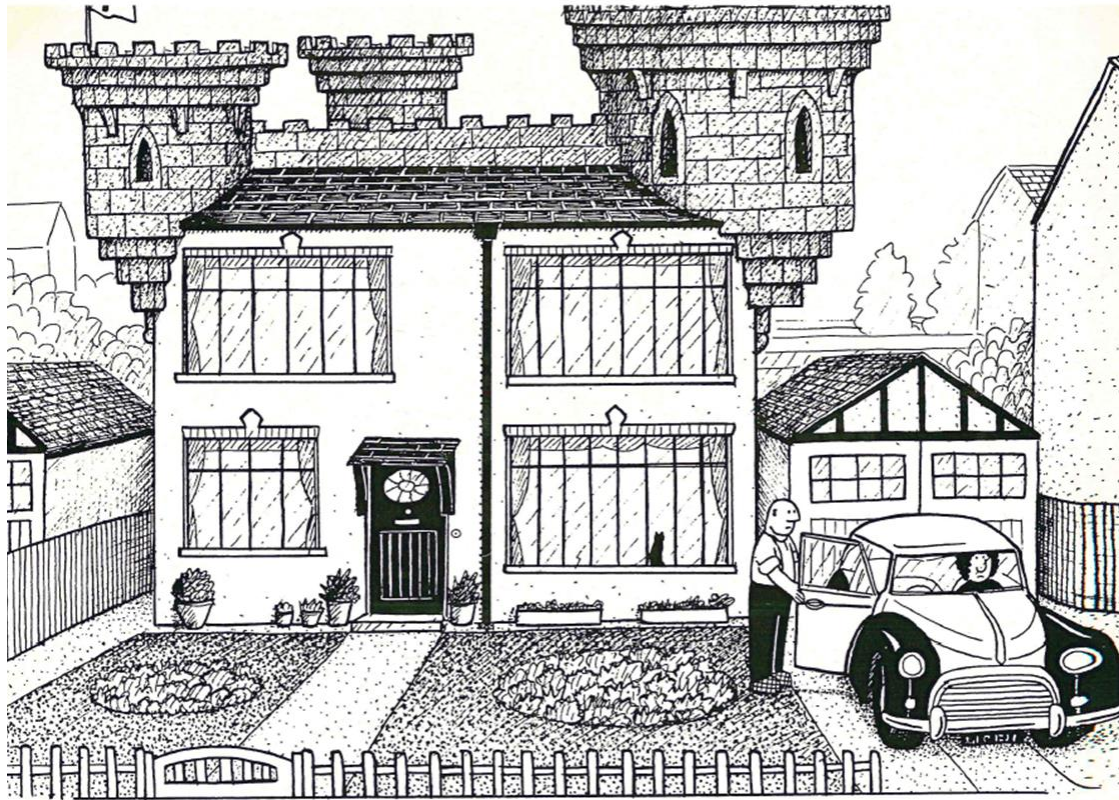


Expediency - to enforce or not to enforce...

- What part of the development, if any, would be permitted?
- Can the development be regularised by the submission of a planning application?
- Does the development cause harm to the surrounding environment?
- Enforcement is discretionary
- Formal enforcement action should only be considered where discussions are unable to resolve the breach



Q&A



WHEN FRED AND PENELOPE SET OUT
FOR THEIR MEETING WITH THE LOCAL
PLANNING OFFICER IT WAS WITH
A SENSE OF FOREBODING