

# The Planning Series

## 4 - Planning permission

September 2021



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# The Planning Series

## 4 - Planning permission

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## 1. What is planning permission?

The ***Town and Country Planning Act (1990)*** states that: “planning permission is required for the carrying out of any development of land.”

The Act 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.”

Some types of development and operations don’t need permission. Some development is ‘permitted’, some changes of use of land and buildings are allowed without permission, and some activities are excluded altogether from the definition of development.

## 2. What are the different types of planning permission?

There are three main types of planning permission:

**Outline:** Applications may be made initially without full details of all design elements of the proposal, such as access, appearance, landscaping, layout or scale. Outline planning applications therefore allow for a decision to be made on the general principles of a proposed development, prior to submitting a fully detailed proposal. There are two types of outline approvals, comprising those where:

- all of the detailed design elements are ‘reserved’ for future approval; or
- some elements have been included in the outline submission whilst others have been reserved.

**Detailed:** Once outline permission has been granted, a further application needs to be made to seek approval for the reserved matters that were described in the original outline submission.

**Full:** This is a combination of outlined and detailed permission, where all the detailed information on the proposal has been submitted in one application. It provides specific approval for the proposal to be completed in a single consent.

In addition, any work on or around a listed building that would affect its character requires **listed building consent**. ***Technical advice note (TAN) 24: the historic***

**environment** provides further information on listed building consent.

Developments that require planning permission are also likely to need **Building Regulations approval**.

### 3. How is a decision made on a planning application?

Planning applications are usually considered by Local Planning Authorities (LPAs). These are the 22 Local Authorities and the three National Park Authorities. LPAs are usually expected to decide an application within eight weeks, or thirteen weeks if an Environmental Impact Assessment is needed. This period can, with agreement, be longer for major schemes. The LPA may either grant planning permission unconditionally, with conditions, or refuse to grant permission.

The decision is made by examining the application in the context of:

- national planning policy and guidance as prepared by the Welsh Government;
- policies in the LPA's Local Development Plan for the area; and
- any other relevant issues, known as 'material considerations'.

The application must be determined in accordance with national and local policies, unless 'material considerations' indicate otherwise. LPAs may, however, grant permission for development which does not accord with the provisions of the relevant Development Plans. These are known as departure applications. The LPA must tell the Welsh Government about these applications.

In principle, any consideration that relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration is material in any given case will depend on the circumstances. It is ultimately for the Courts to decide. **Planning Policy Wales** gives some guidance on what issues are material considerations. They must be genuine planning matters, that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability.

The Courts have the final say on what may be regarded as material considerations in relation to any particular application, but they include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service

availability and the impact on the neighbourhood and on the environment. The effects of a development on, for example, health, public safety and crime can also be material considerations, as can public concerns in relation to such effects.

Once an application has been accepted for consideration by an LPA, a 21-day publicity and consultation period commences. The extent of this depends upon the type of application submitted and the policy of the LPA. However, the law requires LPAs to give publicity to an application in various ways. This gives those who may be affected by it the opportunity to make their views known.

The publicity often includes:

- publishing a notice in a local newspaper;
- posting a public site notice; and
- notifying neighbours in writing (occupiers and owners of adjoining properties).

An additional **statutory pre-application consultation process** applies for planning applications for 'major developments'. This process is carried out by the developer and a report summarising the pre-application consultation must accompany the planning application submitted to the LPA.

When determining an application, all comments received must be taken into account. Once a decision has been made, all those who provided comment must be informed.

The LPA planning committee is ultimately responsible for all local planning decisions. Planning officers employed by the authority will make a recommendation to the committee about whether or not to approve an application and any conditions that should be imposed. The planning committee does not have to agree with the officer recommendation, but if they decide to reject an application against officer advice they must give their reasons. The decision may be overturned on appeal with costs being awarded against the authority if valid planning reasons for the decision cannot be demonstrated.

Smaller applications are often decided by the LPA's Chief Planning Officer, who can be given powers by the authority to decide some applications under a 'delegated authority' scheme.

## 4. When does the Welsh Government get involved in an application?

A small number of applications are ‘called in’ by the Welsh Government. In such cases an application is considered by **Planning Inspectorate Wales** in the same way as a planning appeal, with the final decision being made by the Welsh Ministers.

The applicant or a third party can ask the Welsh Government to consider calling in an application. However, only those applications that raise planning issues of more than local importance or are in conflict with national policy will be called in. In practice only a small number of applications are called in each year. The request to call in the application must be made before the LPA reaches its final decision on that application.

## 5. How can you appeal against a decision?

An applicant can appeal against either a refusal of planning permission or the conditions imposed by the LPA as part of an approval. Appeals against planning decisions are normally handled by **Planning Inspectorate Wales** on behalf of the Welsh Government. There is no right of appeal by any other interested parties (known as third parties) affected by the application.

## 6. Key sources

### Welsh Government

The **building and planning section** of the Welsh Government website provides further information on **planning permission**.

Detailed guidance for LPAs on handling and deciding development proposals can be found in the Welsh Government’s **Development management manual**.

**Planning Policy Wales** and **Future Wales: the national plan 2040** (the National

Development Framework) set out the Welsh Government’s principal national land use planning policies.

## Planning Inspectorate Wales

**Planning Inspectorate Wales** deals with planning appeals.

## Planning Aid Wales

**Planning Aid Wales** is a charitable organisation helping eligible individuals and communities to participate more effectively in the planning system. It provides advisory services, including a helpline.

## Senedd Research

More planning quick guides and other publications from Senedd Research are available on the **Senedd Research website**.

