

Planning and the Local Economy Panel

AGENDA NO: 10.1

Report of the Planning Portfolio Holder

**Contact: Cllr Adam
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Date: 10 March, 2009

INTRODUCTION TO PERMITTED DEVELOPMENT

RECOMMENDATION:

1. That the Panel endorse the 'Introduction to Permitted Development' as a useful guide to members and town and parish councillors on the new PD regime.
2. That the Panel agree to send a copy of the guide to all members, and to each town or parish clerk by either
 - a) Paper copy; or
 - b) Electronically

REPORT DETAIL:

Background

At a PLEP meeting in 2008 members raised the suggestion that all members be given a guide to the changes in the new permitted development regime for planning, so that they could offer better advice to constituents. The portfolio holder agreed to raise the matter with the Head of Development Control. The head of DC agreed that such a guide would be valuable, but was concerned about the resource implications, and it was agreed that the portfolio holder would produce a draft and check it with the Head of DC and Planning Solicitor.

The guide is based very closely on government guidance contained within the Planning Advisory Service website, and aims to summarise the regulations on Permitted Development for most common cases. It is not a definitive or complete guide.

The guide has been sent to the planning solicitor who was happy that it was accurate, and made some useful suggestions for minor improvements. It was also sent to the Chairman of Planning and Head of DC who raised no objections.

The guide should serve as a complement to the revised 'Introduction to Planning' approved by the committee last year.

OPTIONS CONSIDERED:

2a. Send all members and parish councils a paper copy – more accessible or preferable for some, but more expensive.

2b. Send all members and parish councils an electronic copy, unless they do not have email access in which case send a paper copy – cheaper but perhaps less preferable for some.

Do not send out the report at all: the information would still be available on the government website, but in a less accessible and structured format.

Introduction to Permitted Development

Permitted Development (PD) is development that can be undertaken without the need for an express planning permission.

PD as an idea recognises that to require planning permission for every single piece of work to a building would flood the planning system with a great many applications. Many of these might be relatively straightforward but which would place a great deal of strain on the system. Equally to allow PD for too wide a range of projects might allow the sort of harm that planning is partly intended to prevent.

This document has been prepared to help draw together rules on Permitted Development, as a basic guide to assist councillors understand of what work does and does not fall within permitted development under the new guidelines. It may also be of help to town and parish councilors, and to officers in the many services that work with planning to achieve the council's aspirations – as set out within the Councils list of priorities and core strategy.

It should not be regarded as a complete or definitive guide to the subject, and aims to cover only the most common areas likely to come up. Anyone unsure of any points raised, or wanting further information, should contact Development Control or Legal Services.

On matters of Permitted Development it is **always** safest to check with planning authority if you are not sure. It is often prudent, where matters are unclear, to apply for a Certificate of Lawful Proposed Use – if granted this document will be an official statement by the council that permission is not needed. If the Certificate is refused then you need to apply for planning permission.

Much of the information here has been copied directly from the 'Planning Portal'. Responsibility for any errors or omissions however remains mine.

Cllr. Adam Killeya, Portfolio Holder for Planning, Caradon District Council

February, 2009

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Legislation

The main law covering PD is the Town and Country Planning (General Permitted Development) Order of 1995, but this has since been amended several times, mostly recently last year. The Government's stated intention in the latest changes was to expand the freedom of people to extend their homes without permission, whilst still requiring permission for work that was likely to have a large impact on neighbours, the wider community and the environment. After a consultation in 2007, changes came into effect in late 2008.

The official objectives of the proposed changes were:

- clarity, simplicity and consistency
- to make the need for specific planning permission proportionate to the impact of the development
- to keep the number of planning applications to a minimum
- to ensure the legislation is and can remain relevant to new technologies and changing lifestyles.

An example was extending permitted development for some energy micro-generation projects. However, the changes did not simply increase the number of works where permission was no longer required – some work that previously did not need permission now does.

Changes of Use

Although changes of use are not the main focus of this guide, it is worth mentioning in passing that some changes of use category are permitted development (unless restricted by consent or conditions).

A2 (Financial and Professional Services) to A1 (Shops);
A3 (Restaurants and cafés) to A1 or A2;
A4 (Drinking establishments) or A5 (Hot food takeaways) to A1, A2 or A3;
B1 (Business) or B2 (General industrial) to B8 (Storage or distribution);
B2 or B8 to B1

This area is governed by the Use Classes Order, which was last updated in 2006.

Reservations

It is important to note at this stage that the information in this guide is subject to several reservations, as Permitted Development can apply differently in certain circumstances

a) Building Regulations

The fact that a project does not require planning permission does not always mean that it doesn't need building regulation approval, to ensure that the quality of the work is acceptable and meets current requirements. Building Regulations must be complied with in any project defined as 'building work' – in some cases this can be self-certified by an appropriately qualified person, but in other cases needs the approval of a building control inspector.

b) AONBs, World Heritage Sites, and National Parks

Permitted Development is tighter within these areas, usually in projects related to the outside of a building, and advice should be sought

c) Listed Buildings

Listed Buildings also have less PD rights, and this can be both inside and outside the building, depending on the specific listing. Again advice should be sought, as Listed Building Consent may be needed even where ordinary planning permission is not.

d) Article 4 Directions and Conservation Areas

The Planning Authority (Cornwall Council from 1st April 2009) can take away some permitted development rights – this is called an Article 4 direction. These are most commonly used in Conservation Areas. Removal of PD rights can sometimes be a condition of getting planning permission.

e) Prior Notification

Some works that are often PD still require the council to be informed in advance, to check that permission is not required. A common example is the demolition of a house or of a building adjoining a house.

f) Party Wall Act (1995)

This can affect work where which involves:

- * Work on an existing wall shared with another property
 - * Building on the boundary with a neighbouring property
 - * Work involving excavating near a boundary
- and places certain restrictions on this work, PD rights notwithstanding.

g) 'Original House'

This term means the house as it was first built or as it stood on 1 July 1948, or when it was built if after that date. It does not mean the house as it stands before any particular project.

Outdoors

Building extensions

In general, to be acceptable without planning permission, extensions must meet **all** of the following criteria:

- No more than half the area of land around the "original house" would be covered by additions or other buildings.
- No extension forward of the principal elevation or side elevation fronting a highway.
- No extension to be higher than the highest part of the roof.
- Maximum depth of a single-storey rear extension of three metres for a terraced house or semi and four metres for a detached house.
- Maximum height of a single-storey rear extension of four metres.
- Maximum depth of a rear extension of more than one storey of three metres including ground floor.
- Maximum eaves height of an extension that is within two metres of the boundary to be three metres.
- Maximum eaves and ridge height of extension to be no higher than existing house.
- Side extensions to be single storey with maximum height of four metres and width to be no more than half that of the original house.
- Two-storey extensions no closer than seven metres to rear boundary.
- Roof pitch of extensions higher than one storey to match existing house.
- Materials to be similar in appearance to the existing house.
- No verandas, balconies or raised platforms.
- Upper-floor, side-facing windows to be obscure-glazed; any opening to be 1.7m above the floor.

There are further restrictions on designated land:

- No permitted development for rear extensions of more than one storey.
- No cladding of the exterior.
- No side extensions.

Outbuildings (including garages)

These rules governing outbuildings apply to sheds, greenhouses and garages as well as other ancillary garden buildings such as swimming pools, ponds, sauna cabins, kennels, enclosures (including tennis courts) and many other kinds of structure for a purpose 'incidental to the enjoyment of the dwellinghouse'.

In general these are acceptable without planning permission, if they meet **all** of the following criteria

- No more than half the area of land around the "original house"* would be covered by additions or other buildings.
- No outbuilding forward of the principal elevation fronting a highway.
- Outbuildings and garages to be single storey with maximum eaves height of 2.5 metres and maximum overall height of four metres with a dual pitched roof or three metres for any other roof.
- Maximum height 2.5 metres within two metres of a boundary.
- No verandas, balconies or raised platforms.
- In National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites the maximum area to be covered by buildings, enclosures, containers and pools more than 20 metres from house to be limited to 10 square metres and on designated land buildings, enclosures, containers and pools at the side of properties will require planning permission.
- Within the curtilage of listed buildings any outbuilding will require planning permission.

Decking

From 1 October 2008 putting up decking, or other raised platforms, in your garden is permitted development, not needing an application for planning permission, providing:

- The decking is no more than 30cm above the ground
- Together with other extensions, outbuildings etc, the decking or platforms cover no more than 50 per cent of the garden area.

Conservatories

Under new rules from 1 October 2008 adding a conservatory to normally is considered to be PD, not needing planning permission (usual restrictions apply), subject to the following limits and conditions:

- No more than half the area of land around the "original house"* would be covered by additions or other buildings.
- No extension forward of the principal elevation or side elevation fronting a highway.
- No extension to be higher than the highest part of the roof.
- Maximum depth of a single-storey rear extension of three metres for an attached house and four metres for a detached house.
- Maximum height of a single-storey rear extension of four metres.
- Maximum depth of a rear extension of more than one storey of three metres including ground floor.
- Maximum eaves height of an extension within two metres of the boundary of three metres.
- Maximum eaves and ridge height of extension no higher than existing house.
- Side extensions to be single storey with maximum height of four metres and width no more than half that of the original house.
- Roof pitch of extensions higher than one storey to match existing house.
- No verandas, balconies or raised platforms.
- On designated land no permitted development for rear extensions of more than one storey; no cladding of the exterior; no side extensions.

Porches

The planning rules for porches are applicable to any external door to the house. You need to apply for planning permission when:

- The ground floor area (measured externally) would exceed three square metres.
- Any part would be more than three metres above ground level (height needs to be measured in the same way as for a house extension).
- Any part of the porch would be within two metres of any boundary of the dwellinghouse and the highway.

Doors and windows

Planning permission is not normally required for repairing, fitting or replacing doors and windows (including double glazing), except, sometimes, in conservation areas or listed buildings.

Fences, gates and garden walls

You will need to apply for planning permission if you wish to erect or add to a fence, wall or gate and either any of the following are true:

- It would be over 1 metre high and next to a highway used by vehicles (or the footpath of such a highway); or over 2 metres high elsewhere; or
- The fence, wall or gate, or any other boundary involved, forms a boundary with a neighbouring listed building or its curtilage.

You will not need to apply for planning permission to take down a fence, wall, or gate, or to alter or improve an existing fence, wall or gate (no matter how high) if you don't increase its height.

These rules do, of course, vary for listed building, conservation areas, and houses subject to Article 4 directions (see page 4). In a conservation area, however, you might need conservation area consent to take down a fence, wall or gate.

Hedges

You do not generally need planning permission for hedges, though if a planning condition or a covenant restricts planting (for example, on "open plan" estates, or where a driver's sight line could be blocked) you may need planning permission and/or other consent.

Paving and driveways

These rules were significantly altered by the new rules that came into effect from 1 October 2008.

You will NOT need planning permission if a new driveway is situated between the principal elevation of the house and uses permeable (or porous) surfacing which allows water to drain through, such as gravel, permeable concrete block paving or porous asphalt, or if the rainwater is directed to a lawn or border to drain naturally.

If the surface to be covered is more than five square metres planning permission will be needed for laying traditional, impermeable driveways that do not control rainwater running off onto roads.

Elsewhere around your house there are no restrictions on the area of land which you can cover with hard surfaces at, or near, ground level. However, significant works of embanking or terracing to support a hard surface might need a planning application.

Fuel Tanks

From 1 October 2008 installing a fuel tank is considered to be permitted development (except with the usual reservations, see page 4) not needing planning permission, subject to the following limits and conditions:

- Not more than 3,500 litres capacity.
- Not forward of the principal elevation.
- Maximum overall height of three metres.
- Maximum height 2.5 metres within two metres of a boundary.
- Not more than half the area of land around the "original house"* would be covered by additions or other buildings.
- Not at the side of properties on designated land*.

NOTE: Also from 1 October 2008, the permitted development regime is extended to include liquid petroleum gas as well as oil storage.

Solar Panels

The following limits apply to roof and wall mounted solar panels:

- Panels should not be installed above the ridgeline and should project no more than 200mm from the roof or wall surface.
- Various other restrictions apply for listed buildings, or in a World Heritage Site, where panels are to be fitted on the principal or side elevation walls and they are visible from the highway. If panels are to be fitted to a building in your garden or grounds they should not be visible from the highway.

Wind turbines

At present in most cases you will need to apply for planning permission from your local authority to add a domestic wind turbine to your house, or grounds surrounding your home. It is up to each local authority to decide what information you may need to provide with your application. It may be helpful to contact your authority before applying to discuss visual impact, noise, vibration, electrical interference and safety

Heat Pumps

Ground Source Heat Pumps are generally acceptable. Air Source Heat Pumps will be acceptable once issues regarding noise regulations are resolved.

Security alarms, CCTV etc.

Permission is not needed (unless listed, conservation etc.)

Chimneys etc.

Under new rules fitting, altering or replacing an external flue, chimney, or soil and vent pipe is normally considered to be permitted development (usual restrictions apply), not requiring planning permission, provided:

- Flues are less than one metre above the highest part of the roof.
- In a designated area the flue should not be fitted on the principal or side elevation that fronts a highway.

Satellite dishes

These are normally PD, though it can vary.

Roof windows

You do not normally need to apply for planning permission to re-roof your house or to insert roof lights or skylights. From 1 October 2008 rules allow for roof alterations without the need for planning permission, subject to the following limits and conditions:

- Any alteration to project no more than 150 millimetres from the existing roof plane.
- No alteration to be higher than the highest part of the roof.
- Side facing windows to be obscure-glazed; any opening to be 1.7m above the floor.

Indoors

Generally speaking, except where the building is listed, permission is not required for works inside of a building. However loft conversions in particular are an area where this is not always the case.

Loft Conversions

Planning permission is not normally required. However, permission is required where you extend or alter the roof space and it exceeds specified limits and conditions.

Under new regulations that came into effect from 1 October 2008 a loft conversion for your home is PD, provided it fits with the following limits and conditions:

- A volume of up to 40m³ for terraced houses
- A volume of up to 50m³ for detached and semi-detached houses.
- No extension beyond the plane of the existing roof slope of the principal elevation that fronts the highway.
- No extension to be higher than the highest part of the roof.
- Materials to be similar in appearance to the existing house.
- No verandas, balconies or raised platforms.
- Side-facing windows to be obscure-glazed; any opening to be 1.7m above the floor.
- Roof extensions, apart from hip to gable ones, to be set back, as far as practicable, at least 20cm from the eaves.

Roof extensions are also not PD in certain designated areas (a Conservation Area may be an example).

Resources and Further Reading

There are a number of planning resources available for further information. A few are:

<http://www.planningportal.gov.uk>

The government's online planning resource. Includes detailed information on permitted development, and an interactive guide.

<http://www.communities.gov.uk>

The Department for Communities and Local Government. National Planning advice can be found here.

<http://www.rtpi.org.uk>

Royal Town and Country Planning Institute – the professional organisation for planning officers.

<http://www.pas.gov.uk/>

Planning Advisory Service.

<http://www.tcpa.org.uk/>

Town and Country Planning Association.

<http://www.communities.gov.uk/publications/planningandbuilding/planningsystem>

Contains a document on 'The Planning System – General Principles'.

A number of more detailed guidebooks to planning are also available – for example **Town and Country Planning in the UK** by John Cullingworth and Vincent Nadin.