

Planning for the Business Person

This leaflet sets out the main planning issues encountered by the business person. You will also find the leaflets, PL.1 - A Guide to Planning Permission, PL.2 - Making a Planning Application and PL.11 - A Guide to the Building Regulations, helpful.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of planning law. For more information you should consult your local planning authority.

1 Do I need planning permission?

Generally, planning permission is required for any development of land or property, unless the development is specifically exempted from this need. The term development includes the carrying out of any works (ie building, demolition or alteration) on any land or buildings, and the making of a material (i.e. significant) change of use of land or buildings.

2 What is exempted development?

Exempted development is development for which planning permission is not required. Categories of exempted development are set out in planning law. Relevant exemptions affecting the commercial area are outlined in this leaflet. There are usually certain thresholds relating to, for example, size or height. Where these thresholds are exceeded, the exemptions no longer apply. The purpose of exemption is to avoid controls on developments of a minor nature, such as certain interior alterations, small business advertisements, etc.

3 Can I change of use be exempted development?

Yes. There are 11 classes of use identified in the Planning and Development Regulations, 2001 - 2002 - development consisting of a change of use within any class is exempted development. This applies as long as the change of use does not include the carrying out of any works requiring planning permission and does not contravene a condition attached to an existing planning permission. In addition, a change of use from an unauthorised use will require planning permission unless it is to an authorised use which is still being carried out. Planning permission is not required where a change of use is not "material".

4 What is a "material" change of use?

What constitutes a material change of use depends on the circumstances of each situation. Generally, any change of a substantial nature which has an impact or potential impact on neighbours or the local community will need planning permission, etc. The planning authority can advise on whether it considers that any particular change of use is of significance to be "material" for planning purposes. See Question 11 below for details of how the planning authority can resolve a question of whether a development is or is not exempted.

5 Are there different types of permission?

Yes. There are two types of planning permission. An application may be made for:
- permission;
- outline permission;

The most common type of application made is for permission, sometimes referred to as full permission. There are circumstances when you may want to make an application for outline permission. For example, you may want to see whether the planning authority agrees with your proposal in principle before you go to the trouble of making detailed plans. If you obtain outline permission you must obtain full permission before starting work. In most cases, a subsequent application for permission must be made within 3 years of the date of grant of outline

permission. However, outline permission cannot be sought for retention of a structure, works to a protected structure or a proposed protected structure or developments which require an environmental impact assessment, integrated pollution control licence or a waste licence.

6 Where do I get planning permission?

From the planning authority for your area i.e your local County Council, City Council, Borough Council or Town Council.

7 How do I make a planning application?

For details on making a planning application see PL.2 - Making a Planning Application, in this series, or contact the planning authority.

8 What exemptions apply to me?

The main commercial, business and industrial exemptions are:

- * the storage of raw materials, products, packing materials, fuel or waste within the boundaries of an industrial building provided that the stored material relates to the premises and is not visible from any adjacent public road;
- * the provision of a hard surface at an industrial premises to be used for a purpose related to the premises related to the premises and the provision, re-arrangement or maintenance of sewers, mains, pipes or cables;
- * carrying out work specified by a local authority to prevent water or air pollution or in a derelict site notice;
- * drilling or excavation to survey land or examine the depth and nature of the subsoil;
- * placing or maintenance of movable appliances, apparatus or structures on a public road (e.g a free standing menu board outside a restaurant) as long as they are licensed by the planning authority;
- * scaffolding, plant or machinery put on the land itself or on adjoining land where permitted development is taking place. This land must be re-instated when the development is completed;

9 Can I advertise without planning permission?

Certain advertisements and signs are exempted development.

*Advertisements exhibited on business premises referring to the business, goods or services provided, but there are limitations:

* freestanding advertisements cannot be more than 2.5m high or more than 3m² in total area, and no more than 1.5m² of the overall total may be internally lit;

* advertisements attached to buildings cannot be more than 4m high. The area of these advertisements can be up to 0.3m² per metre of frontage, less the area of freestanding advertisements, and subject to a maximum of 5m²;

* no letter or logo can exceed 0.3m in height;

* other projecting signs cannot exceed 0.4m² individually and their total area cannot exceed 1.2m²;

* no advertisements can cover any part of a window;

* all advertisements out over the road or footpath must be at least 2m above ground level and cannot project out more than 1m over the road or footpath.

* Internally lit window displays and 'in shop' displays, but the window displays must be no larger than 1/4 of the window area.

* Advertisements within a structure not visible from outside the structures

* Not more than one advertisement (up to 0.3m²) at an entrance to a premises relating to a business, trade, profession or public service carried on there. The size limit increases to 0.6m² for public houses, blocks of flats, clubs, boarding houses and hostels so long as the advertisement is not illuminated or 2.5m above ground level. One advertisement per entrance is allowed if there are entrances on different roads.

10 Are there any limitations to exempted development?

All forms of development, which are normally exempted, lose this status and require planning permission if they:

* contravene a condition of a planning permission (you should always check the planning permission under which your premises was constructed or change of use permitted);

* endanger public safety by causing a traffic hazard or obstructing the view of road users;

* modifications to a building with repercussions or major accident hazards;

* are built forward of the building line (as specified in the development plan or draft development plan);

* involve a new or wider access to a public road;

* affect a building, feature, site, etc, listed for preservation in the development plan or draft development plan (check your local development plan); a protected structure or a structure in an architectural heritage area;

* interfere with character of a landscape;

* obstruct a public right of way ;

* include any works to, or changes to, an unauthorised structure or one where there is an unauthorised use. ("Unauthorised" means without the benefit of planning permission or exempted development status.)

11 Where can I get more information on exemptions?

The full list of exempted developments is set out in the Planning and Development Act, 2000 and 2001, and Planning and Development Regulations 2001 to 2002 (details at the end of the this leaflet). The planning authority can advise on whether it considers planning permission is necessary, or not, in any particular case. You should write to the planning authority giving all the necessary information and on payment of a fee, the planning authority will make a declaration as to whether the development is exempt or not. If you disagree with the decision of the planning authority, you can obtain a formal ruling by referring the decision to An Bord Pleanála, on payment of the appropriate fee.

12 What happens if exemption limits are exceeded?

The limits must be observed and the planning authority has powers to stop the development if they are breached. If, due to an oversight an error is made, you should apply to the planning authority for permission to retain the work done. This is generally known as "retention" permission. It does not automatically follow that this will be granted.

The fee for a retention application is 3 times the normal fee and you may have to take down, alter or rectify work done, which can be costly. Prosecution for breaches of planning law can result in heavy fines or imprisonment. You may also find it difficult to sell property which does not comply with planning requirements. If buying property check that the building itself, any extensions or alterations and the present use, comply with planning requirements or you, as the new owner, may be liable to enforcement action.

13 Should I consult the planning authority before carrying out exempted development?

If you are satisfied that your development is exempted, it is not necessary to check with the planning authority about planning permission before starting work. However, if you have any doubts or queries on any planning aspect, you can contact the planning authority. See also Question 15 in relation to Building Regulations.

14 Should I consult any other bodies?

You should contact your local ESB office if your proposed works are near existing electricity lines, if there is a question of clearance heights under power lines or if the construction work will bring anyone within reach of the electricity supply to your premises. You must do so where any overhead lines come within 6 metres of the construction works. You must give two months notice to the E.S.B if you intend to carry out any construction activity within 6 metres of overhead lines. Underground service providers (e.g gas, electricity, water, sewerage) should be consulted to avoid damage to pipes or ducting etc. before commencement of work. Information videos, particularly "Lifelines" and "Power 2 Shock" and an information poster on "Avoidance of electrical hazards when working near overhead lines" are available from E.S.B.

15 Do Building Regulations Apply?

Generally, commercial development requires, in addition to planning permission, a fire safety certificate and must be built in accordance with the building regulations. These regulations set out the basic design and construction requirements and apply to all new buildings and generally to extensions, alterations and changes of use of existing buildings. Details of the building regulations, fire safety certificates and of the associated procedures are available in PL. 11 - A Guide to the Building Regulations. Further information can be obtained from the local authority.

16 Do other controls apply to me?

Particularly in the case of industrial undertakings, or if you are producing non domestic type waste (e.g a dry cleaners), you may need to obtain a licence to discharge waste to water or to a sewer under the Local Government (Water Pollution) Acts, 1977 and 1990 or to the atmosphere under the Air Pollution Act, 1987. Before carrying out certain activities, it may be necessary to obtain an integrated pollution control licence from the Environment Protection Agency instead of individual licences from the local authority under the Water Pollution and Air Pollution Acts. This will apply, in particular, to larger scale industrial activities. Most businesses involved in food preparation will also have to be registered with their local health board and comply with the requirements of the Food Hygiene Regulations, 2000 (S.I. No 165 of 2000.). The Environmental Health Officer of your local health board will be able to give you details. Leaflets are available from the Food Safety Authority of Ireland, Abbey Court, Lr.abbey Street, Dublin 1 (01) 8171300 or at www.fsai.ie

The law governing the planning system is set out in the Planning and Development Act, 2000 and 2001 and the Planning and Development Regulations, 2001 - 2002. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin2, Telephone (01) 6476995/4