

# Planning post decision guidance

A guide for anyone who has had a decision made on an application by the Council or anyone with an interest in an application.

This guide explains what needs to be done now a decision has been made whether it is an approval or a refusal (contact details are provided on the inside back page).

## **An application has been approved**

If the application has been approved, work must be carried out exactly as shown on the approved plans and in accordance with any conditions attached to the decision notice. Normally, work must start within 3 years or the approval will lapse.

If you are aggrieved by the conditions attached to the approval, you can appeal to the Planning Inspectorate.

## **You want to change the approved plans**

If you want to make any changes to the plans that have been approved, you must make an application using the correct application form along with a fee. There are two sorts of amendments.

1. Minor Material Amendment.
2. Non Material Amendment.

Once we have considered your application we will then write to you to say whether the changes are acceptable.

For more detailed guidance on what you need to submit visit:

[birmingham.gov.uk/planningchecklists](http://birmingham.gov.uk/planningchecklists)

## **An application has been refused**

If an application has been refused, we will tell you why. An appointment can be made with us to discuss whether a different proposal might be acceptable. The applicant has the right to appeal against the decision, but there is no third party right of appeal.

## **You want to appeal against a decision**

If you are aggrieved by the decision of your Local Planning Authority to refuse permission, then you (or your agent on your behalf) can submit an appeal to the Planning Inspectorate.

More information on how and when to appeal is available at:

[planningportal.gov.uk/planning/appeals](http://planningportal.gov.uk/planning/appeals)

## **Are you displaying an advertisement?**

The display of a sign or advertisement may require consent under the Town and Country Planning (Control of Advertisements) Regulations 2007. If you display a sign or advertisement in contravention of the regulations you may be liable to prosecution. Should a sign overhang the public highway you will also require a further licence from the Highways Department of the Local Authority.

**It is not advisable to start work before you have all the permissions you need. If the work is not acceptable, you could be asked to put it right at your own expense and/or be fined. You might not just need planning permission.**

## Is your consent for a change of use?

The planning consent may relate only to a change of use of the premises. If, subsequently, external alterations or a replacement shop front are proposed, a further planning application may be required.

## Will the development include the closure or diversion of a footpath or bridleway?

Section 257 of the Town and Country Planning Act 1990 gives local planning authorities the power to make orders to extinguish or divert footpaths, bridleways or restricted byways where it is necessary to enable development for which planning permission has been granted or development by a government department, to be carried out. Orders pursuant to the above Act must be made and confirmed prior to work commencing on site.

Further information can be obtained by contacting Planning Direct or alternatively a guidance note called 'Roads and Footpaths' is available at the Council's Website.

## Will the development include the closure of part of a public road or highway?

Under Section 247 of the Town and Country Planning Act 1990, the Secretary of State may, by order, authorise the stopping up or diversion of any highway, if satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission granted under Part III of the above Act, or to be carried out by a government department. Orders pursuant to the above Act must be made and confirmed prior to work commencing on site.

Further information can be obtained by contacting The department for transport, National Transport casework Team. Alternatively a guidance note called "Roads and Footpaths" is available by visiting: [birmingham.gov.uk](http://birmingham.gov.uk)

## Do you require an Alcohol and Entertainment Licence?

If the application involves premises which require the above licence it may be advantageous to contact the Licencing Section of Regulatory Services.

## Does your planning consent have conditions attached?

Failure to comply with conditions attached to your application may result in a breach of planning control and could lead to enforcement action. This also may result in the development being classed as unlawful.

It is in your best interests to demonstrate that conditions have been complied with. Failure to do so may cause difficulties if the property is sold or transferred in the future.

If your application has conditions attached that need discharging by the Council i.e further details need submitting before commencing, you now have to submit a formal application. Each request to discharge conditions attracts a fee regardless of the number of conditions, and so it is cost effective to request the discharge of all planning conditions in one go.

The Council will aim to respond within 12 weeks unless further evidence or consultations are required, in which case a longer timescale will be appropriate.

## Is your property a Listed Building or in a Conservation Area?

A significant number of buildings in the city are statutorily or locally listed. If statutorily listed, then Listed Building Consent may be required prior to the commencement of any internal or external alterations, including the demolition of part of the building or buildings in the curtilage. Planning Permission may be required for the demolition of all or part of an unlisted building located within a conservation area. More information on Conservation Areas is available at:

[birmingham.gov.uk/conservation](http://birmingham.gov.uk/conservation)

## Are the premises open to the public or do you employ people with a disability?

It will be necessary for you to make appropriate access provision to enable people with disabilities to use the premises. Further information can be obtained visiting: [birmingham.gov.uk/spdaccess](http://birmingham.gov.uk/spdaccess) and [building.consultancy@acivico.co.uk](mailto:building.consultancy@acivico.co.uk)

## Do I need Building Regulations approval?

Having gained planning permission you may need approval under Building Regulations. The Building Regulations set construction standards for all types of buildings. They cover all aspects of construction including, foundations, drains, damp-proofing, overall stability of the building **and any internal alterations**, insulation, ventilation, fire protection and fire escape. They also make sure there is adequate access and facilities for all people including those with a disability.

Building Regulations approval checks that a building meets health and safety standards, in order to protect the people who use it. Even if you have planning permission you may still need Building Regulations approval, and vice versa. Each consent stands alone and is controlled by separate legislation.

## How do I apply for Building Regulations approval?

There are two ways:

1. The full plans route - this is the most popular route and one that we would recommend.
2. The building notice route.

### IMPORTANT

Where Severn Trent Water Ltd have identified the presence of a sewer within 3 metres of the proposed work, a Building Notice is not acceptable. Full detailed plans will need to be submitted. Please contact Acivico (Building Consultancy) Ltd for further guidance at:

[building.consultancy@acivico.co.uk](mailto:building.consultancy@acivico.co.uk)

## Are any buildings being demolished?

If the development involves the demolition of existing buildings, you will need to ensure that you comply with the requirements of Section 80 of the Building Act 1984. This requires advance notification of the specification and extent of the works (depending upon the size of the building being demolished). Please contact Acivico (Building Consultancy) Ltd for further guidance at:

[building.consultancy@acivico.co.uk](mailto:building.consultancy@acivico.co.uk)

## Are you connecting to the public sewerage system?

If the development proposal requires you to connect to the public sewerage system you must contact Severn Trent Water (STW) at your earliest opportunity.

This will enable STW to commence liaison work to ensure that the connections are provided to meet construction programmes and that all requirements of the Water Industry Act 1991 and New Roads and Street Works Act 1994 are fully complied with. If this work is required as a matter of urgency in traffic sensitive areas this may incur additional constructional costs.

It is inadvisable to commence site drainage design or construction before the connection to the main sewer is agreed and completed.

## Are you building over or close to a public sewer?

If the development proposal is building over or close to a public sewer you must refer it to Severn Trent Water who may seek to impose conditions relating to surveying the sewer, its protection and improvement on its location.

If you need to know where these sewers are please contact: Severn Trent Water Ltd in the first instance on (01902) 793871/793550 or alternatively Joy Davies at Acivico Building Consultancy Limited on (0121) 675 7006 (Option 4).

## The Party Wall Act

The Party Wall Act 1996 came into force on 1 July 1997. It affects anyone who proposes to carry out work on or close to their boundary. Anyone intending to carry out building work must find out whether that work falls within the scope of the Act. For example, work on an existing shared wall, new building on the boundary of a neighbouring property or excavation near an adjoining building. A Party Wall Act Notice will need to be served on all those defined by the Act as adjoining owners. The Party Wall Act is a civil matter NOT Council related. Advice can be obtained from the Citizens Advice Bureau, a solicitor or a legal advisor. If you are the agent for an application it is your responsibility to ensure that this information is given to your client.

For a copy of the Party Wall Act please visit:

[communities.gov.uk](http://communities.gov.uk)

## Have you considered the effect on local residents and road users?

The Highways Act 1980 and New Roads and Street Works Act 1991 contain various clauses, which allow the Council (as Highway Authority) to closely control activities on the highway. The Council is particularly concerned about the nuisance that development being carried out adjacent to the highway can cause to local residents, the travelling public and road users in general.

If the development will affect the adjacent highway in any way, you must seek written authority from the Council's Chief Highway Officer before engaging in any activity, which might constitute nuisance or impinge on highway users.

Activities which might constitute an offence unless authorised in advance by the Council's Chief Highway Officer by means of a permit or licence, include:

- Development which causes a nuisance to highway users.
- Driving over footways and verges.
- Placing materials, rubbish, plant and equipment on the carriageway, verge or footway.
- Placing skips on the highway.
- Placing marks or signs on the public highway.
- Setting up hoardings or scaffolding on the public footway, verge or carriageway.
- Carrying out excavations within the public highway.
- Placement of wire, rope, hosepipe or airline etc across the highway.
- Placement of a crane or hoist, including 'cherry pickers', on the highway.
- Placement of apparatus under the highway.
- No footway crossings or bell mouths may be constructed over a footway that forms part of the public highway without the prior issue of a bell mouth agreement by the Council's Chief Highway Officer.
- The construction of buildings or structures which overhang the public highway.
- The planting of privately owned vegetation within the public highway.

- If Severn Trent Water agree for a drainage connection to be made within the public highway by a private contractor, then a license under Section 50 of the New Roads and Street Works Act is required.
- Closure of any part of the public highway.

Activities that AT ALL TIMES constitute an offence will not be permitted in any situation:

- Mixing mortars etc. directly on the footway, verge or carriageway.
- Trafficking mud onto the carriageway, verge or footway.
- Allowing soil or refuse to fall or be washed on to the public highway.
- Allowing gates to open on to the public highway.
- Erecting barbed wire to fence lines, walls, etc. such that it causes a nuisance.
- Not fencing off land adjoining a public highway where the state of land is dangerous to highway users.
- Down pipes, gutters or channels must not discharge water onto, over or under the public highway.
- Excavating in the highway without consent, or without the correct signing, lighting and guarding if consent is granted.
- Excavating in the highway without giving the specified notice period required under the New Roads and Street Works Act 1991.
- Alterations to the footway to accommodate new threshold levels.

The Council's Chief Highway Officer will be able to give you further guidance on timescales and the necessary requirements. Contact details are shown at the end of this guide.

## Will the development involve the preparation or sale of food?

The Council's Regulatory Services Department require all food businesses to comply with the following:

- Types of food, produced or handled, and the amount of equipment needed must be considered. Sufficient space must be provided and the layout suitably designed to ensure the safe handling of food. Food preparation areas should be on the same level as serving/dispatch areas unless suitable lifts or hoists are provided.
- It must be registered with the Regulatory Services Department under EC Regulation 882/2004. Registration is free and cannot be refused. Forms are available from the Food Safety Team.
- It must comply with the requirements of the Food Safety Act, the Health and Safety Act 1974, Environmental Protection Act 1990, and regulations made under these Acts. Compliance with EC regulation 852/2004 and, where necessary EC regulation 853/2004, is also required.
- Adequate arrangements must be made for the storage and disposal of waste. The company that removes waste must be registered as a Waste Carrier with the Council. Written details of the type of waste, amount produced and details of the company removing waste must be kept for a period of two years.
- Adequate space must be provided for the storage of waste to ensure that it is kept separate from preparation areas and will not give rise to odour or pest nuisance.
- Extraction details must also be approved by the Council.
- Suitably sealed and fireproof exhaust ducting must be installed from the outlet of the cooking equipment to an extractor fan and then to a suitable point of discharge to atmosphere. Discharge must be at a height of not less than 1m above ridge level of the building, having due regard to the position and height of adjoining buildings. The fan should be of an appropriate size and type and precautions shall be taken to prevent a noise nuisance to include acoustic housing and silencing. Air extraction must be at a rate appropriate for the proposed range.
- Ventilation should include an adequate number of points of access to facilitate dismantling and/or thorough cleaning.
- If tables and chairs are to be provided for customer use, then sanitary accommodation for customers must be provided under the Local Government (Miscellaneous Provisions) Act 1976 and in accordance with British Standards 6465:1994.

Food Safety packs are available from the Council's Health and Safety Team.

## Site Waste Management Plans (SWMP)

Since April 2008, a SWMP is required for all construction projects worth more than £300,000. For further information contact NetRegs.

## Do you comply with Health and Safety Regulations?

If the development is for offices, shops, restaurants, cafes or hot food take aways as well as development requiring the treatment and extraction of fumes or would involve any sort of industrial process it is your responsibility to comply with the Health and Safety at Work Act 1974.

Further information can be obtained from the Council's Regulatory Services Department.

## Will construction and demolition works create noise and dust?

Construction and demolition activities can generate emissions of noise and dust. Adhering to simple rules will help to reduce local air pollution and complaints and avoid possible legal action by the Council. The Council's Environmental Protection Unit have produced a guide called 'Advice to Building Contractors on Noise and Dust from construction and demolition works'. Copies are available by contacting the Environmental Protection Unit.

Some helpful do's in relation to noise and dust control:

- Consult the Council prior to commencing any work.
- Advise local residents in writing that work is to take place and when.
- Adhere to the following hours of operation for works audible at the site boundary:
  - Monday to Friday 8am to 6pm.
  - Saturday 8am to 1pm.
  - Sunday and Bank Holidays - No work.
- Consult the Council for prior approval if you want to operate outside of these hours.
- Ensure you adhere to your duty of care with regard to waste disposal.
- Try to operate noisy equipment in the middle of the day only.
- Carry out piling operations using the quietest methods available.
- Keep noisy deliveries to the middle of the day especially skip and cement deliveries.
- Ensure materials are carefully loaded to avoid unnecessary noise and they should not be deliberately dropped.
- Locate noisy static plant away from residential properties.
- Ensure noisy plant is adequately insulated/ screened.
- Ensure equipment is properly maintained.
- Ensure mobile crushers and screeners carry the appropriate permit under the Pollution Prevention and Control Regulations 2000.
- Screen noisy activities.
- Ensure asbestos is removed and disposed of safely by a licensed waste carrier.

## Are there any trees on the application site?

The preservation of existing trees is an important amenity consideration and existing trees should be incorporated where practicable in any landscaping and tree planting scheme. Care should be taken to ensure site works do not impair the health or stability of existing trees. Also trees may be protected by a Tree Preservation Order. Works carried out on protected trees can incur a £20,000 fine as well as a criminal record through the magistrate's court. The location of sites that have a Tree Preservation Order are now available online at:

[birmingham.gov.uk/treepreservation](https://www.birmingham.gov.uk/treepreservation)

## Contaminated land

It is the responsibility of the person developing the land to ensure that it is suitable for its intended use. This includes ensuring that the presence of contamination does not pose an unacceptable risk to health or the environment.

When developing on land where contamination is known or suspected to be present, or for any development involving a sensitive end use, such as residential housing or school, an assessment will be required to determine the likelihood of the presence of contaminated land.

- Further information can be obtained from the Councils Regulatory Services Contaminated Land Team, shown at the end of this guide or by viewing the following documents:
- Planning Policy Statement 23 Annex 2: Development on Land Affected by Contamination, available at: [communities.gov.uk](http://communities.gov.uk)
- CLR 11: Model procedures for the Management of Land Contamination. Department of the Environment, Food and Rural Affairs and Environment Agency 2004 DEFRA available at: [defra.gov.uk](http://defra.gov.uk)
- R & D Publication 66: Guidance for the Safe Development of Housing on Land Affected by Contamination prepared on behalf of NHBC, Environment Agency and the Chartered Institute of Environmental Health. For further information contact the NHBC and or the Environment Agency.
- C665: Assessing risks posed by hazardous ground gases to buildings, CIRIA 2007 available at: [ciria.org.uk](http://ciria.org.uk)

## Do bats use the development for shelter or protection?

All species of British bats and their roosts are legally protected by domestic and European legislation. This means it is an offence to capture, injure or kill a bat, disturb bats in their roosts, damage or destroy a bat roosting site even if there are no bats present at the time, or obstruct access to a roost.

Many bat species use buildings or mature trees for roosting, breeding or hibernation. Smaller species often squeeze into gaps of only 1-2cm. Due to the variety of locations that bats may use for roosting, they can be affected by a wide range of works, including demolition and modifications to buildings and other built structures, or felling/heavy pruning of mature trees. Before commencing these types of works, you are advised to get any trees or buildings inspected by an experienced and appropriately licensed bat consultant to ensure bats are not present.

If any proposed work is likely to cause harm to bats or their roosts, the appropriate Statutory Nature Conservation Organisation (Natural England) must be notified before any works take place. This will allow them reasonable time to advise on whether measures to safeguard bats and their roosts need to be carried out as part of the proposed work.

If bats are discovered whilst works are in progress, work should stop immediately and Natural England should be contacted for further advice.

Further information can be obtained from The Bat Conservation Trust: [bats.org.uk](http://bats.org.uk) or by calling: 0845 1300 228.

## Do the nests of wild birds exist within the development site?

Under the Wildlife and Countryside Act 1981 (Section 1), it is an offence to take, damage or destroy the nest of any wild bird while the nest is in use or is being built. Birds nest in a wide variety of locations - trees, hedges and dense vegetation, on the ground or in buildings and other built structures. Nesting birds can therefore be affected by a wide range of works, including tree felling, hedgerow removal, clearance of dense undergrowth and building demolition.

To avoid harm to nesting birds, and to ensure that an offence is not committed, it is best to undertake potentially damaging operations outside of the bird breeding season. The main nesting season is from 1st March to 31st July, although in many cases the nesting period may start in February and extend into August. If you have to start works during the nesting season, you need to check for signs of breeding birds and avoid works where there are active works until the young have left the nest.

# Getting in touch

*The quickest and easiest way of getting in touch:*

## Web

Submit your application here:  
[planningportal.gov.uk/apply](http://planningportal.gov.uk/apply)

Further guidance available here:  
[birmingham.gov.uk/checklists](http://birmingham.gov.uk/checklists)

Building Consultancy:  
[building-consultancy.acivico.co.uk](http://building-consultancy.acivico.co.uk)

Listed Buildings and Conservation:  
[birmingham.gov.uk/conservation](http://birmingham.gov.uk/conservation)

Planning Documents:  
[birmingham.gov.uk/planningpolicy](http://birmingham.gov.uk/planningpolicy)

## E-mail

Planning and Regeneration general enquiries:  
[planningandregenerationenquiries@birmingham.gov.uk](mailto:planningandregenerationenquiries@birmingham.gov.uk)

Building Control:  
[building.consultancy@acivico.co.uk](mailto:building.consultancy@acivico.co.uk)

## Call

General Planning advice:  
(0121) 303 1115

Building Control:  
(0121) 675 7006

## Your views

Let us have your comments, compliments or complaints:  
[birmingham.gov.uk/yourviews](http://birmingham.gov.uk/yourviews)

For a copy of this guide in large print, another language or other alternative format, please contact us at: [planningandregenerationenquiries@birmingham.gov.uk](mailto:planningandregenerationenquiries@birmingham.gov.uk)

