



The UK was the first country in the world to have a nationwide planning control system.

Since the Town & Country Planning Act of 1947 there have been huge policy changes on how planning in the UK is carried out. However, the basic principles for the legislation have remained largely in place and this note looks at these:

Town and Country Planning Act 1990

1. Meaning of development

The TCPA 1990 remains the cornerstone legislation of the planning system. The key section is the meaning of development:

S55 (1) “development,” means 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.

It will be seen that there are really two parts to this section. The first is the physical doing something such as building a property. Usually it would be obvious by looking at the land that some kind of physical development had gone on.

The second part is change of use. Here from a physical inspection it might not be at all apparent that this change had happened- for example changing a dwelling house to a house in multiple occupation.

2. Planning permission, enforcement and time limits

The other key section is s57 (1) which simply says that before you can carry out any development you need a planning permission.

S57 (1) Subject to the following provisions of this section, planning permission is required for the carrying out of any development of land.

It is not an offence to breach planning law but if it does happen then the local planning authority (LPA) may take enforcement action. There are a number of notices available to the LPA but the most common is the enforcement notice.

However, there are time limits by which the LPA can take enforcement action:

S171 (B) Time limits

1. Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
2. Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
3. In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

So in summary if it is a physical change then the LPA has four years to take enforcement action. If it is a change of use the LPA has ten years to take enforcement action – unless the change is to a single dwellinghouse- in which case it is reduced to four years.

Section 124 of the Localism Act 2011 now expressly states that enforcement action may be taken against a breach of planning control when the time limits for taking action have expired and the breach has been concealed.

3 Section 106 Agreements

Section 106 agreements are agreements which the local authority makes with a person who has an interest in the land- usually this is a developer. They can take a number of forms for example they can set restrictions on the use of the land. They are commonly used as a means of ‘planning gain’ where the developer is asked to fund part or the entire infrastructure serving the new development. For example if the development was for a new supermarket it might include the costs of constructing the roads servicing that development. Section 106 agreements have now largely been replaced by the Community Infrastructure Levy.

Town and Country Planning (Use Classes) Order 1987

The idea behind the Use Classes Order is to group uses into classes which have a similar impact in terms of their land use. There are 16 such groupings including the catch all ‘sui-generis’ class.

For example, Class A 1 which is headed ‘Shops’ includes post offices, hairdressers, internet cafes and dry cleaners. Therefore, if you were a hairdresser and decided to change to an internet cafe or funeral directors you could do so without needing to get planning permission.

In addition to changing within a given use class the permitted development rights allow some limited changes between use classes. Examples here are from a hot food takeaway to a shop (A5 to A1) and from general industrial to business (B2 to B1) if under 235 m².

An important recent change to the Use Classes was to allow offices (B1a) to change to residential (C3) as of 30 May 2013.

This is subject to limitations and conditions, including the need to apply for Prior Approval.

Town & Country Planning (General Permitted Development) Order 1995

This applies the same concept to the Use Classes Order – except here it concerns physical changes rather than uses.

The order sets out 43 classes of development – if the development falls within any one of these then it is deemed to have automatic planning permission. For solicitors acting for the purchaser of a residential property the most important of these classes is Part 1: Development within the curtilage of a dwelling house, Part 2 Minor operations and Part 40: Installation of domestic microgeneration equipment (for example solar panels.)

There is much detailed advice on these either from the relevant local authority or from local government. For example, Permitted Development for Householders, Technical Guidance, September 2019, Ministry of Housing, Communities and Local Government.

Advice about Planning Issues in client care letters

As the local authority search we have carried out only deals with planning issues at the property and not in the immediate vicinity, for your protection and the protection of your lender, it is our policy to provide you with a Landmark Plansearch Plus report.

Whether a development is likely to impact on your property is largely subjective. In view of this it is recommended you review Section 1 of the Plansearch Plus report – this clearly details local planning applications that may have an impact on your quality of life in your new home, as well as having a material impact on the future value of your property (either positively or negatively).

In addition to current and recent planning applications the local development plan (Section 2) will provide insight into how the area may change in future.

Finally, the report provides details of local amenities and demographic information, which may be of particular interest if you are unfamiliar with the area.