

Frequently Asked Questions

Q1. I want to extend the house. Do I need planning permission?

A1. It will depend upon a range of factors. These will include how large the extension is, whether it is single-storey or two-storey, whether it is at the front, side or back of your house and whether it is a listed building or in a Conservation Area. Generally, modest sized ground floor extensions to the rear of a house fall within what is termed as 'Permitted Development' and do not require the submission of a planning application unless the house is listed or in a conservation area. If your house is listed then you will require Listed Building Consent. Remember, if you do not own the house, you would probably need the owner's consent to put on an extension. Furthermore, whilst your building work might not require planning permission it might still require a Building Warrant from the Council confirming that the work has been done to the required standard and not prejudiced the structural integrity of the structure.

Q2. One of my neighbours is wanting to extend their house. I am worried that it will cause me loss of privacy and change the character of the area. Can I object?

A2. If your neighbour is extending his or her house under permitted development then you will not be able to object since it does not require planning permission. However, if because of the size of the proposal they are having to apply for planning permission then you will be able to object. You should receive a notification from the Council giving you 21 days in which to make an objection. Your objection should focus on relevant planning issues such as the size, scale and appearance of the proposed development or its effect on your property. Your objection should be considered before a decision is made. And remember; you do not have to be a neighbour to make an objection. You can object to any planning application.

Q3. I want to build a summer house in the back garden. Does this need planning permission?

A3. Again, a new summer house might fall within the category of 'permitted development' and so not need submission of a planning application. It may be classed as a development ancillary to the enjoyment of the home. But it will depend upon how large the structure is likely to be, how tall it will be, how close to the boundary it will be and also how much of the total garden space it will occupy. Generally, the larger the structure, the more likely it is that you will need planning permission.

Q4. So, can I change my garage to an office without applying for planning permission?

A4. Yes, probably. However, although you will not be building a new structure you will probably be installing new windows and possibly skylights. These might change the character of the area and also might result in a loss of privacy for neighbours. You should therefore check with your council about this. Even if planning permission is not required the

Council will probably advise you to apply for a Certificate of Lawfulness of the Existing Use and Development. This provides immunity against enforcement and removes any uncertainty about the lawfulness of the use. Also, when you come to sell your house, your solicitor would probably advise you to get the Certificate so that buyers are not worried about the possibility of any enforcement action.

Q5. If I do have to apply for planning permission to build something what does this involve?

A5. A planning application will require completion of a planning application form, submission of a set of drawings showing the location of the site, the current and proposed elevations and floorplans and the appropriate fee. If this sounds intimidating do not worry. You can use a professional to assist you, and this would usually be a planning consultant or an architect. They will be able to help you navigate your way through the planning process and advise you on how best to present your proposal. Ideally, planning consultants should be members of the Royal Town Planning Institute (MRTPI). For more complex proposals, the need to have a professional advisor is even more imperative.

Q6. There is somebody in our area who is using their property for a purpose which, I am sure, does not have planning permission. Is there anything that I can do about this?

A6. Yes. This might be what is known as an unauthorized use of land or buildings. Perhaps the occupant is using a field for the storage of caravans or old cars. Alternatively, somebody might have built a very large extension without planning permission. In either case you can report this to the Council and ask it to use its powers to investigate whether there has been a breach. If there has been a breach then the Council can take enforcement action and bring the unauthorized use to a halt or have the unauthorized structure removed. You should remember however that unauthorized buildings acquire immunity from enforcement action after 4 years and unauthorized uses of land acquire immunity after 10 years.

Q7. A development in our area was granted planning permission. However, the workers are on the site at an extremely early hour and are there until late in the evening. The noise is unbearable. Is this a planning matter?

A7. Possibly. It might be that the construction workers are in breach of a condition attached to the planning permission limiting the hours of work. Every planning permission has 'conditions' which must be complied with. These will cover what must be done before construction starts (such as ground contamination surveys), what must be done during the construction process (such as hours of building work), what the building must look like (it should accord with the approved plans) and what must be done during the lifetime of the building (such as hours of delivery or the need to keep landscaping schemes intact). You can check these on the decision notice which should be on the council's web site. In this case, if you think that the condition is being breached you should report it to the Council and ask them to investigate. Again, if the council find that there has been a breach it can, if it thinks appropriate, use its enforcement powers to bring the situation into compliance.

Q8. How do the Council determine an application for planning permission? What sort of matters do they consider?

A8. The most important considerations in the determination of a planning application are the policies contained within the Local Development Plan. This is the land use document covering the whole district and has the force of law. You will be able to find this on the Council's planning web site. But the planners will also have regard to other matters such as the Council's own design guidance (often contained in what is called Supplementary Guidance) and the comments of interested parties such as neighbours.

Q9. I applied for planning permission for the extension of my dwelling but was refused. Is that the end of the process or can I appeal?

A9. If it is a small householder application that has been refused by a planning officer acting under delegated powers then you can ask the council to 'review' the decision. The request for a local review has to be made within 3 months of the date of the decision. Under this process, a group of three councillors will reconsider the application. If the councillors think that the application should have been approved, the original decision will be overturned and planning permission granted. If the application was refused by a council committee, then you will have the right to appeal to the Directorate of Planning & Environmental Appeals and have the case heard by a neutral planning reporter. This appeal must be lodged within 3 months of the date of the decision. Most appeals are conducted through written representations and do not require a public inquiry.

Q10. I have seen a plot of open land for sale but do not know whether I would get planning permission to build what I want. How do I find out what the council might allow on the site?

A10. You should consult the Local Development Plan. This document contains written policies and maps. All planning applications are determined primarily against the policies of the LDP as well as against any Supplementary Guidance the council has. You will find any supplementary guidance notes on the Council's planning web site, usually under 'Planning Policy'. In general terms, you will find that councils want to see new development focused on existing towns, villages and other small settlements but there is discretion within the system. If you are still unsure about what to do you should consult the council's planning office and ask for a pre-application consultation. In this consultation the council's planning officer will explain the policies and provide clear advice as to whether the council is likely to support the proposal. The advice is not binding but it should provide you with a clear picture to help you decide on whether to purchase the plot. There is a charge for this meeting which might typically be about £50-100.

Q11. Is it possible for members of the public to influence the content of the Local Development Plan?

A11. Yes. A new Local Development Plan should be prepared every 5 years or so. The process of preparation involves opportunities for the members of the public to submit comments to the council's proposals. So, if you have heard that the Council is thinking about including an area of land for development and you do not think it would be a good idea, you should object to the draft policy. Alternatively, you might think a site which has not been proposed by the Council should be identified for development. If the Council does not accept

this objection then it will be considered by a Scottish Government appointed planning reporter who will adjudicate between the different interests at what is called an Examination.