

## Planning Permission- A Guide for Schools

A planning application may be required for the change of use of an existing building or land and for development such as alterations or extensions to the building as well as for the construction of a new building. This guide will help you with the planning process.

Please note that this guidance is only applicable to state-funded schools, i.e. a school funded wholly or mainly from public funds and maintained by a local authority (in this case NYCC), as defined in section 142(1) of the School Standards and Framework Act 1998(e). This advice should not be used by Academy Schools.

### **Contents**

<u>Definition of 'Development'</u>	page 2
<u>'Permitted development rights'</u>	page 2
<u>Gates, fences and walls</u>	page 2
<u>Buildings and structures</u>	page 3
<u>Hardstanding (car park, playground etc)</u>	page 4
<u>Change of use of land and/or buildings</u>	page 4
<u>Listed Building Consent</u>	page 5
<u>If a planning application is required</u>	page 5
<u>Planning Fees</u>	page 6
<u>Unauthorised work</u>	page 6
<u>Further Planning Advice and Guidance</u>	page 7
<u>Annex A- Permitted development – gates, walls and fences</u>	page 8
<u>Annex B- Permitted development – buildings and structures</u>	page 9
<u>Annex C – Permitted development – Buildings amendment</u>	page 10
<u>Annex D- Permitted development – hardstanding</u>	page 11
<u>Annex E - Planning fees for schools</u>	page 12-13

## Definition of 'Development'

Planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in Section 55 of the Town and Country Planning Act 1990 as; *"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"*.

For the purposes of The Town and Country Planning Act 1990 "building operations" include—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

The following operations or uses of land shall not be taken for the purposes of The Town and Country Planning Act 1990 to involve development of the land—

- the carrying out for the maintenance, improvement or other alteration of any building of works which—

- (i) affect only the interior of the building, or
- (ii) do not materially affect the external appearance of the building.

## 'Permitted development rights'

National permitted development rights allow specified development to proceed without the need for a full planning application. This can be for the change of use, or for minor operational works such as extensions to existing buildings or additional structures within the curtilage of an existing school. Details of the current permitted development rights are set out in regulation in [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(GPDO\)](#).

## Gates, fences and walls

All schools have permitted development rights to erect a gate, fence or wall or other means of enclosure subject to specified limits. The rules are stricter for gates, fences or walls adjacent to a highway or listed building.

Planning permission would be required if:

- The gate, fence or wall exceeds 2 metres in height; or
- The gate, fence or wall is to be constructed adjacent to the highway and exceeds 1 metre in height and would create an obstruction to the view of persons using the highway as to be likely to cause danger to drivers or pedestrians\*; or
- if the gate, fence or wall or any boundary involved forms a boundary with a listed building or its curtilage.

You do not need planning permission to remove a gate, fence or wall, or to alter, maintain or improve an existing gate, fence or wall if you don't increase its height above 1 metre when adjacent to a highway and it doesn't cause an obstruction to highway safety or above 2 metres elsewhere. If the fence is within a Conservation Area, however, you might need planning permission for relevant demolition in a conservation area to take down a gate, fence or wall.

\* The County Planning Authority interprets “adjacent to the highway” for this purpose as meaning within 2 metres of the highway. This includes any road used by vehicular traffic and any footway alongside such a road. A County Highways Engineer would be able to advise as to whether the gate, fence or wall would create a highway safety issue.

For the full wording of the permitted developments rights for gates, fence and walls see [Annex A](#) (below).

### Buildings and structures

All schools have permitted development rights to undertake some limited physical development (known as operational works) including:

- the erection of buildings related to the use of the school within specified limits;
- the extension of a school buildings within specified limits; and
- alterations to existing buildings which do not involve the creation of additional floor space.

Planning permission would be required if:

- if the cumulative gross floor space\*\* of any buildings erected, extended or altered would exceed 25% of the gross floor space of the original school\*\*\* or 250 square metres whichever is the lesser; or
- the development would be within 5 metres of the boundary; or
- the development would result in the loss of land used as playing field; or
- if the height of any new building erected would exceed 5 metres; or
- if the height of the building as extended or altered would exceed—
  - (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or
  - (ii) in all other cases, the height of the building being extended or altered; or
- if the development would be within the curtilage of a listed building.

The term ‘building’ refers to the whole or any part of any structure or erection which includes developments such as canopies, shelters and other gazebo type structures fixed to, or detached from, the school building. The term ‘building’ does not include plant or machinery comprised in the building. For the full wording of the permitted developments rights for buildings and structures see [Annex B](#) (below).

The permitted development rights of schools was amended in April 2017 with The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2017, which increased the amount on any one site from 100 square metres to 250 square metres see Annex C (below)

\*\*The cumulative allowance for permitted development takes account of all development at the school site (those developments previously permitted by both ‘permitted development rights’ and the grant of planning permission) since the establishment of the original school building.

\*\*\*The original building is defined as a building as it existed on 1 July 1948 where it was built before that date, and as it was built, when built after that date. It does not, however, include any new building built as permitted development. The original building may be more than one original building within the curtilage of the premises. Where this is the case, and the buildings are used for the same undertaking (educational use), they will be treated as a single original building for the purposes of the gross floor measurement.

### Hardstanding (car park, playground etc)

All schools have permitted development rights allowing the provision or replacement of a hard surface within the school curtilage to be used for the purposes of that school.

Planning permission would be required if:

- the area of hardstanding would exceed 50 square metres; or
- the area of hardstanding affects land used as playing field; or
- the area of hardstanding would be within the curtilage of a listed building.

If planning permission is not required for the hardstanding you should note that there are requirements on the type of surface used (porous/non-porous) and also the arrangements for surface water run-off.

For the full wording of the permitted developments rights for hardstanding see Annex D (below).

### Change of use of land and/or buildings

A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.

If planning permission is required for change of use, there may be permitted development rights which allow change of use without having to make a planning application.

Schools operate within Class D1 – 'Non-residential institutions' of the Town and Country Planning (Use Classes) Order 1987 (as amended) which includes the following common uses of land and buildings within this Class, as follows:

- (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,
- (b) as a crèche, day nursery or day centre,
- (c) for the provision of education,**
- (d) for the display of works of art (otherwise than for sale or hire),
- (e) as a museum,
- (f) as a public library or public reading room,
- (g) as a public hall or exhibition hall,
- (h) for, or in connection with, public worship or religious instruction.

Subject to a number of conditions and restrictions, agricultural buildings and land may convert to a "state-funded school". The size thresholds, limitations and conditions are set out at [Class S of Part 3 of Schedule 2 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#).

In addition, subject to a number of conditions and restrictions, there is a right to change use of a building and any land within its curtilage as a state-funded school for a single academic year. The rights are set out in [Class C of Part 4 of Schedule 2 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#).

## Listed Building Consent

The Planning (Listed Building and Conservation Areas) Act 1990 sets out the statutory basis for listed building control and provides that "*works for the demolition of a listed building, for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest*" requires the authorisation of Listed Building Consent.

If the school building the subject of the proposed work is listed as being of special architectural or historic interest and the works would in any manner affect its character it is likely that listed building consent will be required. Please check with NYCC Property Services and/or Historic England (formerly English Heritage).

Listed Building Consent applications for the County Council's own development should be submitted to NYCC however it should be noted that should the application be subject to an objection from Historic England or one of the National Amenity Societies and NYCC are minded to approve the application it would be referred to the Secretary of State for Communities and Local Government for determination. In such instances the application determination is likely to extend beyond the initial 8 week target.

### If a planning application is required

Where a planning application is required for development at a County School, the County Planning Authority is generally responsible for making a decision on the proposal in the first instance. Schools are encouraged to speak with the Local Education Authority (Children and Young Peoples Service) about the proposal at an early stage prior to the submission of the planning application.

The County Planning Authority would aim to make a decision on the planning application within 8 weeks for planning applications for minor development, such as the erection of a small building, structure or extension.

A guide to the planning application process is available [here](#). Should you wish to proceed with the submission of an application, please refer to the validation checklist which details the information required by the County Planning Authority to validate a planning application. The validation checklist and other useful information can be found at <http://www.northyorks.gov.uk/article/26143/Get-planning-advice-and-guidance>. The webpage also contains a guidance document on how to describe development proposals within the planning application. The purpose of the document is to give helpful guidance on how to clearly, concisely and accurately describe development proposals in order to avoid unnecessary delays and costs. The document will be referred to during the validation of your application.

We recommend that you apply online via the Planning Portal <http://www.planningportal.gov.uk/PpApplications/genpub/en/CreateApplication> or submit an electronic version of your application direct to NYCC by email to [planning.control@northyorks.gov.uk](mailto:planning.control@northyorks.gov.uk). Alternatively forms can be downloaded from the NYCC website <https://www.northyorks.gov.uk/planning-application-forms> which you can print out, complete and submit by post to Planning Services, County Hall, Racecourse Lane, Northallerton, North Yorkshire, DL7 8AH.

## Planning Fees

Should you need to proceed with the submission of a planning application for the proposed development it is likely a planning fee will be required. Examples of the fees payable for particular types of school development, including proposals that do not require a fee, are provided at [Annex E](#) (below).

Further guidance on planning fees including the Online Fee Calculator is available on the Planning Portal website at the below weblink:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whatitcosts>

Please note that for the purposes of fee calculations, measurements of floor space of buildings are based on external dimensions. If an application is for the replacement of any existing buildings (or part of) that are to be demolished, no account is taken of the floor area of existing building in the fee calculation only the proposed new floor space. VAT is not payable on fees for planning applications.

An increase in planning fees by 20% was implemented on 17 January 2018 in line with the Department for Communities & Local Government's proposals arising from the publication of the Housing White Paper 'Fixing our broken housing market'. Further information will be made available on our planning webpages in due course.

## Unauthorised work

Any unauthorised work that needs planning permission may be a breach of planning control. This can include the following:

- Works being carried out without planning permission
- Unauthorised changes of use
- Non-compliance with conditions imposed by a planning permission
- Works not being carried out in accordance with the plans approved as part of the planning permission

The planning procedures are statutory and cannot be circumvented even when in the interests of service delivery immediate implementation of the proposal is desired. Carrying out a development in advance of getting planning permission reflects badly on the County Council. By giving the impression that full consideration is not given to its own proposals, public confidence in the exercise of its planning powers is adversely affected. If development is carried out without the necessary planning permission this may lead to enforcement action. You also need to be aware that carrying out unauthorised works to a listed building is a criminal offence and individuals can be prosecuted.

The processes involved in handling an application and reaching a decision, and the information to be submitted are similar in a County Council development application to those required of any other applicant submitting applications to the planning authority (Minerals & Waste etc). The application process must not, therefore, be seen as a 'rubber stamp' for the Council's own development projects. The County Council must take into account all the environmental, amenity, traffic and other considerations associated with the making of planning decisions. The normal considerations apply equally to the County Council's development as to other developments. It must also carry out the statutory consultations

required for all planning applications and give others a reasonable opportunity to comment on proposals. This should be borne in mind by applicants when preparing the programme for any project likely to need planning permission.

### Further Planning Advice and Guidance

If you require further advice or guidance on the planning process from a planning professional you may wish to use the RTPI Online Directory of Planning Consultants which is available here: <https://www.rtpiconsultants.co.uk/>

A list of consultants and consultancies offering planning advice and services in the North East can be accessed here: <https://www.rtpiconsultants.co.uk/regional-leaflets/NorthEast.pdf>

## **Annex A**

### **The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)**

#### **Schedule 2**

#### **PART 2 Minor operations**

*Class A – gates, fences, walls etc*

#### **Permitted development**

**A. *The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.***

#### **Development not permitted**

**A.1** Development is not permitted by Class A if—

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(ii) in any other case, 1 metre above ground level;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

## **Annex B**

### **The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)**

#### **Schedule 2**

#### **PART 7**

#### **Non-domestic extensions, alterations etc**

*Class M – extensions etc for schools, colleges, universities and hospitals*

#### **Permitted development**

***M. The erection, extension or alteration of a school, college, university or hospital building.***

#### **Development not permitted**

**M.1** Development is not permitted by Class M—

- (a) if the cumulative gross floor space of any buildings erected, extended or altered would exceed—
  - (i) 25% of the gross floor space of the original school, college, university or hospital buildings; or
  - (ii) 100 square metres,  
whichever is the lesser;
- (b) if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;
- (c) if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;
- (d) if the height of any new building erected would exceed 5 metres;
- (e) if the height of the building as extended or altered would exceed—
  - (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or
  - (ii) in all other cases, the height of the building being extended or altered;
- (f) if the development would be within the curtilage of a listed building; or
- (g) unless—
  - (i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;
  - (ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services.

#### **Conditions**

**M.2** Development is permitted by Class M subject to the following conditions—

- (a) the development is within the curtilage of an existing school, college, university or hospital;
- (b) the development is only used as part of, or for a purpose incidental to, the use of that school, college, university or hospital;
- (c) any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the original school, college, university or hospital buildings; and

(d) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered.

### **Interpretation of Class M**

**M.3** For the purposes of Class M—

“original school, college, university or hospital building” means any original building which is a school, college, university or hospital building, as the case may be, other than any building erected at any time under Class M; and where 2 or more original buildings are within the same curtilage and are used for the same institution, they are to be treated as a single original building in making any measurement.

## **Annex C**

### **The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2017**

#### **Amendments in relation to the erection, extension or alteration of a school**

**6.** In Class M of Part 7 of Schedule 2—

a) for paragraph M.1(a)(ii), substitute—

“(ii) in the case of a school, 250 square metres and in all other cases, 100 square metres;”;

b) in paragraph M.1(b), at the beginning, insert “in the case of a college, university or hospital building;”;

c) after paragraph M.1(b), insert—

“(ba) in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;”;

d) in paragraph M.3, in the paragraph relating to the interpretation of “school”, after “(changes of use)” insert “or which was erected by virtue of Class CA of Part 4 of this Schedule (temporary buildings and uses)”.

#### **Miscellaneous amendments**

**7.**—(1) In paragraph J.1(c) of Part 14 of Schedule 2, after “installed”, insert “on a roof and”.

(2) In paragraph B(e) of Part 15 of Schedule 2, for “undertaking or” substitute “undertaking of”.

#### **Transitional and saving provisions**

**8.**—(1) The amendments made by article 3 of this Order do not apply to—

a) development for which information was provided to the local planning authority under paragraph A.4(2) of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 before 6th April 2017; or

b) building operations which began before 6th April 2017, provided the development is completed by 6th April 2020.

(2) Where, on or before 6th April 2017, a building is or has been used as a state-funded school under a permission granted by Class C of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 then Class C, as amended by this Order, applies to such a building as if the reference to “2 academic years” were a reference to “a further academic year”.

## **Annex D**

### **The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)**

#### **Schedule 2**

#### **PART 7**

#### **Non-domestic extensions, alterations etc**

*Class N – hard surfaces for schools, colleges, universities or hospitals*

#### **Permitted development**

##### **N. Development consisting of—**

- (a) the provision of a hard surface within the curtilage of any school, college, university or hospital to be used for the purposes of that school, college, university or hospital; or*
- (b) the replacement in whole or in part of such a surface.*

#### **Development not permitted**

##### **N.1 Development is not permitted by Class N if—**

- (a) the cumulative area of ground covered by a hard surface within the curtilage of the site (other than hard surfaces already existing on 6th April 2010) would exceed 50 square metres;
- (b) as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used; or
- (c) the development would be within the curtilage of a listed building.

#### **Conditions**

##### **N.2 Development is permitted by Class N subject to the following conditions—**

- (a) where there is a risk of groundwater contamination, the hard surface is not made of porous materials; and
- (b) in all other cases, either—
  - (i) the hard surface is made of porous materials, or
  - (ii) provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the institution.

## **Annex E**

### Planning fees applicable to school related developments (January 2018)

<b>Type of development</b>		<b>Fee</b>	
Erection of buildings	Gross floor space to be created by the development	No increase in gross floor space or no more than 40m <sup>2</sup>	£234
		More than 40m <sup>2</sup> but no more than 75m <sup>2</sup>	£462
		More than 75m <sup>2</sup> but no more than 3,750m <sup>2</sup>	£462 for each 75m <sup>2</sup> or part thereof
		More than 3,750m <sup>2</sup>	£22,859 + £138 for each additional 75m <sup>2</sup> in excess of 3750 m <sup>2</sup> to a maximum of £300,000
Roof-mounted ventilation/air-conditioning system/ solar panels		£234	
Covered Structures (Parent Shelter, Cycle Shelter, Gazebo, Pergola, Canopy)		£234 - if the useable floor space created is no more than 40m <sup>2</sup> £385 - if more than 40m <sup>2</sup> but no more than 75m <sup>2</sup>	
Outdoor play area		£234	
Floodlighting/ Car Park lighting		£234	
Multi- Use Games Area (MUGA)		£234 for each 0.1 hectare (1,000 m <sup>2</sup> ) of site area	
Fencing, railings, walls, gates requiring planning permission		£234	
CCTV cameras and mounting columns		£234	
Car parks and means of access		£234	
Renewal of temporary planning permission (variation of condition)		£234	

### **APPLICATIONS RELATING TO PLANNING CONDITIONS**

Application for removal or variation of a condition following grant of planning permission	£234
Application for approval of details reserved by planning condition	£116

### **CHANGE OF USE**

Application for the change of use of a building or land	£462
---	------

### **OTHER APPLICATIONS**

Application for a Non-material minor amendment following a Grant of Planning Permission	£234
---	------

## **EXEMPTIONS**

Application for Listed Building Consent	No Fee
Planning permission for relevant demolition in a Conservation Area	
If the application relates to a condition or conditions on an application for Listed Building Consent or planning permission for relevant demolition in a Conservation Area	
Application solely for the carrying out of the operations for the purpose of providing a means of access for disabled persons to or within a building or premises to which members of the public are admitted.	
One further application of the same type (i.e. full, outline, reserved matters etc), by the same applicant, on the same site, for development of the same character or description. The further application must be received within 12 months of the date of the approval/refusal (including deemed refusal on which an appeal has been made) of the earlier application. If it involves the resubmission of a withdrawn application it must be received within 12 months of the receipt of the earlier application by the Planning Authority.	