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PLANNING:

PREAMBLE:

Generally the planning process is managed by the local Authority for the area where the development is to occur. In some instances the County or equivalent authority is responsible. Planning decisions are made by a Planning Committee of Councillors although, in practice, smaller and 'non-controversial' decisions are made by the Planning Officers under delegated powers. In all cases there will be a planning case officer who will investigate the application, measure it against established planning policy and prepare a report accordingly. The report will recommend approval or refusal of the application. Where the decision is made under delegated powers a senior planning officer will examine the report and approve its findings. In other instances the report will be presented to the planning committee as guidance on the issues and policies relevant to the application, and making the officer's recommendation for determination. When an approval is granted there will be conditions attached to it. There will always be a time limit within which the works may be started. Other conditions will be dependent on the individual application.

PERMITTED DEVELOPMENT:

Under the 'General Development Order' it is permissible to make certain changes to houses without requiring planning permission. These rights do not apply to other building types, nor do they apply to flats. However these rights can be removed within geographical areas that are considered particularly sensitive (e.g.: National Parks) or if it is within the curtilage of a Listed Building. You should be aware that the term curtilage can include areas outside the ownership of the building but which have been linked to it historically, or in some other way. Permitted development rights can also be reduced or removed by conditions placed on planning conditions.

It is important to note that once some of the permitted volume for roof extensions has been used it cannot be regained by demolition. It can be incorporated into a later or larger extension provided that the original built volume remains in exactly the same place.

If you believe that you can carry the work out under permitted development it is prudent to provide a copy of the plans to the planning authority and get a 'planning determination' to that effect. Any future local authority searches will discover this document and demonstrate that the works have been agreed as being lawful.

The rules regarding permitted development were changed with effect from 1st October 2008. The intention was to increase the scope of works that do not require Planning Permission. However the drafting of the new 'Statutory Instrument' leaves significant space for interpretation. Apparently it was intended that Local Authorities should have flexibility in detail implementation within their districts. However this does create scope for significant variation between areas controlled by different Councils, and therefore makes general advice on interpretation of permitted development rights more difficult.

LIMITATIONS FOR PERMITTED DEVELOPMENT:

The following is a distillation of the various provisions. It is not exhaustive either in scope or in the restrictions placed on development. In applying these parameters please be aware that the length of an extension will be measured to the furthest part of the extension, probably the outside edge of its gutter.

- *No part of an extension can be higher than the original dwellinghouse.*
- *A side extension must not project by more than half of the width of the original dwellinghouse from the original side elevation, be more than 4 metres high and be more than a single storey.*
- *A rear extension with a single storey may project up to 4 metres from the rear elevation an original detached dwellinghouse, or three metres from the rear elevation of any other dwellinghouse provided that it is not more than four metres in height.*
- *A rear extension that has more than one storey may extend no more than 3 metres back from the rear elevation of the original dwellinghouse provided that no part of it is within 7 metres of any boundary of the property curtilage opposite the rear elevation*
- *The roof pitch of an extension of more than one storey should be the same as the existing roof pitch so far as possible.*
- *Any extension that is within 2 metres of a boundary must have eaves that are less than 3 metres high.*
- *The extension cannot project forward of the front elevation or a side or principal elevation that fronts a highway.*
- *The height must not be greater than 4m if it is within 2m of a boundary.*
- *The height of an extension must not exceed that of the original building.*
- *The eaves height must not exceed that of the original dwellinghouse.*
- *No veranda balcony or raised platform is permitted, nor is the alteration to the roof of the dwellinghouse other than that specifically allowed for under roof extensions (see below)*
- *The materials used must be similar in appearance to those used for the original dwellinghouse.*
- *Any window in a side wall or the side of a roof must be obscure glazed and either non-opening or have a cill height of at least 1700mm above floor level.*
- *Addition of cladding of any type including render and tiles is not permitted within Conservation areas, National Parks, Areas of Outstanding Natural Beauty and areas specified under the Wildlife and Countryside Act.*
- *A roof extension of up to 50m³ is permitted, 40m³ for terraced houses (measured by external volume). In that instance the height restrictions do not apply other than that the highest part of the roof extension must not be higher than the roof of the original building, and the front slope of the original building must not be changed and no part of the roof extension may project forward of the front roof slope.*
- *The edge of the roof extension closest to the eaves should be set back at least*

200mm from the eaves line of the original dwelling house. This does not apply where a hipped roof is extended to form a gable.

- **Roof extensions are not permitted in Conservation areas, National Parks, Areas of Outstanding Natural Beauty and areas specified under the Wildlife and Countryside Act.**
- A roof slope may be extended by up to 150mm from its original slope provided that the extension does not include solar collectors.
- A porch may be built with a footprint area of up to 3m². This can be on the front of the house provided that it is not within 2 metres of the front property boundary with a highway. The height is limited to 3 metres.

Buildings enclosures and containers can be constructed within the curtilage of a property subject to the following:

- *At least 50% of the original open space within the curtilage, following building the original dwellinghouse, remains not covered.*
- *None of the above can be forward of the front elevation of the original dwellinghouse.*
- *The building, container or enclosure can be no more than one storey, with a ridge height of 4 metres if a dual pitched roof is used, 3 metres in other instances unless it is within 2 metres of a boundary in which case the height is limited to 2.5 metres.*
- *The building cannot be a dwelling.*
- *There cannot be any veranda, balcony or raised platform, microwave antenna or container larger than 3,500 litres.*
- *Within a World Heritage Site, National Park, Area of Outstanding Natural Beauty or the Broads any buildings more than 20 metres from any wall of the original dwellinghouse is limited to 10m² in total.*
- *No building, enclosure, pool or container is permitted between the side elevation of a dwellinghouse and a boundary within Conservation areas, National Parks, Areas of Outstanding Natural Beauty and areas specified under the Wildlife and Countryside Act.*
- *The buildings or other structures must be ancillary to the enjoyment of the dwellinghouse which includes the keeping of livestock for domestic purposes.*

Hard standings:

- *This is generally permitted, however where a hard-standing is between the principal elevation of the dwellinghouse and the highway it is limited to 5m² unless it is either porous or any water run-off is directed towards a porous or permeable area within the curtilage.*

Chimneys

- *these are permitted provided that they do not rise more than 1 metre above the roof ridge or they are on the front or side elevation of a building within a Conservation area, National Park, Areas of Outstanding Natural Beauty or area specified under the Wildlife and Countryside Act.*

LISTED BUILDINGS:

There is a common misconception that some works can be carried out to lower graded Listed Buildings without obtaining Listed Buildings Consent where it would be required for the higher grades. This is wrong. The grades given to listings are concerned with the perceived importance of the buildings for their architectural or historic value. Any work to a Listed Building that could affect its fabric or its setting will require approval. This can even include the colour chosen to paint it. Altering a Listed Building without consent is illegal. It can be punished by substantial fines, requirement to restore the building to its state before the alteration, and imprisonment. It must also be borne in mind that when a building is listed it is considered worthy of protection in the form that it is in at the time of listing. Hence a modern extension to an old building is covered by the listing, and it may be deemed more appropriate to retain it than to emulate a 'historic' style.

It is necessary to apply for consent to alter a listed building in circumstances where planning permission would not normally be necessary. When Planning permission is being sought for works to a building that is listed it will always be necessary to make a parallel Listed Buildings application. The latter will not attract a fee.

CONSERVATION AREAS:

These are specifically designated areas that are deemed to have particular qualities worthy of special protection. Many of the restrictions applied to Listed Buildings also apply to Conservation areas. However the thrust of the legislation is to protect the character of the external space that is publicly accessible. Consequently the front and sides of buildings will be affected, but often the rear will not (unless it is overlooked by a public space). Similarly internal alterations are not normally subject to restriction. Permitted development rights are affected by the Conservation Area status. They may also be affected by local orders made under the legislation which further restrict permitted works with certain localities.

An application will also be required if you intend to demolish, or partially demolish, a building in a conservation area.

APPLICATIONS:

Applications for Planning, Listed Building and Conservation Area consents are made to the Local Planning Authority. Some applications will be dealt with at a higher level of local government, particularly if they have a wider strategic importance. Some application sites straddle two or more planning authorities territories. In these events a brief discussion with the relevant authorities will clarify or determine who will be responsible for administering the planning process.

The planning application process has recently been changed. This has seen the introduction of a series of more comprehensive and complex forms, the requirement to provide evidence that all relevant information has been provided (validation) and an increase in the amount of information that is required for an application. The levels of information are dependent on the size and nature of the proposed development. You should be aware that, amongst others, flood risk assessments, tree surveys, sustainability assessments and site contamination reports may be required, with each requiring

specialist input.

It is possible to make an 'outline' planning application as opposed to a full application. This is intended as an 'in principle' process. Recent guidance has provided greater clarification of the information that is required, and therefore of the scope of the planning permission gained. It is now necessary to identify parameters for building sizes, heights, dispositions on the site, and point(s) of access. An approval of an outline application includes approval of these parameters, so subsequent submission of details is designed to 'flesh-out' the scheme rather than to develop it from scratch. There are occasions when outline applications are not considered appropriate (e.g.: for listed buildings) and so a local authority can determine that an application cannot be dealt with in outline.

It is now possible to make a planning application on-line through the Planning Portal (www.planningportal.gov.uk).

Once an application has been submitted it is checked by the local authority to ensure that it is complete and includes all of the required documents and drawings. It is then registered and assigned to a planning Officer. There is a public consultation period, normally of three weeks, during which time anyone with any interest in the proposed development can advise the planning department of their objections or support for it. Public notices are normally displayed close to the site, notices may be placed in local newspapers and neighbours written too by the planning authority to ensure that as many people as possible who have a legitimate interest in the proposals can consider them and comment. For most small developments the planning decision should be issued within eight weeks from the time of registration. For larger developments the time-scales are longer.

If the application is refused the applicant has the right to make a new application, for a substantially similar but modified scheme for the same site, within twelve months without paying any planning fee. There is also the right to appeal to the Planning Inspectorate. The appeal must be registered within six months of the date of refusal. There is no fee payable for an appeal, although the use of a specialist Planning Consultant to prepare and submit it is often worthwhile and will have to be paid for.

When a planning or listed building application is granted it normally carries certain conditions. The first is a limit on the time during which the works may be begun. Other conditions will depend on the nature and extent of the proposed development. Some conditions will remain effective for the life of the building, or until another planning application for the site renders them redundant. Some will be concerned with carrying out parts of the works within defined sequences, and others will require the submission and approval of additional information. When considering time-scales for a development it is important to allow for submission of details and their approval between the grant of planning permission and the start of works.

Enforcement action can be taken against those who carry out works without the relevant planning or listed building consents, or who do so in a manner that is at variance to approved drawings and documentation. This can, and sometimes does require removal of any unauthorised works and the reinstatement of the building or site to its condition before those works were started.

Failure to adhere to conditions attached to a planning consent can nullify the planning permission.

DEVELOPER CONTRIBUTIONS:

Recently some local authorities have been seeking developer contributions towards the provision of local infrastructure. This is in addition to any requirement to provide low cost housing. The requirement for contributions varies considerably between authorities. Whatever the merits of developers being asked to assist in providing improved schools, transport, open space and the like, there is an impact on the financial calculations being made as to how sites should be developed. In some instances we are aware of contributions in excess of £ 10,000 being sought. Clearly sums of this size must be budgeted for. For some sites capable of accommodating several houses the calculation becomes more complex. For example a site suitable for eighteen starter homes, say two bedroomed terraced houses, could attract eighteen units worth of contributions plus a requirement that one third of the houses be for low cost usage. In this case that would mean six of them. Most developers find that there is little profit in low cost houses, sometimes selling them on to suitable organisations at cost, or even below cost. In addition most Housing Associations stipulate minimum room and dwelling sizes that might exceed those provided for 'market' starter homes. In this case the developer would achieve a much better financial return by reducing the number of dwellings to fourteen. All could then be sold on the open market. Additionally the larger individual plot sizes might allow slightly larger homes, which in turn could be sold for a higher price. There could, therefore, be a consequent reduction in the number of new lower priced starter homes on the open market.

In some instances local Authorities make Planning permission conditional on Planning Contributions. In other places they may require a legal undertaking that contributions will be forthcoming before registering or determining planning applications.

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