

## **Do I need Planning Permission? – Frequently Asked Questions**

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**N.B.** This information is intended as a guide to residential use only. It does not apply to commercial premises. It is not a legal interpretation of Planning law. The Planning and Development Acts 2000 – 2017 and The Planning and Development Regulations 2001 -2018 may be viewed at <http://www.housing.gov.ie> and may be purchased from Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

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**Please note: If your property is a Protected Structure even minor works may need planning permission. The exempted development regulations which follow do not apply to Protected Structures. If the development works apply to a Protected Structure, please contact the Planning Department or the Council's Conservation Officer.**

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### **Question: When do I need planning permission?**

Generally, you need planning permission for any development of land or property unless the development is specifically exempted from this need. The term development includes the carrying out of works (building, demolition, alteration) on land or buildings and the making of a material (i.e. significant) change of use of land or buildings.

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### **Question: Are there different types of permission?**

Yes. There are three types of planning permissions. An application may be made for:-

- **Permission;**
- **Outline permission**
- **Permission Consequent**

The most common type of application made is for permission, sometimes referred to as full permission. There are circumstances when you may want to make an application for outline permission. For example, you may want to see whether the planning authority agrees with your proposal in principle before you go to the trouble of making detailed plans. If you obtain outline permission, you must obtain full permission before starting work. In most cases, a subsequent application for permission must be made within 3 years of the date of grant of outline permission. However outline permission cannot be sought for retention of a structure, works to a protected structure or a proposed protected structure or developments, which require an environmental impact assessment, integrated pollution control licence or a waste licence.

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**Question: Where do I get planning permission?**

From the planning authority for your area i.e. Donegal County Council, County House, Lifford

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**Question: How much will this cost?**

A fee is payable with an application for planning permission. Fees for the different classes of development are listed with the application form, You must pay the correct fee with your application as the planning authority is prohibited by law from deciding an application until this is paid. Voluntary organisations may qualify for an exemption from the fee.

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**Question: How long will it take to get planning permission?**

This will be affected by the completeness of the application and by whether there is an appeal or not. Generally, a valid application will be dealt with by a planning authority in 12 weeks from the date the application is made to the final grant of a permission. However, the period can vary, particularly if the planning authority seeks further information from the applicant (which it should do within the first 8 weeks). The planning authority then has 4 weeks from the day the further information is received to make a decision on the application. The following table illustrates the time scale involved in most cases.

<b>Planning Steps: Timeframes</b>	
<b>Timescale</b>	<b>Action</b>
Start	Notice published in paper and site notice erected
14 days later	Latest date for lodging application
Between 6 weeks and 8 weeks later	Planning authority issue notice of their decision on the application (alternatively they may request further information)
4 weeks later	If no appeal is made, the planning authority will issue grant of permission approval or outline permission, except where they have already indicated a decision to refuse An appeal may take longer than the application to decide but An Bord Pleanála has an objective to decide appeals within 4 months.

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**Question: Can I consult the planning authority in advance?**

You do not have to consult the planning authority before making a planning application but it is often advisable to do so where you are unsure of local planning policies, how to apply, etc. Depending on the type of development, the larger the development proposal, the greater the need for prior consultation. This process called preplanning. It offers the applicant the chance to obtain advice from a planner prior to full planning.

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**Question: Where can I find out about local planning policies?**

The development policies and objectives of the planning authority are in the local development plan. You can view the plan at any time during office hours at the local authority offices and local libraries and online at [www.donegalcoco.ie](http://www.donegalcoco.ie) (visit the Planning Publications page). Copies of the plan are available at a reasonable cost from the planning authority. For more information on the plan see leaflet PL8 which is available at the link below

<http://www.housing.gov.ie/search/archived/current/category/planning/sub-type/information-guideleaflet/topic/leaflets>

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**Question: I have Lodged a valid planning application. Now what ?**

Answer: Your application will be acknowledged (within a few days) and be placed on the planning register in the planning authority offices, for public inspection. It will also be included on the lists of planning applications displayed in council offices, public libraries and circulated to certain interest groups. A council official will usually inspect the development site

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**Question: What if my application is incomplete?**

If your application lacks some of the required documentation lacks the appropriate fee or is in any other way inadequate, (e.g. no proper public notice of your application) (e.g. does not meet the statutory requirements for public notice of your application). The application will be invalid and will be returned to you with the fee.

The statutory 8 week period for deciding the application begins from time you submit a valid application with the required information in full, pay the correct fee and give proper public notice of the application.

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### **Question: Can other people comment on my application?**

Yes. Any person can see a copy of your application and make written submissions or observations to the planning authority on any planning aspect of it. These must be considered by the planning authority when determining your application. There is a €20 fee for making such a submission or observation. For more information see the leaflet Commenting on a Planning Application (PL3) which is available at the following link.

<http://www.housing.gov.ie/search/archived/current/category/planning/sub-type/information-guideleaflet/topic/leaflets>

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### **Question: How is the decision made?**

In making the decision, the planning authority takes a number of matters into account, including: the proper planning and development of the area (e.g. appropriate land use (zoning), road safety, development density, size, location, adherence to established planning and development practices), their own development plan, submissions and observations made by members of the public on the application. Government policy, the provision of a Special Amenity Area Order; any European site (e.g. Special Areas of Conservation Special Protection Areas); submissions and observations made by members of the public on the application; It may not take non-planning issues into account e.g. boundary or other disputes, questions more properly resolved through legal means, etc.

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### **Question: How will I know permission has been granted or not?**

The decision to grant permission, with or without conditions, will be notified to you, and to anyone who commented on the application. What you get is a notice of intention to grant permission. During a period of four weeks beginning on the date of making of this decision, you or anyone else who made a submission, may appeal it to An Bord Pleanála. Where there is no appeal the planning authority will formally give you the grant of permission at the end of the appeal period. You must not commence work until you receive this notification. If the decision is appealed, you will receive from An Bord Pleanála either the grant of permission, with or without whatever conditions the Board considers appropriate, or if the Board decides, refusal of permission. Where the planning authority decide to refuse your application, their reasons will be included in the notification sent to you. The same period for appeal (4 weeks) will apply here also.

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### **Question: Can conditions be attached to my permission?**

Planning permission may be subject to certain conditions, which will be listed on the decision. These may require changes to your proposal (e.g. new arrangements for the disposal of surface water, revised height/colour/material for boundary walls, improved landscaping of the site). You may also be required to make a contribution to the local authority for services (e.g. water, sewerage). These contributions differ from place to place and for different types of development. You must comply with all of the conditions attached to the permission and finish work in accordance with them. Even if you have more than one permission for a site, you cannot pick and choose the conditions which suit you best.

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### **Question: How Long does permission last?**

The standard duration for planning permission, is five years from the date of the grant of the permission by the planning authority or An Bord Pleanála. A longer period may be allowed if the development is complex. In certain circumstances the planning authority may extend the period of validity of a planning permission but only where:

1. The development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended, and
2. Substantial works were carried out pursuant to the permission during that period, and

#### **3. The development will be completed within a reasonable time.**

Or

- a) There were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against either the commencement of development or the carrying out of substantial works pursuant to the planning permission, and
- b) There have been no significant changes in the development objectives in the development plan or in regional development objectives in the regional planning guidelines for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area, and
- c) The development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under section 28, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this section, and
- d) Where the development has not commenced, that an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out before the permission was granted.

In relation to considerations of a commercial or economic nature, it is generally not considered necessary to submit evidence to the planning authority as to the personal financial or commercial situation of the applicant. The planning authority may base its decision on matters such as relevant national and local conditions affecting the property and development market or available credit.

The lifetime of an **outline permission** is three years and an application for permission consequent must be submitted within that time. If a planning permission expires and you apply for a new permission for the same development, the planning authority may refuse permission or attach significantly different conditions. This can happen if planning policies or the requirements for the proper planning and development of the area have changed in the interim.

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**Question: Who enforces planning decisions?**

This is the responsibility of the planning authority which has wide enforcement powers to ensure development is carried out in conformity with planning permission and to halt and rectify an unauthorised development. Any legal action must, however, be started within 5 years of the breach of the planning laws taking place. Care should be taken to ensure that each condition of a permission is fully complied with in order to avoid incurring such action and also to avoid difficulties when the property is being sold at a later date.

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**Question: How can I stop unauthorised development?**

If you think somebody is developing or using land without, or contrary to, a planning permission, you should contact the planning authority, who will investigate the matter. Any person has the right to apply in either the Circuit or High Courts for an order restraining unauthorised development or use of land, or requiring compliance with a planning permission. Court orders can, depending on the circumstances, be obtained at extremely short notice and the Courts will ensure compliance with any order made.

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**Question: Are there penalties for breaches of planning law?**

Yes. It is an offence to undertake any work needing permission without that permission. Planning authorities have powers to stop unauthorised development and this can be a costly experience for the offender. You may be required to rectify

any unauthorised works and will have to pay whatever costs are involved. Fines and prison sentences may also be imposed by the Courts.

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**Question: Can I rectify a planning error?**

Genuine mistakes can be made about the need for planning permission. If you undertake unauthorised development you may apply for permission to retain it. However, this approach should not be relied upon in order to avoid seeking planning permission before starting work as you may not necessarily be granted permission for retention or you may be required to carry out costly modifications. The application fee is also 300% more than the fee for an application made before development starts. Permission for retention does not automatically absolve you from prosecution if enforcement action has already been taken against you. If you are buying property, check that the building itself and any extensions or alterations to it have proper planning permission or are exempt from planning permission, since you, as the new owner, may be liable to enforcement action.

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**Question: Do I need any other type of permission?**

You will not be entitled solely by reason of a planning permission to carry out your proposed development. You may need other approvals, depending on the type of development. For example, all new buildings, extensions, alterations and certain changes of use of existing buildings must comply with building regulations, which set out basic design and construction requirements. Development other than residential will probably require a fire safety certificate under the regulations. See leaflet PL11: A Guide to the Building Regulations which is available at the following link

<http://www.housing.gov.ie/search/archived/current/category/planning/sub-type/information-guideleaflet/topic/leaflets>

Further information may be obtained from your local authority..

The law governing the planning system is set out in the Planning and Development Acts, 2000-2017 and Planning and Development Regulations, 2001-2018 These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2, telephone (01) 661 3111. Please note that the law may be updated from time to time

**What is a Declaration and Referral on Development & Exempted Development (i.e. what is a Declaration of Exemption?)**

If a query arises as to whether something requires Planning Permission or whether it is exempted development, a submission may be made, in writing with proposals or maps – the more information the better accompanied by a fee (€80.00). The

planner will consider submissions & we reply within 4 weeks as to whether it does require planning permission or not. The applicant can refer the decision to An Bord Pleanála accompanied by a fee (€150.00).

### **Can photocopies of maps be given out to the public?**

Photocopies of maps on files registered before 11-Mar-2002 is prohibited. Any photocopies of maps on files registered after 11-Mar-2002 must be individually date stamped and a declaration under Section 74 (4) of the Copyright and related Rights Act, 2000 must be signed by the member of public (forms available at public counter).

### **Can I place a wind turbine beside my house?**

Yes provided that:-

- the turbine shall not be erected on or attached to the house, or any building or any structure within its curtilage.
- the total height of the turbine shall not exceed 13 metres
- the rotor diameter shall not exceed 6 metres
- the lower tip of the rotor is a minimum of 3 metres from ground level
- the supporting tower is a distance of not less than the total structure height (including the blade of the turbine from the highest point of its arc) plus one metre from any party boundary
- noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is the greater, as measured from the nearest neighbouring inhabited dwelling
- Only one turbine can be erected within the curtilage of a house
- No such structure shall be constructed, erected or placed forward of the front wall of a house.
- All turbine components shall have a matt, non-reflective finish and the blade shall be made of material that does not deflect telecommunication signals.
- No sign, advertisement or object, not required for the functioning or safety of the turbine shall be attached to or exhibited on the wind turbine.

### **Do I need permission to build a chimney or flue, boiler house or fuel storage tank or structure as part of the heating system of a house**

No provided the capacity of the oil storage tank does not exceed 3,500 litres

### **Do I need permission to install a solar panel?**

No provided that:-



- the total aperture area of any such panel, taken together with any other such panel previously placed on or within the said curtilage, shall not exceed 12 square metres or 50% of the total roof area, whichever is the lesser.
- the distance between the plane of the wall or a pitched roof and the panel shall not exceed 15 centimetres.
- the distance between the plane of a flat roof and the panel shall not exceed 50 centimetres.
- the solar panel shall be a minimum of 50cm from any edge of the wall or roof on which it is mounted.
- the height of a free-standing solar array shall not exceed 2 metres, at its highest point, above ground level.
- a free-standing solar array shall not be placed on or forward of the front wall of a house.
- the erection of any free standing solar array shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear or to the side of the house to less than 25 square metres.

**Do I need permission to install a ground heat pump or an air source heat pump**

No provided that:-

- The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.
- The total area of such a heat pump, taken together with any other such pump previously erected, shall not exceed 2.5 square metres.
- The heat pump shall be a minimum of 50cm from any edge of the wall or roof on which it is mounted.
- No such structure shall be erected on, or forward of, the front wall or roof of the house.
- Noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.