



THINKING OF ALTERING YOUR HOUSE OR FLAT?

The rules on the need for planning permission change on 6 February 2012

The Scottish Government has changed the legislation regarding the need for planning permission to alter or extend a house (or flat) or carry out any works (including buildings) in the garden. It is anticipated that this will reduce the need to apply for planning permission in many cases. However, in Conservation Areas permission will generally be needed, as the Government wishes to protect the most important areas.

Please check with the Local Planning Office, who will advise if planning permission is required or if the works are “permitted development.”

Local Planning Office contacts are available here.

<http://www.aberdeenshire.gov.uk/planning/contact.asp>

The new legislation is available on this weblink:

<http://www.legislation.gov.uk/ssi/2011/357/contents/made>

More information and guidance will be available soon on the Scottish Government website.

Main Changes

The main changes to the legislation include:

- Concepts such as “principal elevation” and “fronting a road” will be used to judge when planning permission is required
- There are now clear rules for decking, porches and access ramps
- There are some “permitted development” rights for flatted properties
- There is now a 1m 'bubble' around the house or flat which means permission may not be needed for certain works such as cladding, satellite dishes or solar panels
- There are more generous permitted development rights for extensions and new structures in the garden in many cases

BUT

- There are more controls in Conservation Areas resulting in all development, apart from small structures and small areas of decking, requiring planning permission.

Previous ‘permitted development’ advice

If householders have previously been advised by the Planning Authority that works were “permitted development” under the old rules, the works must have started before 6 February 2012 and be finished by 31 August 2012 to benefit from this advice. Where works have not started before 6 February 2012 then the proposal will need to be re-assessed under the new rules. Householders are advised to contact the Local Planning Office for advice.

'Do I need planning permission' enquiries

Anyone thinking about extending or altering a house or carrying out works in the garden of a house should get in contact with the Planning Authority to determine if planning permission is required. Householders will be asked to complete a 'Do I need Planning Permission' form and provide some sketches and/or photographs in certain cases to provide the necessary information required to make an assessment. It is important that the form is completed fully to allow the Planning Authority to make an assessment on the need for planning permission. Once the form and required information has been received the Planning Authority will confirm in writing or e-mail if planning permission is required. The 'Do I need planning permission' form is available here <http://www.aberdeenshire.gov.uk/planning/devservices/forms.asp>.

Assessments will be made on the basis of the information submitted and no site visits will be undertaken. Therefore, the advice given is an informal opinion only. If a formal decision or legal certification is sought confirming that planning permission is not required then an application for a Certificate of Lawfulness should be submitted.

What is a Certificate of Lawfulness

A Certificate of Lawfulness is essentially a means of obtaining a decision from the Planning Authority whether a proposed use or works do not require planning permission. An application for a Certificate of Lawfulness should be made when a householder wishes to establish conclusively that a proposal is lawful and does not require planning permission; and/or if the proposal is implemented, it will not run the risk of future enforcement action being taken. It is a decision by the Planning Authority that has legal status providing certainty to householders and future purchasers of the property that works carried out are lawful. The process is similar to that of a planning application in that a form must be completed and accompanied by drawings and a fee. If the Planning Authority is satisfied that the proposal is lawful then a Certificate of Lawfulness is issued.