

Frequently Asked Questions - Child minding and the Planning System

Below are questions commonly asked about how town and country planning applies to child care, including carrying out a child minding business from home.

1. **I currently look after children at my home and will be making an application to the Care and Social Services Inspectorate (CSSIW) to increase the number of children I will look after from 01 April 2016. Do I need planning permission?**
2. **I am thinking of starting a child minding business– do I need planning permission?**
3. **I am thinking of setting up a day care business – do I need planning permission?**
4. **Can I operate a child minding business from my home?**
5. **How do I get advice about planning permission?**
6. **My local planning authority has told me informally I do not need planning permission – how do I get legally binding confirmation of this?**
7. **Does CSSIW need to see evidence about the need for planning permission?**
8. **What will it cost me to apply for planning permission?**
9. **Do I need a planning consultant or architect?**
10. **Can my neighbours object to my planning application?**
11. **My neighbour has started a child minding business – how do I know they have planning permission?**

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1. **I currently look after children at my home and will be making an application to the Care and Social Services Inspectorate (CSSIW) to increase the number of children I will look after from 01 April 2016. Do I need planning permission?**

Town and country planning law remains unchanged. Planning permission is a separate matter from registration and compliance with the national childcare standards.

If planning permission is not required for the way you currently carry out your child minding business and you do not intend to make any changes, then planning permission will not be required.

If you intend to:

- increase the number of children cared for on any particular day; or
- extend your dwelling,

then planning permission may be required. The need for planning permission depends on the circumstances of each individual case

The key test is whether the overall character of the dwelling will change as a result of the business. The questions that will be asked are:

- Will the home no longer be used mainly as a private residence?
- Will the business result in a marked rise in traffic or people calling?
- Will the business involve any activities unusual in a residential area?
- Will the business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?

If the answer to any question is yes, then planning permission is likely to be required. If you remain unsure whether planning permission is required you should seek advice from the local planning authority or a professional planning consultant.

2. I am thinking of starting a child minding business – do I need planning permission?

Planning permission will be required for child minding or day-care if:

- new premises are to be constructed
- existing premises are to be physically extended or altered
- by using an existing building, the child minding or day-care activity would be a "material change of use" compared to its current use

A material change of use may occur if a new child care use is started or an existing child care use intensifies.

3. I am thinking of setting up a day care business – do I need planning permission?

A crèche or day nursery falls within the D1 (non-residential institutions) use class. This means a new child care use can start in a building already lawfully used for other D1 uses without needing planning permission. However, planning permission may be required where the building was previously used for a different use or it contains a mixed use (a child care use together with one or more other uses). The physical characteristics of the location and the existing level of activity would be material to whether planning permission is required and will vary from case to case. In such circumstances you should get advice from the local planning authority or a professional planning consultant.

When planning applications for child care facilities are determined, the planning system is mainly concerned with protecting amenity around the proposed use. The main considerations will be whether the proposed use is suitable for its location, for example, whether it would cause disturbance from noise and traffic and whether there is suitable access.

4. Can I operate a child minding business from my home?

If you are starting a new child minding service from your house, planning permission may be required if the overall character of the dwelling will change as a result of the business. The questions that will be asked are:

- Will the home no longer be used mainly as a private residence?
- Will the business result in a marked rise in traffic or people calling?
- Will the business involve any activities unusual in a residential area?
- Will the business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?

If the answer to any question is yes, then planning permission is likely to be required. If you remain unsure whether planning permission is required you should seek advice from the local planning authority or a planning consultant.

5. How do I get advice about planning permission?

General advice about planning permission can be found on the question and answer section 'making planning applications'

<http://gov.wales/topics/planning/faqs/makingplanningapps>

Advice can be found in the Welsh Government booklet 'Planning Permission – A Guide for Business'

<http://gov.wales/topics/planning/policy/guidanceandleaflets/ppguidebusiness>

You can ask your local planning authority for an informal opinion about whether planning permission is required to operate from your house. You can use the example letter and questionnaire attached to policy clarification letter CL-01-16. <<weblink>>

If you know that planning permission is required for your business, you can ask your local planning authority for pre-application advice about the acceptability of your proposal. This may help you decide whether it is worth submitting a planning application. From March 2016, a standard written pre-application service will be available from local planning authorities for a fee of £250.

Applicants will be required to complete a pre-application enquiry form, which will be available from the authority. When the authority receives an enquiry, submitted on a completed, pre-application enquiry form, a written response will be sent to the applicant (subject to the correct fee being paid) within 21 days covering:

1. Relevant planning history.
2. Relevant development plan policies against which the proposal will be assessed.
3. Any relevant supplementary planning guidance.
4. Any other material planning considerations.
5. The informal view of a case on the merits of the proposal.

6. My local planning authority has told me informally I do not need planning permission – how do I get legally binding confirmation of this?

A Lawful Development Certificate is a legal document confirming the lawfulness of development. There are two types, relating to either proposed or existing development. They confirm that the development will either not require planning permission, is permitted development or is within the scope of an existing permission; while additionally in the case of existing development confirm if it is no longer possible for enforcement action to be taken against it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority.

If granted by your local planning authority, the certificate means that enforcement action cannot be taken against the development referred to in the certificate.

If the local planning authority has evidence, or reasonable grounds to believe, that the applicant's claim is not correct, it may refuse a certificate.

You should apply for a Lawful Development Certificate development from your local planning authority clearly explaining the full extent of your proposed child care use. For existing uses, it is up to you to provide the proper evidence. This could include:

- proof that any building was 'substantially complete' more than four years before the date of the application
- proof that any use (or breach of condition) has been carried on continuously for a period of 10 years
- evidence to support your view that the child care use is of a scale and character that does not amount to a material change of use requiring planning permission

7. Does CSSIW need to see evidence about the need for planning permission?

From April 2016 Care and Social Services Inspectorate Wales (CSSIW) no longer need to see evidence about the need for planning permission for your child care business when you register with them. However the town and country planning rules remain unchanged. Ensuring all necessary planning consents are obtained remains the responsibility of the child care provider.

8. What will it cost me to apply for planning permission?

Most applications for planning permission require a fee to be paid when the application is made. This is set by the government and will depend on the type and scale of development proposed. The list of fees can be found on the Planning Portal website.

Informal advice on whether planning permission is required is provided at each local planning authority's discretion – it will therefore vary across the 25 authorities.

Applying for formal confirmation that a proposed child care use does not require permission through a Certificate of Lawfulness is a standard £190

If it is known that planning permission is required, it is possible to get an idea of whether an application is likely to be successful. Pre-application services are intended to give the applicant the best possible opportunity of their application being granted planning permission at the first attempt and it may be in their interests to seek pre-application advice. However, the pre-application service is not a compulsory requirement for the submission of a planning application and therefore, is only provided when an applicant requests it. The standard basic pre-application advice service costs £250 for a small change of use.

Applying for planning permission for a change of use to a mixed use as a dwelling and a child minding business is £380

If the application for a lawful development certificate, relates to an existing use, for example where the property has been used for child minding purposes for a period exceeding 10 years, the fee is £380.

9. Do I need a planning consultant or architect?

Anybody can apply for planning permission, but, if you wish, you could, appoint a planning consultant, architect, surveyor or other professional to apply for planning permission on your behalf. Most planning applications require the submission of detailed plans and when these are required most people consider it better to employ a professional.

In some cases, particularly where no physical external alteration is proposed to a property, there is less need for detailed plans. In these cases applicants may wish to prepare their own plans following guidance provided by the LPA.

10. Can my neighbours object to my planning application?

Neighbours can object to your local planning application by submitting their comments to the local planning authority. Factors to be taken into account when making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability.

The local planning authority will decide what weight to give to these material considerations (such as noise or traffic safety) in the determination of your application.

11. My neighbour has started a child minding business – how do I know they have planning permission?

Operating a child minding business from a dwelling does not require planning permission in most cases but can require permission due to the number of children cared for or the way in which it is undertaken.

If a application for planning permission has been submitted to the local planning authority, it must be recorded on a register. Some authorities make the planning register available to view on their websites. If your authority does not offer this service, you are able to view the register in person at one of their offices.