

How to... survive the planning stage



Gary Bettis looks at your legal responsibilities of making a change

If you are thinking of moving, extending or starting a brand new practice you should make contact with a dental practice designer. They will advise you of the legal responsibilities particular to your project.

New buildings, or extensions to buildings such as shops, flats or surgeries, require planning permission. Changing the use of a building may also require permission, but not always. There are various types of planning applications depending upon the nature of your project and your designer will inform you which one(s) are needed. They will be able to gauge the likelihood of receiving an approval and, if unlikely, may advise you to re-think your plans.

Your designer will create drawings and supporting documentation to help the planning department make their decision. All planning applications are public documents; you should be able to view them online or by appointment. Monitoring local applications will help you identify competition or future opportunities. New houses or extensions to similar buildings can sometimes help your own chances of approval and may signal the right time to begin your project.

The planning process is transparent with inbuilt levels of accountability. This ensures that one person alone never makes the final decision. The planning officer will assess the proposals against the councils' policies and guidance. These can be found in each councils' unitary development plan (UDP), which again is available for viewing on their website or at their offices. The officer will compile a report that also includes the objections and comments for consideration when making their recommendation. This report will be overviewed and countersigned by one or more senior planning officers before the decision is final. It is possible to influence the reports contents to strengthen your application. For instance, your designer might advise you to obtain positive comments from the PCT or support from your patients, the local community and councillors. Comments in favour of a proposal are considered as well as objections.

Should your application risk being refused, it is possible to request that the final decision be made by the elected council members at the next available planning committee meeting. The councillors have the power to override the recommendations of the planning department. Generating the support of the community can help influence the elected councillors who are more concerned with their constituents than the fine detail of planning policy wording.

If your first application is refused, you are entitled to submit a new one addressing the refusal reasons given within the planning officers report without incurring a new application fee.

You may feel aggrieved by the reasons for refusal, in which case you have the right to appeal to the 'planning inspectorate'. Your designer can advise if an appeal is worth considering and may suggest employing an 'appeal specialist'. The specialist will work with your designer to produce a report supporting your application and challenging the reasons for refusal. The planning inspectorate will independently judge the arguments for and against the application. Their officers are experienced in cases across the UK and can identify where planning departments have been over-zealous or incorrect in their interpretation of local or national policy. The appeals process itself can take up to six months.

If an appeal is refused then you can present your case to the high court with the assistance of a specialist barrister. Your designer will be able to advise whether this may be worth pursuing. Hopefully though, you and your designer will have worked closely at the initial stages to ensure that your initial application stands the best chance of being approved!

Listed building consent

If your property is a listed building you will need to apply for 'listed building consent' as well as planning permission (if that also applies). Where regular planning applications have little concern for internal arrangements, the opposite is true within listed buildings.

Separate conservation, design and planning officers will take particular interest in the layout and how the proposals affect the character of the listed building. English Heritage will also be invited to comment and this can sometimes result in drawn out negotiations. Once a listed building application is approved, the layout and details cannot be changed – so you must make sure you are happy with the proposals before submitting. Subsequent modifications will require a new application.

Understanding your decision

When you receive planning approval you may find a list of 'conditions', some are standard and seen on all applications, others will be specific to your project. Your designer can

explain these to you and advise you on any further action or applications that may be necessary. A refusal should be accompanied by detailed 'reasons'.

Building control

In most cases, your project will need to apply for building regulation consent. There is a big difference between this and planning consent.

When you make a planning application, the planning department look carefully at issues like the external appearance and the effect your proposal may have on adjoining properties and the local area. How your proposal will be constructed – things like details of foundations, insulation and fire safety are not needed. These construction details are dealt with under the national building regulations.

The building regulations ensure, by inspection and approval, that the work is safe, minimises heat loss and makes provision for disabled access etc. You can apply to the council building control department or an independent approved inspector. Your designer will advise you of the best route for your project. The application cannot be flatly refused like a planning application. Your designer and the inspector will work together until they are happy that the proposals comply with the full range of regulations.

As a service provider, you are required to obtain building control approval under the Regulatory Reform Order 2005.

Health and safety

The CDM (construction, design and management) Regulations 2007 places responsibilities on you, the dentist, to ensure that the health and safety of those who enter and work at your practice is considered. Your designer will advise you of your duties under the act. This is very often overlooked or just avoided by the dentist but if the relevant paperwork is not in place your project could be stopped by the HSE (Health and Safety Executive). This can result in expensive delays on site.

And finally...

This is not an exhaustive list of obligations, for example your project may be subject to the Party Wall etc. Act 1996. The important thing to remember is that your designer can help guide you throughout the project and oversee many of the time intensive items so you can concentrate on dentistry. [PD](#)

[Comments to pd@fmc.co.uk](mailto:pd@fmc.co.uk)

Gary Bettis is director of Designclinic. Since its formation in 1970, it has accumulated an extensive portfolio of work ranging from private housing, commercial, retail and healthcare. Visit www.designclinic.uk.com for further information.