Prior Approval

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Responsibility of	**Subject Lead for Prior Approval**
Latest changes	August 2026 – Added link to WG guidance RE recreational campsites. July 2026 - section added on recreational campsites. September 2025 - new paragraph 21 following the Andrew Rickards v East Herts judgement.

Key legislation and policy

Legislation	• Town and Country Planning (General Permitted Development) Order 1995.
National policy and guidance	• Planning Policy Wales • TAN 6: Planning for Sustainable Rural Communities (Annex A) • Development Management Manual
Judgments	• R(Smolas) v Herefordshire Council [2021] PTSR 1896 • New World Payphones Ltd v Westminster City Council & Anor [2019] EWCA Civ 2250 (18 December 2019) • R (Andrew Rickards) v East Hertfordshire District Council [2025] EWHC 2278 (Admin)
Other guidance	• Development Management Manual: Section 3 Annex: Application of the Habitats Directive to the Process of Prior Approval • Planning permission: permitted development rights for temporary campsites
Other ITM Chapters	• Telecommunications • Approach to Decision Making

Introduction

1. The General Permitted Development Order (GPDO) 1995 (as amended) grants planning permission for certain types of development, subject to a range of conditions and limitations, removing the need for express planning permission.

2. In certain instances, the GPDO imposes a condition requiring that the developer must seek a determination from the LPA as to whether its prior approval is required before development is commenced and where such prior approval is required, preventing the commencement of development unless that approval is given or certain time limits expire without the LPA giving its determination.

3. The types of development that may be subject to prior approval are listed in Appendix 1. Agriculture, forestry and telecommunications are most common types of development subject to appeals. By virtue of benefitting from permitted development rights (PD), the principle of development and to a certain extent their impact is deemed to be acceptable.

4. In determining whether prior approval is required, consideration is largely limited to siting, design and external appearance but other matters may be in scope too, see Appendix 1. The DMM and TAN 6 advise the formal submission of details for approval should only be required where a proposal is likely to have a significant impact on its surroundings.

Appeals

5. Template: *The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2,* Part *[ ] of the Town and Country Planning (General Permitted Development) Order 1995.*

Is prior approval needed?

6. Where there is dispute regarding whether the LPA undertook the necessary steps to require and give a determination regarding prior approval, or whether the proposed development is PD is questioned, this will be the first matter you will need to address.

7. The requirements that must be satisfied for development to be considered PD will depend on the type of development and the part of the GPDO it potentially falls under. It is therefore essential that you apply a methodical approach to assessing whether all requirements for the type of development are met.

8. Where the question of whether a proposal benefits from PD is not raised but it appears to you that it does not, you should write to the parties explaining why and invite comments.

9. Where you conclude that the proposal is not PD this should be explained in your decision and you should not go on to consider whether prior approval should be given, as the development cannot benefit from the planning permission granted by the GPDO. If you are satisfied the proposal is PD, you should go on to determine whether prior approval should be given.

Agriculture and Forestry Buildings

10. Part 6 to Schedule 2 of the GPDO permits works for, amongst other things, the erection, extension or alteration of a building, excavation and engineering operations which are reasonably necessary for the purposes of agriculture within the agricultural unit. Some buildings and works are subject to prior approval.

11. When considering applications for prior approval, paragraph A.3, Annex A to TAN 6, states *'Planning authorities should use the determination procedure to verify that the* intended *development does benefit from permitted development rights and does not require a planning application.'* This approach is supported by the Smolas and New World Payphones Ltd cases referred to above. Assessing whether a proposal benefits from permitted development rights is separate from, and precedes, the LPA's decision whether to grant that approval. Consequently, the question of whether the buildings or works are reasonably necessary for the purposes of agriculture and, therefore, benefit from PD (and prior approval) may arise.

12. Agriculture is defined in the Town and Country Planning Act 1990 as;
    - *'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.'*

13. Breeding and keeping of livestock does not include the breeding and keeping of horses related to equestrian activity such as livery, training and breeding racehorses or leisure. 'For the purposes of agriculture' does not include food processing or the buying and selling of agricultural products.

14. Where whether a development benefits from PD is disputed one should ask:
    - Is the site used for agriculture? The GDPO defines agricultural land as land which, before development permitted by the GDPO is carried out, is

land in use for agriculture and which is so used for the purposes of a trade or business, excluding any dwellinghouse or garden.

- Is the site an agricultural unit? The GDPO defines agricultural unit as agricultural land which is occupied as a unit for the purposes of agriculture, including any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit and a dwelling on that land occupied by a farmworker. (Note, an Agricultural Holdings Certificate is not evidence of an agricultural unit but is merely intended to ensure that anyone with an agricultural tenancy is notified of an application).
- Is the building reasonably necessary for the purposes of agriculture? This may depend on the size and nature of the activity and unit. Modern farm machinery need large openings for example.

15. It will be for the appellant to show why the building is reasonably necessary for the purposes of agriculture within the unit. The DMM says decision makers: *'should always have full regard to the operational needs of the agricultural, forestry and telecommunications industries, the need to avoid imposing any unnecessary or excessively costly requirements, and the normal considerations of reasonableness.'*

16. Whether land or the unit is in use for agriculture, or a building is reasonably necessary is not dependent on viability or profitability. One would expect the appellant to state the need for the building and they should know the operational needs of the activity/unit better than the LPA.

17. The test is reasonably necessary, not essential so you only need to be reasonably satisfied and unless it is obvious the appellant has ulterior motives, they can be given the benefit of the doubt. It would be open to the LPA to take enforcement action should it become clear the development should not have benefited from permitted development rights.

Recreational campsites

18. Use of any land as a recreational campsite for not more than 60 days in total in any calendar year is permitted development for up to 50 pitches and any moveable structure reasonably necessary for the purposes of the permitted use. Developers must provide toilet and waste disposal facilities and notify the LPA before commencement of development in each calendar year of the dates the site will be in use and details of toilet and waste disposal facilities.

19. Where the site is in Flood Zones 2 or Zone 3, developers must seek prior approval from the LPA before commencement of development in each calendar year. Applications must be accompanied by a site specific flood risk

assessment. The LPA must consult NRW and have regard to national guidance before making a decision. Development must not begin before the LPA give approval or 56 days from the date the application was received if no decision is made.

20. Unlike other types of prior approval the Order does not specify the matters to be considered. Nonetheless, it seems reasonable to assume considerations are limited to the risk of flooding. Conditions may be imposed but only those 'reasonably related to the subject matter of the prior approval'. Again it can be reasonable to assumed conditions must be related to the risk of flooding.

Telecommunications

21. See the Telecommunications ITM chapter.

When prior approval is required, what factors can be considered?

22. The factors which can be considered in a prior approval appeal are the same as those considered in determining whether a scheme benefits from permitted development rights, i.e. it will depend on its type, as set out in Appendix 1.

23. In Murrell *and anor v SSCLG, etc.* [2010] EWCA Civ 1367, the similarity between prior approval and outline planning permission was discussed, noting that *"...the two situations call for a broadly similar approach, and the analogy with outline planning permission has a real value in underlining the point that the assessment of siting, design and external appearance has to be made in a context where the principle of the development is not itself in issue."*

24. Turning to coverage, the judgement in *Andrew Rickards v East Hertfordshire DC* [2025] EWHC 2278 (Admin) requires decision makers to demonstrate *'a focused judgment on implementation, expressly addressing material effects on designated assets such as ancient woodland …….and listed buildings.'* The Court held the impact on both protected designations were material considerations that should have been addressed as part of the prior approval decision. There was no evidence they had been and prior approval was quashed.

25. Appearance and siting are two factors which may be in scope and are discussed below.

External appearance and design

26. Factors to be considered include materials, colour and design. Design includes dimensions, shape and whether it is solid or an open framework. Light emission may also be relevant, depending on the design and purpose of the building, e.g. livestock housing.

Siting

27. Factors relating to siting include:
    - the height of the site in relation to surrounding land;
    - the existence of topographical features and natural vegetation;
    - the effect on the skyline or horizon;
    - the site when observed from any side, including from outside the authority's own area;
    - the site in relation to areas designated for their scenic or conservation value;
    - the site in relation to existing structures or buildings, including buildings of a historical or traditional character and sites of likely archaeological significance;
    - the effect of siting on biodiversity/ecology including designated sites;
    - the effect of siting on the safety or convenience of highway users, for example if equipment obstructs a visibility splay or footway;
    - the site in relation to areas of known flood risk, and
    - the site in relation to residential property.

28. The scope of landscaping and screening to reduce the impact of the development on its surroundings should be taken into account.

The Development Plan

29. S38(6) does not apply in prior approval cases. That's not to say development plan policies are not material but care should be taken to avoid concluding that a proposal accords or conflicts with the development plan.

30. In its reasons for refusing prior approval or in its statement of case, an LPA may cite development plan policies and any supplementary guidance which it considers relevant to the case. It is necessary to show that these have been taken into account but are not decisive to the decision reached on the appeal. For example, in a straightforward case, the matter could be addressed as follows:

> *The Council has referred to policy [] of the [Local Plan]. I have taken it into account as a material consideration but S38(6) of the Planning and Compulsory Purchase Act 2004 does not apply in prior approval cases. In determining the appeal the Council's policy has not, by itself, been decisive*.

Heritage

31. The duty under S72 applies if the proposed development is in a conservation area. Under S72(1) special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The effect of siting and appearance on the setting of a listed building and any archaeological features may also be relevant.

Green Infrastructure Statements

32. PPW requires a green infrastructure statement (GIS) to be submitted with all planning applications. Applications for prior approval are not planning applications and are not required to be supported by a GIS.

Conditions

33. The GPDO does not provide any specific authority for imposing conditions beyond the deemed conditions for development by electronic communications code operators. If conditions are imposed they must relate to the matters subject to prior approval and pass the 6 tests in Circular 16/14.

Biodiversity Enhancement

34. Section 6 of the Environment Act 2016 requires public authorities to maintain and enhance biodiversity in the exercise of their functions, which includes PEDW when making decisions on appeals for prior approval cases. Policy 9 of Future Wales requires all development proposals to secure the maintenance and enhancement of biodiversity. PPW (6.4.5) states that development must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. Permitted development is still development and the requirement for enhancement applies.

35. Whilst imposing a biodiversity enhancement condition is likely to surprise developers and LPAs, it is national policy so inviting comment is not necessary. However, the following text should be used:

    PPW and Policy 9 of Future Wales requires all development proposals to secure the maintenance and enhancement of biodiversity. Whilst the proposed [] benefits from permitted development rights under Schedule 2, Part [ ] of the GPDO it is development. To accord with national policy, I shall impose a condition requiring biodiversity enhancement.

Application of the Habitats Directive to the Process of Prior Approval

36. Under regulations 60 to 63 of the Habitats Regulations, development not directly connected with or necessary to the management of SAC, SPA or Ramsar site which is likely to have a significant effect, either alone or in combination with other plans or projects, does not benefit from permitted development rights.

37. Section 63 of The Conservation of Habitats and Species Regulations 2017 requires competent authorities (inspectors at appeal) to undertake an appropriate assessment of the implications of the plan or project on a SAC or SPA before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:
    a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
    b) is not directly connected with or necessary to the management of the SAC/SPA.

38. Prior approval constitutes a ‘consent, permission or other authorisation’ and HRA/AA will be required if a proposal is likely to have a significant effect on a SAC or SPA and you are minded to grant prior approval.

Green Belt/Green Wedge

39. In prior approval cases, the principle of development is not a consideration and the question of whether or not the proposal represents inappropriate development does not arise.

Appendix 1

GPDO – Schedule 2

Part 4 Class BC – Temporary recreational campsites

Conditions; BC.2

a) the developer must make on-site provision for users of the campsite of toilet and waste disposal facilities;

b)the developer must notify the local planning authority in writing before commencement of development in each calendar year, providing a copy of the site plan, which must include particulars of—

(i) toilet and waste disposal facilities; and

(ii) the dates on which the site will be in use;

c) the local planning authority (if not the same body as the fire and rescue authority in an area) must as soon as practicable provide to the relevant fire and rescue authority the notice described in paragraph BC.2(b); and

d) where the proposed development is on land within Flood Zone 2 or Flood Zone 3, the permitted development is subject to prior approval by the local planning authority before commencement of development in each calendar year.

Applications must be accompanied by a site-specific flood risk assessment, including provision for warning and evacuation.

Part 6 - Agricultural Buildings and Operations, Class A; Development on Units of 5 Hectares or More

Condition; A2;

a) Erection, extension or alteration of a building,
b) the formation or alteration of a private way,
c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D4 below, exceeds 0.5 hectare); or
d) the placing or assembly of a tank in any waters.

Before development commences the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank.

Part 6- Agricultural Buildings and Operations, Class B, Development on Units of less than 5 Hectares

Condition B6, The extension or alteration of a building on article 1(6) land or provision, rearrangement or replacement of a private way.

Part 7 – Forestry Buildings and Operations

A.2; development consisting of the erection of a building or the extension or alteration of a building or the formation or alteration of a private way.

Before development commences the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building or the siting and means of construction of the private way.

Part 11 - Development under Local or Private Acts or Orders (including HRO)

a) The erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam, or
b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury

Is not permitted unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained. Prior approval should not be refused unless:

a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

Part 17 - Development by Statutory Undertakers

Class F; Gas Transporters

Class F (e) the erection on operational land of the [gas transporter] of a building solely for the protection of plant or machinery.

Condition F.2(c); development is permitted subject to the approval of the details of the design and external appearance of the building before the development is begun.

Class G; Electricity Undertakings

Class G (e) the erection on operational land of the undertaking or a building solely for the protection of plant or machinery.

Condition G.2(d); development is permitted subject to the approval of the details of the design and external appearance of the building before the development is begun.

Part 19 - Development Ancillary to Mining Operations

Class B; The carrying out, on land used as a mine or on ancillary mining land, with the prior approval of the mineral planning authority, of operations for the erection, installation, extension, rearrangement, replacement, repair or other alteration of any

(a) plant or machinery,

(b) buildings, or

(c) structures or erections.

Prior approval referred shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because;

a) the proposed development would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury, or

b) the proposed development ought to be, and could reasonably be, sited elsewhere.

Class C; The carrying out with the prior approval of the mineral planning authority of development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

Prior approval referred shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because;

a) the proposed development would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury, or

b) the proposed development ought to be, and could reasonably be, sited elsewhere.

Part 20 - Coal Mining Development by the Coal Authority and Licensed Operators

Class E; The carrying out by the Coal Authority or a licensed operator, with the prior approval of the mineral planning authority, of development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

Prior approval referred shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because;

a) the proposed development would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury, or

b) the proposed development ought to be, and could reasonably be, sited elsewhere.

Part 24 - Development by Telecommunications Code System Operators

Condition A.3(3); Before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting and appearance of the development.

Part 30 - Toll Road Facilities

Class A; Development consisting of:

(a) the setting up and the maintenance, improvement or other alteration of facilities for the collection of tolls;

(b) the provision of a hard surface to be used for the parking of vehicles in connection with the use of such facilities.

Condition A.2(a); the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the facilities for the collection of tolls.

Part 31 – Demolition of buildings

Condition A.2(b); where demolition is not urgently necessary in the interests of safety or health the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the method of demolition and any proposed restoration of the site.