

Sheds and other structures Q&A

The following Q&A has been developed in conjunction with the Department for Communities and Local Government (DCLG). This Q&A is for guidance only.

Allotments may require planning permission, depending on how they are to be used - the local planning authority will require a planning application for structures that qualify as 'development'. If in any doubt, plot holders are advised to seek the advice of their local planning authority in the first instance.

DCLG supports the approaches of those local planning authorities that take active steps to simplify planning procedures and measures to support communities to grow their own food. DCLG would also support local planning authorities providing local area clarity on this matter for allotment plot holders to help alleviate barriers to food growing, whilst recognising that the local planning authority may need to respond to complaints or issues of concern for the public should they arise.

Whilst DCLG is unable to comment directly on specific cases, NSALG may be able to offer tips and advice for plotholders to get the best from their allotments.

Q1: Does my shed (or any other structure) on my local allotment require planning permission?

A1: There can be uncertainties concerning allotment structures and planning permission. Where there is doubt, it is advisable to consult the relevant local planning authority in the first instance.

Planning permission is generally required for structures that count as development in planning law. Factors that may be relevant include:

- whether the size of the structure is such that it would normally have to be built on site rather than brought in ready made;
- whether it is easily moveable;
- whether the construction suggests some degree of permanence; and
- whether it is physically attached to the ground (though just because the structure isn't attached to the ground will not necessarily take it outside the scope of planning control, depending on the above factors).

Some development may be covered by permitted development rights, which grant automatic planning permission for certain specified kinds of development, without the need for a planning application from the local planning authority. For example, Part 12 of Schedule 2 to the Town and Country Planning (General Permitted

Development) Order 1995 permits a local authority to erect small ancillary buildings of less than 200 cubic metres wide and less than 4 metres high on land belonging to, or maintained by them subject to certain limitations and conditions. These buildings may be undertaken by the local authority directly or on their behalf, but plot holders should always check in advance that the local authority is prepared to provide a shed using these powers.

Q2: What can local councils do to relax planning regulation on allotments?

A2: Local Development Orders (LDOs) are tools by which local councils can grant area-wide planning permission for certain types of development. LDOs result in savings for developers by removing the uncertainty and costs associated with applying for specific planning permission, therefore planning policy encourages the use of LDOs.

Q3: Is planning permission impossible to obtain for sheds in conservation areas?

A3: No. Conservation areas are designated for their special architectural or historic interest, and some local planning authorities may have policies for these areas which could influence decisions on whether to allow a shed to be built on an allotment. Conservation areas can vary considerably in character, and what is considered inappropriate in one might be acceptable in another. The effect on the area's special interest would be a major consideration for the authority concerned.

In deciding whether to withdraw permitted development rights local planning authorities are able to consider whether these rights would undermine the visual amenity of the area or damage the historic environment. Local councils may introduce tight control over development to preserve the amenity of Conservation Areas. It is for the local council to determine whether development complies with planning control and whether any enforcement action rectifying breaches of planning control is required. If in any doubt as to whether development complies with planning control it is advisable to contact the local council directly.

Q4: The planning regulations are a barrier to putting up sheds on allotments - can't this be changed and made easier?

A4: Approving sheds on allotments does not necessarily have to be a complicated, bureaucratic process. The Local Government Association has produced the following guidance for local authorities on this matter:

1. *"Authorities are entitled to require permission for erection of sheds within tenancy agreements and to specify details regarding their size, construction and location, but should not impose unreasonable restrictions or specifications. The report of the Allotments Advisory Committee in 1950 recommended that the procedure for application for sheds be made as simple as possible and this is also true today."*

[Text taken from Growing in the Community, published 2008. This best practice guide (a Local Government Association priced publication) is available at www.lga.gov.uk/lga/publications/publication-display.do?id=5403533]

2. *“Planning permission may be required for sheds and greenhouses, particularly if they are large or on a permanent base.”*

[Text taken from ‘A Place to Grow’ published 2010, as supplementary guidance to the above publication – made available free of charge by the LGA – and available at www.lga.gov.uk/lga/publications/publication-display.do?id=9027596]

Whilst it might still be a relatively straightforward matter to determine that the once standard - of typical construction, small, ready made, moveable - shed is unlikely to require planning permission if the factors that would qualify it as ‘development’ do not apply, sheds now come in wide ranging shapes and sizes. Plotholders now frequently construct their own sheds using discarded or recycled materials, and whilst this is generally a sustainable and laudable practice, some degree of sympathetic regulation may be necessary to prevent the site from appearing too untidy or presenting a hazard. Plotholders should check their tenancy agreements for information on this subject, and if in any doubt about whether a structure qualifies as development should consult their local planning authority.

Q5: I have heard there is inconsistency with some local planning authorities requiring planning permission for sheds and some do not – why is this?

A5: Parliament has given local planning authorities responsibility for day to day planning control. Local planning authorities are responsible for deciding in the first instance whether allotment structures qualify as ‘development’ in planning law and they must do this by considering all the facts and circumstances of the case (see A1 above). In practice, approaches on this matter may vary from one local planning authority to another and the Government is keen that local authorities operate according to local needs.

Q6: Do greenhouses and poly tunnels also come under the same rules with regards to sheds and planning permission?

A6: Greenhouses and poly tunnels may be treated in the same way as sheds.

Q7: Why shouldn’t I just put a shed up and accept the consequences of any subsequent planning action?

A7: DCLG would always advise plotholders to consult the local planning authority in advance of any development. It is true the planning process may open the door to subsequent objections which some may perceive as a barrier to siting a shed, but pre-emptive measures of community consultation may help to strike a balance between the desires of the plot holder and the local community, leading to an acceptable outcome.

Some structures constructed by a local authority may be deemed ‘permitted development’ (see A1) and therefore do not require a planning application. Again, it

is advisable to check with the local planning authority and whether the local authority is prepared to provide a shed.

Q8: Surely central government needs to produce clear guidance on sheds so the situation is clear.

A8: Guidance on allotments – which includes references to sheds – already exists. As well as offering good management practice in terms of allotments, these guides also summarise the relevant allotment law and statutory duties.

Current key guidance includes:

- A Plotolders Guide: This guide (free to download) was produced for the Department for Communities and Local Government and is available at www.farmgarden.org.uk/ari/documents/plotoldersguide.pdf
- Growing in the Community: This best practice guide (a priced publication) was published by The Local Government Association and is available at www.lga.gov.uk/lga/publications/publication-display.do?id=5403533
- A Place to Grow: Produced as a supplementary document to ‘Growing in the Community’ above. It is available free at www.lga.gov.uk/lga/aio/9027597

Q9: Why can't local people decide for themselves whether a shed is a permanent structure, rather than the authorities interfering? Isn't that what Big Society is all about?

A9: In reality, ill-thought out development by one person can lead to an unforeseen problem for another person, so there needs to be a degree of control. On receipt of planning applications or enquiries about whether planning permission is required, local planning authorities have to first decide whether allotment structures are development, considering the factors listed in A1 above, in order to determine whether or not planning permission will be required. Approaches on this matter may vary from one local planning authority to another, with some local planning authorities asking individual plot holders to apply for planning permission for structures on allotments depending on a pre-determined specification and criteria, and other local planning authorities adopting more of a case by case approach.

Big Society is not about breaking the law. It is about local people being more empowered to make a difference to where they live (through for example decision making or getting involved), and to do so working with their community and local authority.

Neighbourhood planning is a radical new right being introduced through the Localism Bill. Neighbourhood plans give a community the opportunity to choose where they want new homes, shops and offices to be built and what those new buildings should look like. A referendum at the end of the process ensures communities have the final

say on whether a neighbourhood development plan or order comes into force in their area.

Q10: Do I need planning permission for a fence on an allotment?

A10: In the first instance you should establish from the local planning authority whether permitted development rights might apply (most fences up to 2 metres in height (or 1 metre in height if adjacent to a highway) are permitted development under Schedule 2 to the General Permitted Development Order 1995, <http://www.legislation.gov.uk/uksi/1995/418/schedule/2/made>, so a planning application may not be needed. However, it is always sensible to discuss with the LPA before going ahead and building a fence.

Q11: What is the difference between allotment land and agricultural land?

A11: Allotment gardens are defined in section 22 of the Allotments Act 1922 which can be found at <http://www.legislation.gov.uk/ukpga/Geo5/12-13/51/section/22>. The use of land for allotments may be agricultural or may be leisure depending on the facts in any given case. Use of the land for growing food does not require planning permission but any buildings may require planning permission, as described above.