

COPIES OF PLANNING DOCUMENTS

1. Under paragraph 8 of Schedule 1 to the Town and Country Planning Act 1990 (“the 1990 Act”) (for England) and paragraph 2 of Schedule 1A to the 1990 Act (for Wales) local councils may request local planning authorities (“LPA”) to notify them of planning applications in their area. If so requested, the LPA must send the local council a copy of the application or give written information which indicates the nature of the proposed development and identifies the land concerned (see Legal Topic Note 59 - The Rights of Local Councils to be Notified of Planning Applications and Decisions).
2. Local councils will almost invariably need more information than the statutory minimum and many LPAs provide a copy of the application (and plans) submitted by the applicant. Normally the copy is supplied free, but some LPAs charge an administrative fee or copying charge (which they are entitled to do).
3. The applicant can be required by the LPA to supply up to three additional copies of the application. Further copies can be requested but the applicant may decline to supply them. It may sometimes be the case that the applicant does not provide a sufficient number of copies of the application to enable the local council to receive one. The LPA can make an additional copy, or copies, without breaching the law of copyright.
4. The relevant legislation is section 47 of the Copyright, Designs and Patents Act 1988 (“the 1988 Act”) which covers two separate situations where material is open to public inspection because of a statutory requirement, or is on a statutory register, (as with planning applications). The two situations are in respect of copying information to the councillors and copying information for the public.
5. The copying of factual information (e.g. details of the application) is allowed with the permission of the LPA, so long as the copies are not to be issued to the

public. This would therefore apply to the making and supply of copies of planning applications to local councillors (section 47(1) of the 1988 Act).

6. The copying or issuing to the public of copies of the planning application or making it publicly available in electronic form is allowed so long as it is done by or with the permission of the LPA and it is to enable it to be viewed at a more convenient time or place or assist the public in responding to an application (section 47(2) of the 1988 Act).

7. For plans and technical drawings the Copyright (Material Open to Public Inspection) (Marking of Copies of Plans and Drawings) Order 1990 ("the 1990 Order") requires local councils when providing copies of plans and drawings to the public or publishing them on their websites to include the following statement:

"This copy has been made by or with the authority of [insert the name of the person required to make the plan or drawing open to public inspection] pursuant to section 47 of the Copyright, Designs and Patents Act 1988. Unless that Act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner."

8. So long as the local council gets the permission of the Local Planning Authority to copy planning application documents it need take no further action but any copying without that permission would be an infringement of copyright unless the permission of the actual producer (e.g. applicant or architect) was obtained. Without that permission the copyright owner could take legal action against the council for damages and/ or an injunction to prevent repetition. Given the costs involved in bringing proceedings and the amount of damages that could be awarded it is unlikely that such action would be taken.

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
39	Copyright	Sets out the law in respect of copyright in further detail.
40	Local councils' documents and records	Sets out length of time documents should be retained by local councils etc.
58	Appealing Planning Decisions	Sets out the appeal mechanisms most frequently of interest to local councils.
59	The Rights of Local Councils to be Notified of Planning Applications and Decisions	Sets out the relevant considerations.
83	Neighbourhood Planning	Sets out the procedure for obtaining a Neighbourhood Development Plan or Neighbourhood Development Order.

© NALC 2016

This Legal Topic Note is published by National Association of Local Councils

109 Great Russell Street

London

WC1B 3LD

Tel: 020 7637 1865

Fax: 020 7436 7451

E-mail: nalc@nalc.gov.uk

Website: www.nalc.gov.uk

Previously issued – June 2016