



A Guide To Planning And Logistics





Purpose of this guide

In operating and dealing with the planning system it is helpful if planners and logistics operators understand the needs, concerns and basic jargon of each other. Every specialist area has its own language and terminology, and this booklet has been prepared to foster the necessary mutual understanding.

The Haulage industry has undergone a rapid and profound change over the last 30 years, as it has responded to the challenges of the global economy. It has moved from an industry dominated by family run companies, and same-industry fleets, to a specialised operation, highly organised and dedicated to reliability and on-time and just-in-time deliveries. Road haulage has become Logistics, integrated with rail, air and sea freight dealing with complex supply chains, and having a strong presence of international companies, as well as the home-grown.

The industry still has the same basic physical “hardware” needs - lorries, trains, loading/unloading facilities, premises and service facilities.

The provision of operational on-site facilities means that planning permission is required for the development of land, under the country’s national planning control regime. Planning is an open system, where outcomes are influenced by all of the various inputs from applicants, councillors, officers, and members of the public.

The Logistics Industry

The UK Logistics sector is important for two reasons. Firstly, it is a large sector in its own right, employing hundreds of thousands of drivers, administrators, warehousing staff etc. Secondly, it is an essential part of all businesses supply chain, providing materials to factories, supplies to hospitals, food to supermarkets and supporting utilities with fleets of both light and heavy vehicles.

In the UK there are around 450,000 Heavy Goods Vehicles (defined as over 3.5t) and more than three million vans. The driving of HGVs is tightly regulated by either EU or UK rules (depending on the type of operations) that limit drivers' hours and require set breaks during and between shifts. Those hours are recorded on tachographs and may be inspected by VOSA or the police. The penalties for driving without the required rest are significant and an operator can lose his or her licence if they knowingly allow such practices.

Distribution Networks. The UK economy is supported by an extensive network of Regional and National Distribution Centres where many single-item loads come in and many multi-item loads go out to individual customers such as supermarkets. These RDCs and NDCs are located to make best use of the strategic road network as well as to give access to ports and rail interchange facilities. Increasingly, goods and raw materials arrive into the UK through deep sea ports instead of being sourced in the UK. The location of these facilities and the distances between them make it necessary for drivers to stop mid-journey, and therein lies the importance of suitable truck stops. These need to provide appropriate facilities and many need to be secure in order to prevent the theft of and from vehicles. Often, when critics complain about the antisocial activities of HGV drivers these are unavoidable because of a lack of other provision. The perception of truck stops as a magnet for crime is incorrect – providing good, secure facilities reduces anti-social behaviour as well as eliminating inappropriate parking in lay-bys etc.



Transport companies are required to hold an Operators Licence that specifies where vehicles are to be kept and how many a given site may accommodate. These licences need to be renewed periodically and may also be adjusted to take account of the needs of the business. Local Planning Authorities and others are able to request conditions on the Operators Licence but the final decision lies with the Traffic Commissioner. If any of the conditions are not met, then sanctions will apply.

The Planning System

The general planning legal framework. All “development” (including uses of land for logistics activities and the construction of related buildings) requires planning permission, and this permission is normally given by the local planning authority on application being made. There are “permitted development rights” for certain categories of development, but these will not normally apply to Logistics developments. All of these terms have precise legal meanings.

Therefore, whether carrying out building or other operational works, or changing the use of some land, it can be expected that a planning application will be necessary.

Planning applications should be determined in accordance with the development plan and any other material considerations, including government planning policy. The development plan will consist of published Local Plans and Policies for an area, available for inspection on the relevant Council’s website. Some policy documents may not yet be fully adopted, but they are still capable of being taken into account. There will be some policies and proposals within the development plan that will affect the way all proposals are viewed. The contents of the National Planning Policy Framework (NPPF) must also be taken into account, along with other material considerations. The determination of planning applications in accordance with all of these issues is the main means by which a Local Authority shapes its area, promotes suitable development and protects the amenities of its residents.

Planning applications are determined by the relevant local planning authority, who should normally aim to deal with them within 8 weeks, though complex and major issues will inevitably take longer.

When a planning application is made it must be accompanied by properly completed forms, plans and certain accompanying information/reports. These are legal requirements which a suitably qualified Agent can advise on. The lack of required information means that the application is invalid and cannot be registered.

Applications must be publicised in a legally prescribed manner, to give interested members of the public and others every opportunity of becoming aware of proposals that affect them, and making relevant comments. Once the “publicity period” is over the planning officers will consider the proposal in depth, taking into account all views expressed and all relevant policies. Additional information may be required, or changes sought, to improve the proposal.

The views of third parties, including local residents and Councillors, will be weighed up in the analysis of the application. To be relevant these views must be based on material planning issues, such as amenity and highway safety.

The final decision on an application may be made either by a relevant Committee of the Council, or, in simpler cases, by an Officer of the Council acting within delegated powers.

If the application is to be determined by a Committee, this will be at a formal meeting which will be conducted in a manner established within the authority. At all times the decision-making process will be impartial, and not unduly influenced by applicant or objector.

A written report on all Committee items will be prepared and be available for inspection beforehand. The report will identify all of the relevant issues and weigh up the proposals in relation to adopted policies and comments made. A clear recommendation should be made by the officers within the report (or, if key matters remain outstanding, at the meeting), and planning conditions should be recommended to control the development. Public speaking will almost certainly be allowed at the meeting, and so applicants will have to judge if they think it would be helpful to their cause to participate, and if so, who should do this. Decisions will be by a vote of Councillors on the Committee. Sometimes decisions will be deferred to a later meeting to enable additional information to be gained, or a Members' site visit to take place.



Once the decision is issued it cannot be changed. If the applicant has received a refusal of permission, there is a right of appeal to the government, and the case will be reviewed by an impartial Inspector. This may be carried out on a written basis (time period, about 19 weeks) or through a Hearing or a more formal Public Inquiry (much longer).

Sometimes there may be scope to address some of the issues identified within the planning refusal notice and submit a second, amended, application in the hope of a more favourable consideration. These issues are best discussed with the relevant planning officer prior to lodging any appeal.

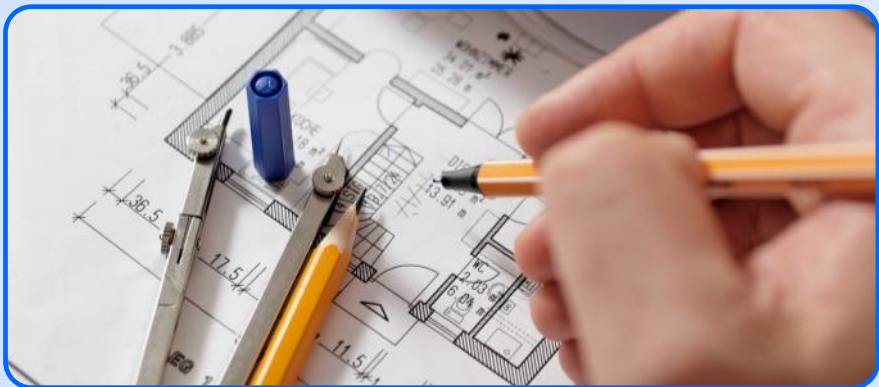
Once planning permission is granted there is currently no right of appeal by third parties against this decision. In rare circumstances, the decision of a Local Planning Authority (or, for that matter, the Secretary of State) can be challenged through the Courts as having been made unlawfully. Typically, this will not be on the planning merits of the case, but on the basis that certain issues and procedures were not properly followed or taken into account. Such challenges have to be made within three months of the decision date, and there are financial liabilities for challengers to take into account.

It is important to remember that Planning Permissions “run with the land”, they are not normally personal to the applicant. They may therefore be implemented by any party, provided this is in accordance with the terms and conditions of the permission granted. Building and site layout works must be carried out in accordance with the terms of the permission granted, and any prescribed on-going limitations on the use of the site must be adhered to unless otherwise first agreed through an appropriate mechanism with the Local Planning Authority.

If development is carried out that is not in accordance with the permission granted, the Local Planning Authority will normally seek voluntary compliance from the developer. However, if this is not forthcoming, a Planning Enforcement Notice can be served requiring compliance. Such Notices can require demolition of unauthorised structures, the discontinuance of any unauthorised land use, and the restoration of the site to its former condition. There is a right of appeal to Enforcement Notices, but failure to comply with a valid Notice constitutes an offence. Prosecutions and significant fines can occur. The local authority also has a range of other specialised enforcement powers, including court injunctions and direct action, that can be called upon in exceptional circumstances, to remedy significant problems.

In cases where enforcement action arises, it is imperative that an open and positive dialogue is maintained between the planning authority and the developer. The planning agent will be a key figure in such cases.

The use of a suitable Planning agent. There are many issues to be taken into account in the making of an application and the handling of associated planning affairs. Planning and advance preparation of the case for development are vital and represents time well spent. It is important to allow sufficient time for the necessary consultations with the Local Planning Authority to be carried out before the application is submitted. They may well advise that specialist studies or consultations are required prior to submission, all of which takes time.



Logistics operators are strongly recommended to use suitably qualified expertise to act as agent in this process. Large companies may have their own in-house chartered planner, and others will be able to identify a suitable candidate, either by asking around within the industry, or by reference to say the Royal Town Planning Institute (“RTPI”), who maintain lists of known planning consultants, but are unable to make specific recommendations. Companies are advised to find an individual (who may be self-employed or employed within a larger consultancy) who is experienced in dealing with haulage industry issues, and is a chartered member of the RTPI.

Contacting the Planning Authority. If you are contemplating opening up a new Depot, or altering an existing one to any significant degree, you will need Planning Permission. There may be planning conditions applying to your site, inherited from the original permission for the site, and if you wish to amend these, formal approval may well be required. In all cases the first step would be to discuss this with your agent. He/ She will probably advise making contact with the Planning Authority, and this may be made either in writing, or through an appointment. Different authorities have different procedures, but most would rather have preliminary discussions with you than be faced with an application with little background.

In some cases and with some authorities, provision of pre-application advice by the Council is chargeable, at pre-determined rates.

The Traffic Commissioners

Goods vehicle operator licensing is a system of licensing aimed at ensuring the safe and proper use of goods vehicles and the protection of the environment around operating centres (i.e. the place where an operator normally keeps their vehicles when they are not being used).

Most users of commercial vehicles that weigh over 3.5 tonnes (i.e. the maximum permitted total weight when loaded) require a licence. The holder of a licence is the ‘operator’. A licence will authorise an operator to use up to a maximum total number of motor vehicles and trailers, and to use a specific operating centre or centres.

An operator must hold a licence in each Traffic Area where they have an operating centre or centres. Licences can authorise the use of more than one operating centre. Licence applications are made to traffic commissioners. Each traffic commissioner is a separate public body and, whilst appointed by the Secretary of State, each is independent of any Government department regardless of whether they are exercising judicial functions or not. Each traffic commissioner is designated as an individual tribunal for the purposes of Schedule 7 of the Tribunals, Courts and Enforcement Act 2007.

There are eight traffic areas and seven traffic commissioners. The suitability of a proposed operating centre is just one of a number of matters which a traffic commissioner must consider before granting an application. Other matters include an applicant's fitness to hold a licence; the financial resources available for, and arrangements in place, to maintain their vehicles; and, where appropriate, professional competence. Once a licence has been issued an operator can apply to amend (vary) it.

Owners and occupiers of land or buildings near an operating centre who feel that the use or enjoyment of their own land would be adversely affected by the proposed operating centre have a right to make their views known to a traffic commissioner. They are called representors; representations can be made only on environmental grounds. Objections can be made by statutory objectors such as local authorities, planning authorities, the police, and certain trade associations and trade unions. They may object to the grant of an application on the grounds of repute or fitness to hold a licence, finance and the professional competence of the operator as well as on the environmental and general suitability of an operating centre.

The following organisations have a statutory right to object to an application for a goods vehicle operator's licence or an application to vary a licence once issued:

- a Chief Officer of Police;
- a Local Authority (but not a Parish Council);
- a Planning Authority;
- the British Association of Removers;
- the Freight Transport Association;
- the General and Municipal Workers Union; (Now known as GMB)
- the National Union of Rail, Maritime and Transport Workers;
- the Road Haulage Association;
- the Transport and General Workers Union; (Now known as Unite)
- the Union of Shop, Distributive and Allied Workers;
- the United Road Transport Union.

Objections can be made on environmental or non-environmental grounds or both. Environmental objections may be made on the basis of use of land as an operating centre and which can be considered relevant to an objection may include: noise; fumes; pollution; vibration; visual intrusion.

Non-environmental objections may be made on one or more of the following grounds: the suitability of the applicant to hold an operator's licence on the grounds that they cannot meet the requirements to be: of good repute (for standard licences only); or fit to hold a licence (for restricted licences only); or of appropriate financial standing (for standard licences only); or professionally competent (for standard licences only), OR the suitability of the operating centre in relation to: size for the number of vehicles and trailers proposed to be parked there; the safety of the entrance and exit arrangements from the site onto the public highway; or parking facilities in or around the site.

The test for traffic commissioners is one of availability as opposed to whether planning permission has been granted. Appeal case law indicates that traffic commissioners should be reluctant to investigate or resolve outstanding questions of property law. If the operator can show that they are the owner or tenant of the land in question there is no obligation on the traffic commissioner to study the title deeds to ensure, for example that they do not contain a covenant which would prevent the land being used as an operating centre. If it becomes clear to a traffic commissioner that proceedings have been commenced, which will decide whether or not the land can lawfully be used as an operating centre, then the traffic commissioner will consider very carefully whether or not it is appropriate to wait until those proceedings had been resolved.



Key Messages for Logistics Operators about Planning.

- Find yourself a suitably qualified and experienced Agent, to handle your discussions and negotiations with the local planners, particularly if your proposals are major, complex or likely to be controversial.
- Discuss proposals informally with the relevant planning officer before making a planning application
- Be guided by your Agent and the Planning Officer as to the amount and type of back-up material that is required to support your application. Be prepared to present and explain your case at any time through the process.
- Allow sufficient time for pre-application discussions with the Planning Authority, and for follow up work that may be identified as desirable or necessary.
- Planning is a relatively open and public system where key decisions are taken by the Planning Committee. Committee members and planning officers will need to respond to residents' relevant concerns and to their own policies, so take them seriously and consider how your scheme can be shaped to minimise conflict. Consider too, what restrictive conditions you can live with, and have a dialogue on this with the planning officer before the Committee meeting.
- Be prepared to explain your position regarding the Operator's Licence to the planning authority and any other interested party - the overlapping concerns and different procedures are often a source of confusion.
- If you are not successful with your application you will wish to consider your rights of appeal, but the first step should be a discussion with the planning officer. Weigh up carefully with your advisor the chances of success before embarking on what can be a costly and time-consuming process.

Key Messages for Local Planners about Logistics.

- Understand the role of the Traffic Commissioners. Note that their ambit does not include the routing of vehicles outside the site, apart from very immediate highway safety concerns arising from its precise location. The Licensing system offers Local Planning Authorities opportunities to have an input into Commissioners' decisions and you may wish to take them. Delegated authority may be necessary.
- The Logistics Industry is essential to the national economy and in many areas is a significant employer. These are issues that should weigh positively in the applicant's favour. Be ready to take into account the wider industry needs for support facilities as well.
- Remember that competitive advantage, financial viability and tight financial margins can be very sensitive, and these can be easily impacted upon by some planning requirements.
- The industry is continually changing and most logistics applicants would of course prefer to have no operating restrictions applied to their site, since even if they can be accommodated readily today, circumstances may change in the future. However, if you are satisfied that certain restrictions are necessary and justifiable, try to discuss possible conditions with the agent before the Committee meeting.
- Considerations around economic benefits and job opportunities may be complex. Direct new jobs created by logistics developments, particularly in the local area, may not always appear significant, but the safeguarding of jobs locally or elsewhere may be more important in some cases.



Conclusions and Contacts

Hopefully this document has created a better understanding of the planning and logistics worlds. The following sources of information, current at the time of writing, may also be helpful:

- **The Planning Portal** - www.planningportal.gov.uk/ - a government sponsored information website on all aspects of the national planning system.
- Individual local authority websites – these will contain Council adopted and draft planning policies;
- **The Freight Transport Association** - www.fta.co.uk/ - the trade association that represents the transport interests of companies moving goods by road, rail, sea and air.
- **The Road Haulage Association** - www.rha.uk.net/ - performs a similar function to the FTA, but focussed on road haulage only.

The Vehicle and Operator Services Agency (VOSA) - www.dft.gov.uk/vosa/ - for issues relating to Vehicle Licensing and the Traffic Commissioners.

This guide is also available online via the following websites:

www.babergh.gov.uk
www.midsuffolk.gov.uk

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