

Landlord Consent Application Guide

Produced by: Suzanne Smith, Compliance, Maintenance and Risk Manager

Approved by: Nottinghamshire County Council Landlord Consent Group
(NCC LLC Group)

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1 Version Control / Distribution

1.1 Version Control

Any amendments to this document, should be recorded in the table below:

Date	Reason for Change	Author	Approver
24/02/2021	Initial version	Suzanne Smith	NCC LLC Group

1.2 Distribution

All Nottinghamshire schools (maintained and Academies)

Property Services

NCC LLC Group

1.3 Security Classification

The purpose of a security classification is to indicate the value of a particular asset in terms of the damage that is likely to result from its compromise. The security classification system ensures that information receives an appropriate level of protection and treatment across organisations, according to its degree of sensitivity.

This document has been given the following security classification:

OFFICIAL [FOR NOTTINGHAMSHIRE COUNTY COUNCIL, NOTTINGHAMSHIRE SCHOOLS AND TENANTS OF COUNCIL PREMISES USE ONLY]

The information within this document must not be made available to the public and should only be seen by those with a specific need to know.

This document should not be left unattended during working hours when staff are away from their desks and are unable to lock the room. Documents must not be taken out of the office unless appropriate security measures are in place.

Information classed as OFFICIAL may be transmitted across the NCC email system and shared via NCC electronic systems and networks such as SharePoint.

This document should be disposed of appropriately when no longer required (e.g. shredded or placed within a confidential waste bin).

2 Introduction

This document describes how to complete a landlord consent application and provides guidance on aspects to consider as part of the proposal.

The document is primarily targeted at maintained schools and other Council services who are seeking to make changes to their site or buildings and for Academy schools where proposals require landlord's consent under the terms of their lease from the Council.

In addition, its process and structure can be used to administer and progress applications for landlords consent from occupiers and tenants of the Councils wider commercial and community estate where the need for landlords consents will be outlined in the occupation agreement (lease, licence, tenancy, easement, etc)

Landlord Consent is required for any change of use of the premises or any works that affect the structure of the building, main building elements, its appearance, value or functionality that are proposed by occupiers of Council owned land or buildings. For occupiers who hold their premises under lease from the Council, the need for landlord's consent for various matters will be outlined within the lease.

This will include but is not limited to:

- Sub-leasing or underletting parts of your building for other uses or to different organisations e.g. coffee shop, youth club
- Assignment of the lease to another tenant
- All works that may disturb the fabric of the building and services connected to it (building structure e.g. walls, ceilings, floors and services such as electric, gas, water and safety systems).
- Alterations and additions to internal and external walls and ceilings including removals, insertions and extensions
- Refurbishments – any work that goes beyond routine repair and maintenance e.g. kitchen and bathroom refits, re-wires, window and door replacements, roof and roofline works, heating systems
- Demolition works
- Building of a new structure including multi-use games areas (MUGA)
- Inserting new fences (external)

3 Landlord Consent Application Process

3.1 Stage One – Pre-Approval

Stage One aims to assess if there are any fundamental reasons why the activity that the tenant/occupier is seeking consent for should not go ahead. This will include known development or change of use plans by the landlord.

3.2 Stage Two – Landlord Consent

Stage Two aims to assess if the requester has considered all aspects of the proposed project including health and safety, required authorisations and use of competent persons/organisations to complete the works

3.3 Process Flowchart

Landlord Consent is required for any change of use of the premises or any works that affect the structure of the building, main building elements, its appearance, value or functionality that are proposed by occupiers of Council owned land or buildings. For occupiers who hold their premises under lease from the Council the need for landlord's consent for various matters will be outlined within the lease.

This will include but is not limited to

- Sub-leasing or underletting parts of your building for other uses or to different organisations e.g. coffee shop, youth club
- Assignment of the lease to another tenant
- All works that may disturb the fabric of the building and services connected to it (building structure e.g. walls, ceilings, floors and services such as electric, gas, water and safety systems).
- Alterations and additions to internal and external walls and ceilings including removals, insertions and extensions
- Refurbishments – Any work that goes beyond routine repair and maintenance e.g. kitchen and bathroom refits, re-wires, window and door replacements, roof and roofline works, heating systems
- Demolition works
- Building of a new structure including multi use games areas (MUGA)
- Inserting new fences (external)



Send Landlord Consent Application Form with Stage One completed or request the latest form by emailing landlords.consent@nottscc.gov.uk. Stage One aims to assess if there are any fundamental reasons why the sub-lease or works should not go ahead. This will include known development or change of use plans by the landlord.



NCC review Stage One application and send Stage One approval letter, Stage One rejection letter clearly stating grounds for rejection or request additional information via email within 10 working days of receipt of application.



If Stage One approved, complete and return Stage Two of Landlord Consent Form and submit supporting information e.g. plans.
Stage Two aims to assess if the requester has considered all aspects of the proposed project including Health and Safety, required authorisations and use of competent persons / organisations to complete the works.
If required information is missing the application cannot progress until additional information is received. NCC will advise via email if additional information is required.



NCC to send official Stage Two approval letter or official Stage Two rejection letter clearly stating grounds for rejection or request additional information via email within 10 working days of receiving Stage Two application form.



The landlord or their representatives may inspect site during and/or after works to ensure the agreed standards have been achieved. If any imminent risk to life issues are identified these may be rectified by a representative of the landlord and charged to the requester. If the inspection reveals unsafe conditions at the site NCC will issue a formal notice with deadline for rectification. If rectifications are not completed to a satisfactory safe standard or a serious breach of health and safety regulations has occurred NCC may notify the Department of Education through the Legal Team.

4 Supporting Information Required

4.1 Description of Works or Activity Requiring Landlord's Consent

Please provide as much information as possible to allow the application form to be assessed.

4.2 Change of Use / Lease Arrangements

Sub-leasing or underletting parts of your building for other uses or to different organisations e.g. coffee shop, youth club. Details of the proposed sub lessee, their address and the terms of the proposed subletting.

Assignment of the lease to another tenant. Details of the proposed tenant, the terms of the proposed assignment, references for the proposed assignees confirming their ability to meet the lease terms.

4.3 Planning

Building and engineering operations are development and as such require planning permission. However, some development is 'permitted' – where as long as certain conditions can be met a specific grant of planning permission is not required.

Before seeking Landlord Consent an applicant can find out whether planning permission is going to be needed for the works. A starting point will be to contact NCC Planning development.management@nottsc.gov.uk

However, NCC Planning are not the correct planning authority for all development. For schools which are Academy or Voluntary Aided, or if the development is proposed by another body such as School Governors or PTA the correct planning authority will be the District Council.

Evidence of either planning permission having been granted, or written confirmation that proposed works are a permitted development not needing a grant of planning permission should be submitted with a Landlord's Consent application.

Some events (such as a pandemic) may mean that temporary planning laws are introduced; it is the Applicant's responsibility to ensure that these temporary measures are very clearly understood.

4.4 Impact on School Pupil Placement

The council's main concern/point of interest in respect of changes to buildings in terms of pupil placement relate to the impact on the provision of school places and the requirements of the school to address any loss of playing field/open space that the proposal might have.

Points to consider when planning a project and subsequently making an application for Landlord Consent

- Does the proposal require/have Section 77 consent from the DfE?

- Does the proposal have an impact of the provision of teaching capacity?
- Has the impact on teaching capacity been agreed/discussed with the Local Authority where this is a maintained school or with the ESFA/DfE in the case of the proposal being from an Academy?
- Where there is an impact on teaching capacity is this to be reflected in a revised Net Capacity Assessment (NCA), where it affects maintained schools, or a revised Funding Agreement where it affects an academy?

4.5 Building Regulations

The Building Regulations are there to ensure that all works carried out on buildings meet current legislation. This is to ensure that works are completed by a competent operator and in a safe manner.

The Building Regulations should be adhered to at all times; all contractors and sub-contractors should confirm that their proposals are compliant with the regulations.

Part M of the Building Regulations refer to carrying out works such that people with a disability are able to access the new/reconfigured space e.g. ramps, disabled toilets. Not currently having children at the school that would need such provisions is not a reason to exclude these items.

Part M does not just refer to people with physical disabilities. Colour, warm-to-touch door handles, light-to-open doors, floor coverings, lighting levels, Braille signage, should all be considered, and this is not an exhaustive list.

4.6 Health and Safety

The following regulations should be considered when planning and completing works.

- Health & Safety at Work Act 1974
- Workplace (Health, Safety and Welfare) Regulations 1992

The Health and Safety at Work 1974 Act gives guidance on many aspects of health and safety at work. One of the lesser known sections refers to the amount of space per person that should be provided. Applicants should confirm that their proposals adhere to the space requirements set out in the Act.

Further information about Health and Safety Regulations can be found on the HSE website using the link below.

<https://www.hse.gov.uk/guidance/index.htm>

4.7 Construction (Design and Management) (CDM)

The CDM Regulations 2015 place responsibility for managing the health and safety of a construction projects on three main duty holders. The client has overall responsibility for the successful management of the project and is supported by the principal designer and principal

contractor in different phases of the project.

The Client Management Arrangement Checklist provides a clear overview of the requirements of the CDM Regulations, but further reading is recommended. Nottinghamshire County Council provides Policy and Guidance under B31 of the safety manual and the HSE website also provides detailed guidance. Both links are provided below.

<http://home.nottscc.gov.uk/working/hr/health-safety/safety-manual/section-b31>

<https://www.hse.gov.uk/construction/areyou/commercial-client.htm>

CDM documents required prior to start on site:

Pre-Construction Information	Provided by client with assistance from principal designer
Construction Phase Plan	Provided to the client by the principal contractor
F10 Notification	Issued to the HSE by the client, if required

CDM documents required at completion:

Health and Safety File and O&M Manual	Provided to the client by the principal contractor
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4.8 Fire Safety

The Regulatory Reform (Fire Safety) Order 2005 (or as amended by any future legislative changes which are enforced at the time) imposes a general duty to take such fire precautions as may be reasonably required to ensure that premises are safe for the occupants and those in the immediate vicinity. It is important that you review fire evacuation procedures when works alter the internal layout of buildings or external safe routes of access and assembly points. The Applicant is expected to ensure that any revisions or extensions to the existing Fire Alarm system are fully linked and are compliant with the County Council's Risk & Insurance requirements. Internal works may require Building Regulations approval if classified as a material alteration.

Applicants should confirm that their fire detection system, fire risk assessment and fire strategy will be reviewed/alterd to accommodate the changes proposed and that their insurers are aware of the changes. Examples where this would be relevant include where proposed alterations are to split a space, alter a space or create 'a room within a room'.

Applicants should also confirm that the revised configuration does not adversely affect the fire escape routes throughout the building. Consideration should be given to how works may inadvertently affect fire safety e.g. holes in fire partition walls created by installing new cabling.

4.9 Asbestos

When planning construction work you must consider if this is likely to disturb any materials that contain asbestos (ACMs).

Work with and management of asbestos is covered by the Control of Asbestos Regulations 2012 (CAR). The HSE have produced Approved Code of Practice L143 that explains how this

is applied (<https://www.hse.gov.uk/pubns/priced/l143.pdf>). The HSE have also produced Asbestos Essential Tasks sheets that set out how to carry out Non-Licensed Work in a safe manner (<https://www.hse.gov.uk/asbestos/essentials/index.htm>).

Initially, you must consider when the building was constructed and what information you already have in your Asbestos Register. The L143 (para 118) explains: *‘Consider the age of the premises when assessing if asbestos is present. Any premises whose construction was completed before 2000 should always be presumed to contain asbestos, unless there is strong evidence to suggest they do not.’*

When reviewing your Asbestos Register, be aware that it is a record of the ACMs found by Management Surveys and any subsequent Refurbishment Surveys, so if an area is not covered in your Register you must apply para 118 and presume that asbestos is present. You must then consider:

- Do you need a Refurbishment Survey of the area where the work is planned to determine if there are ACMs that need to be managed? If you do, appoint one of the Asbestos Consultants from the Arc Partnership Framework (details in the P2 Library). They need to be given a clear brief about the areas to be surveyed and be instructed to update your Asbestos Register with the findings from their survey. You should be clear about the quality of “making good” you require as they will be making holes in your building to take samples. They also need to be instructed to carry out a review of the area when the work is completed to update your Asbestos Register to identify any ACMs that have been removed and any ACMs that have been left in place for you to manage (CAR Reg 4, the “duty to manage”).
- Do you need an asbestos abatement specification (setting out what needs to be done with any ACMs) so you can seek quotations from contractors? You can ask the Asbestos Consultants to write this for you.
- Is the proposed asbestos-related work Licensed or Non-Licensed Work (CAR Reg 3)? If Non-Licensed, is it Notifiable to the HSE? The flow chart in the HSE’s Asbestos Essentials task sheet A0 will help you with this (<https://www.hse.gov.uk/pubns/guidance/a0.pdf>). If it is Licensed, you must appoint a Licensed Asbestos Contractor (CAR Reg 8). If it is Non-Licensed, you must appoint a competent contractor who can prove to you that they have been trained to follow the procedures set out in HSE Asbestos Essentials.
- Do you need someone to monitor the asbestos abatement work? If so, you can ask the Asbestos Consultants to do this for you and provide you with Certificates of Reoccupation when the works has been completed.

4.10 Legionella Safety

If changes are being requested to the water, heating or ventilation system it is important that prevention of legionella has been considered. Reducing elements where water can stagnate e.g. water tanks with reduce the risk of legionella.

Additionally, ideally unused outlets e.g. showers and dead legs should be removed from the system

4.11 Electrical Capacity

If the application is for works that will place additional demands on the electrical system it is vitally important that this has been fully accessed by a competent electrician. Overloading an electrical circuit can lead to system failure, fires and electrocution.

4.12 Building Closure, Boarding Up or Mothballing

Landlord's Consent should also be sought when closing and boarding buildings or mothballing certain areas of the buildings.

Any building to be closed or boarded should be secured by a professional, fully insured company. Applicants should demonstrate how the building is going to be insured, managed and maintained.

Where an area of a building is to be mothballed, the applicant should demonstrate how this area is to be secured, managed and maintained and the applicant should confirm that all services will be properly terminated without adversely affecting the rest of the building.

Where a building is closed and boarded or mothballed, fire and burglar alarm systems should remain active and monitored.

Where a sprinkler system is installed, this should be maintained in full working order. A risk register specific to the closed/boarded status of the building should be prepared.

4.13 Photographs

Photographs can be useful in supporting the application especially if NCC assessors are unfamiliar with the site. Annotating photographs can further support the application e.g. using an arrow to point to the wall that is planned to be removed.

4.14 Site Plans

Where possible, properly scaled and professional plans should be presented with proposals. These can then be added to the site Health and Safety file and used as 'as built drawings' unless the works are altered during construction.

For smaller projects e.g. window replacement, less detailed plans may be used but they should clearly identify the extent of the works to be completed.

4.15 Other aspects to consider when planning a project or change of use

The following should also be considered.

- Highways permissions
- Tree preservation orders
- Conservation areas - there are local planning conditions that need to be understood. Upgrades such as flood lighting or other additions that may affect the protected area may not be allowed.
- Underground services
- Ground contamination
- Drainage including future flood risk
- Maintenance of equipment installed as part of project
- Rights of light: While there is no specific law regarding rights of light, applicants should be satisfied that their proposals are not detrimental to neighbouring properties
- Insurance: Where a building or site is altered in any way, the tenant should formally notify its insurer, providing details of the work completed and materials used
- Listed buildings: Some buildings are listed, others may be of local interest. Applicants should note that these buildings are protected and that it may not be possible to alter them. Changes to listed buildings can be particularly expensive
- Party Wall Act: Where works are to be carried out in an area of a building that is close to the subject structure, applicants should confirm whether a Notice should be served on adjoining land and property owners. If the Act applies, then the applicant is obliged to prepare a condition report on both properties complete with a photographic record.
- Structural integrity: A structural report may be required to ensure planned projects will leave the building structurally safe. This is especially important if removing walls, doors, windows or other supporting elements.
- Insurance certificates for contractors completing the project in case works do not go as planned or someone is harmed.