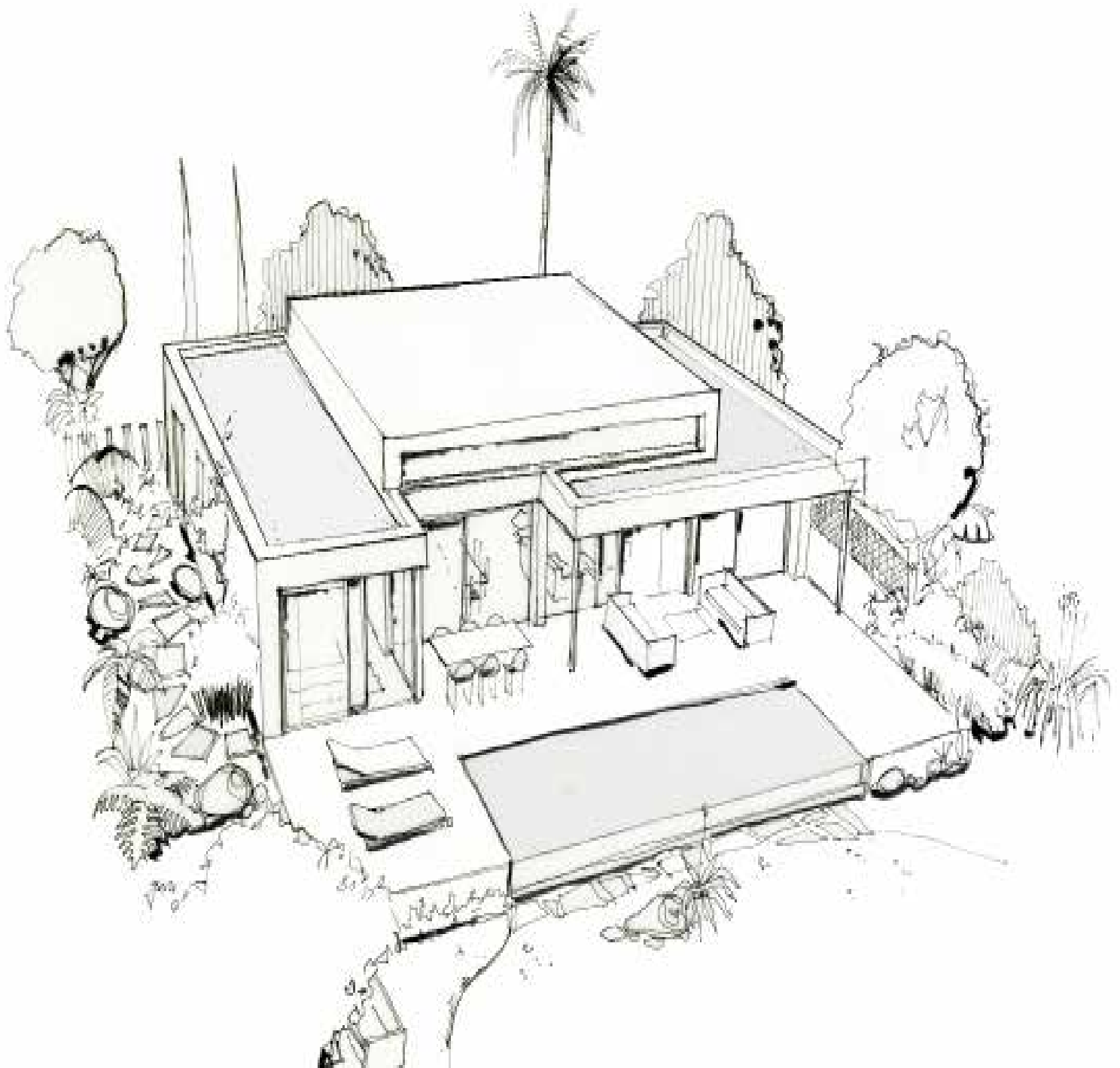


BUILDING A HOUSE IN SPAIN

General Overview



The Plot

In Spain, the construction of a dwelling may only be carried out in zones which are designated and approved as building land by local councils. The plots within these zones must be subdivided in units with individual deeds, and developers must have fully provided all necessary infrastructure.

New laws were implemented in 2002 which make granting of building licences not possible unless all necessary infrastructure is in place and signed off by the council's technical department as adequate and functioning, or alternatively, the council is in possession of bank guarantees for the value of the unfinished work.

The Licence

Provided that the plot is located within building land, the next step is to obtain a building licence, since the construction phase may not start until this has been granted. The following paragraphs outline the procedure to obtain this licence.

Once a design concept has been elaborated, the architect prepares a preliminary project, known as Proyecto Básico, which includes basic drawings showing plot location, floor plans, elevations, and sections, as well as a specifications report called Memoria. This report specifies the size of the dwelling and of each individual room, the level of occupancy, the costs involved, etc.

The architect will charge up to 40% of his/her fee at this point.

The Proyecto Básico must be submitted to the Chartered Association of Architects, who will then register the architect as being in charge of the new construction. The drawings are then designated with a number. One copy is retained for the Association's books and the remaining must be collected by the architect.

In order to obtain a building licence, 3 to 5 copies must be submitted to the local council. The client may keep up to 3 copies for mortgage application and related purposes.

Payment procedures vary from council to council. 100% of the project's licence fee is expected in some cases, while in others only a small deposit is charged, with the outstanding balance being paid on collection of the licence.

Inspection of the preliminary drawings is carried out by the council's technical and legal team in order to ascertain whether planning rules and regulations regarding size, level of occupancy of the plot, boundary distances, access to roads, height of retaining walls, etc., have been abided by.

If the outcome of the assessment is positive, the plans are then presented to the council's planning committee for official approval. This can be a lengthy process in some instances (e.g. averages of 6 to 12 months for Marbella's Council, 4 to 6 months for Estepona's Council, 4 to 6 months for Mijas' Council, and 2 to 3 months for Benahavis' Council).

Once the licence is available for collection, the outstanding balance (if any) must be deposited in the council's bank account. Payment receipts must be kept for later submission to council.

In some instances, as in the case of Ayamonte, councils require a deposit for possible damages caused to public infrastructure during the building process, which shall be paid on collection of the licence.

Submission of the project's architectural working drawings (see below) and payment receipts is required on collection of the building licence.

More and more townhall planning departments ask for a deposit to guarantee the garbage collection of the works. This deposit is refundable at the end of the works, by presenting a certificate for an authorized waste recycling company.



ARCHITECTURAL WORKING DRAWINGS

The project's architectural working drawings, known as Proyecto de Ejecución, are prepared by the architect and include drawings, details and/or calculations of the following:

- Foundations, structure, load bearing walls, roof trusses, etc.
- Plumbing & electricity.
- Carpentry.
- Flooring, bathroom tiling, false ceilings, wooden beams, etc.
- Special installations, such as air conditioning.

40% of the architect's fees shall be paid on completion of this phase.

The drawings are presented to the Chartered Association of Architects for inspection and approval of technical elements. This procedure guarantees that the building structure is sound and designed according to regulations.

An architectural engineer (Aparejador) must be appointed at this stage. The new construction is then registered by the Chartered Association of Engineers, whose mission is to ensure that all constructions meet official engineering standards.

A deposit of 30% on his/her fee (1.5% of total building costs) is paid to the engineer on signing of contract.

A health and safety study shall be presented to the council with the execution project. Also a health and safety coordinator shall be appointed during the construction period. It can be carried out by the architect in charge or by an external technician.



TENDERS & BUILDING MANAGEMENT

On completion of the architectural working drawings, the architect and the engineer will prepare a Bill of Quantities, which will serve as the base for obtaining prices from individual companies through tender for the construction of the building.

Hence, this document, together with the working drawings, is presented to construction companies, which will quote for the work to be carried out.

In Spain, companies do not tender offering a price per square meter. The price is defined by the contents of the Bill of Quantities instead, which is written in Spanish and has an average of 30 to 50 pages.

The builder may work on a fixed price based on the Bill of Quantities, which means that no changes can be introduced during the building process. Alternatively, an open tender offers the possibility of further changes during construction.

The final price given by the constructor is not closed, that is, if there are missing elements in the Bill of Quantities, the client has to cover the balance, since signing of the tender approval by the client prior to construction work is required. Therefore, ensuring the accuracy of this document is fundamental for successful budget control.

Submitted tenders are subsequently inspected and a construction contract is made with one of the companies.

From then on, the architect visits the site bimonthly and the technical engineer, weekly. Any queries from the builder are directed to the architect at his/her office.



BUILDING REGISTRATION PROCESS

The legalization process for the new building includes registering the construction in the official books, and consists of three stages, namely: declaration of new construction, sign-off, and obtaining a permit to inhabit the dwelling.

Declaration of New Construction

(Declaración de Obra Nueva)

Before the start of the construction phase, a technical inspection of the building design must be carried out by an independent body in order to ensure its structural soundness.

Therefore, once the geotechnical report for ground tests and the project's preliminary and working drawings have been produced, they must be submitted to a specialist company, i.e. the Organismo de Control Técnico, OCT, (Technical Control Body), for inspection.

The OCT will review the structural elements of the design and introduce alterations if required for safety reasons.

An appointment must be made with an OCT. Payment of a deposit and signing of contract shall be required at this stage.

The OCT's final report on the project's design must be presented to an insurance company, who will then issue a ten-year insurance policy for the construction.

The insurance company will also require partial payment and signing of contract at this stage.

Contracting of the OCT and the insurance company is usually carried out by the client or his/her lawyer.

At this point, a meeting must be scheduled with a notary public and the contracted engineer and architect to sign the declaration of new construction for the building (Declaración de Obra Nueva). Construction documents must be produced at the meeting, namely: the report prepared by the OCT, the insurance policy, and the building licence. The declaration of new construction is mandatory for all new constructions.

Two further payments will have to be made to the OCT for inspections during construction, coinciding with pending insurance instalments as the structure is guaranteed throughout the process.

Sign-off & Permit to Inhabit the Dwelling

(Fin de Obra & Licencia de Primera Ocupación)

Once the construction phase has been completed, the architect and the engineer sign the house off as finished (Fin de Obra), and register the construction as completed in the books of the Chartered Associations of Architects and Engineers, respectively, and the local council.

A new set of documents is submitted to council at this stage, including “as built” construction plans. The council’s technical team will then verify that the building adheres to these plans and that the infrastructure is correctly connected to the local network.

This will result in the issue of a permit to inhabit the dwelling (Licencia de Ocupación), which is essential to register the house in the deeds and add it to the plot.

Following the abovementioned procedures for registering the new construction is of paramount importance, since lack of the necessary documentation may make selling the dwelling impossible, or cause delays in payment. Also, local electricity and/or other suppliers will not provide their services unless all documents are in order.



LEGAL REQUIREMENTS during the Building Process

Individuals who hold a building licence issued by Council are legally protected against any limitations developers might try to impose, unless stated otherwise in the plot's purchase agreement.

However, legally, there are certain limitations at the time of construction which need to be considered, such as:

- During construction, materials, soil, or other construction elements may not be placed on communal land, non-built neighbouring plots, or any other common areas.
- Plot boundaries may not be used to access common areas (such as golf courses) or neighbours' land during or after the construction stage.

As stated above, a new construction is not legal unless it is registered in the books of the Chartered Associations of Architects and Engineers and supervised by a nominated architect and engineer. These professionals must also have insurance in place covering the site and their work.

A book, the Libro de Orden, must be kept on site and presented to the Chartered Associations when the building is signed off by the architect and the engineer.

The OCT must present certificates regarding the technical inspections required at different building stages.

The building contract makes the constructor responsible for occupational, health and safety issues on site, contract of appropriate insurance policies, fines incurred, etc. It is advisable to retain a given percentage from monthly payments (normally 5%) in order to cover for possible breaches and snag lists.



AVERAGE FEES

Architectural fees range between 4.5 to 7% of total building costs, including swimming-pool, house, and retaining walls, and are paid in three stages:

- At completion of preliminary drawings (Proyecto Básico). 40% of the fees.
- At completion of architectural working drawings (Proyecto de Ejecución).
- 30% of the fees.
- When signing-off (Fin de Obra). 30% of the fees.

Be aware that some architects' fees do not include landscaping and garden designs, structural drawings, occupational, health and safety studies, or further changes to plans. Extra visits to the site in order to supervise design elements are not normally included, either.

We recommend that the services of work are fully scoped and described in the contract between architect and client to avoid later discussions.

Engineer's fees range between 1.8 to 2.5% of total building costs. These are paid as follows:

- 30% on signing-up and registering the new construction with the Chartered Association of Engineers.
- 70% divided into equal instalments for the duration of the construction stage.

Health & Safety fees 0.5% of total building cost (30/70)

OCT inspection charges range from 0.7 to 1.2% of the total cost of the project, are calculated on architectural and engineers' fees and total project costs, and are paid in two or three instalments throughout the construction process.

The ten-year insurance policy is 1 to 1.8% of total project costs if contracted before starting building work. This is paid in three instalments coinciding with OCT payments. In the event of contracting the insurance policy after completion of the construction phase, the costs involved are much higher.



SUMMARY OF COSTS INVOLVED

Description of Services		Average Fees
Geotechnical and topography costs, early insurance administration, planning, etc.		According to company
Architectural fees (5-8% of total building costs)	Development Application (Proyecto Básico). Working Drawings (Proyecto de Ejecución). Signing-off (Fin de Obra).	35-40% of architectural fees 40% of architectural fees 20-25% of architectural fees
Technical Engineer's Fees (1.5-2.5% of total building costs)	Contract of services. Remaining percentage to be divided equally into the number of months of the building contract.	30-35% of engineer's fees 65-70% of engineer's fees
OCT inspection charges		0.7-1.2% of total project costs
Ten-year insurance policy	Contracted before starting building work Contracted after completion of construction phase	0.7-1.2% of total project costs Higher costs



Overview of building a house in Spain

* DISCLAIMER: This document acts as a guide only. Figures and specifications should not be used for contractual purposes. Images used are for illustration purposes only.