

**Greater Flexibility  
for Planning  
Permissions:  
An Update**

**DLP BRIEFING NOTE 12**

Prepared by  
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December 2009

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## **EXTENSIONS TO THE TIME LIMITS FOR IMPLEMENTING PLANNING PERMISSIONS: NON-MATERIAL AMENDMENTS; AND MINOR MATERIAL AMENDMENTS – AN UPDATE**

Further guidance has now been published by DCLG on the use of the measures which came into effect on 1<sup>st</sup> October 2009, allowing for extensions to time limits for implementing existing planning permissions; non-material amendments; and minor material amendments – see Client Briefings “New Rules for Seeking Minor Amendments” and “An Update to Extension of Time to Planning Permissions” (September/October 2009).

The final fee regime for these types of application is still to be confirmed, and new fee regulations are expected at the end of December.

### **(i) Extensions to time limits for implementing existing planning permission**

As already advised, this will be a temporary measure introduced in response to the prevailing economic circumstances and applies only to planning permissions granted on or before 1<sup>st</sup> October 2009. Only one extension to each permission will be possible and applications may be determined even if the original permission expired after the application submission. It is not advisable however, to leave submission until the last possible date.

Applications should be made on a standard form, and in most cases it is not anticipated that further information would be required. LPAs have discretion to seek further supporting information in cases where (a) there is need to comply with a statutory requirement in connection with the submission or (b) where there has been a material change in policy, or other circumstances arise and which post-date the application. Design and Access Statements are not required.

When determining applications, officers are encouraged to *“take a positive and constructive approach towards an application which improves the prospect of sustainable development being taken forward quickly”*.

For non-EIA applications, it is at the discretion of the LPA as to who is consulted and how. For EIA applications, the consultation requirements are as those set out in the EIA Regulations.

Extensions of time for listed building and conservation area consents are possible where they are associated with an application for the extension of a parallel planning permission, and this may be done on the same form.

Outline permissions can be extended and if reserved matters have already been approved, these do not have to be applied for again.

Whilst in the majority of cases, the outcome of a time extension application, if approved, will be that the original permission will continue to exist save for the new time limits, in some cases different conditions may be imposed, or some conditions could be removed; or it may be the case that the LPA or the applicant may seek changes to a Planning Obligation in order to make the proposal acceptable.

There is a right to appeal against refusal and non-determination, and the normal timescales for appeals apply.

## **(ii) Non-Material Amendments**

Section 96A allows a non-material amendment to be made to an existing planning permission via a simple application procedure. More than one non-material amendment can be applied for on the same form (and for the same fee) and there is an expedited decision timetable of just 28 days. There is no statutory definition of what constitutes 'non-material', and the LPA must be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

LPAs have discretion over consultation and publicity, however, the applicant must notify anyone who owns the land which would be affected by the non-material amendment, prior to making the application. When making a decision, LPAs must take into account any representations made by anyone notified and have regard to the effect of the change, together with any previous changes made under this section.

There is a right to appeal against refusal and non-determination, and the normal timescales for appeals apply.

## **(iii) Minor Material Amendments**

An application to make a minor material amendment can only be done so under s.73 of the Town and Country Planning Act 1990 where the permission includes a suitable condition that can be modified. The Government has recommended that, in order to facilitate the use of s.73 to make minor material amendments, LPAs should impose a condition on planning permissions which lists approved plans. If a permission does not currently contain such a condition, it will be possible to apply to add one under the non-material amendments procedure.

As s.73 applications are an existing procedure, the usual form should be used and the usual fee of £170 applies, and there are no proposals to change this fee.

Applications should be determined with regard to national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought. For non-EIA applications, LPAs have the discretion to decide which statutory consultees should be consulted.

There is a right to appeal against refusal and non-determination, and the normal timescales for appeals apply.

## **EIA Requirements**

Applications for a non-material amendment will not need to be addressed under the 1999 EIA Regulations. However, applications for an extension of time limits and applications for minor material amendments are considered as new applications for development consent under the EIA Regulations.

When the final fee regulations have been published, we will endeavour to update you further. In the meantime, should you have any questions or wish to speak to us about the possibility of DLP Planning applying for an extension to an extant planning permission on your behalf, please do not hesitate to get in touch.

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