

**Greater Flexibility  
for Planning  
Permissions  
Guidance**

**DLP BRIEFING NOTE 28**

Prepared by  
**DLP Planning Ltd**

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## **Extensions to the time limits for implementing planning permissions**

Introduced to make it easier for developers and Local Authorities (LA's) to keep planning applications alive for longer during the economic downturn. Allows applicants to replace an existing permission, which is in danger of lapsing. Only applies to permissions granted before 1<sup>st</sup> October 2009. Only one extension of each permission will be possible.

The application will be made on the standard application form, which has been amended for this purpose. The LA can seek further information to support an application, for example if the proposal is an environmental impact assessment (EIA) scheme and the LA considers that the environmental statement (ES) needs updating. However, it can only be justified if there have been changes in policy or a change of material considerations since the original application.

EIA Regulations (1999) apply and the LA may need to issue a new screening opinion. However, in most cases, where an EIA was carried out on the original application, further information to update the ES is unlikely to be required.

The submission of a Design and Access Statement is not required. However, LA's may require one if there have been changes to the local area since the previous approval.

Fees - £50 for householder applications, £500 for major development and £170 for other sizes of development.

LA's are encouraged to take a positive view of such applications. However, this process is not a rubber stamp. LA's can refuse permission if there have been changes to the development plan or other relevant material considerations mean that the scheme is no longer acceptable.

If there is a s.106 agreement, this may need to be linked to the new permission by a simple supplementary deed. LA's may impose conditions as they see fit and do not need to stick to the conditions on the original permission.

Listed Building Consents and Conservation Area Consents can also be extended, but only when linked to a planning application, which is also being extended. No Design and Access Statement is required and only one copy of plans.

Appeals can be submitted in the same way as other planning applications – within 12 weeks of refusal for householder applications and 6 months for other applications. All appeals against non-determination must be made within 6 months of the end of the determination period.

## **Non-Material Amendments**

Section 190 of the Planning Act 2008 inserted s.96A into the TCPA Act 1990. Section 96A allows a non-material amendment to be made to an existing planning permission via a simple procedure with a quick decision time.

There is no statutory definition of “non-material”, because it is dependant upon the context of the overall scheme. The LA must be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

Only a person with an interest in the land to which the non-material amendments relates can apply. There is a specific planning application form. No Design and Access Statement is required, because this is not an application for planning permission.

Non-material changes can be made to conditions. LA’s can no longer determine non-material/minor amendments under less formal procedures. In most cases no consultation or publicity will be required.

When making the application, the applicant must notify anyone with an interest in the land, giving 14 days for comments.

Fees - £25 for householder applications and £170 for other applications.

The LA should issue a decision within 28 days. The decision must be issued in writing. It is not a re-issue of the original planning permission.

There is no right of appeal against the refusal of a non-material amendment, because it is not an application for planning permission.

### **Minor Material Amendments**

In 2008, the Killian Pretty Review recommended that “Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted.”

WYG Planning and Design were commissioned to consider the options. They recommended that s.73 of the Town and Country Planning Act 1990 should be streamlined and clarified.

The definition of a Minor Material Amendment is: *“A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved.”*

Pre-application discussions will be useful to judge the appropriateness of this route and avoid possible wasted work on both sides.

Placing a condition on a consent, which lists the approved plans is encouraged. A condition listing plans can be added to a consent under the s.96A procedure (see above).

A Minor Material Amendment application cannot be made concurrently with an Extension of Time application. The Extension of Time application should be made first and then the s.73 application.

Where an EIA was carried out on the original application, the LA will need to consider if

further information is required to be added to the original ES to satisfy the requirements of the 1999 EIA Regulations.

LA's can decide which statutory consultees to notify when a s.73 application is received, unless it is an EIA scheme. The EIA regulations require statutory consultees to be consulted when a scoping opinion is requested by a developer and when an ES is received.

Fees - £170 in all cases.

The development will have been deemed acceptable when previously approved. LA's, when making a decision, should focus on 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.

When a s.73 permission is granted it is effectively a fresh grant of permission. A new decision notice should be issued setting out all of the conditions pertaining to it. As a s.73 application cannot be used to vary the time limit for implementation, this must be consistent with the original permission.

Appeals can be submitted in the same way as other planning applications – within 12 weeks of refusal for householder applications and 6 months for other applications. All appeals against non-determination must be made within 6 months of the end of the determination period.

Please note that this update supersedes advice given in earlier briefing notes, most recently Client Briefing Note 12, dated December 2009.

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