

**Extension of
Time to
Planning
Permissions**

DLP BRIEFING NOTE 5

Prepared by
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Proposals for the extension of time limits for the implementation of planning permissions.

Arising from government proposals to speed up the delivery of development, and to curtail what was seen as *land-banking*, the **Planning and Compulsory Purchase Act 2004 removed the right of landowners/developers to extend the life of a planning permission by an application under Section 73 of the Town and Country Planning Act 1990 (“TCPA”)**.

The current economic downturn however, has led to a significant fall in the number of planning permissions being implemented, particularly major schemes which are both generally more complex and require lengthier lead-in periods for, for example, the discharge of conditions, and are more sensitive to cost considerations by virtue of their size. With such developments there is a significantly greater risk of permissions lapsing and when this occurs, landowners/developers face, potentially, both further delay and expense, when of necessity applying for new permissions. This, in turn, further slows development and continues to give rise to much concern, and more generally, has impacted on economic recovery.

As a means of assisting the situation the government has recently announced its intention to introduce, **in October 2009**, new powers under which local planning authorities can extend the time limits for the implementation of existing planning permissions for “**major development**”.

Major development is defined in the General Development Procedure Order 1995 (Article 1 (2)) and comprises development the following:

- **Mineral operations**
- **Waste development**
- **Schemes for more than 10 dwelling houses or residential development of more than 0.5 ha**
- **Commercial floorspace of more than 1000sqm**
- **Development of a site of 1 ha or more**

Under the new powers, **which are to be introduced via secondary legislation**, the government propose to extend the time for implementation (of a planning permission) **by way of the grant of a new permission for the same development**. The powers will only be available **for planning permissions granted on or before 1 October 2009**, the date when the changes are due to come into effect. **Permissions granted after 1 October are unaffected, local planning authorities being directed to use their discretion under Sections 91 and 92 of the Act** to grant permissions for longer than the statutory default period of 3 years.

The renewal powers allow for an extension to be granted only once, after which, if consent lapses, the normal default applies and a new application will have to be made.

The government, in making the powers available, are encouraging local planning authorities to take a positive and constructive approach to applications for an extension of time. In considering applications however, **LPA’s will have regard to not only the development itself and the basis for its consent, but also to changes to policy that may have occurred since the original permission was granted**. It may also be **appropriate for consultation with relevant parties and for the reconsideration of environmental issues, possibly requiring EIA** (as any new permission granted pursuant to this new power will be a “development consent” for the purposes of the EIA regime).

Applications may be refused where changes in policy or other material considerations no longer support the proposed development. Appeal procedure and timing is the same as for any planning application.

An application will be made on the standard application form, which will be amended accordingly. **Information requirements should be less than upon the original application but this will depend on any changes in policy or circumstances, and importantly it will be a matter for individual LPA's to decide what is required over and above the minimum.**

An application fee of £170 is proposed once the fee regulations are changed, although initially a full application fee will be payable.

No other changes to the permission can be sought. The description of the development and all other conditions must remain unchanged in the new permission. **It should be noted also that any planning obligation entered into in conjunction with the original permission may need to be varied or replaced with a new deed linked to the new permission.**

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