



## Guidance on Non-Material Amendments to Planning Permissions

### Introduction

On the 1st October 2009, a provision under S96A of the Town and Country Planning Act 1990 was introduced allowing non-material amendments to be made to planning applications. The new provision does not, however, apply to listed building consents.

This provision was introduced by the Government so that small changes can be made to development proposals that have the benefit of planning permission through a simple application procedure with a quick decision time of up to 28 days. Amendments to approved schemes can arise from unexpected changes in circumstances or site conditions when the development is under way.

In exercising a more flexible and simpler procedure, great care is required to strike the right balance as to what is a genuinely reasonable and minor change and to ensure that the process does not undermine democratic procedures. It is also important to ensure that cumulative or incremental changes to approved schemes following a succession of amendments does not result in a substantial departure from what was originally approved under the scrutiny of more widespread public consultation and scrutiny.

As an application for a non-material amendment is a more streamlined and simpler process to an application for planning permission, the regulations relating to statutory consultations and publicity do not apply. Consequently, it is at the Local Planning Authority's discretion as to whether any consultation is carried out. In line with the Statement of Community Involvement, neighbours and other relevant interested parties from the application stage will be notified of any non-material amendment for a period of 14 days.

### The Procedure for Validating and Determining Non-Material Amendments

Applications for an amendment must be made on the form available from the Planning Portal (where all proposed drawings can be uploaded resulting the removal of the need to provide any paper copies of plans) or the Council's website and follow the national requirements of:

- i. 1 original and 1 copy of the completed and dated application form;
- ii. 2 copies of the amended proposed drawings and documents necessary to describe the subject of the application;
- iii. The correct fee. Applications in respect of householder development are £28 and applications in respect of other developments are £195.

Applications can only be made by someone with an interest in the part of the land to which the amendment relates. If the applicant is not the sole owner they need to serve notice on the other owners of the land to which the application relates. Other owners of the land have 14 days for making representations.

The application needs to give a description of the approved development, the amendments sought and the reasons for the amendments. Any old and all new plan numbers need to be identified, together with whether any are superseded by the change. This can be done either by including sets of both the original and amended drawings, or by superimposing the proposed amendment on those originally approved. In either case, the extent of the amendment must be clearly identified. The use of a highlighter pen, cross hatching or other notation is helpful.

Full specification of materials, colours and sections must be included where appropriate. There are no requirements for Design and Access Statements, although a brief statement to explain the amendment(s) and the reasons for requiring an amendment(s) may be helpful and could be requested.

There are no requirements for publicity, consultation or identification of unknown other owners by the LPA as these would have been covered by the original application. In accordance with the Council's Statement of Community Involvement, however, neighbours and interested parties to the original application will be re-notified and given a period of 14 days to make a representation.

The Local Planning Authority has 28 days to issue a decision.

The Local Planning Authority is able to impose new conditions or remove / alter existing conditions as part of the decision.

There is a right of appeal. The scope of the appeal will be limited to the proposed change. If the extent or nature of the revision(s) requested is considered to exceed a non-material amendment, the applicant will be advised in writing. Where appropriate, the applicant will be invited to submit a fresh planning application and advised of the likely acceptability of the proposals and any further issues to address. If made within 12 months of the original permission such a revised application would not normally attract a new fee provided that it relates to the same site area and is substantially similar to that originally approved.

Alternatively, amendments to a planning application can be made by varying a condition relating to the planning permission where it relates to the specific plans that have been approved through Section 73 of the Planning Act. A Strong, Sustainable and Dynamic Island Community

## What constitutes a non-material change?

S96A of the 1990 Act states that '*In deciding whether a change is material, a LPA **must have regard to the effect of the change**, together with previous changes made under this section, on the planning permission as originally granted.*' In addition, as there is no statutory requirement to consult or re-notify neighbours, it could be implied that any revision that would affect a consultation response or affect a neighbour is material and would not constitute a non-material amendment.

In the absence of any specific Government guidance, the following guidelines will be used to determine what distinguishes a non-material amendment from a material amendment requiring a fresh application or variation of a planning condition:

- Is the proposed change inconsequential in terms of its scale (magnitude, degree etc) in relation to the original application?

**If so, then 3 further tests need to be applied - go to 2, 3 and 4 below:**

1. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
2. Would the interests of any 3rd party or body who participated in or were informed of the original decision be disadvantaged in any way?
3. Would the amendment be contrary to any policy of the Council?

If having successfully applied the first test, the answer to any of points 2, 3 and 4 is Yes, then the matter cannot qualify as a non-material amendment.

### Other Considerations

1. Is the matter covered by a restrictive condition on the original approval? *If yes - it cannot be dealt with as a non-material change.*
2. Was the matter the subject of any objections or other material representations on the original permission?
3. What would be the effect of changes to site coverage, height of buildings, levels and relationship with any adjoining development, position of windows, materials proposed etc?
4. What would be the impact on existing trees / hedges and any approved landscaping scheme?
5. What would be the impact on the amenities of adjoining neighbours?
6. Are there significant changes to the appearance of proposed buildings which would affect the surrounding area /street scene?
7. Have there been previously agreed amendments to the scheme which will cumulatively result in the current request representing a significant change from the original?
8. Are there any other material considerations identified in the officer report which should inform the decision?
9. Regard must be had to the provisions of the Development Plan and Government guidance.

**The following are some examples of what may NOT constitute a 'non material amendment' although each revision would need to be assessed on an individual basis having regard to the circumstances of the site and its surroundings and the nature and scale of the development itself.**

- New windows, openings or enlargements that would result in loss of privacy or amenity to neighbours;
- Any change that would affect the occupiers of a neighbouring property or other third party ;
- Any change that would affect a consultation response on the original application;
- An extension to the site boundary (or "red edge" of application site);
- An enlargement in the size of any part of the building or a material alteration in appearance of a building from that which is approved;
- An increase in the height of the building or structure;
- Any changes that would result in any part of the development being closer to a neighbour unless the development as amended is in excess of 5 metres from the common boundary with the neighbour;
- The amendment results in a fundamental change to the design of the building;
- Any changes to ground level that would in itself constitute an 'engineering operation' or would result in potential loss of privacy or visual amenity;
- Any works that in themselves constitute 'development' requiring planning permission;
- Any change to the external materials which would adversely affect the character or appearance of the development or erode the quality of the scheme that was originally approved.

This is not intended to be comprehensive and each non material amendment request must be considered on its merits having regard to all relevant circumstances.

### **Listed Building Consents**

The procedures for non-material amendments only relates to planning permission. There is no equivalent scheme in place for changes to either listed building consent or conservation area consent. For these, the works must be carried out strictly in accordance with the approved scheme or a new application submitted.