

Guidance - Post Decision Amendments

Overview

Occasionally an applicant may wish to make alterations to a development after it has been granted planning permission. This may arise due to a small redesign through the process of producing working drawings, or through the need to address issues encountered at the construction stage.

In October 2009 new planning legislation came into effect which means that in future it will be possible to seek permission for certain types of amendment subject to certain criteria being met. There are two types of possible amendment; non-material amendments and minor-material amendments.

What are “non-material” and “minor-material” amendments?

The legislation does not define either term, so it is not possible to give a definitive view as to what can and cannot be dealt with as an amendment. Each circumstance will need to be considered in the context of the original permission and the nature/extent of change involved.

General advice is however set out below together with the procedures to be followed:

Examples of works and changes that would fall outside the scope of an amendment include:

- An increase in the site area as defined by the red line of the original application
- An increase in the scale of development (e.g. adding a unit to a housing development) or changes that introduce new uses or materially change the mix of approved uses)
- A matter covered by a restrictive condition on the original permission
- Works which, together with other previously agreed amendments to the permitted scheme, would cumulatively result in a significant change to the original

If you are seeking to make a variation to an approved development it is recommended that you seek advice from the Council, ideally the case officer who dealt with the original application, in order to discuss whether the changes can be dealt with under either the non-material or minor material amendment procedures. Unless advice is sought in

writing, including submission of amended plans, the Council will only be able to advise verbally.

If it is considered that the changes sought fall outside either the scope of the amendment procedures or the original permission you will be advised and it will be necessary to make a full revised planning application.

Non-Material Amendments

The Council has previously given written confirmation that small changes to existing approved development are non-material variations. A unique decision has to be made in every case, but examples might include:

- slightly altering the proportions of a window, door or opening or moving it by a few centimetres
- reduction in the volume / size of a building or extension
- reduction in the height of a building or extension

The new legislation introduces a formal procedure so that anyone with an interest in the site i.e. the site owner or original applicant can submit an application for consent if a small change is proposed.

It should be noted that there is no statutory definition of what constitutes a “non-material amendment”, however the Council considers that such a change can only be an inconsequential variation in an aspect or aspects of the details which does not raise any new issues for consideration. As a general rule, if the Council feels it would have undertaken additional public notification if the change had been made during the course of the original application, it is unlikely that the change will be viewed as “non-material”.

All requests for a non-material amendment will need to be made on a new standard application form. The applicant will need to notify any other person who is an owner of the land, or has an interest, when they make their application. [Link to Form](#)

Any representations about the application must be made to the Council within 14 days of the date when notice is given, and the Council has 28 days to determine the application. If consent is refused the applicant has a right of appeal.

The application should include sufficient information, drawings etc. to identify and make clear the proposed change. The relevant fee for such an application is £25 in the case of householder development and £170 in all other cases.

When making our assessment on the acceptability of a non - material amendment the following factors will be considered in determining the application:

- Was the matter subject to any objections or other representations on the original permission,

- What would be the effect of the change on site coverage, height of buildings, levels and relationship with any adjoining development, position of windows, materials proposed,
- What would be the impact on the amenities of adjoining occupiers,
- Are there significant changes to the appearance of the proposed buildings which would affect the surrounding area/street-scene

Minor Material Amendments

If an applicant wishes to make more significant changes to a planning permission, most likely they would previously have been asked to submit a new full planning application. The new legislation introduces a formal procedure whereby such changes can be pursued by seeking variation to the requirement to comply with the originally approved plans and drawings.

In order to be able to make such an application under Section 73 of the Planning Act 1990 the original planning permission must have a condition imposed listing the approved plans and drawings. If no such condition exists this procedure cannot be used and a new full application is required.

Previously the Council has not as a matter of course imposed such a condition on any permission it issues but has listed the approved drawings on the decision notice. However we are in the process of changing our procedures so that in future this will be a standard condition, thus allowing for minor material amendments to be sought.

Although there is no statutory definition of a minor material amendment it is generally held to be one whose scale and nature results in a development which is not substantially different from the one which was originally approved. Accordingly any request for such an amendment will be considered on individual circumstances and merit. By way of guidance, it may be possible to substitute one house type for another within an approved development, provided that the house types are sufficiently similar, but adding another unit or substituting a house for a bungalow could not be dealt with in this way.

All requests for a minor material amendment by variation of a condition (Section 73) will need to be made on the standard application form (1 App). [Link to Form](#) A fee of £170 is payable for such an application. Such an application need not include all the information required for a full planning application and as the principle of the development is not for consideration a simplified determination process is involved. Who is to be notified or consulted about the application is at the discretion of the Council.

The Council has 56 days to determine the application, the same as a full planning application, and if permission for the amendment is refused the applicant has a right of appeal.

Further details of these new procedures can be obtained by contacting the Council's Customer Services Help Line 01737 276000.