



Greater flexibility for planning permissions

Guidance



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Introduction

This document provides practical guidance on the use of measures which have been introduced following consultation on *Greater Flexibility for Planning Permissions*. It is for use by local planning authorities (LPAs) and developers, as well as individuals who wish to use one of the procedures set out below. It sets out the key features and statutory requirements for each procedure, provides a practical guide to their use, and explains how they differ from existing procedures. It also includes a summary comparison table and a list of useful weblinks. The measures covered are:

Extensions to the time limits for implementing existing planning permissions

This was brought into force on 1 October 2009 via the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261) and the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009 (SI 2009 No. 2262).

Non-material amendments to existing planning permissions

Section 96A of the Town and Country Planning Act 1990 was brought into force on 1 October 2009, via the commencement of s.190 of the Planning Act 2008.

Minor material amendments

Amended consultation requirements for applications under s.73 of the Town and Country Planning Act 1990 were brought into force on 1 October 2009, via the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261).

Extensions to the time limits for implementing planning permissions

Introduction

1. What is the background to this?

This measure has been introduced in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve.

2. What does this procedure allow?

This procedure allows applicants to apply to their LPA for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. For convenience, the procedure is referred to in this document as 'extension', more formally, it is an extension of time for the implementation of a planning permission by grant of a new permission for the development authorised by the original permission.

3. How does it differ from an ordinary application for planning permission?

An application for the extension of time limits is simply a new category of application for planning permission, which has some different requirements relating to:

- the amount of information which has to be provided on application
- the consultation requirements (in respect of statutory consultees only)
- the fee payable

The outcome of a successful application will be a new permission with a new time limit attached.

4. What other legislation has been changed?

No primary legislation has been changed. Therefore all primary legislation which applies to ordinary applications for planning permission also applies to applications for extension of time limits.

Changes to secondary legislation are as set out elsewhere in this document. No other changes have been made, therefore any relevant requirements under other regulations (for example, the Environmental Impact Assessments Regulations 1999 or the Mayor of London Order 2008) still apply.

5. How long will the power last?

As this measure is being introduced in response to current economic circumstances, it will be temporary, and will apply only to permissions which were granted on or before 1 October 2009. The length of time the measure will operate for therefore depends on the length of time that each individual permission has left to run. For example, a three-year permission granted in April 2008 could be extended at any time during the remaining 1.5 years of its life (i.e. until it lapses in April 2011). However, a permission granted in September 2007 could only be extended during the remaining year of its life (i.e. until it lapses in September 2010).

6. How many extensions will be possible?

Only one extension to each permission will be possible. This is because a successful application to extend results in a new permission, and that new permission would not have been granted on or before 1 October 2009.

7. What about permissions granted after 1 October 2009?

The power to extend will not apply to any permissions granted after the measure comes into force. This is because LPAs already have discretion under ss.91 and 92 of the Town and Country Planning Act (TCPA) 1990 to grant planning permissions for longer than the default periods if they are satisfied that there are good planning reasons for doing so. In current circumstances, LPAs may wish to consider the desirability, in individual cases, of granting a longer permission.

8. Does the application have to be for the same development?

Yes. The application form simply refers back to the earlier application. See below for more detailed consideration of matters such as conditions and s.106 agreements.

9. Is there any other way of extending permissions?

No. In 2008 a further mechanism for extending the time limit under Regulation 3(3) of the Town and Country Planning (Applications) Regulations 1988 was effectively removed. With effect from 6 April 2008 the General Development Procedure Order¹ (GDPO) was amended to require an application for planning permission to be made on a standard form of application and to be accompanied by certain documents and information. At the same time the reference in the GDPO to the Town and Country Planning (Applications) Regulations 1988 (the 1988 Regulations) was removed and the 1989 Fees Regulations amended to delete the provision prescribing the fee payable for a renewal of a planning permission. Although regulation 3 (3) of the 1988 Regulations has not been revoked, it has, in effect, been superseded by these changes. Given the duty imposed on planning authorities by s.327A of the Town and Country Planning Act 1990²

¹ The Town and Country Planning (General Development Procedure) Order 1995 (SI1995/419), as amended.

² i.e. not to entertain an application if it does not comply with statutory requirements in terms of the form or manner in which it must be made, or with statutory requirements as to form or content of accompanying documents.

it is unlikely that an application submitted under regulation 3(3) but failing to comply with the requirements of the GDPO could be validly entertained and, accordingly, this method of extending the life of a planning permission is no longer available.

Making an application

10. How is the application made?

The application must be made on the standard application form, which has been amended for this purpose. The form, along with the associated guidance and helptext, are available from the Planning Portal website (see Annex B).

11. Can this still be granted if the permission expires before determination?

The courts have recognised that both an LPA and the Secretary of State (in the event of an appeal) retain jurisdiction to determine an application even if the original permission has expired after the application was made but before determination. However, applicants are recommended not to leave submission of an application to the last possible date.

12. What happens if the LPA refuses to validate the application?

The remedies for an applicant who considers that the LPA has unreasonably refused to validate an application are set out in the document *The Validation of Planning Applications: Guidance for Local Planning Authorities* (see Annex B for weblink, and also for link to a recent consultation document on streamlining information requirements which proposes some changes to the guidance on validation).

13. Can further or updated information be requested or provided as part of the application?

It is open to LPAs to seek further information in support of the application, for example if the proposal is an environmental impact assessment (EIA) scheme and the LPA considers that the environmental statement (ES) submitted with the previous application requires updating, or is no longer sufficient because there is reason to believe that the likely significant environmental impacts have changed. Applicants may additionally wish to provide supporting information setting out why they are seeking an extension, or addressing any changes in policy or other material considerations which may have occurred since the previous grant of permission, if these are relevant to the proposal. Except in cases where there is a need to comply with a statutory requirement in connection with the submission of the application, or a relevant change in policy or other material considerations which post-date the original application, we do not anticipate that any information additional to that which must be provided on the application form will be required in most circumstances.

14. Do the EIA Regulations³ apply?

An application for an extension to the time limit is considered to be a new application for development consent under the 1999 EIA Regulations, and where the development is listed under either Schedule 1 or 2 to the 1999 EIA Regulations, and satisfies the criteria or thresholds set, this would require a planning authority, if requested, to issue a new screening opinion as to whether EIA is necessary. Where EIA was carried out on the original application, changes to the ES may not be necessary (see paragraph 13 above).

Extensions should not be seen as a mechanism to avoid proper and thorough consideration of environmental issues, where this is necessary. Where changes in the development plan or material considerations indicate that the effects on the environment need to be reconsidered, this should be done, ensuring that appropriate and up-to-date methodologies are used, and that Natural England or other statutory consultees are consulted as necessary.

When it is necessary to update environmental information, provide new information or alter the proposed mitigation measures, this can normally be done by means of a supplementary ES.

15. Is a design and access statement required?

No. Applications for extension are exempt from the requirement to provide design and access statements. However, it is open to LPAs to seek further information if they consider that changes in the surrounding area, which are unrelated to the proposed scheme but have taken place since the original grant of permission, have affected design or access considerations that are relevant to the proposed scheme.

16. What are the fees for an application?

Different fees apply to different sizes of scheme (householder, major development or other), and for this purpose the definitions of 'major development' and 'householder' which appear in the GDPO article 1(2) should be used. See Annex B for a weblink to the Planning Portal's fees schedule (October 2009). In due course, it will be possible to check these fees via the Portal's fees calculator.

17. How should this application be recorded on the PS1/PS2 returns?

This application should be treated as a new application for the development.

18. Should the application be given a new application number by the LPA?

Yes.

³ The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (SI1999/293), as amended.

Eligibility

19. What schemes are eligible?

An application to extend the time limits for implementation can be made if the relevant time limit has not expired both on 1 October 2009 and at the date of application, and if the development has not yet been commenced. All sizes and types of scheme are eligible to make an application as long as these requirements are met. See paragraphs 33-39 for discussion of other consents.

20. Can permissions which have already been commenced use this process?

No. Sections 91 and 92 of the 1990 Act require the imposition of conditions setting out time limits within which the development must be begun. If the development has already begun, then these conditions would already have been complied with.

21. Can outline permissions be extended?

Outline permissions can be extended under this power, provided the relevant time limit has not expired both on 1 October 2009 and at the date of application, and the development has not yet commenced. This means either:

- the time limit for submission of reserved matters has not yet expired or
- reserved matters applications were all submitted in accordance with the time limit for submission of reserved matters, and the time limit for commencement has not yet expired

22. If reserved matters have already been approved, do they have to be applied for again?

No. If both the LPA and the applicant are still content with the reserved matters approvals, they can simply be referred to in the new decision notice. There is no need to reapply for them or pay any further fees. However, there may be circumstances in which one or other party wishes to make a change, perhaps in order to ensure that the scheme is still acceptable in the light of new policies. In this case, the applicant may choose to resubmit a reserved matters application, or the LPA may request that the applicant resubmits. In both cases, a fee would be payable.

Determining the application

23. How should LPAs approach these applications?

In current circumstances, LPAs should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and

Compulsory Purchase Act 2004, LPAs should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission.

24. Do LPAs have to grant an application to extend the time limits for implementation?

No. This process is not a rubber stamp. LPAs may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably.

25. What are the consultation requirements under article 10 for non-EIA applications?

Where the application is to extend the time limits for a non-EIA scheme, LPAs have discretion to decide which statutory consultees listed under article 10 of the GDPO should be consulted.

LPAs should take a proportionate approach to consultation. In deciding which bodies to consult, they may wish to take into account which statutory consultees had a particular interest in the proposal, or raised concerns about it, at the time of the original application.

26. What are the consultation requirements under article 10 for EIA applications?

Where the application is to extend the time limits for an EIA scheme, LPAs do not have any discretion to choose which bodies they consult under article 10. The EIA Regulations require statutory consultees to be consulted when formal scoping is requested by a developer and when an environmental statement is received.

27. What about other consultation/notification/publicity requirements?

These are unchanged, and would be the same as for a wholly new application. Where LPAs have discretion, a proportionate approach should be adopted, taking into account that there will have been full consultation when the original permission was granted.

28. Can the s.106 agreement/unilateral undertaking be changed?

As most s.106 agreements/unilateral undertakings are linked to a particular named planning application, there may well be a need to consider a simple supplementary deed to link the obligation to the new permission.

It may be the case that the LPA or the applicant may seek changes to the obligation in order to make the proposal acceptable in changed circumstances. If a fresh obligation is necessary, this is possible, as long as the requirements set out in primary legislation and the guidance set out in Circular 05/2005 is followed.

Issuing a decision

29. How long can a permission be extended for?

The length of time for which each permission may be extended is covered by ss.91 and 92 of the Town and Country Planning Act 1990; default periods are set out, with discretion to grant longer or shorter permissions if this is justified on planning grounds.

30. Do the same conditions have to be attached as previously?

Not necessarily. The primary legislation giving LPAs the power to impose such conditions as they see fit (s.70 of the TCPA 1990) is unchanged. Therefore, if appropriate, different conditions could be imposed or some conditions could be removed – for example in order to make the scheme acceptable in the light of new policies, or if some pre-commencement conditions have already been discharged.

Appeals

31. What is the appeals procedure and what are the timescales for appeals?

The appeals procedure is the same for applications to extend as for other applications for planning permission. The normal appeal timescales for a new application for planning permission apply, as set out in article 23 of the GDPO. Appeals against refusal must be made within 12 weeks (for householder appeals) or six months (for other applications). Appeals against non-determination must be made within six months of the end of the determination period (i.e. 8/13/16 weeks).

32. Is there still a right of appeal if the permission expires before determination of the application to extend the time limits for implementation?

Yes.

Other consents

33. Can the time limits for listed building/conservation area consents be extended too?

Yes. Applicants are able to seek an extension to the time limits for implementation of listed building consents and conservation area consents, but only where these are associated with an application for extension of a planning permission.

34. Is there a separate application form for this?

No. The application is made as part of the application to extend the time limits for implementation of the planning permission, and on the same form.

35. Is there a fee for this?

There is no fee for the element of the application which is for an extension to the time limits for listed building or conservation area consents. However, a fee is payable for the application to extend the time limits for implementation of the planning permission (see paragraph 16).

36. How does an application to extend the time limits for implementation of a listed building or conservation area consent differ from a normal application?

It differs from a normal application for listed building or conservation area consent in that:

- no design and access statement is required
- only one copy of plans/drawings is required, to accompany the application

As the requirement to provide plans and drawings with an application is set out in primary legislation⁴ these must be provided, even though they were already provided with the original application.

No changes have been made to other aspects of the listed buildings regulations or legislation, so other requirements are the same as if this was a wholly new application.

37. How long can the consent(s) be extended for?

The length of time for which a listed building consent or a conservation area consent can be extended is set out in s.18 of the Listed Buildings Act 1990.

38. Does a successful application result in a new consent?

If an application is approved, a new consent will be granted and a new decision notice must be issued.

39. What about other types of consent?

The extension procedure does not cover any other consents (for example compulsory purchase orders or road closure orders).

4 Section 10 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Non-material amendments

Introduction

40. *What is the background to this?*

In 2007, the document *Planning for a Sustainable Future*⁵ consulted on “allowing minor amendments to be made to planning permissions”. A provision to provide a mechanism to make non-material amendments to planning permissions was subsequently introduced via s.190 of the Planning Act 2008, which inserts s.96A into the TCPA 1990. Section 190 was commenced on 1 October 2009.

41. *What does s.96A allow you to do?*

Section 96A allows a non-material amendment to be made to an existing planning permission via a simple application procedure with a quick decision time.

42. *What is a non-material amendment?*

There is no statutory definition of ‘non-material’. This is because it is so dependent on the context of the overall scheme – what may be non-material in one context may be material in another. The LPA must be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

Making an application

43. *Who can make an application?*

Only a person who has an interest in the land to which the non-material amendment relates, or someone else acting on their behalf, can apply.

Examples of people with a legal interest in the land are:

- a freeholder
- a holder of a lease of over seven years (whether as a head lessee, sub-lessee or tenant of an agricultural holding)
- a mortgagee
- someone with an estate contract (i.e. an option to acquire a legal interest in the land or a contract to purchase the land)

⁵ Paragraphs 9.20-22 of *Planning for a Sustainable Future: White Paper*, CLG, DEFRA, DTI and DfT, May 2007.

44. Is there a new application form?

Yes. See Annex B for a weblink to the application form, along with the associated guidance and help text. In due course it will be integrated into the online application system.

45. Is a design and access statement required?

As this is not an application for planning permission, there is no requirement for a design and access statement.

46. Can more than one non-material amendment be applied for on the same form and for a single fee payment?

Yes.

47. Does the application have to be recorded on the planning register?

From April 2010 this will be a statutory requirement. In the meantime, LPAs are encouraged to record these applications on the planning register.

48. Can a non-material amendment be made to conditions using this procedure?

Yes. Where the change is non-material, s.96A allows new conditions to be imposed, or existing conditions to be removed or altered.

49. Can this procedure be used to make non-material amendments to listed building or conservation area consents?

No. It only applies to planning permissions.

50. Can the LPA still use its previous less formal ways of determining non-material amendments?

No. All non-material amendments now need to use this process.

51. How should this application be recorded on the PS1/PS2 returns?

This application does not need to be recorded.

Determining the application

52. Is consultation/publicity required?

As an application under s.96A is not an application for planning permission, the existing GDPO provisions relating to statutory consultation and publicity do not apply. Therefore LPAs have discretion in whether and how they choose to inform other interested parties or seek their views. As by definition the changes sought will be non-material, we would not expect consultation or publicity to be necessary in the majority of cases, and we do not anticipate effects which would need to be addressed under the EIA regulations.

53. Is notification required?

As an application under s.96A is not an application for planning permission, the existing GDPO provisions relating to notification in respect of planning permissions do not apply.

Instead, before the application is made, the applicant must notify anyone who owns the land which would be affected by the non-material amendment or, where the land comprises an agricultural holding, the tenant of that holding. The applicant must also record who has been notified on the application form. Anyone notified must be told where the application can be viewed, and that they have 14 days to make representations to the LPA. There is no prescribed form for this and no requirement for an ownership certificate or an agricultural holdings certificate to be provided. These requirements are set out in article 4F of the GDPO.

54. What is the time period for determination?

28 days, or a longer period if that has been agreed in writing.

55. What does the LPA have to take into account when making their decision?

The LPA must have regard to the effect of the change, together with any previous changes made under this section. They must also take into account any representations made by anyone notified (see paragraph 53 above), provided they are received within 14 days of notification. As this is not an application for planning permission, s.38(6) of the Planning Act 2004 does not apply.

56. Can the LPA allow this application if it considers that the amendment sought is not non-material?

No. This procedure, which has no consultation requirements, and minimal notification requirements, cannot be used to make a material amendment.

Issuing a decision

57. What is the procedure for this?

The decision must be issued in writing. There is no prescribed form for this.

58. What should the decision letter cover?

The decision only relates to the non-material amendments sought and the letter should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together.

Appeals

59. Is there a right of appeal for refusal or non-determination?

Yes. Although this is not an application for planning permission, there is a right of appeal under s.78 of the Town and Country Planning Act 1990. This is because it is an approval of the authority 'required under a development order' (s.78(1)(c)) and 28 days is 'such period as may be prescribed by the development order'.

60. What are the timescales for appeals?

The normal timescales for appeals apply, as set out in article 23 of the GDPO. Appeals against refusal must be made within 12 weeks (for householder appeals) or six months (for other applications). All appeals against non-determination must be made within six months of the end of the determination period (28 days).

Minor material amendments

Introduction

61. *What is the background to this?*

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”*.⁶

In response to this recommendation, WYG Planning and Design (WYG) were commissioned to consider the options for either introducing a new procedure for making minor material amendments, or for using or adapting existing procedures (see Annex B for weblink to their report).

WYG’s recommendation, given that there is currently no legislative vehicle for making changes to primary legislation, was that the existing route under s.73 of the Town and Country Planning Act 1990 (which allows changes to the conditions applying to existing permissions) should be streamlined and clarified. We agree that this option provides the best short-term solution.

62. *What steps have been taken to facilitate the use of s.73 to make minor material amendments?*

LPAs have been given discretion on which statutory consultees should be consulted under article 10 of the GDPO. Consultation has also been carried out on whether the requirement for a design and access statement should be removed in respect of s.73 applications (see Annex B for weblink to consultation on streamlining information requirements). In addition, LPAs are advised to include a condition listing approved plans in decision notices.

63. *Is there a definition of ‘minor material amendment’?*

We agree with the definition proposed by WYG: *“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”*. This is not a statutory definition.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted, and hence to avoid possible wasted work on both sides.

64. *Can s.73 be used to make minor material amendments if there is no condition in the permission listing approved plans?*

It depends what type of minor material amendment is sought. If the permission includes a suitable condition that can be modified, then yes.

⁶ Recommendation 8, paragraph 3.5 of the Killian Pretty Review: *Planning Applications – A Faster and More Responsive System: Final Report*, published by CLG on behalf of the Killian Pretty Review, November 2008.

However, as the use of s.73 depends on the existence of a relevant condition which can be amended, it will not be possible to address all possible minor material amendments via this route.

65. Should LPAs impose a condition listing approved plans?

We believe it is beneficial to do so, in order to facilitate the use of s.73 to make minor material amendments. We consider that such a condition would accord with the advice set out in Circular 11/95. Only plans submitted as part of the application should be listed – on major schemes some plans may have been provided for illustrative purposes only.

66. Is there a sample condition?

A condition could state:

The development hereby permitted shall be carried out in accordance with the following approved plans: [insert plan numbers]

OR

The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule [insert name or number of schedule of plans].

Reason: For the avoidance of doubt and in the interests of proper planning.

67. Can a condition listing plans be added to the permission if it doesn't currently contain one?

It would be possible to apply to add a condition listing plans under s.96A TCPA 1990 (the non-material amendments procedure).

Making an application

68. Is there a new form/new fee for s.73 applications?

No. As this is an existing procedure, the usual form should be used, and the usual fee applies.

69. Can a s.73 application be made concurrently with an application to extend the time limits for implementing a planning permission?

No, they cannot be made concurrently. If sequential applications are made, the extension should be applied for first, as a successful s.73 application would result in a new permission which would not have been extant on 1 October 2009 and which therefore could not be extended.

70. What happens if the LPA refuses to validate the application?

The remedies for an applicant who considers that the LPA has unreasonably refused to validate an application are set out in the document *The Validation of Planning Applications: Guidance for Local Planning Authorities* (see Annex

B for weblink, and also for link to a recent consultation document on local information requirements which proposes some changes to the guidance on validation).

71. Do the EIA regulations apply?

A s.73 application is considered to be a new application for development consent under the 1999 EIA Regulations and where the development is listed under either Schedule 1 or 2 to the 1999 EIA Regulations, and satisfies the criteria or thresholds set, would require a planning authority, if requested, to carry out a new screening exercise and issue a screening opinion whether EIA is necessary. Where EIA was carried out on the original application, changes to the ES may not be necessary.

Determining the application

72. How should LPAs approach these decisions?

The development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. These applications should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, but LPAs should, in making their decisions, focus their attention 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.

73. What are the consultation requirements under article 10 for non-EIA applications?

LPAs have discretion to decide which statutory consultees listed under article 10 of the GDPO should be consulted when an s.73 application is received.

LPAs should take a proportionate approach to consultation. In deciding which bodies to consult, they may wish to take into account which statutory consultees had a particular interest in the proposal, or raised concerns about it, at the time of the original application.

74. What are the consultation requirements under article 10 for EIA applications?

Where the application is in respect of an EIA scheme, LPAs do not have any discretion to which bodies they consult under article 10. The EIA Regulations require statutory consultees to be consulted when a scoping opinion is requested by a developer and when an ES is received.

75. What about other consultation/publicity/notification requirements?

These are unchanged. Where these give LPAs discretion, a proportionate approach should be adopted, taking into account that there will have been full consultation when the original permission was granted, and that the variation may have an impact only on limited groups.

Issuing a decision

76. What is the effect of a grant of permission?

Where an application under s.73 is granted, the effect is the issue of a fresh grant of permission. A decision notice describing the new permission should be issued, setting out all 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

77. What are the timescales for appeals?

The normal timescales for appeals apply, as set out in article 23 of the GDPO. Appeals against refusal must be made within 12 weeks (for householder appeals) or six months (for other applications). All appeals against non-determination must be made within six months of the end of the determination period (i.e. 8/13/16 weeks).

Annex A: Summary comparison table

	Application under s.96A for non-material amendment	Application under s.73 for minor material amendment	Application for extension of time limits
Who can apply?	A person with an interest in the land.	In theory anybody. In practice, copyright considerations may limit it to the original applicant or someone authorised by them.	In theory anybody. In practice, copyright considerations may limit it to the original applicant or someone authorised by them.
What is the application process?	Standard application form.	Standard application form.	Standard application form.
What is the application considered against?	LPA have to be satisfied it is not material; they must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.	Development plan and material considerations, under s.38(6) of the 2004 Act. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.	Development plan and material considerations, under s.38(6) of the 2004 Act. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
Does it result in a new permission?	No.	Yes.	Yes.
Expiry date of new permission	N/A.	As original permission.	LPAs have discretion to set time limit, as set out in ss.91 and 92 of the 1990 Act.

	Application under s.96A for non-material amendment	Application under s.73 for minor material amendment	Application for extension of time limits
Are design and access statements required?	No.	As of 1 October 2009, yes. Recent consultation has proposed that this requirement should be removed.	No.
Decision appears on planning register?	From April 2010 this will be a statutory requirement. Until then, it is encouraged.	Yes.	Yes.
Is there a right of appeal?	Yes, under s.78 of the 1990 Act.	Yes, under s.78 of the 1990 Act.	Yes, under s.78 of the 1990 Act.
In what form must the decision be issued?	In writing. There is no prescribed form for this.	Grant: new decision notice describing the whole development, listing all conditions and including a summary of the reasons for the grant. Refuse: decision notice listing reasons for refusal.	Grant: new decision notice describing the whole development, listing all conditions and including a summary of the reasons for the grant. Refuse: decision notice listing reasons for refusal.
EIA requirements	As by definition the changes sought will be non-material, we do not anticipate effects which would need to be addressed under the 1999 EIA Regulations.	This is considered to be a new application for development consent under the 1999 EIA Regulations.	This is considered to be a new application for development consent under the 1999 EIA Regulations.
Proposed fees (as at 1 October 2009)	£25 for householder applications. £170 for other applications.	£170.	£50 for householder application. £500 for major development. £170 for other sizes of development.
Final fees	See Annex B for how to check the final fees via the Planning Portal website.	See Annex B for how to check the final fees via the Planning Portal website.	See Annex B for how to check the final fees via the Planning Portal website.

	Application under s.96A for non-material amendment	Application under s.73 for minor material amendment	Application for extension of time limits
What happens between 1 October 2009 and changes to the fees regulations?	During this period, no fee is payable.	No changes are proposed, so the fee remains £170.	During this period, the fee payable would be as if it were a new application for that scheme.
Requirements on publicity (Article 8 GDPO)	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. LPAs therefore have discretion.	Applications under s.73 are covered by these requirements. Within the discretion they have, LPAs should adopt a proportionate approach.	Applications for extension are covered by these requirements. Within the discretion they have, LPAs should adopt a proportionate approach.
Requirements on statutory consultation (article 10 GDPO)	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. LPAs therefore have discretion.	For non- EIA schemes, LPAs have discretion on whom they consult under this article. For EIA schemes, there is no discretion.	For non-EIA schemes, LPAs have discretion on whom they consult under this article. For EIA schemes, there is no discretion.
Time limits for decision to be made	28 days, or a longer period if that has been agreed in writing.	As per new application.	As per new application.
Appeal time limits (refusal)	Householder appeal: 12 weeks. Non-householder: six months.	Householder appeal: 12 weeks. Non-householder: six months.	Householder appeal: 12 weeks. Non-householder: six months.
Appeal time limits (non-determination)	Householder and non-householder: six months from end of 28-day determination period.	Householder and non-householder: six months from end of 8/13 week determination period.	Householder and non-householder: six months from end of 8/13 week determination period.

Annex B: Useful weblinks

Greater Flexibility for Planning Permissions – consultation paper (closed 13 August 2009)

<http://www.communities.gov.uk/archived/publications/planningandbuilding/flexibilitypermissions>

Minor Material Changes to Planning Permissions: Options Study – WYG report

<http://www.communities.gov.uk/publications/planningandbuilding/minorpermissions>

Final impact assessment

<http://www.communities.gov.uk/publications/planningandbuilding/flexibilitypermissionsia>

The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009 (SI 2009 No. 2262)

http://www.opsi.gov.uk/si/si2009/uksi_20092262_en_1

The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261)

http://www.opsi.gov.uk/si/si2009/uksi_20092261_en_1

Explanatory memorandum – covering the above two statutory instruments

http://www.opsi.gov.uk/si/si2009/em/uksiem_20092262_en.pdf

Killian Pretty Progress Report

<http://www.communities.gov.uk/publications/planningandbuilding/killianprettyprogress>

The validation of planning applications: guidance for local planning authorities

<http://www.communities.gov.uk/publications/planningandbuilding/validationplanningapplications>

Consultation on streamlining information requirements for planning applications (closed 23 October 2009)

<http://www.communities.gov.uk/archived/publications/planningandbuilding/streamliningconsultation>

Application forms, guidance and helptext for extensions

http://www.planningportal.gov.uk/uploads/1app/forms/Form033_england_en.pdf

http://www.planningportal.gov.uk/uploads/appPDF/Help033_england_en.pdf

http://www.planningportal.gov.uk/uploads/1app/guidance/guidance_note-extensions.pdf

Application forms, guidance and helptext for non-material amendments

http://www.planningportal.gov.uk/uploads/1app/forms/Form034_england_en.pdf

http://www.planningportal.gov.uk/uploads/appPDF/Help034_england_en.pdf

http://www.planningportal.gov.uk/uploads/1app/guidance/guidance_note-non-material_amendment.pdf

Planning Portal Fees Schedule (October 2009)

http://www.planningportal.gov.uk/uploads/new_fees-oct_2009.pdf

Planning Portal Fees Calculator

<http://www.planningportal.gov.uk/england/genpub/en/1115311947810.html>

Planning Portal e-cabinet

<http://www.planningportal.gov.uk/PpApplications/genpub/en/Ecabinet>

Code of Practice for Guidance on Regulation

<http://www.berr.gov.uk/files/file53268.pdf>

Annex C: Code of practice on guidance on regulation

The Code of Practice on Guidance on Regulation was published on 21 October 2009 by the Department for Business, Innovation and Skills, and is available at the weblink set out in Annex B. It sets out eight golden rules. These are that the guidance should be:

1. based on a good understanding of users
2. designed with input from users and their representative bodies
3. organised around the user's way of working
4. easy for the intended users to understand
5. designed to provide users with confidence in how to comply with the law
6. issued in good time
7. easy to access
8. reviewed and improved

This guidance complies with all of these golden rules except (6). It was not possible to issue this guidance 12 weeks before the regulations came into force due to the need to bring the measures on the extension of time limits for implementing planning permissions into force as quickly as possible, in the light of economic circumstances.

This guidance was issued in November 2009. The section of the guidance on the extension of the time limits for implementing planning permissions will apply while those measures are in force. See paragraph 5 above for an explanation of how long this temporary measure will be in place. The rest of the guidance applies indefinitely. It will be reviewed if policy changes mean that it needs to be updated.

Inconsistencies or inaccuracies in this guidance can be reported via www.betterregulation.gov.uk.

