



Greater flexibility for planning permissions

Guidance



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Contents

Introduction	4
Extensions to the time limits for implementing planning permissions	5
Non-material amendments	14
Minor material amendments	18
Annex A: Summary comparison table	22
Annex B: Useful web links	25
Annex C: Code of practice on guidance on regulation	27

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 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 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). Changes to the fee regulations were introduced by the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) 2010 (SI 2010/472). The GDPO was consolidated and the provisions subsequently amended in the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184). Changes to the listed buildings regulations were made by the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2010 (SI 2010/2185).

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), consolidated as the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184).

This document replaces:

- *Greater flexibility for planning permissions: guidance* (first edition) November 2009.

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 local planning authorities 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 local planning authority 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 the 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?

The legislative provisions as currently drafted apply only to permissions which were granted on or before 1 October 2009.

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 local planning authorities 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, local planning authorities 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?

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 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. The 1998 Regulations were effectively revoked by the Planning and Compulsory Purchase Act 2004 (Commencement no 12, Revocation and Amendment Order 2010 (no 321 c.26))

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

Making an application

10. How is the application made?

The application will be made on the standard application form, which has been amended for this purpose. The forms, 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 a local planning authority 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 local planning authority refuses to validate the application?

The same principles apply as for other planning applications: see the Government's policy and guidance – see annex B for web links.

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

It is open to local planning authorities to seek further information in support of the application, for example if the proposal is an environmental impact assessment (EIA) scheme and the local planning authority 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 Regulations² 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 requires a planning authority to issue a new screening opinion whether EIA is necessary where the proposed development is listed under Schedules 1, or 2 where it satisfies the criteria or thresholds set to the 1999 EIA Regulations. In the majority of cases where EIA

² The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (SI1999/293), as amended.

was carried out on the original application, further information to make the environmental statement satisfy the requirements of the EIA Regulations is unlikely to be required (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 local planning authorities 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 DMPO article 1 should be used. See Annex B for a weblink to the Planning Portal's fees schedule. Please also note paragraph 20 of this guidance.

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

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

18. Should the application be given a new application number by the local planning authority?

Yes.

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, unless the circumstances in paragraph 20 apply, the development has not yet 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?

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

The only exception to this is where the application has been submitted in outline and implemented in phases, and one or more of the phases has begun. Under these circumstances, the procedures apply as long as the development was required or expressly permitted to be implemented in phases when the outline permission was originally granted by the local planning authority. The effect of this change is to allow the local authority, through reconsideration of the original planning permission, the ability to extend the time through which reserved matters applications can be submitted in respect of the unimplemented phases of outline planning applications, and also the overall time limit for commencement of development.

The fee payable in respect of an application to extend a partially implemented outline planning permission is as per a new application for outline planning permission.

This provision, introduced on 1 October 2010, is set out in Article 18(1)(c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184).

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

Note however paragraph 20 above, which sets out the circumstances where outline planning permissions can be extended where development has begun.

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

No. If both the local planning authority 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 local planning authority may request that the applicant resubmits. In both cases, a fee would be payable.

Determining the application

23. How should local planning authorities approach these applications?

In current circumstances, local planning authorities 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, local planning authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.

24. Do local planning authorities have to grant an application to extend the time limits for implementation?

No. This process is not a rubber stamp. Local planning authorities 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 statutory consultation requirements for non-EIA applications?

Where the application is to extend the time limits for a non-EIA scheme, local planning authorities have discretion to decide which statutory consultees listed in the table in schedule 5 to the DMPO should be consulted.

Local planning authorities 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 statutory consultation requirements for EIA applications?

Where the application is to extend the time limits for an EIA scheme, local planning authorities do not have any discretion to choose which bodies they consult under schedule 5 to the DMPO. 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 local planning authorities 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 local planning authority 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 local planning authorities 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 33 of the DMPO. 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 (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 above).

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 legislation³ 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.

³ Section 10 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

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).

Non-material amendments

Introduction

40. What is the background to this?

In 2007, the document *Planning for a Sustainable Future*⁴ 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 inserted 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 local planning authority 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)

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.

⁴ Paragraphs 9.20-22 of *Planning for a Sustainable Future: White Paper*, CLG, DEFRA, DTI and DfT, May 2007.

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?

Yes. From April 2010 this has been a statutory requirement.

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 local planning authority 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 DMPO provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities 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 DMPO provisions relating to notification 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 local planning authority. 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 9 of the DMPO.

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 local planning authority have to take into account when making their decision?

The local planning authority 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 local planning authority 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?

No. Decisions made by local authorities on non material amendment applications do not constitute an 'approval of the local planning authority' for the purposes of section 78 of the Town and Country Planning Act 1990. There is therefore no legal basis for an Inspector (on behalf of the Secretary of State) to hear an appeal or to make a decision in a non-material amendment case.

Minor material amendments

Introduction

60. 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’.⁵

In response to this recommendation, WYG Planning and Design were commissioned to consider the options for either introducing a new procedure for making minor material amendments, or for using or adapting existing procedures.

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.

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

The law was amended last year to give discretion to local authorities on which statutory consultees should be consulted under schedule 5 of the DMPO where an application under Section 73 of the Town and Country Planning Act is submitted to the local planning authority.

62. 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.

63. 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. 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.

⁵ 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.

64. Should local planning authorities 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.

65. 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 following 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.

66. 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 of the TCPA 1990 (the non-material amendments procedure).

Making an application

67. 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.

68. 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.

69. What happens if the local planning authority refuses to validate the application?

The same principles apply as for other planning applications: see the Government's policy and guidance – see annex B for web links.

70. 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, to carry out a new screening exercise and issue a screening opinion whether EIA is necessary. Where an EIA was carried out on the original application, the planning authority will need to consider if further information is required to be added to the original environmental statement to satisfy the requirements of the 1999 EIA Regulations.

Determining the application

71. How should local planning authorities 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 local planning authorities 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.

72. What are the statutory consultation requirements for non-EIA applications?

Local planning authorities have discretion to decide which statutory consultees listed in the table in schedule 5 to the DMPO should be consulted when a s.73 application is received.

Local planning authorities 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 at the time of the original application, or objected to it at the time of the original application.

73. What are the statutory consultation requirements for EIA applications?

Where the application is in respect of an EIA scheme, local planning authorities do not have any discretion to which bodies they consult under schedule 5. The EIA Regulations require statutory consultees to be consulted when a scoping opinion is requested by a developer and when an ES is received.

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

These are unchanged. Where these give local planning authorities 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

75. 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

76. What are the timescales for appeals?

The normal timescales for appeals apply, as set out in article 33 of the DMPO. 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 (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?	Local planning authority 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. Local planning authorities 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. Local planning authorities 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	Local planning authorities have discretion to set time limit, as set out in ss.91 and 92 of the 1990 Act.

Are design and access statements required?	No.	No.	No.
Decision appears on planning register?	From April 2010 this has been a statutory requirement.	Yes	Yes
Is there a right of appeal?	No	Yes, under s.78 of the 1990 Act.	Yes, under s.78 of the 1990 Act.
In what form must the decision 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 that in the majority of cases there will be 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.
Fees	£25 for householder applications. £170 for other applications.	£170.	£50 for householder application. £500 for major development. £170 for other sizes of development. Please also note paragraph 20 of this guidance.
Requirements on publicity (Article 13 DMPO)	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. Local planning authorities therefore have discretion.	Applications under s.73 are covered by these requirements. Within the discretion they have, local planning authorities should adopt a proportionate approach.	Applications for extension are covered by these requirements. Within the discretion they have, Local planning authorities should adopt a proportionate approach.

Requirements on statutory consultation (Schedule 5 DMPO)	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. Local planning authorities therefore have discretion.	For non-EIA schemes, local planning authorities have discretion in whom they consult under this article. For EIA schemes, there is no discretion.	For non-EIA schemes, local planning authorities have discretion in 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)	N/A	Householder application: 12 weeks Non-householder: six months	Householder application: 12 weeks Non-householder: six months
Appeal time limits (non-determination)	N/A	Householder and non-householder: six months from end of statutory determination period	Householder and non-householder: six months from end of statutory determination period

Annex B: Useful web links

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) (Superseded by DMPO)

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

The Town and Country Planning (Fees for Applications and Deemed Applications) (England) Regulations 2010. (2010/472)

<http://www.legislation.gov.uk/uksi/2010/472/contents/made>

The Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184)

http://www.legislation.gov.uk/uksi/2010/2184/pdfs/uksi_20102184_en.pdf

Explanatory Memorandum – covering the DMPO and amendments

http://www.legislation.gov.uk/uksi/2010/2184/pdfs/uksiem_20102184_en.pdf

Policy on information requirements and validation

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

Guidance on information requirements and validation

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

Application forms, guidance and helptext for extensions

Available at: www.planningportal.gov.uk or your local authority website.

Application forms, guidance and helptext for non-material amendments

Available at: www.planningportal.gov.uk or your local authority website.

Planning Portal Fees Schedule (February 2010)

http://www.planningportal.gov.uk/uploads/english_fees-feb_2010.pdf

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 6 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

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