

[Home](#) > [Planning system](#)

Guidance

Flexible options for planning permissions

Options for amending proposals that have planning permission.

From:

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Contents

- — [How can a proposal that has planning permission be amended?](#)
- — [Making a non-material amendment to a planning permission](#)
- — [Amending the conditions attached to a permission including seeking minor material amendments \(application under Section 73 TCPA 1990\)](#)
- — [Annex A: summary comparison table](#)

Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised [National Planning Policy Framework](#) (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>), the policies in the [previous version of the framework published in 2012](#) (<http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>) will continue to apply, as will any previous guidance which has been superseded since the new framework was published in July 2018. If you'd like an email alert when changes are made to planning guidance please [subscribe](#) (<https://www.gov.uk/topic/planning-development/planning-officer-guidance/email-signup>).

How can a proposal that has planning permission be amended?

When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements.

New issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are fundamental or substantial, a new planning application under [section 70 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/70) (<http://www.legislation.gov.uk/ukpga/1990/8/section/70>) will need to be submitted. Where less substantial changes are proposed, there are the following options for amending a proposal that has planning permission:

- [Making a non-material amendment](#)
- [Amending the conditions attached to the planning permission, including seeking to make minor material amendments](#)

Paragraph: 001 Reference ID: 17a-001-20140306

Revision date: 06 03 2014

Making a non-material amendment to a planning permission

Is there a definition of a non-material amendment

There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is 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 [section 96A of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/96A) (<http://www.legislation.gov.uk/ukpga/1990/8/section/96A>).

Paragraph: 002 Reference ID: 17a-002-20140306

Revision date: 06 03 2014

Can an application to make a non-material amendment be made using the standard application form?

An application seeking a non-material amendment to a planning permission can be made using the standard application form.

Further information about the process of applying for a non-material amendment can be found at [Annex A: summary comparison table](#).

Paragraph: 003 Reference ID: 17a-003-20140306

Revision date: 06 03 2014

Can this procedure be used to make non-material amendments to listed building consents?

The procedure cannot be used to make non-material amendments to listed building consents. It only applies to planning permissions.

Paragraph: 004 Reference ID: 17a-004-20140306

Revision date: 06 03 2014

Is consultation/publicity required?

As an application to make a non-material amendment is not an application for planning permission, the existing [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) (<http://www.legislation.gov.uk/ukxi/2015/595/introduction/made>) 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, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the [Environmental Impact Assessment Regulations 2011](#) (<http://www.legislation.gov.uk/ukxi/2011/1824/contents/made>).

Paragraph: 005 Reference ID: 17a-005-20140306

Revision date: 06 03 2014

Is notification required?

As an application for a non-material amendment is not an application for planning permission, the normal provisions relating to notification do not apply.

Instead, before the application is made, the applicant must notify anyone who is an owner of 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 10 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

<http://www.legislation.gov.uk/uksi/2015/595/article/10/made>.

Paragraph: 006 Reference ID: 17a-006-20140306

Revision date: 06 03 2014

What is the time period for determination?

The time period for determination is 28 days, or a longer period if that has been agreed in writing between the parties.

Paragraph: 007 Reference ID: 17a-007-20140306

Revision date: 06 03 2014

What does the local planning authority have to take into account when making its decision?

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#) (<http://www.legislation.gov.uk/ukpga/2004/5/section/38>) does not apply.

Paragraph: 008 Reference ID: 17a-008-20140306

Revision date: 06 03 2014

Can the local planning authority allow this form of application if they consider that the amendment sought is not non-material?

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

Paragraph: 009 Reference ID: 17a-009-20140306

Revision date: 06 03 2014

What is the procedure for issuing a decision?

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

Paragraph: 010 Reference ID: 17a-010-20140306

Revision date: 06 03 2014

What should the decision letter cover?

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

Paragraph: 011 Reference ID: 17a-011-20140306

Revision date: 06 03 2014

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

Applications under [section 96A of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/96A) (<http://www.legislation.gov.uk/ukpga/1990/8/section/96A>) do not fall within the range of applications for which [section 78 of the 1990 Act](http://www.legislation.gov.uk/ukpga/1990/8/section/78) (<http://www.legislation.gov.uk/ukpga/1990/8/section/78>) grants a right of appeal. The applicant would need to submit a planning application to seek approval for the proposed amendments.

Paragraph: 012 Reference ID: 17a-012-20140306

Revision date: 06 03 2014

Amending the conditions attached to a permission including seeking minor material amendments (application under Section 73 TCPA 1990)

How are the conditions attached to a planning permission amended?

An application can be made under [section 73 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/73) (<http://www.legislation.gov.uk/ukpga/1990/8/section/73>) to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Paragraph: 013 Reference ID: 17a-013-20140306

Revision date: 06 03 2014

Are there any restrictions on what section 73 can be used for?

Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to change the description of the development.

Paragraph: 014 Reference ID: 17a-014-20140306

Revision date: 06 03 2014

What is the effect of a grant of permission under section 73?

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the [guidance for use of planning conditions](https://www.gov.uk/guidance/use-of-planning-conditions) (<https://www.gov.uk/guidance/use-of-planning-conditions>).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 015 Reference ID: 17a-015-20140306

Revision date: 06 03 2014

Do the Environmental Impact Assessment Regulations apply?

A section 73 application is considered to be a new application for planning permission under the 2017 Environmental Impact Assessment (EIA) Regulations. Where the development is of a type listed under Schedule 2 to the 2017 EIA Regulations, and satisfies the criteria or thresholds set, a local planning authority must carry out a new screening exercise and issue a screening opinion as to whether EIA is necessary. Where the development is of a type listed under Schedule 1 of the 2017 EIA regulations an EIA will always need to be carried out.

Where an EIA was carried out on the original application, the planning authority will need to consider if further information needs to be added to the original Environmental Statement to satisfy the requirements of the Regulations. Whether changes to the original Environmental Statement are required or not, an Environmental Statement must be submitted with a section 73 application for an [EIA development](https://www.gov.uk/guidance/environmental-impact-assessment) (<https://www.gov.uk/guidance/environmental-impact-assessment>). Further information about the process of applying for development without compliance with original conditions can be found at [Annex A: summary comparison table](#).

Paragraph: 016 Reference ID: 17a-016-20140306

Revision date: 06 03 2014

Is there a definition of ‘minor material amendment’?

There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Paragraph: 017 Reference ID: 17a-017-20140306

Revision date: 06 03 2014

Can section 73 be used to make minor material amendments if there is no relevant condition in the permission listing approved plans?

Section 73 cannot be used to make minor material amendments if there is no relevant condition in the permission listing the originally approved plans.

It is possible to seek the addition of a condition listing plans using an application under [section 96A of the Town and Country Planning Act 1990](#). This would then enable the use of a section 73 application to make minor material amendments.

Paragraph: 018 Reference ID: 17a-018-20140306

Revision date: 06 03 2014

Annex A: summary comparison table

[Annex A: summary comparison table](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864175/Annex_flexible_options.pdf)
(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864175/Annex_flexible_options.pdf)

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Paragraph: 019 Reference ID: 17a-019-20140306

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[↑ Contents](#)

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