When planning permission is granted, the developer must ensure that the proposed development will take place in accordance with the permission, conditions and any legal agreements attached to it.

Following a grant of planning permission, new issues may arise which will require changes to be made to the approved proposals. There are three main ways that amendments to planning permissions can be dealt with through the planning system which are discussed within this article.

**Small changes to planning permission (non-material amendments)**

Where changes to the approved planning permission are not viewed as ‘significant’ changes, they may be described as ‘non-material amendments’. The Department for Communities and Local Government (DCLG) state that there is no statutory definition for the nature of changes that might constitute a non-material amendment, therefore it is the responsibility of each planning authority to determine what constitutes a small change taking into consideration the context of the overall scheme and the circumstances of the case.

In 2009, the introduction of [Section 96A of the Town and Country Planning Act 1990](https://www.gov.uk/government/publications/section-96a-town-and-country-planning-act-1990) provided the ability to make non-material amendments to planning permissions. This provides greater flexibility to tweak existing planning permissions without the need to submit a brand new full application which allows schemes to be delivered subject to the conditions and time limits of the original permission, saving time and money.

If a small non-material amendment is proposed to the existing permission or to the details of a condition attached to a planning permission, a simple planning application detailing the amendment, with the revised plans (if necessary) should be submitted.

The application for a non-material change actually effects a change to the original planning permission so you begin with a single permission and end up with one but the permission is changed. The Local Planning Authority (LPA) must be satisfied that the amendment sought is non-material in order to grant an application under Section 96A and can impose new conditions or alter or remove existing conditions.

An example of a non-material amendment to a scheme with planning permission was for the provision of dedicated ‘Pegasus’ Equestrian Crossing which was incorporated into the design of a road scheme. This amendment was considered to be non-material on the basis that the alignment of the road scheme remains unchanged, however changes to the existing and additional signage was required in order to provide the continued equestrian utility and public rights of way connectivity.

**Minor-material amendments to the existing planning permission**

Where changes to an approved planning permission are more significant, they may be described as a ‘minor material amendment’. There is no set criterion to determine what constitutes a ‘minor material amendment’, however the Government has defined this type of change as being "one whose scale and nature results in a development which is not substantially different from the one which has been approved”.

If there are any doubts as to whether or not the amendment would constitute a minor material amendment, it is recommended that pre-application discussions should be undertaken with the LPA to determine the materiality of the amendment.
By contrast to non-material amendments, an application for a minor material amendment can be made under Section 73 of the Town and Country Planning Act 1990 (which we usually term a ‘variation’), therefore this produces a new second planning permission, with one which reflects the agreed ‘variations’.

Where an Environmental Impact Assessment (EIA) was carried out on the original application, the LPA will need to consider if further information needs to be included to the original Environmental Statement to satisfy the requirements of the EIA Regulations. It should be noted that whether changes to the original ES are required or not, an ES must be submitted with the Section 73 application.

**Material amendments**

Should any fundamental or substantial modifications to a planning permission be considered, such as increasing the size of the application site, significant alternations to the design or the siting of the proposals, a brand new application will need to be submitted under section 70 of the Town and Country Planning Act 1990. These changes are considered to constitute a ‘material amendment’.

Guidance states that “in deciding whether a change is material, a local planning authority must have regard to the effect of change, together with any previous changes made”.

The flexibility provided by submitting small changes or variations to planning permissions has brought forward a number of benefits to the development industry. Amendments can arise for a number of reasons and can help to deliver better overall developments or can achieve proposals where development would otherwise be refused. Section 96A applications benefit the applicant who is not required to make a new planning application with the time and financial costs incurred and the LPA can ensure that it uses its resources effectively and efficiently.

*Ruth Jones, Environmental Consultant, CampbellReith, November 2016.*

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