



Greater flexibility for planning permissions

Consultation



Greater flexibility for planning permissions

Consultation

June 2009

Department for Communities and Local Government: London

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

© Crown Copyright, 2009

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at www.opsi.gov.uk/click-use/system/online/pLogin.asp, or by writing to the Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU

e-mail: licensing@opsi.gov.uk

If you require this publication in an alternative format please email alternativeformats@communities.gsi.gov.uk

Communities and Local Government Publications
Tel: 0300 123 1124
Fax: 0300 123 1125
Email: product@communities.gsi.gov.uk
Online via the Communities and Local Government website:
www.communities.gov.uk

June 2009

Product Code: 09 COMM 05976

ISBN: 978 1 4098 1534 1

Summary

Topic of this consultation:	The introduction of a package of measures which will provide a proportionate and graded approach to making changes to existing planning permissions in cases where an entirely new application is not justified.
Scope of this consultation:	The consultation is to consider whether to introduce a mechanism for extending the time limits for implementation of existing planning permissions, and to consider how to implement the procedure for making non-material amendments under s.190 Planning Act 2008. It also considers changes to the procedure for applications under s.73 Town and Country Planning Act 1990.
Geographical scope:	The proposals relate to England only.
Impact assessment:	A consultation stage impact assessment is annexed to this consultation document.
To:	This is a public consultation and it is open to anyone to respond to this consultation. We would, however, particularly welcome responses from: <ul style="list-style-type: none"> • local planning authorities • property developers • those that represent groups likely to be affected.
Body/bodies responsible for the consultation:	Communities and Local Government (Planning System Improvement Division)
Duration:	The consultation is published on 18 June 2009 and ends 13 August 2009.
Enquiries:	To: maria.stasiak@communities.gsi.gov.uk Tel: 020-7944-3676
How to respond:	By email to: flexibilityforplanningpermissions@communities.gsi.gov.uk Alternatively, paper communications should be sent to: Maria Stasiak Department for Communities and Local Government Zone 1/J1 Eland House Bressenden Place London SW1E 5DU

Additional ways to become involved:	This will be largely a written exercise. We do, however, propose to hold meetings with interested groups.
After the consultation:	A summary of responses to the consultation will be published on the Department's website within three months of the closing date for consultation.
Compliance with the code of practice on consultation:	The consultation complies with the code. The consultation period is eight weeks rather than the standard twelve in recognition of the fact that the need for a procedure to address minor material amendments has already been accepted in the Government's response to the Killian Pretty Review, and the Planning Act provision to address non-material amendments has been in the public domain for some time. In addition it is important to introduce the power to extend the time limits for planning permissions as soon as possible, in the light of current economic circumstances, as many permissions for major developments lapse every month.
Getting to this stage:	The current planning framework is set out in the Town and Country Planning Act 1990 and the Planning Act 2008.
Previous engagement:	The consultation paper follows on from <i>Planning for a Sustainable Future</i> and the Killian Pretty Review. Meetings to discuss extensions were held with the Confederation of British Industry, the British Property Federation and the Local Government Association.

Contents

Introduction	5
The proposed package of measures	6
Extension of the time limits for existing planning permissions	6
Minor material amendments	12
Non-material amendments	15
Implementation	18
Timing	18
Guidance	19
How the measures fit together	19
The bigger picture	19
About this consultation	20
Impact assessment	20
The consultation process	20
Annex 1 – Comparison table	23
Annex 2 – Options considered by WYG	27
Annex 3 – Impact assessment	29
Annex 4 – Summary of questions	40

Section 1 – Introduction

Introduction

1. This consultation paper sets out the government's proposals for changes to the planning system to allow the time limits for implementation of extant planning permissions to be extended.
2. It also sets out proposals to address the Killian Pretty recommendation that Government should take steps to allow a more proportionate approach to minor material amendments in development proposals after permission has been granted.
3. It additionally deals with the commencement and operation of s.190 of the Planning Act 2008 (introducing s.96A of the Town and Country Planning Act 1990), which provides a mechanism for the making of non-material changes to planning permissions.
4. Taken together these measures form a package which will allow for greater flexibility and certainty in the planning system and will provide a proportionate and graded approach to making changes to existing planning permissions in cases where an entirely new application is not justified. We have aimed throughout to create a package of measures which are easily understandable, easily usable and which rely as far as possible on existing powers and existing law.

5. In summary the package consists of:

Extensions to the time limits for implementing existing planning permissions: available via a new category of planning application

Minor material amendments: available under s.73 of the Town and Country Planning Act 1990

Non-material amendments: available under s.96A of the Town and Country Planning Act 1990 (introduced by s.190 of the Planning Act 2008)

Section 2 – The proposed package of measures

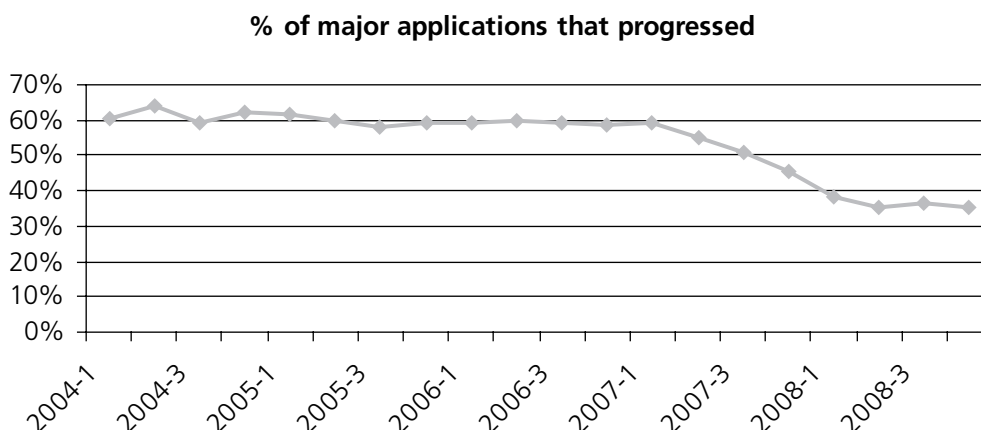
Extension of the time limits for existing planning permissions

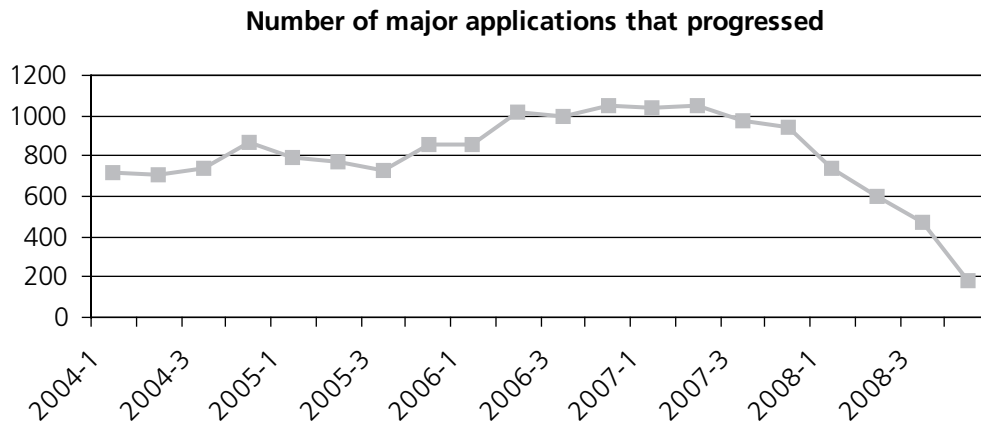
Background

6. Until the Planning and Compulsory Purchase Act 2004, it was possible to extend the time limits imposed on the implementation of a planning permission by means of an application under s.73 of the Town and Country Planning Act 1990. The power to do so was removed by the 2004 Act.

7. However, there are currently signs of a dramatic slowdown in the take-up rate of major schemes that already have planning permission (see figures below). If large numbers of permissions are not implemented and subsequently lapse, this could have the effect of delaying an economic recovery. As things currently stand, developers would have to make a new planning application for those schemes, which carries implications in terms of delay and additional costs. Furthermore, local planning authorities could find themselves dealing with a sudden upsurge in applications as the economy moves out of recession. There have been calls from the Local Government Association, the Confederation of British Industry and the British Property Federation for a power to be introduced which allows the time limits for implementation of existing planning permissions to be extended.

Figure 1: Quarterly applications progressing beyond approval stage





Source: Planning Portal

8. In order to ensure that developers and local planning authorities are in the best position to respond quickly to improvements in the economic climate, we propose to provide greater certainty and flexibility to both parties by giving the power to planning authorities to extend the time limits for existing planning permissions for major developments, e.g. schemes providing more than 10 houses, or more than 1000sqm of floorspace.
9. Many existing permissions for major schemes lapse every month, and in order to make the maximum impact, this measure needs to be brought in quickly. In the light of this, primary legislation is not being amended. Instead, a new form of planning application will be introduced by making amendments to secondary legislation. For convenience, the procedure is referred to in this consultation 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 proposal authorised by the original permission.
10. 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 the date on which this measure comes into force (i.e. 1 October 2009). The length of time the measure will operate for therefore depends on the length of time which 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). The effect of this measure will be kept under review.
11. 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.

12. 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 1990 to grant planning permissions for longer than the default period of three years, or for longer than the two-year default period for approval of reserved matters, 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.
13. 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, i.e. the same considerations apply as when granting a completely new full or outline planning permission; a default period of three years, with a default period of two years for approval of reserved matters, and discretion to grant longer or shorter permissions.

Question 1 – Do you agree that extensions of the time limits for implementing existing planning permissions for major schemes should be permitted for a temporary period?

14. 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 order (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 1990¹ 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.

Guidance

15. The application will be made on the standard application form, which will be amended for this purpose. Applicants cannot under this provision seek to make any changes to the terms of the planning permission as granted other than an extension of the time allowed for implementation. While the outcome of a successful application will be

1 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.

a new permission with a new time limit attached, the description of the development and all other conditions must remain the same. As most s.106 agreements/unilateral undertakings are linked to a named planning application, there may well be a need to consider a supplementary deed or a fresh obligation so that the new permission will be bound by the same provisions. The guidance set out in Circular 05/2005 should be followed.

16. Unless otherwise stated, all existing requirements set out in the GDPO will apply to this new category of planning application. Where the GDPO gives local planning authorities discretion in how they deal with such requirements, we would expect authorities to adopt a proportionate approach, having regard to the circumstances of each case.
17. 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 national and development plan policies and other material considerations which may have changed significantly since the original grant of permission. In doing so, it will be particularly important to ensure the development is consistent with the Government's planning policies on climate change.
18. Extensions should not be seen as a mechanism to avoid proper and through 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 are consulted if necessary.
19. 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 or if they consider that this is not an appropriate procedure. 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.
20. While the courts have recognised that both a 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 applications was made but before determination, applicants are recommended not to leave submission of an application to the last

possible date. The appeals procedure and time limits for making an appeal are the same for applications to extend as for other applications for planning permission.

21. This extension procedure does not cover any other consents required in connection with the proposal, so applicants should ensure that they have also taken any necessary action in respect of those.

Question 2 – Do you think it would be desirable to introduce a similar procedure which could be used to extend the time limits for implementation of a listed building consent or conservation area consent?

Proposals

Information requirements

22. As the development which will be the subject of an application for extension will be the same scheme as approved by the original grant, we consider that it will not be necessary for extensive information to be supplied. The exact requirements will be set out in the standard application form, but we consider it is likely to be sufficient if the previous planning permission is identified, and an ownership certificate and agricultural holdings certificate are provided. It is of course open to local planning authorities to seek further information in support of the application, for example if it is an EIA scheme and they have reason to believe that the environmental impacts may have changed. It should be noted that an application for extension 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 to carry out a new screening exercise and give an opinion whether EIA is necessary. Applicants may additionally wish to provide supporting information setting out why they are seeking an extension, or whether any changes in policy or material considerations since the previous grant of permission are relevant.
23. The question of information requirements more widely, including design and access statements, will form part of the package of proposals to take forward the Killian Pretty Review recommendations that will be consulted on later in the summer. However, in order to ensure that the ability to extend the time limits for permissions can be brought in as quickly and coherently as possible, we are consulting in this paper on the proposal that applications for extension should be exempted from the requirement to provide design and access statements. This is because in the vast majority of cases, a design and access statement will have been provided at the time of the original application; it will have been fully considered at that stage, and by definition no changes are being sought to design or access. It is of

course open to local planning authorities to seek further information if they consider that changes external to the scheme since the original grant of permission have affected design or access considerations.

Question 3 – Do you agree with the proposed approach to information requirements associated with an application to extend, and that applications for extension should be exempted from the requirement to provide design and access statements?

Fees

24. At present there is no specific fee associated with an application to extend a permission. Without a specific fee, an application to extend would fall under the fee regulations dealing with completely new applications. For major applications the fee can be significant. An amendment to the fees regulations will therefore be needed. We propose that the fee should be set at a flat rate of £170. This is in line with the current cost of applications under s.73, and hence also in line with the fee chargeable when extensions were previously processed under s.73.
25. The procedure required to amend the fees regulations is longer than that required to amend the GDPO. The implications of this for the timing of the measure coming into force are set out in paragraphs 51-52 below.

Question 4 – Do you agree that the fee associated with an application to extend should be in line with the fee chargeable for a s.73 application, i.e. a flat fee of £170?

Size of scheme covered

26. In order to target the measure on the most significant schemes, we propose that it should only apply to major development schemes. 'Major development' is defined in the GDPO article 1(2), and covers:
 - a. the winning and working of minerals or the use of land for mineral-working deposits
 - b. waste development
 - c. the provision of 10 or more dwelling-houses, or if the number is not known, the provision of dwelling-houses on a site larger than 0.5 hectares
 - d. the provision of a building or buildings where the floor space to be created is 1,000 sqm or more
 - e. development on a site of 1 hectare or more

Question 5 – Do you agree that extensions should only be possible for major development schemes?

Statutory consultees

27. The question arising in connection with applications for extension is whether the same requirements should apply as currently apply for new applications. Consultation will already have taken place when the initial application was being considered. There may well be a case for further consultation with some consultees, depending on whether there has been a relevant change in material considerations. However, it is likely that the position will remain unchanged in respect to many of the consultees. We therefore propose to give local planning authorities discretion to decide which statutory consultees should be consulted when an application to extend is received. This would ensure that the burden on statutory consultees is reduced and they are not consulted unnecessarily. However, the EIA regulations require statutory consultees to be consulted when formal scoping is requested by a developer and when an environmental statement is received, so where an application for extension is an EIA application, there can be no discretion.

Question 6 – Do you agree that, except where the application for extension is an EIA application, local planning authorities should have discretion to decide which statutory consultees should be consulted?

Minor material amendments

Background

28. 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.”*²
29. This recommendation arose from concerns that in some cases new planning applications were being required where relatively small changes to schemes were being sought. This can potentially result in unnecessary time and money being spent making and processing new applications.
30. In response to the Killian Pretty 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. Their report, *Minor material changes to planning permissions*, is being published alongside this consultation paper.³ WYG considered the need for a minor

2 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.

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

material amendments mechanism against several criteria: proportionality to the changes sought; simplicity and speed of process; transparency with third party safeguards; the level of legislation required; and the requirement for guidance. Seven options were considered, which are set out in detail in their report, and are reproduced in summary in Annex 2. Four of these options (1-3 and 4A) would require changes to primary legislation, while the other three (4-6) would not.

31. WYG's recommendation was that the existing route under s.73 of the Town and Country Planning Act 1990 to allow changes to the conditions applying to existing permissions should be streamlined and clarified. As there is currently no legislative vehicle for making changes to primary legislation, and to wait for one would mean a delay of at least 18 months, we agree that this option provides the best short-term solution.
32. We recognise that 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. However, in the short term, we consider that the use of s.73 strikes the best balance between comprehensiveness, simplicity and third party safeguards. This consultation paper addresses the changes we are proposing.
33. In the longer term, changes to primary legislation may be possible. While the need for changes would need to be reassessed at that point, and there is no current commitment to making future changes, we are also seeking views on the following options as set out in the WYG report:
 - Option 1: A unified procedure for non-material amendments and minor material amendments
 - Option 2: A fast-track procedure for minor material amendments
 - Option 3: A 'minor matters' application

A description of these options is set out at Annex 2 of this document, with supporting analysis and an initial assessment of the feasibility of these options being provided in the main WYG report. We also welcome suggestions for any other feasible options.

Question 7 – What are your views on the WYG Options 1-3? Do you have any other suggestions for feasible options?

Guidance

34. In order to facilitate the use of s.73 to make minor material amendments, planning permissions should generally impose a condition listing the approved plans (although changes may be sought in relation to any condition). We consider that such a condition would

accord with the advice set out in Circular 11/95. We do not think that a requirement for such a condition needs to be set out in primary legislation, but will keep this under review.

35. 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.”* As we are proposing the use of an existing procedure to make minor material amendments, we are not proposing to make this a statutory definition; however, it will be an appropriate starting point for developers and local planning authorities in considering whether in particular cases this is the appropriate procedure to use.
36. 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.
37. Applications under s.73 are made on the standard application form. They are covered by the existing requirements in the GDPO relating to publicity and notification. 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. The question of statutory consultation under article 10 of the GDPO is addressed at paragraph 42 below.
38. Where an application under s.73 is granted, the effect is the issue of a fresh grant of permission. A new permission should be issued, setting out all the conditions pertaining to it. As an application under s.73 cannot be used to vary the time limit for implementation, this must match the original permission.
39. An application under s.73 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 give an opinion whether EIA is necessary.

40. There may be circumstances in which an application under s.73 is not an appropriate way to make the amendment sought. 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.

Proposals

Information requirements

41. The question of information requirements more widely, including design and access statements, will form part of the package of government responses to the Killian Pretty Review being consulted on later in the summer, and we will address possible changes in relation to s.73 as part of that process.

Statutory consultees

42. The question arising in connection with applications under s.73 is whether the same requirements should apply as currently apply for new applications. Consultation will already have taken place when the initial application was being considered. There may well be a case for further consultation with some consultees, depending on which particular condition the s.73 application seeks to change and whether there has been a relevant change in material considerations. However, it is likely that the position will remain unchanged in respect to many of the consultees. We therefore propose to give local planning authorities discretion to decide which statutory consultees should be consulted when an application under s.73 is received. This would ensure that the burden on statutory consultees is reduced and they are not consulted unnecessarily. However, the EIA regulations require statutory consultees to be consulted when formal scoping is requested by a developer and when an environmental statement is received, so where an application under s.73 is an EIA application, there can be no discretion.

Question 8 – Do you agree that, except where the application under s.73 is an EIA application, local planning authorities should have discretion to decide which statutory consultees should be consulted?

Non-material amendments

Background

43. Section 190 of the 2008 Planning Act introduces new s.96A into the Town and Country Planning Act 1990. This section sets out a simple mechanism by which non-material changes to existing permissions can be permitted without having to submit a completely new planning application. Instead an application for a minor non-material amendment will be made, on the standard application form.

44. This measure was consulted on in *Planning for a Sustainable Future*.⁴ In that document, the reference was to 'allowing minor amendments to be made to planning permissions'. Readers should note that a distinction has now been made between non-material amendments and minor material amendments, with different arrangements in place for both, as set out in this document.

Guidance

45. Some matters to do with the operation of this procedure are prescribed in s.96A. This sets out that the local planning authority 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; that an application can only be made by or on behalf of a person with an interest in the land; and that an application under this section must be recorded on the planning register.
46. Some matters will be set out in secondary legislation, via an amendment to the GDPO. This will specify that an application for a non-material amendment will be required via the standard application form, and that decisions must be issued in writing. We do not propose to provide a definition of 'non-material'; this is a matter for local authority discretion.

Proposals

Notification and representations

47. As an application under s.96A is not an application for planning permission, the existing GDPO provisions relating to statutory consultation, publicity and notification do not apply. However, we are proposing that there should be a requirement to notify anyone who was notified under article 6 in respect of the previous application, and a requirement to take into account representations from these persons if they are received within 14 days. We are not intending otherwise to set out specific requirements in the GDPO for these matters, 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.

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

Question 9 – Do you agree with the proposed approach on notification and representations for non-material amendments?

Information requirements

48. The exact requirements will be set out in the standard application form, but we propose that information requirements will be limited to ownership certificate, sufficient information to identify the relevant permission and any information necessary to explain the proposed amendment. As this is not an application for planning permission, there is no requirement for a design and access statement.

Question 10 – Do you agree with the proposed approach on information requirements for an application for a non-material amendment?

Time limit for the decision

49. Given our expectation that in the majority of cases there will be no need for consultation or publicity, we propose that decisions should be made within 28 days of receipt of the application.

Question 11 – Do you agree that, for non-material amendments, a decision should be made within 28 days of receipt of the application?

Fees

50. We propose a fee of £170, in line with the existing fee for s.73 applications, and the proposed fee for extensions, with the exception of non-material amendments to householder applications, where we propose £25. The procedure required to amend the fees regulations is longer than that required to amend the GDPO. The implications of this for the timing of the measure coming into force are set out in paragraph 54 below.

Question 12 – Do you agree that the fee associated with an application for a non-material amendment should a flat fee of £170, with the exception of non-material amendments to householder applications, where it should be a flat fee of £25?

Section 3 – Implementation

Timing

Extensions to time limits for planning permissions

51. The introduction of this measure requires changes both to the GDPO and to the fees regulations. The procedure to amend the GDPO is shorter, and we are aiming to have this part of the process complete by the common commencement date of 1 October 2009 (subject to consultation responses). However, the fees regulations have to go through a longer procedure, as they require an affirmative resolution in both Houses. While we will aim to amend the fees regulations as quickly as possible, this is likely to take 2-3 months longer than the amended GDPO. The consequence of this will be that between 1 October and the time when the amended fees regulations come into force, it will be possible to apply for an extension, but the fee payable would be as if it was a new application. After the amended fees regulations come into force, the new fee (which we propose will be £170) would apply.
52. While it would be neater to introduce all the changes at the same time, this would mean unnecessarily delaying the introduction of the power to extend. We recognise that paying the new lower fee will be preferable for developers whose permissions will remain extant until the fees regulations come into force. However, there will be permissions which are due to expire in the time between the two sets of regulations coming into force, and we wish to give those developers the opportunity to seek an extension if they wish to do so, albeit at a higher fee level.

Minor material amendments

53. The change to statutory consultation that we are proposing in this paper would come into force (subject to consultation responses) via an amendment to the GDPO on the common commencement date of 1 October 2009. Any further changes following the summer 2009 consultation on information requirements are likely to come into effect at the next common commencement date in April 2010.

Non-material amendments

54. Section 190 will be commenced at the common commencement date of 1 October 2009 (subject to consultation responses) along with the associated amendments to the GDPO. As with extensions, this introduction of this measure also requires changes both to the GDPO and to the fees regulations. In this case the consequence will be that between 1 October and the time when the amended fees regulations

come into force, it will be possible to apply for a non-material amendment, but no fee would be payable. After the amended fees regulations come into force, the new fees would apply.

Guidance

55. Guidance on this package of measures will be issued later in the year. It will substantially consist of the guidance sections in this consultation document, along with the comparison table in Annex 1. It will form part of the new development management policy framework.

Question 12 – Do you have any comments on the guidance which has been included in this consultation paper? Is there anything else that you would like to see covered by guidance?

How the procedures will work together

56. The requirements for extensions and applications under s.73 are designed as far as possible to mirror each other, in order to make the overall package of measures as simple and coherent as possible.
57. As well as seeking an extension, applicants may also wish to make changes to their application. The extension provision cannot be used to make any changes (other than to the time limit for commencement), so depending on the extent of the changes sought, it will be necessary to apply either under s.96A of the Town and Country Planning Act 1990 for non-material amendments, or under s.73 of the Town and Country Planning Act 1990 for minor material amendments. Applicants would therefore need to apply sequentially for extension and for amendments. Pre-application discussions with the local planning authority will be useful to establish that the correct type of application is being made, and that the changes are not so significant that an entirely new application for permission should be made instead.

The bigger picture

58. This consultation paper takes forward a commitment made in the Government's Response to Killian Pretty Review– Recommendation 8⁵ to investigate options and identify next steps to allow a more proportionate approach to minor material changes in developments. As the Government's Response makes clear, we are proposing to consult on a range of other proposals to improve the planning application process in summer 2009; this document identifies where there are specific links with this later package of proposals and the consequential timing implications for the introduction of the changes.

⁵ *Government Response to Killian Pretty Review*, CLG & BERR, March 2009.

Section 4 – About this consultation

Impact assessment

59. The impact assessment is annexed to this consultation document. It is a consultation stage impact assessment which analyses the costs and benefits of the policy options alongside the 'do nothing' baseline.

Questions about the impact assessment

- **Do you think the impact assessment broadly captures the types and levels of costs associated with the policy options?**
- **Do you think the impact assessment broadly captures the types and levels of benefits associated with the policy options?**
- **Do you think that the assumptions underpinning the impact assessment are reasonable?**

Consultation process

60. This is a public consultation and it is open to anyone to respond to this consultation. However, we would particularly welcome responses from:

- local planning authorities
- property developers
- those that represent groups likely to be affected

61. Your response must be received by 5 pm on 13 August 2009 and may be sent by email to: flexibilityforplanningpermissions@communities.gsi.gov.uk

or by post to:
Maria Stasiak
Department for Communities and Local Government
Zone 1/J1
Eland House
Bressenden Place
London SW1E 5DU

62. If you are replying by email please title your email response 'Flexibility for planning permissions consultation'. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

63. The Department will take account of the responses received to this consultation before taking decisions on possible changes to planning legislation.
64. Within three months of the close of the consultation we will analyse the responses to the consultation and produce a summary of them which will be published on the Department's website.
65. This consultation document and consultation process have been planned to adhere to the code of practice on consultation issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:
 - formal consultation should take place at a stage when there is scope to influence the policy outcome
 - consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
 - consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
 - consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
 - keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
 - consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
 - officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience
66. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.
67. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
68. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the

information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

69. The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
70. Individual responses will not be acknowledged unless specifically requested.
71. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.
72. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator
Zone 6/H10 Eland House
London SW1E 5 DU

e-mail: consultationcoordinator@communities.gsi.gov.uk

Annex 1: Comparison table

	Application for extension of time limits	Application under s.73 for minor material amendment	Application under s.96A for non-material amendment
Who can apply?	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.	A person with an interest in the land.
What is process for application?	Standard application form	Standard application form	Standard application form
What is the application considered against?	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.	LPAs 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 (requirements as set out in s.96A).
Does it result in a new permission?	Yes	Yes	No
Expiry date of new permission	LPAs have discretion to set time limit, with a 3-year default period, as set out in ss.91 and 92 of the 1990 Act.	As original permission	N/a
Are design and access statements required?	Consultation proposal is that they should not be required.	Yes. There will be separate consultation on information requirements/design and access statements later in the summer.	No, as this is not an application for planning permission.

	Application for extension of time limits	Application under s.73 for minor material amendment	Application under s.96A for non-material amendment
Decision appears on planning register?	Yes	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 issued?	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.	GDPO will require it to be issued in writing.
EIA requirements	This is considered to be a new application for development consent under the 1999 EIA Regulations. Where the development is listed under either Schedule 1 or 2 to the 1999 Regs, and satisfies the criteria or thresholds set, the LPA would need to carry out a new screening exercise and give an opinion whether EIA is necessary.	This is considered to be a new application for development consent under the 1999 EIA Regulations. Where the development is listed under either Schedule 1 or 2 to the 1999 Regs, and satisfies the criteria or thresholds set, the LPA would need to carry out a new screening exercise and give an opinion whether EIA is necessary.	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.
Fees	Consultation proposal is for a flat fee of £170.	Flat fee of £170.	Consultation proposal is for a flat fee of £170, with the exception of non-material amendments to householder applications, where we propose a flat fee of £25.

	Application for extension of time limits	Application under s.73 for minor material amendment	Application under s.96A for non-material amendment
What happens between 1 October 2009 and changes to the fees regulations 2-3 months later?	During this period, the fee payable would be as if it were a new application for that scheme.	No changes are proposed, so the fee remains £170.	During this period, no fee is payable.
Requirements on publicity (article 8 GDPO)	Applications for extension are covered by these requirements. Within the discretion they have, LPAs should adopt a proportionate approach.	Applications under s.73 are covered by these requirements. Within the discretion they have, LPAs should adopt a proportionate approach.	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. LPAs therefore have discretion.
Requirements on notification (article 6 GDPO)	Applications for extension are covered by these requirements.	Applications under s.73 are covered by these requirements.	While article 6 doesn't formally apply, as applications under s.96A are not applications for planning permission, we propose that there should be a requirement to notify anyone who was notified under article 6 in respect of the original application.
Requirements on representations to be taken into account (article 19 GDPO)	Applications for extension are covered by the requirements of article 19.	Applications under s.73 are covered by the requirements of article 19.	While article 19 doesn't formally apply, as applications under s.96A are not applications for planning permission, we propose that there should be a requirement to take into account any representations made within 14 calendar days, by those notified under the provision set out in the box above.

	Application for extension of time limits	Application under s.73 for minor material amendment	Application under s.96A for non-material amendment
Requirements on statutory consultation (article 10 GDPO)	Applications for extension are covered by this requirement. Consultation proposal is that, except where it is an EIA application, LPAs should have discretion in who they consult under this article.	Applications under s.73 are covered by this requirement. Consultation proposal is that, except where it is an EIA application, LPAs should have discretion in who they consult under this article.	Applications under s.96A are not applications for planning permission, so they are not covered by these requirements. LPAs therefore have discretion.
Time limits for decision to be made	As per new application, i.e. usually 8 weeks.	As per new application, i.e. usually 8 weeks.	Consultation proposal is for 28 days.
Proposed timescale for implementation of this measure	Subject to consultation responses, introduction of the power to seek extensions on 1 October 2009. Introduction of new fee 2-3 months later.	Subject to consultation responses, changes to the GDPO on 1 October 2009. Any changes resulting from the summer 2009 consultation on information requirements/design and access statements are likely to come into effect at the common commencement date in April 2010.	Subject to consultation responses, commencement on 1 October 2009. Introduction of fee 2-3 months later.

Annex 2: Options considered by WYG

These options are reproduced from the WYG report *Minor material changes to planning permissions*. Please see the full report for further details and analysis.

Option 1 Unified procedure for non-material amendments and minor material changes

This procedure would expand the new section 190 to encompass all amendments whether minor material or non-material. The procedure would be introduced by development order as provided for in section 190; it would be a formal procedure but not the same as a planning application. LPAs would be able to fast track all amendments including carrying out consultations and adding new conditions at their discretion.

Option 2 Fast track procedure for minor material changes

The procedure would sit alongside the non-material procedure introduced by the 2008 Planning act. It would allow LPAs to use a formal procedure to fast track minor material changes, potentially within four weeks, whilst allowing for third party consultation, addition of conditions, rights of appeal etc.

Option 3 'Minor matters' application

A formal planning application which would take eight weeks to process and follow the process that a conventional planning application would take, though with less onerous requirements in terms of 1App. It would not create a freestanding permission however; rather it would sit beside a parent permission, in the manner than a reserved matters approval sits with an outline permission.

Option 4 Section 73 adapted to deal with minor material changes

Developers and LPAs would be encouraged to make greater use of section 73 variations, whereby an application is made to vary a condition listing the plans attached to a planning permission, or an application is made to amend another relevant condition e.g. parking requirements, floor space limits, or materials, and hence ratify minor material changes. 1App would be varied to make the submission requirements less onerous. Such an approach is reliant on the permission which is to be varied including a condition (not merely a schedule) listing all approved plans, and other conditions that by variation would allow minor material changes to be made.

Option 4A Section 73 variations adapted (with legislation introduced compelling LPAs to attach conditions listing approved plans)

A variation of Option 4 which would make it mandatory for all planning permissions to include a condition which lists the approved plans (similar to the requirement for a time limit condition). The mandatory inclusion of a condition would ensure that all future plans could be varied by condition, as there may be instances where LPAs do not include a condition listing plans, either because they feel it is not necessary or there is an unwillingness to allow a facility that would encourage minor material changes.

Option 5 Minor material changes dealt with by discharge of condition

Minor material changes would be approved in writing by LPAs as a formal discharge of condition. This approach is currently used by some LPAs in approving non-material amendments. It relies on a condition being attached to the planning permission to the effect that the permission is to be implemented in accordance with the approved plans unless otherwise agreed in writing by the LPA. This then allows developers to submit their minor material changes to be discharged under the relevant condition without the need for a formal application.

Option 6 Full planning application in respect of the changes sought only

This process requires a new planning application to be submitted, but only in respect of the specific areas of change rather than the whole scheme, with 1App revised as far as possible to ensure that submission requirements are less onerous for applicants. CLG could issue guidance to the effect that applications can be made in respect of changes sought only, rather than for the entire scheme as amended, which would greatly simplify the process for LPAs and developers alike.

Annex 3: Impact assessment

Summary: Intervention & Options		
Department /Agency: CLG	Title: Impact Assessment on measures to improve flexibility in handling changes to existing planning permissions	
Stage: Consultation	Version: 1.1	Date: 3 June 2009
Related Publications: <i>Greater Flexibility for Planning Permissions</i> <i>WYG: Minor Material Changes to Planning Permissions</i>		

Available to view or download at:

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

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

Contact for enquiries: Maria Stasiak

Telephone: 020 7944 3676

What is the problem under consideration? Why is government intervention necessary?

In current economic circumstances, there is a reduced take-up of existing permissions. Where permissions lapse, there are costs and delays associated with providing and processing an application for a fresh planning permission.

There is also a broader need for added flexibility to allow developers and local planning authorities to make non-material amendments to existing planning permissions and to clarify and streamline the process for making minor material amendments. There is currently a lack of clarity about what can be done, which is resulting in unnecessary expense and time for both parties.

What are the policy objectives and the intended effects?

The policy objective is to provide a package of measures which together will allow:

- greater flexibility for the planning system to maintain the flow of development given current economic circumstances
- a proportionate and graded approach to making minor material and non-material changes to existing planning permissions in cases where an entirely new application is not justified
- greater certainty about the process by which minor material and non-material amendments can be made to permissions, thus reducing the risk of challenges to the approach taken by the local planning authority, or to their eventual decision

What policy options have been considered? Please justify any preferred option.

Option 1 (preferred option): i) Allow extensions of lifetime of existing permissions for major development schemes ii) Streamline the process for making minor material amendments to planning permissions through applications under s.73. iii) Implement powers to make non-material amendments to planning permissions.

Option 2: Do nothing (status quo).

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will continue to monitor the flow of approvals and commencements through the Planning Portal.

Ministerial Sign-off For final proposal/implementation stage consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: 

.....Date: 4 June 2009

Summary: Analysis & Evidence					
Policy Option: 1		Description: Provide a clearer and more proportionate approach to minor amendments to planning permissions, as well as greater flexibility to maintain the flow of development in current economic circumstances			
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs of new streamlined procedures for minor material, and non-material, amendments are incorporated in the estimates of overall cost savings under monetised benefits reported below.		
	One-off (Transition)	Yrs			
	£				
	Average Annual Cost (excluding one-off)	10			
£		Total Cost (PV)	£		
Other key non-monetised costs by 'main affected groups'					
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' all PUs over 10 years: Extending lifetime: £3m to 10m (admin savings) plus £3m to £12m (fee savings); Minor material amendments: £23m to 89m (admin) plus to £32m to 118m (fees); Non-material amendments: £23m to 89m (admin) plus £32m to 118m (fees)		
	One-off	Yrs			
	£				
	Average Annual Benefit (excluding one-off)				
£ 18m to 67m		Total Benefit (PV)	£ 115m to 436m		
Other key non-monetised benefits by 'main affected groups'					
Key Assumptions/Sensitivities/Risks A key potential impact of extending lifetime of extant permissions is bringing forward new development, and the benefits that would flow from this. But, given uncertainty as to the effects we assume the net effect on timing of development is neutral. Estimates of admin savings are sensitive to assumptions on proportion of schemes seeking an extension.					
Price Base Year 2008	Time Period Years	Net Benefit Range (NPV) £ 115m to 436m	NET BENEFIT (NPV Best estimate) £ 275m		
What is the geographic coverage of the policy/option?			England		
On what date will the policy be implemented?			1 Oct 2009		
Which organisation(s) will enforce the policy?			LPAs		
What is the total annual cost of enforcement for these organisations?			£ n/a		
Does enforcement comply with Hampton principles?			n/a		
Will implementation go beyond minimum EU requirements?			n/a		
What is the value of the proposed offsetting measure per year?			£ n/a		
What is the value of changes in greenhouse gas emissions?			£ n/a		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)			(Increase – Decrease)		
Increase of	£	Decrease of	£ 18.3m	Net Impact	£ -18.3m

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

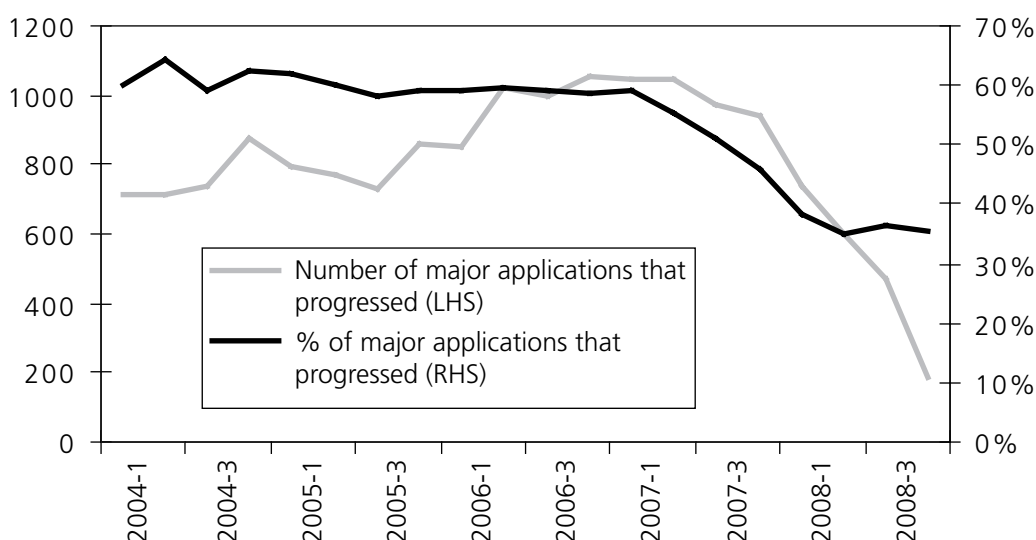
Specific Impact Tests: Checklist

Policy context

There are currently signs of a sharp slowdown in the take-up rate of schemes that already have planning permission. Figure 1 provides quarterly data for applications for schemes worth more than £1m, illustrating recent drops both in the absolute number, and in the proportion, of major applications progressing beyond approval stage.

In many cases development of sites with permission is being delayed, increasing the risk that development does not commence prior to the lapse of a permission.

Figure 1: Quarterly applications progressing beyond approval stage



Source: Planning Portal

Where permissions lapse, there are costs and delays associated with putting in and processing an application for a fresh planning permission. This may have the effect of holding back the flow of development through the planning pipeline. Developers would have to reapply for those schemes, with the time and cost implications that carries. And local planning authorities (LPAs) could find themselves dealing with a sudden upsurge in applications as the economy moves out of recession. There have been calls from the Local Government Association, the Confederation of British Industry and the British Property Federation for a power to be introduced which would allow the time limits for implementation of existing permissions to be extended.

Developments in caselaw have left LPAs uncertain of the extent to which they are able to make minor amendments to planning permissions which have already been granted. Given this uncertainty, they may take a precautionary approach, and either undertake an extensive process of

consultation, which may not be justified by the size and nature of the amendment sought, or may even require a new planning application. A procedure to deal with non-material changes was introduced in the Planning Act 2008 but has not yet been commenced.

Outline of policy proposal (Option 1)

The policy option under consideration is the following package of measures to provide a clearer and more proportionate approach to minor material and non-material amendments to planning permissions, as well as greater flexibility to maintain the flow of development in current economic circumstances.

i) Extension of lifetime of existing planning permissions

This would allow LPAs, at a developer's request, to extend existing individual planning permissions so that schemes which have been delayed would not need to make an application for a fresh planning permission. Only one extension of a permission would be allowed. This is a temporary measure, which will apply only to permissions which were granted on or before 1 October 2009, when the measure will come into force. The length of time the measure will operate for therefore depends on the length of time which each individual permission has left to run. The length of time for which each permission may be extended is governed by existing primary legislation; we would expect the existing default period of three years to apply in most cases.

The proposal would apply to permissions for major development schemes only, where major development is defined in the general development procedure order (GDPO) and covers, for example, schemes providing more than 10 dwellings, or more than 1000m² of floorspace. The LPA would have the discretion to refuse the extension and to require a new application instead.

For convenience, the procedure is referred to in this impact assessment 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 proposal authorised by the original permission.

ii) Streamline the process for making minor material amendments to planning permissions through the use of s.73 of the Town and Country Planning Act 1990

At present, when a developer wants to make a small, but material, change to a scheme that already has planning permission, it is often necessary to submit a further full planning application, which leads to considerable delay, cost and uncertainty for the applicant and additional work for the LPA. The *Killian Pretty Review – Planning Applications: A Faster and More Responsive System* recommended we explore whether a more proportionate approach could be identified. Research by consultants, in consultation with industry including the British Property Federation, has revealed that a quick win

would be to encourage the greater use of an existing legislative tool which allows a change to be made to the terms of a condition attached to a permission, rather than requiring a new application for planning permission.

iii) Implement powers to make non-material amendments to planning permissions

The final part of this package is to consult on changes to secondary legislation necessary to bring into effect a measure in the Planning Act 2008 which provides a simple and quick mechanism for making non-material amendments to planning permissions. Recent case law had been interpreted by many as restricting the potential for developers and planning authorities to agree even the most minor changes to permission, so this change, once fully implemented, will ensure there is a legal basis for doing so.

Costs and benefits of Option 1

i) Extension of lifetime of existing planning permissions

Take-up of schemes with planning permission has been falling in the current market, and this increases the risk of a permission lapsing. In cases where the permission would otherwise have lapsed, the proposal would enable the extension of permission without having to submit an entirely new application. This would lead to a reduction in administrative costs for LPAs and developers associated with applying for and processing a fresh permission.

It is possible to estimate the number of re-applications for major development that might be taken out of the planning system. Based upon Planning Portal data on applications received, it is estimated that about 15,000 major applications might *potentially* be affected by the legislation. But it is not straightforward to assess how many of these 'eligible' permissions would proceed with having their lifetime extended. There are a number of reasons why the lifetime of an eligible permission might not be extended:

- some development will proceed within the default three-year period of permission, regardless of the policy change
- some development will drop out of the system altogether because it is no longer economically viable – an extension to the permission would not rescue the scheme
- in some cases, the developer or LPA or both may still insist on a fresh application, e.g. because of a significant change in the development plan or national policy since the original grant of permission, or a re-negotiation of planning obligations

Our initial estimate, based on discussion with stakeholders including BPF, is that developers may seek to extend the time limits for between 5 and 20 per cent of the 15,000 eligible schemes – so, between 750 and 3000 schemes, over a three-year period from October 2009. **This implies a total saving to**

business of £3m to 10m, and reduced fees of £3m to 12m, over the three-year period. The basis for these estimates is summarised in Table 1.

Table 1: Estimates of savings through extending lifetime of extant permissions – figures are for the 3-year period from October 2009

	Reduced number of applications ¹	Admin cost saving per application ²	Fee saving per application ³	Total admin cost saving	Total fee saving
major	570 to 2280	£1400	£4,100	£0.8m to 3m	£2m to 9m
major major	180 to 720	£10,000	£4,100	£2m to 7m	£0.7m to 3m

Notes:

- 1 Based on estimates for the PwC Administrative Burdens Measurement Project, it is assumed that 25% of major applications are 'major major'.
- 2 Based on the PwC Administrative Burdens Measurement Project. The transaction costs of major and major major applications were estimated as £13,568 and £100,071 respectively. We have allowed for applications being sent for a second time being cheaper for developers as the majority of work should be done – the administrative cost of submitting a repeat applications is assumed to be 10% of the cost of submitting the original one. Note that these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large.
- 3 Average fees are internal estimates based on 2007/8 statistics on fee income and numbers of major and minor applications received.

For LPAs, we assume that the reduced administrative cost associated with processing re-submitted applications is negated by the reduction in fee income.

A further potential benefit of the proposal is that, through reducing delays associated with re-application, some development might be encouraged to come forward earlier – this would contribute towards achieving the Government's objectives on raising housing supply. But we cannot be certain that the proposal would bring forward development – it may have the perverse effect of incentivising developers to delay implementing permissions within 3 years, in the expectation of rising land values as the market recovers. For the purposes of this assessment, we assume that the net effect on timing of development is neutral.

Other costs and benefits, not monetised here, are as follows:

- there will be a small one-off cost to the Planning Portal of amending the standard application form and a cost to the LPA of training staff in the new procedure
- the proposed changes mean that the majority of statutory consultees would not need to be reconsulted for extension applications, which would result in a reduced burden on them
- greater certainty for developers and LPAs that major developments will still go ahead

ii) Streamline the process for making minor material amendments to planning permissions through the use of s.73 of the Town and Country Planning Act 1990

For developers, there is a cost and time saving in being able to use s.73 rather than submitting an entirely fresh application. They are required to submit only minimal information, rather than having to generate the plethora of documents necessary for a completely new application. But we have allowed for applications being sent for a second time (our baseline for comparison) being cheaper for developers as the majority of work should be done – overall the administrative cost saving through the s73 route is assumed to be 10 per cent of the cost of submitting the original application. The costs of submitting an original application are again based on the PwC Administrative Burdens Measurement Project: the transaction costs of minor, major and major major applications were estimated as £1450, £13,568 and £100,071 respectively. Note that these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large.

Also, the flat-rate fee of £170 which applies to s.73 applications is substantially lower than the fee which would be required for a completely new application, which on large schemes could be over £100,000. Average fees associated with major, major major, and minor applications are assumed to be £4,100, £4,100 and £550 respectively – these are internal estimates based on statistics on the number of minor and major applications, and fee income, received in 2007-08.

For LPAs, s.73 applications are much quicker and cheaper than completely new applications to determine, although this is offset by the reduced fee income.

It is possible to estimate the number of re-applications for development that might be taken out of the planning system under this change. CLG's development control statistics only break down the type of development in terms of decisions made (which is lower than applications submitted), but we have estimated total numbers of applications submitted by scaling up the numbers of decisions made in 2008 on each type of development assuming that proportions remain constant. Only a fraction of the total numbers of applications will be re-applications with minor material changes and would thus stand to benefit from the proposed change. Based upon discussions with stakeholders, we have assumed that 5 to 20 per cent, 5 to 20 per cent, and 2.5 to 7.5 per cent of major, major major and minor applications respectively, would be affected. **Overall, we estimate a saving of £4m to 14m per annum in administrative costs for business, and £5m to 18m per annum in fee savings.** The basis for these estimates is summarised in Table 2.

Table 2: Estimates of savings arising from streamlining of process for making minor material amendments – figures are per annum

	Total number of applications per annum	% of applications affected	Reduced number of re-applications	Admin cost saving per application	Fee saving per application	Total admin cost saving	Total fee saving
major	13700	5 to 20%	1700	£1400	£3930	£0.9m to 4m	£3m to 11m
major major	4300	5 to 20%	500	£10000	£3930	£2m to 9m	£0.8 to 3m
minor	152700	2.5 to 7.5%	7600	£150	£380	£0.6m to 2m	£1m to 4m

Other costs and benefits are as follows:

- the proposed changes mean that the majority of the statutory consultees would not need to be reconsulted for s.73 applications, which would result in a reduced burden on them
- developers will be able to respond and adapt more effectively, cheaply and quickly where the need to make minor amendments to an existing permission becomes apparent. Given this, our estimates of savings may be regarded as conservative

iii) Implement powers to make non-material amendments to planning permissions

For developers, there is a cost and time saving in being able make non-material amendments without submitting an entirely fresh application. Our approach to estimating administrative and fee savings is analogous to that used above for minor material amendments. Again a flat-rate fee of £170 applies to new applications (we have disregarded the small fee and administrative savings arising for householder applications).

For LPAs, non-material amendment applications will be much quicker and cheaper than completely new applications to determine, although this is offset by the reduced fee income.

Overall, we estimate a saving of £4m to 14m per annum in administrative costs for business, and £5m to 18m per annum in fee savings. The basis for these estimates is summarised in Table 3.

Table 3: Estimates of savings arising from streamlining of process for making non-material amendments – figures are per annum

	Total number of applications per annum	% of applications affected	Reduced number of re-applications	Admin cost saving per application	Fee saving per application	Total admin cost saving	Total fee saving
major	13700	5 to 20%	1700	£1400	£3930	£0.9m to 4m	£3m to 11m
major major	4300	5 to 20%	500	£10000	£3930	£2m to 9m	£0.8 to 3m
minor	152700	2.5 to 7.5%	7600	£150	£380	£0.6m to 2m	£1m to 4m

Other costs and benefits, not monetised here, are as follows:

- the public may sometimes not be consulted on applications where previously they would have been consulted
- however, there will be greater transparency and consistency between different LPAs in how decisions on minor material and minor non-material applications are dealt with
- the public will have easier access to decisions on minor non-material amendments, as they will be recorded on the planning register
- for LPAs, there will be a reduced risk of challenge, as there will be a prescribed procedure for dealing with these applications
- there will be a small one-off cost to the Planning Portal of amending the standard application form and a cost to the LPA of training staff in the new procedure

Uncertainties and sensitivities

A key potential impact of extending the time limits of extant permissions is bringing forward new development, and the benefits that would flow from this. But, given considerable uncertainty as to the effects, including possible perverse incentives to delay development, for the purposes of this assessment we assume the net effect on timing of development is neutral.

There is a range of uncertainty around our estimates of savings – these are sensitive to a number of assumptions, including:

- the numbers of applications that would be affected by the three proposals
- PwC's estimates of administrative burdens for business. Note that applying these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large
- internal estimates of average fee levels

We welcome views from consultees on the appropriateness of all our assumptions.

Specific impact tests

In all cases the changes proposed relate to planning permissions which have already undergone extensive scrutiny and been judged acceptable. By definition, there will either be no change to the existing permission except to the length of time for which it is valid, or possible changes will be either minor or non-material.

We have screened these proposals for their impact on competition, small firms, legal aid, health, race, disability, gender, human rights or rural proofing, and do not consider that there are any impacts. In individual cases where changes in the development plan or material considerations may indicate that the effect on sustainable development, carbon assessment or the environment needs to be reconsidered, the existing mechanisms by which planning permissions are considered would come into play; the introduction of these measures does not, of itself, have any impact. We have carried out an equalities impact assessment initial screening, and consider that we do not need to proceed to a full assessment.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annex 4 – Summary of consultation questions

Question 1 – Do you agree that extensions of the time limits for implementing existing planning permissions for major schemes should be permitted for a temporary period?

Question 2 – Do you think it would be desirable to introduce a similar procedure which could be used to extend the time limits for implementation of a listed building consent or conservation area consent?

Question 3 – Do you agree with the proposed approach to information requirements associated with an application to extend, and that applications for extension should be exempted from the requirement to provide design and access statements?

Question 4 – Do you agree that the fee associated with an application to extend should be in line with the fee chargeable for a s.73 application, i.e. a flat fee of £170?

Question 5 – Do you agree that extensions should only be possible for major development schemes?

Question 6 – Do you agree that, except where the application for extension is an EIA application, local planning authorities should have discretion to decide which statutory consultees should be consulted?

Question 7 – What are your views on the White Young Green Options 1-3? Do you have any other suggestions for feasible options?

Question 8 – Do you agree that, except where the application under s.73 is an EIA application, local planning authorities should have discretion to decide which statutory consultees should be consulted?

Question 9 – Do you agree with the proposed approach on notification and representations for non-material amendments?

Question 10 – Do you agree with the proposed approach on information requirements for an application for a non-material amendment?

Question 11 – Do you agree that, for non-material amendments, a decision should be made within 28 days of receipt of the application?

Question 12 – Do you agree that the fee associated with an application for a non-material amendment should be a flat fee of £170, with the exception of non-material amendments to householder applications, where it should be a flat fee of £25?

Question 13 – Do you have any comments on the guidance which has been included in this consultation paper? Is there anything else that you would like to see covered by guidance?

Questions about the impact assessment

Do you think the impact assessment broadly captures the types and levels of costs associated with the policy options?

Do you think the impact assessment broadly captures the types and levels of benefits associated with the policy options?

Do you think that the assumptions underpinning the impact assessment are reasonable?

ISBN: 978 1 4098 1534 1

