

Procedure for Assessing Non Material Amendments

S96A of the Town and County Planning Act 1990 allows a Local Planning Authority to make a non material change to a planning application. In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted.' In allowing a non material change an authority may impose new conditions and remove or alter existing conditions.

Government guidance on the process for dealing with non material amendments is set out in ["Greater Flexibility for Planning Permissions"](#) (November 2009).

What is a Material Amendment?

There is no legal definition of what changes may be treated as being non material. Nor has the Government issued any guidance. However, this change to procedure was partly introduced in response to the Killian Pretty review with the objective of taking steps to allow a streamlined and faster approach to inconsequential changes to development proposals. The consideration of Non Material Amendments will be approached with this in mind. This procedure therefore seeks to provide guidance on how Bradford Metropolitan District Council proposes to assess non material amendments.

Criteria for Assessing Non Material Amendments

The council will apply the following 4 key tests in order to assess the acceptability of a change to an approved scheme under the non material amendment procedure. However, each non material amendment request will be considered on its merits having regard to all relevant circumstances:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approval? If no then 3 further tests need to be applied).
2. Would the proposed change result in a development that will appear noticeably different to what interested parties may have envisaged or could result in an impact on the amenity of occupiers of adjoining properties?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way? (This is a particularly significant issue as there is no provision for consultation or neighbour notification within the non material amendment procedure).

4. Would the amendment be contrary to any planning policy of the Council?

If the answer to any of the questions 2, 3 and 4 is YES then the matter cannot qualify as a non material amendment.

In considering these tests, the following factors may be relevant.

- To what extent does the proposed change relate to a matter that was the subject of any restrictive condition on the original planning permission (e.g. landscaping, parking arrangements, materials)?
- Was the matter to which the amendment relates the subject of any material objections or other material representations on the original permission?
- What would be the effect of proposed changes to building position, height, levels, position of windows, materials proposed and/or relationship with any adjoining development?
- What would be the impact on existing trees and any approved landscaping scheme?
- What would be the impact on the amenities of adjoining occupiers?
- Are there any other material considerations identified in the original officer report which should inform the decision?

Listed Buildings and Conservation Areas

The provisions outlined in this procedure relate to planning permission only. Any proposed changes to a Listed Building Consent or Conservation Area Consent would require the submission of a new application.

Submission of an application for a non material amendment

Who can make an application?

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

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

If in doubt the applicant should be requested to provide proof of their legal interest.

What should be provided?

The extent and nature of the proposed amendment(s) must be clearly identified on the plans and drawings accompanying the application form. This can be done either by including sets of both the original and amended drawings, or by superimposing the proposed amendment on those originally approved. In either case, the extent of the amendment must be clearly identified. The use of a highlighter pen, cross hatching or other notation is helpful. Full specification of materials, colours, sections must be included where appropriate.

Any revised drawings submitted with the application should be scrutinised carefully in order to verify that the proposed amendments described in the application form correspond precisely with those depicted on the revised drawings.

If the extent and nature of the minor amendment cannot be easily identified from the submitted material the application will not be made valid until further information or clarification has been received.

Assessment of the application

The officer will make an assessment on the basis of the information submitted in accordance with this procedure. If the amendment is found to be acceptable it will be agreed by the issuing of a formal decision notice describing in detail the non material amendments that are being approved, with reference to submitted drawings. The LPA may impose new conditions or remove / alter existing conditions as part of the decision. A new planning permission will not be issued. The original permission still stands and the two documents should be read together.

The Council has 28 days from the receipt of a valid application to issue a decision, or longer if that has been agreed in writing. In the event that a request for a non material amendment is refused or not determined, there is no right of appeal under s78 of the Town and Country Planning Act 1990.