

## **Negotiating Submitted Applications**

### **Procedure Note 2023**

Overall, the vast majority of planning applications received are granted permission and a significant number of these will involve some form of negotiation.

Negotiations during the course of an application are an important part of the planning process. They enable schemes to be amended and improved to:

- meet the requirements of technical consultees & policies
- address responses of neighbours, consultees, Town/Parish Councils and Councillors
- allow for a pragmatic response to the needs of developers/applicants
- ensure that, together, we maximise the opportunity to deliver the best possible schemes.

The facility to make amendments is, however, not an alternative to a properly thought through and prepared application. The preference, in accordance with national Planning policy & best practice, is for negotiation to take place before the application is submitted - as this speeds up the process. We encourage discussions via our pre-application advice service. Pre-application advice will generally give more certainty at an earlier stage and help resolve issues so that speedier decisions can be made when the application is submitted.

A key part of every planning case officer's role is to make a recommendation on the acceptability or otherwise of any planning application. Having considered all relevant factors, the case officer might conclude that the proposal is unacceptable for a number of reasons. In this case a further judgement is required on whether negotiations are appropriate to be carried out in an attempt to make the scheme acceptable or whether the application should instead be refused.

### **When we negotiate**

A number of factors will influence this judgement, but the main ones are policy considerations and the scale and nature of the amendments required.

Planning applications under consideration typically fall into one of the following categories:

1. Scheme acceptable as submitted - **Approval without negotiation**
2. Scheme fundamentally unacceptable as submitted - **Refusal without negotiation**

If the proposal is clearly contrary to policy for example, it is unlikely that negotiations can overcome this. In these cases, the planning case officer will proceed to progress the application to a determination. Similarly, if the scheme is substantially sub-standard, perhaps in a number of different respects, the presumption is that it will be progressed towards a decision without negotiations being undertaken. The reasons for refusal will advise the applicant or agent what the problems are so that they can seek to address these in a re-submitted application, if they wish to do this, or to give them the earliest opportunity to seek review of the decision via the Appeal process.

3. Scheme unacceptable as submitted but needs only minor amendments to make it acceptable which would not materially alter the application and which would (generally) not require re-consultation – **Approval following negotiation.**

If the scheme only requires a relatively minor change to make it acceptable, the presumption is that negotiations will be undertaken to obtain satisfactory amended plans before the application is put forward for a decision. Whether any amendments are considered to be 'minor' is addressed in more detail below.

4. Scheme is unacceptable as submitted but needs minor amendments or further information to meet the objections or concerns of a consultee and no other third parties need to be reconsulted – **Approval following negotiation.**

Sometimes, people who are consulted on an application (including external consultees such as the Highway Authority, Environment Agency, Natural England, etc and internal consultees such as other Council departments) require changes to be made to the plans or additional information to be submitted. In cases such as this, negotiation and amendments may be acceptable in certain cases and this is addressed in more detail below.

**How do we assess if a scheme needs only minor amendments?** (see point 3 above)

In the first instance we ask two questions;

Q1 - would the amendment materially alter the application? If YES, a fresh application is needed and amended plans will not normally be accepted.

Q2 – would any re-consultation with the Town or Parish Council or neighbours on any amendment be needed? If YES, a fresh application is normally needed and amended plans will not be accepted.

Whether the amendments comprise a material alteration and/or whether re-consultation is needed is a matter for the planning case officer. It depends on the nature and scale of the amendments and any comments that have been received from third parties. The Council will consider the use of extensions of time should it be considered appropriate to do so to progress a scheme, but the Council will normally only accept a single amended set of plans to overcome any issues raised by officers in such circumstances.

Some common examples where **amendments will not normally be accepted** are set out below;

- Significant changes to the character or appearance of the development eg
  - Design changes that have a singular or cumulative material impact on any neighbours or the public realm
  - Changes to the application site boundary
  - Significant changes to the site layout
  - Significant changes in scale such as the increase in the footprint of a new building or extension
- Material changes to the description of the development (other than removing elements from the scheme):
- Addition of new elements to the originally submitted proposal eg
  - Additional extensions
  - Additional openings facing neighbouring properties
  - Additional information such as Traffic Impact Assessments
  - Additional survey work such as ecological surveys

Please note we will generally accept minor amendments (without re-consultation) to an application where those amendments are made to address the concerns of respondents or where the details of the amendments have been clearly presented at Committee and have been accepted as being required to reach a decision.

**When will we accept amendments to address the concerns of a consultee?** (see point 4 above)

In the first instance we ask three questions;

Q1 – Can the amendment/additional information be provided within the statutory time period for determination (or a single agreed extension of time eg to meet a consultee timeframe)?

If the answer is YES, we move to Q2. If the answer is NO, amended plans and/or additional information will not be accepted

Q2 – Can the comments of the consultee on the amendment/additional information supplied also reasonably be received within the statutory timeframe (or agreed extension of time)?

If the answer is YES, we move to Q3. If the answer is NO, amended plans and/or additional information will not be accepted

Q3 – Will anyone other than the consultee need to be re-consulted?

If the answer is YES, amended plans and/or additional information will only be accepted at the discretion of the planning case officer or Development Manager.

### **What happens if we ask for amended plans or to provide additional information?**

If we seek to amend plans and the case officer confirms that they will accept such amendments as part of the current application, the case officer will give a date by which to submit the plans and any additional information.

If the amendments are not received by the date given, we will generally determine the application as it stands.

We will not accept amendments after the date given by the case officer.

The dates given by the case officer will vary according to the case officer's workload and priorities at the time. In some cases the time period given for amendments to be submitted may be short. In all cases we will try our best to advise applicants of the need for amendments as early in the process as possible.

The expectation is that only one round of negotiation and, if necessary, re-consultation with a consultee, will be entered into per application. Similarly endless extensions of time is unfair to third parties and so the expectation will be that only one such extension will be agreed.

Applicants and agents to be encouraged NOT to submit amended plans unless invited to do so by the case officer. If amended plans are received without being requested, it is a matter for the discretion of the case officer whether those plans are accepted or not.

**NB No guidance note can cover all eventualities. In some circumstances ( eg to avoid an appeal/for political or procedural or practical reasons etc) , exceptions to the above approach may therefore be allowed at the discretion of the relevant Principal Officer or Development Manager.**