



BEDFORD
BOROUGH COUNCIL

Negotiating Amendments to Submitted Planning Applications

Procedure Note 2015:01

Negotiating Amendments to Submitted Planning Applications

Introduction

1. Paragraph 38 of the National Planning Policy Framework states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
2. Over 80% of all planning applications received by this Council are granted permission and a significant number of these will involve some form of negotiation and amendment of the scheme prior to the decision being made.
3. Negotiations are an important part of the planning process, as they enable schemes to be amended and improved to:
 - i). Meet the needs of technical consultees;
 - ii). Meet the important planning considerations raised through the process by neighbours, Town/Parish Councils and Councillors;
 - iii). Comply with the requirements of policies of the Council;
 - iv). Allow for a pragmatic response to the needs of developers;
 - v). Improve the quality of detail of proposals;
 - vi). Allow the grant of permission by overcoming initial shortcomings in the scheme.
4. The facility to make amendments is however not an alternative to a properly thought through and prepared application. The Council's clear preference is for negotiation to take place before you submit your application as this improves the process and encourages a 'right first time' approach. We welcome and encourage discussions via our pre-application advice service before you submit an application. Pre-application advice will generally give more certainty at an earlier stage and help resolve issues so that speedier and simpler decisions can be made. Further advice on this service is available from the Pre-application advice guidance note which is available via the Council's website www.bedford.gov.uk. Please note that this is a paid for service.
5. A very important part of the planning case officer's role is to make a recommendation on the acceptability or otherwise of the planning application. Having considered all relevant factors the planning officer might conclude that the proposal is unacceptable for a number of reasons. In this case a further judgement is required on whether negotiations should be carried out in an attempt to make the scheme acceptable.
6. Where there is insufficient time available to the planning officer to process, consult, publicise and report on the amendments, or when the amendments are many and not of a minor nature the planning authority may decline to negotiate

and accept amended submissions. The guidance below sets out the principles which the Council will seek to apply in determining whether or not to accept amendments and how it will deal with them. In all cases, the Council will not accept an amendment if the Council considers that it is a substantial alteration from the original proposal.

When we negotiate

7. Planning applications typically fall into one of the following categories:

Category 1

Scheme acceptable as submitted – **Approval without negotiation**

Category 2

Scheme 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 your application to a determination. Similarly, if the scheme is substantially sub-standard, perhaps in a number of different respects, and requires substantial amendments, the presumption is that it will be progressed towards a decision without negotiations being undertaken. The reason(s) 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. The applicant may be given an opportunity to withdraw the application before a refusal is issued.

Category 3

Scheme unacceptable as submitted but needs only minor amendments to make it acceptable which would not materially alter the application and which would 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.

Category 4

Scheme is unacceptable as submitted but needs minor amendments or further information to meet the objections or concerns of a consultee – **Approval following negotiation**. Sometimes, people who are consulted on an application (including external consultees such as the Highways England, Environment Agency, Natural England, Historic England, etc. and internal consultees such as other Council Units) require specific 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.

Category 5

If there has been no pre application advice, and the issues raised could reasonably have been identified before submission we will normally proceed to

Refusal without negotiation. To do otherwise would in essence amount to the provision of the same informal advice that the council has agreed to provide as a paid service but free of charge; it could also elongate the process and result in the Council failing to meet statutory determination periods. In addition, where pre application advice has not been sought, consultees are more likely to raise points which go beyond being minor amendments and other consultees might, in turn, raise new issues about the amendments that should have been considered at the pre-application stage.

If pre-application advice was given by but that advice has been ignored to the extent that proposal was identified as being harmful or problematic in some way, we will also normally proceed to a **Refusal without negotiation**. The applicant may be given an opportunity to withdraw the application before a refusal is issued.

How do we assess if a scheme needs only minor amendments?

8. We look at whether the amendments comprise a material alteration to the proposal and the plans, and/or whether re-consultation is needed. This is a matter of professional judgement for the planning case officers.
 9. Some common examples where amendments are not considered minor and will not be accepted are set out below;
 - i). Significant changes to the character or appearance of the development
 - Design changes that have a cumulative impact on any neighbours or the public realm
 - Significant changes to the application site red line boundary
 - Significant changes to the site layout
 - Significant changes in scale such as the increase in the footprint of a new building or extension
 - ii). Significant changes to the description of the development
 - iii). Addition of new elements to the originally submitted proposal
 - Additional extensions
 - Additional openings facing neighbouring properties
 - Additional information such as Traffic Impact Assessments or ecological surveys, and so on
- This list is not exhaustive
10. Please note we will generally accept what we consider to be minor amendments (without re-consultation) to an application where those amendments are made to address or mitigate the concerns of neighbours or the Town/Parish Council.
 11. If we do accept minor amendments and re-consultation or further publicity is required then a reasonable extension of time to the statutory decision date will be expected to be granted by the applicant that allows for the re-consultation period and further time for the subsequent officer assessment and report to be

prepared. Where an application must proceed to planning committee for decision, the extension of time required must also cover that period of time. Where an extension of time is not agreed, officers may refuse to accept the amendments to avoid undermining statutory decision making targets. Planning Officers may therefore proceed to a formal decision without negotiation in such instances.

12. Amendments that are not minor will not be accepted and will be treated as a Category 2 application type and refused without negotiation.
13. Multiple rounds of amendments will also not be accepted and will be treated as a Category 2 application type and refused without further negotiation.

What happens if you are asked to amend your plans or to provide additional information?

14. You, or your agent, will be contacted, usually by e-mail or by telephone, and will be given a short indication of what you are being asked to amend, and why.
15. If you are asked to amend your plans and the case officer confirms that they will accept such amendments as part of the current application, the case officer will give you a date by which you must submit the plans and any additional information. An extension of time to the statutory decision date will need to be agreed for an amendment to be accepted.
16. If the amendments are not received by the date given or you confirm you do not wish to make any amendments, we will determine your application as it stands.
17. We will not accept amendments after the date given to you by the case officer or without an agreement to a requested extension of time.
18. Please note that 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 very short. In all cases we will try our best to advise applicants of the need for amendments as early in the process as possible.
19. Please also note that only one round of negotiation and, if necessary, reconsultation with a consultee, will be entered into per application (see note 13 above).
20. Applicants and agents are also 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. Amendments will need to be submitted via the National Planning Portal if the original application was submitted via the Planning Portal. We do not accept emailed amendments.
21. If you decide that you do not wish to proceed with the application as submitted you can withdraw it at any time before the decision is issued.

- 22. All applicants and agents are further advised that no guidance note can cover all eventualities but the Council will seek to apply the principles set out above in dealing with amendments, save in any exceptional circumstances approved by the Manager for Development Management or the Chief Officer for Planning.**