



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.
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 your 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 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 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 pre-application advice was given by the Council but has been ignored to the extent that proposal was identified as being harmful or problematic in some way, we will 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? (see Category 3 above)

8. We look at whether the amendments comprise a material alteration and/or whether re-consultation is needed. This is a matter of professional judgement for the planning case officers. It depends on the nature and scale of the amendments and relevance to any comments that have been received from third parties. Further, if re-consultation or further publicity is required then it will be likely to take the application beyond the normal target timescale for a decision. There is a reluctance to undermine those targets and to introduce uncertainty for those who have already submitted comments. Planning Officers will therefore proceed to a formal decision without negotiation.
9. Some common examples where amendments 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.

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

11. In the first instance we ask three questions;

Q1 – Can the amendment/additional information be provided within the statutory time period for determination? 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 be received within the statutory timeframe? 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 not be accepted.

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

12. 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.
13. 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 may also be sought by the case officer.
14. 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.
15. 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.
16. 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.
17. Please also note that only one round of negotiation and, if necessary, reconsultation with a consultee, will be entered into per application.
18. 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. 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.
19. **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.**