

Non-Material Amendment to a Planning Approval

The Planning Act (Northern Ireland) 2011 which came into effect on 1 April 2015 contains statutory provisions that allow the Council to approve non-material changes to approved developments, without requiring the submission of a new planning application.

This guidance sets out how Antrim and Newtownabbey Borough Council will deal with proposals for non-material amendments, for applicants and their agents, as well as other interested parties, including neighbours, to understand the basis for any decision.

What you should do if you are proposing a non-material amendment

You should contact the Case Officer who originally dealt with your planning application setting out clearly in writing what the proposed changes are. You will normally also be requested to provide plans clearly showing the differences between the approved scheme and the proposed amendment.

The Case Officer will let you know:

- if the amendment can be processed as a non-material amendment, or
- if a new planning application will be needed.

This is part of our "Pre Application Service" and there is no charge for this advice.

The non-material amendment decision letter

Where changes sought are acceptable as a non-material amendment the Council will issue a decision letter that will specifically describe the changes and stamp drawings as approved. The decision letter is not a reissue of the original planning permission, which still stands; rather the two documents should be read together.

Where the extent or nature of the changes proposed exceeds a non-material amendment, you will be advised in writing. Where appropriate, you will be invited to submit a fresh planning application for the development and advised of the likely acceptability of the proposals and any further issues to address.

If you are advised that a new planning application is required, this does not necessarily mean that the changes you propose will not be acceptable to the Council; rather that they will need full and proper consideration and consultations to be carried out.

What is considered to be a non-material amendment?

In order to grant a non-material amendment the Council must be satisfied that the change sought is 'non-material'. Section 67(2) of the Planning Act (NI) 2011 states that "in deciding whether a change is material, a Council must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted."

There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is considered non-material in one context may be material in another. If you are uncertain, you may wish to contact us to discuss.

We consider that anything but the most insignificant change would need to be dealt with by the submission of a new planning application. For example, we could **not** normally accept amendments as non-material if any of the following apply:

- The application site area (red line) differs from the original application;
- The application description or nature of development differs from the original application;
- The amendment would result in a fundamental change in the design of the building or introduce changes to the external details (e.g. facing materials or roof shape) that would **materially** alter the appearance of the building;
- The amendment significantly increases the size of any part of the development;
- The height of the building or structure is increased;
- The development moves more than 1 metre in any direction;
- If the amendment locates any part of the development closer to the boundary of a neighbouring building;
- If the amendment changes windows or doors in any elevation facing a neighbour which increases overlooking in an unacceptable way;
- The amendment would result in a greater visual intrusion, loss of light or feeling of enclosure to neighbours;
- There were any relevant objections to the original proposal which would be compromised by the amendment
- The amendment would result in significant environmental effects which would need to be addressed under the Environmental Impact Assessment (NI) Regulations 2015.
- The amendment would result in the scheme becoming contrary to the adopted policies of the council;
- The resulting scheme would conflict with any planning conditions attached to the original grant of planning permission; or
- There has been formal enforcement action taken, for example non-compliance with approved plans.

Key points on the new non-material amendment application procedure

There are a number matters to be aware of if you intend making an application for a non-material amendment of an approved development:

- An application can only be made by someone who has a legal interest in the land i.e. it does not have to be the original applicant.
- There is a standard application form on the Planning Portal which can be easily accessed from our website.
- Notice has to be served by the applicant on any owner of any land to which the application relates.
 - We will take owner to include the actual owner, someone with an interest in the land (such as a tenant) or someone who has exchanged contracts to purchase the land.
- We have to take into account any comments received within 14 days of any notice being served on an owner.
- No Design and Access Statement is necessary.
- The application is not for a new permission so it will not be necessary to repeat conditions from the original permission which remain in force. Conditions on the original application cannot be varied or removed under this procedure.
- If the amendment is such that a new condition is necessary, then it cannot be a non-material amendment and a fresh planning application will be required.
- There is no prescribed form of decision, but it must be in writing. A Case Officer report and recommendation will be produced.
- Decision letters will be placed on the Planning Register.
- There is currently no application fee.

Is consultation/publicity required?

As an application to make a non-material amendment is not an application for planning permission, the existing provisions set out in the Planning (General Procedures) Order (Northern Ireland) 2015 relating to statutory consultation and publicity do not apply.

While the Council has the discretion as to whether and how it chooses to inform other interested parties or seek their views on any proposal submitted to it, changes sought through the non-material application procedure are unlikely to require consultation or publicity.

Can this procedure be used to make non-material amendments to other consents e.g. listed building consent?

No. This procedure only applies to planning permissions.