

# Dorset Council Development Management Guidance Note

## Negotiation on planning applications and applications for listed building consent

### Context

National policy recognises the importance of early engagement and front-loading in the decision-making process. The National Planning Policy Framework (NPPF) has a specific section on 'pre-application engagement and front-loading'. Para. 39 acknowledges that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.

Para. 40 of the NPPF states, amongst other things, that:

*“Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer”.*

Para. 41 further highlights the benefits of resolving as many issues at pre-application stage as possible.

Dorset Council offers a pre-application advice service and details of this service can be found here <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning/planning/pre-application-advice>. The Council also welcomes planning performance agreements and is happy to discuss these with applicants prior to the submission of a pre-application enquiry or planning application. Please be aware that some departments within Dorset Council operate their own pre-application enquiry services such as highways, the natural environment team and the flood risk management team.

Applications for listed building consent can often require a greater level of detail. Early engagement using our pre application advice service can help by letting you know what is required to support your application, as well as resolving any issues before your application is submitted.

There is no legal requirement for a Local Planning Authority (LPA) to accept amendments, or additional information once a valid application has been submitted. Our duty, as LPA, is to determine valid application as quickly and effectively as possible, within nationally set time limits. Usually these are 13 or 16 weeks for applications for major development, and 8 weeks for all other types of development including listed building consent.

National planning practice guidance advises that:

*“Once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit, unless a longer period is agreed in writing with the applicant”.*

If a planning application takes longer than the statutory period to decide, and an Extension of Time (EOT) has not been agreed with the applicant, the government's policy is that the decision should be made within 26 weeks at most to comply with the 'planning guarantee'. Where a valid application has not been determined within the relevant statutory period (i.e., within 8, 13 or 16 weeks) or within an agreed EOT, the applicant has the right to appeal to the Secretary of State against non- determination.

Failure to determine applications within statutory timescales creates uncertainty for all those involved including the applicant and third parties and prolonging the determination period for the application by accepting numerous rounds of amended plans can result in the Council spending a disproportionate amount of time on an application. Furthermore, failure to determine applications within statutory timescales has significant implications for performance targets and could put the Council at risk of being placed in special measures.

### **When amendments will be accepted on non-major applications under consideration:**

This guidance will help you understand when the Council will/will not request amended plans/additional information for non-major planning applications and applications for listed building consent.

When an application is received it will be checked against the national and local lists for validation requirements and will be expected to be submitted in a form and with the necessary information to enable it to be fully assessed and determined as submitted, without amendment or addition.

The Council is striving to make decisions on non-major applications and applications for listed building consent within statutory timescales (8 weeks from receipt of a complete application) and as such it takes the default position of not seeking or accepting amendments to those applications where applicants and/or their agents have not engaged with the Council, prior to application submission, via the pre-application advice service offered by the Council, unless one of the four exceptions below is met:

1. The information requested is required by the national or local lists for validation and was not requested prior to the validation of the application.
2. Further analysis of the application post-validation means more information or clarification is required to aid full consideration i.e. the information must be required to complete the assessment of the scheme (for example a cross-section drawing) and the applicant submits the requested information to the planning case officer within 2 weeks of the request and agrees in writing to a 4 week extension of time to the end date for the determination of the application. Such an extension of time for determination will allow further consultation/consideration as necessary of the additional information. Without the agreement to the extension of time for determination the application will be determined as submitted and the additional information will not be accepted.
3. Amendments of a minor nature that will secure a required improvement to the scheme but will not jeopardise a decision within the statutory period i.e., does not require additional consultation or re-consultation or publicity. If such amendments are requested the amendments shall be submitted to the planning officer within 2 weeks of the request for the information, otherwise the application will be determined as submitted. In order to help you, officers will consolidate any request for amendments into a single request and will only accept one round of amendments to a scheme.
4. The amendments requested will be likely to, in the view of the planning case officer, make the scheme acceptable, and the applicant/agent used the Council's pre-application advice service, received positive feedback on the scheme, the application scheme does not deviate significantly from the pre-application scheme and the amendment was not previously identified as part of that feedback. If the amendment triggers the need for a fresh 21-day consultation, the applicant will be requested to agree to an extension of time for the determination of the application.

This means that, in general, amendments to applications will not be accepted if/for:

- An increase in the size of or a change to the red line of the application site unless very minor in nature and requested by the planning case officer.
- It would trigger the need for a fresh 21-day consultation.
- A significant move or relocation of footprint.
- A significant change or increase to the volume and/or massing of the built form.
- Different uses to that applied for.
- It significantly alters the character or description of the proposal.
- An increase in the number of dwellings proposed.
- The proposal would conflict with development plan policies.
- It would increase the visual impact of the development in a way that is likely to cause greater harm than the submitted scheme.
- It would increase the amenity impact of the development on a feature of recognised sensitivity.
- It would increase the impact on a heritage asset – designated or non- designated.
- It would exacerbate concerns raised by third parties.

This is not an exhaustive list and is intended to act as guidance. All the above are at the discretion and judgement of the planning case officer and their line manager.

**We will not accept unsolicited amendments so please do not seek to make amendments in response to consultee comments, third party representations or an objection without first clearing the submission of the amendments with the planning case officer.**

### **When amendments will be accepted on major planning applications under consideration:**

The Council has a longer statutory timescale for the determination of major planning applications – 13 weeks, unless Environmental Impact Assessment (EIA) development which is then 16 weeks or an alternative period for determination as has been agreed in a Planning Performance Agreement between the applicant and the Council. Given the longer timescale for determination and the greater likely quantum (e.g., number of units/floorspace), scale and/or significance of development proposed, officers will seek to engage in negotiations with the applicant, provided there is not an in-principle conflict with the development plan policies in the view of the planning case officer and any amendments sought would do one or more of the following:

- Address the comments and requirements of technical consultees.
- Address concerns raised by neighbours, Town/Parish Councils and Ward Members.
- Comply with the requirements of the policies of the development plan.

Amendments will only be accepted where they are accompanied by a statement setting out what the amendments to the scheme are, including references to the relevant plan numbers of both superseded and amended plans. Furthermore, amendments will only be accepted where the applicant agrees to a suitable extension of time for the determination of the application.

Amendments are not an alternative to the submission of a properly thought through and prepared application. The Council encourages applicants to engage with the Council via its pre-application advice service and welcomes the discussion of planning performance agreements with applicants.

It will be for the planning case officer, and their line manager, to decide if more than one round of amendments will be accepted.

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**Amendments to the submission of applications submitted to seek approval of details reserved by condition:**

Once an application for the approval of details reserved by condition has been validated the Council will seek to determine the application within statutory timescales (8 weeks or 12 weeks if an extension of time has been agreed between the Council and the applicant). As such it is expected that all necessary plans and information required in order to consider the matter(s) will have been submitted at validation stage.

Planning case officers will exercise their discretion as to whether it would be appropriate, having regard to the nature of the additional or amended information required and the timescales for determination as to whether they will request additional/amended information in order to address identified issues. In general, additional/amended information will only be sought where it is very minor in nature. The planning officer when making any request will provide a timescale for submission of the additional/amended information and if not received within the timescale the application will be determined as submitted. In all cases only one round of amendments will be accepted, following a request by a planning case officer, after which the application will be determined.

**We will not accept unsolicited amendments so please do not seek to make amendments in response to consultee comments without first clearing the submission of the amendments with the planning case officer.**