

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name		
Organisation	cardiff international airport ltd	
Address		
E-mail address		
Type (please select one from the following)	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: failure to determine should result in automatic approval				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post
Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-b@wales.gsi.gov.uk Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Robert A Robinson FRICS AILCM	
Organisation	WELSHPOOL TOWN COUNCIL	
Address	Triangle House Union Street Welshpool SY21 7PG	
E-mail address	wtcouncil@btinternet.com Telephone 01938 553142	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: In general yes. However informed guidance should be issued to local planning authorities to ensure consistency across the local authorities.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes. It is agreed that there should be no need for any further design or access statements for such an application.				

18 DEC 2012

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The fee levels are generally acceptable. However the lower fee level of £25 should be extended to advertising consents, boundary walls, changes of use consents and alteration of planning conditions (of smaller applications). These applications do not require a lot of consideration and the lower fee would be more in proportion to the original applications.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes in general. However the Town or Community Council should be informed with a shorter time period for responding (ie 14 days). Local knowledge is very important in all applications. It is likely that Planning Officers will be determining such applications but there should be a requirement for them to consult the local County Council member and the Town and Communitiy Council.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No. Although the planning register is one method of notification there should be a communication to the Town or Community Councils at the same time.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, even consulting Town and Community Councils this should be achievable. However if it does take longer the local planning authority should be allowed to issue a decision later and not just go to a refusal due to lack of time.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The planning authority should be allowed to agree an extension of time with the applicant for a period of 14 days.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No, other than those noted in other parts of this consultation.				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The existing situation is in consistant, however any statutory basis of approvals needs to encompass the need for quick decisions in cases where site conditions dictate a change during construction.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>9a. Persons able to make an appliction: There is no reference in the list of those able to make such an application ot the applicant of the original application. The Association believes that this should be added to the list in para 2.8 of the consultation document.</p> <p>9b. Planning Applications The local planning authority should be able to deal with minor ammendments to full planning applications in the same way as proposed in this paper rather then seeking another application.</p> <p>9c. Oral evidence: The respondant is prepared to attend to give oral evidence if felt that it would be of value.</p>	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

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Please submit your comments by 15 March 2013.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Malcolm Ridge	
Organisation	The Gower Society	
Address	The Orchard, Perriswood, Penmaen, Swansea, SA3 2HN	
E-mail address	ridgegower@btinternet.com	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input checked="" type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No view on this question				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No view on this question				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Third parties who were informed of and/or participated in the original application should be informed and their views sought.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No view on this question.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The decision should NORMALLY be made within 28 days (there are some circumstances, e.g. holidays, shortage of staff, where this target may be difficult for a LPA to meet.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Some remedy would be helpful, but this should allow longer than 28 days before it is implemented (see reply to 6a above). We suggest that a remedy should be applicable after 42 days.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>We consider that consultation with informed or participating third parties should be compulsory in designated protected areas and in conservation areas.</p> <p>We are in sympathy with the purposes of these amendments, but want to be sure that an unscrupulous developer cannot take advantage of any easing of regulations to the disadvantage of these special areas.</p>	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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<p>Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
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<p>Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ</p>
Additional information
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Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Huw Evans	
Organisation	Huw Evans Planning	
Address	Groes Ucha Llanbedr Dyffryn Clwyd Ruthin LL15 1SP	
E-mail address	huwge50@btinternet.com	
Type (please select one from the following)	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

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		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The change requested should be approved by default				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
The responsibility for supplying an appropriate amount of information with the application lies with the developer. Should the guidance refer to the procedure whereby the LPA considers that additional information is required for them to determine the application?	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Keith Jones	
Organisation	Institution of Civil Engineers Wales Cymru	
Address	Suite 2 Bay Chambers, West Bute Street, Cardiff Bay, CF10 5BB.	
E-mail address	keith.jones@ice.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
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		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Several of the listed information requirements are unnecessary. The only information required by the LPA should be the details associated with the non-material amendment(s) sought, the extant planning permission number together with the name and address of the Applicant(s) for the amendment.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The amount of work to be undertaken by the LPA in determining the outcome of the application should not be sufficiently large to require a fee. If this is not the case, then the application is unlikely to be non-material.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

Notification would only be required in respect of a material change, but not a non-material change application, which by definition should not have any adverse material effect on anyone.

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: In the event that the LPA has not agreed an extension of time with the Applicant, if the LPA has not determined the application within the 28 days, then the Applicant should be empowered to appeal to the Welsh Government as per the case with a planning application that remains undetermined.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial	Yes	No
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Regulatory Impact Assessment at Annex 2?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:		

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>At Section 1.2 the consultation states that there is need to simplify the process of amending planning permissions by which non-material amendments can be made. It is agreed that a simple process is appropriate for the determination of such applications, but the statement about the need to simplify could only fairly be directed at those LPAs described as refusing to approve non-material amendments in an informal manner and to require the submission of a further full planning permission to achieve such amendment.</p> <p>However, the procedure described within the consultation will unnecessarily introduce a higher level of bureaucracy into a matter that does not merit it in all LPAs. In effect the proposal is to use a sledge hammer to crack a walnut.</p> <p>A more suitable arrangement would be to simply issue formal guidance to all LPAs confirming that non-material change applications may be dealt with informally and that each Council must delegate authority to its Planning Case Officers to assess such applications within a reasonable timescale.</p> <p>One question that has not been addressed is how will non-material amendment applications to extant planning permissions that were issued following an appeal be dealt with? Will the Planning Inspectorate be directed to determine these?</p>	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include '*Non-material Amendments to Planning Permissions – WG16763*' in the subject line]

Post

Please complete the consultation form and send it to:

Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Tim Stephens	
Organisation	Caerphilly County Borough Council	
Address	Pontllanfraith House Blackwood NP12 2YW	
E-mail address	stepht@caerphilly.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>As the purpose of the new procedure is to improve the planning process, 28 days would appear to be reasonable and proportionate.</p>				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There are two potential remedies: a right of appeal, and a deemed decision. The former is inappropriate in view of the timescales, the latter has precedents such as the notification procedures for agricultural buildings and telecommunications developments contained in the General Permitted Development Order 1995.</p>				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The guidance should state that the application should specify clearly in words the amendment applied for, and as a consequence any other amendment that may be shown on accompanying plans would not be the subject of that particular determination, and would have to be applied for separately. That would prevent any debate at a later stage as to what had been applied for and what had been determined to be a minor amendment. Complex developments are often the subject of many revised plans, and a plan submitted under this procedure may show a number of amendments over and above those the subject of the application. Care needs to be taken to ensure that if it is decided that an amendment is minor, that the developer does not infer that all amendments shown on the plans are such; or if a particular amendment is deemed not to be minor, that the developer does not infer that the remainder of the amendments are minor. Alternatively, as well as specifying the amendment in words, it could be required that the only amendment shown on the submitted plans over an above the details on the originally approved plans, should be the amendment</p>				

subject of the application.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Dr. Del Morgan	
Organisation	Un Llais Cymru / One Voice Wales	
Address	24 College Street, Ammanford, SA18 3AF	
E-mail address	del.morgan@onevoicewales.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>One Voice Wales is recognised by the Welsh Assembly Government as the national representative body for community and town councils in Wales. It represents the sector on the Local Government Partnership Council and over 70% of the 735 community and town councils are in membership. As well as our representative role, we also provide support and advice to councils on an individual basis and have previously launched, with Welsh Government support, a modular training programme for councillors. We believe strongly that community councils are well-placed to develop the economic, social and environmental well-being of the areas they serve and, as such, are active and proactive in debating key issues such as energy policies, environmental issues and strategic planning.</p> <p>Whilst individual councils, indeed individual members, may submit responses directly to this consultation exercise, this collective response is made on behalf of the sector as a whole.</p>	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Pennaeth Adfywio a Datblygu
Y Gyfarwyddiaeth Cymunedau
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr
Swyddfeydd Dinesig
Stryd yr Angel
PEN-Y-BONT AR OGWR
CF31 4WB

Ffôn: 01656 643643
Ffacs: 01656 643190

Gwefan: www.bridgend.gov.uk

Cyngor Bwrdeistref Sirol



Head of Regeneration & Development
Communities Directorate
Bridgend County Borough Council
Civic Offices
Angel Street
BRIDGEND
CF31 4WB

Telephone: 01656 643643
Fax: 01656 643190

Website: www.bridgend.gov.uk

Direct line / Deialu Uniongyrchol: 01656 643152

Our Ref / Ein cyf: DCD/FL

Your Ref / Ein cyf: WG16763

Ask for / Gofynnwch am : David C Davies

Date / Dyddiad: 11 January 2013

Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Dear Sir

**Welsh Government Consultation
Non Material Amendments to Planning Permissions**

I enclose for your information a copy of the report presented to the Development Control Committee on 10 January 2013. Members endorsed the report as this Authority's response to your consultation.

Yours faithfully

Development Control Manager

Enc

ITEM: 7

**WELSH GOVERNMENT CONSULTATION
NON-MATERIAL AMENDMENTS TO PLANNING PERMISSIONS**

This consultation seeks views on the Welsh Government's proposals to introduce a statutory procedure to approve amendments, which are non-material amendments to planning permissions.

The Town and Country Planning Act 1990 (in so far as it applies to Wales) does not provide a specific provision for amendments to be made by an individual planning authority to any planning permissions granted by them. With no statutory process for ratifying non-material amendments to an existing planning permission, the approach taken by local planning authorities (LPAs) in dealing with such changes varies across Wales

This is particularly evidenced through the 'Study to Examine the Planning Application Process in Wales'. In its analysis of responses received to a questionnaire sent to all LPAs, it identified that 24% of LPAs have protocols in place for dealing with non-material or minor material amendments to planning permissions'.

This Authority took the view some years ago that -

'The Local Planning Authority will only consider minor amendments to approved development by the exchange of correspondence in a limited number of cases. The following amendments should require a fresh application:-

- Resiting of building(s) nearer any existing building or more than 250mm in any other direction;
- Increase in the volume of a building;
- Increase in the height of a building;
- Changes to the site area;
- Changes which conflict with a condition;
- Additional or repositioned windows/doors/openings within 21m of an existing building;
- Changes which alter the nature or description of the development;
- New works or elements not part of the original scheme;
- New works or elements not considered by an Environmental Statement submitted with the application.

As a general rule it is considered that if an amendment warrants re-consultation, it should not be regarded as minor, and, therefore, not considered without a fresh application.'

The Welsh Government proposes to introduce a statutory procedure that will allow LPAs and applicants to make non-material amendments to an existing planning permission. The Government considers it necessary to introduce the procedure detailed in this paper in order to:

DEVELOPMENT CONTROL COMMITTEE MEETING – 10 JANUARY 2013

- Provide a legal basis for making non-material amendments to planning permissions, thus providing greater certainty to both LPAs and applicants on the ability to make such amendments.
- Provide a more responsive planning system that gives greater flexibility to applicants to take account of changes as the design and development process unfolds. This will allow applicants, such as businesses, to respond and adapt more effectively, quickly and cost effectively where the need to make a non-material amendment to an existing permission becomes apparent.
- Provide greater certainty and transparency about the process and procedure by which non-material amendments can be made to permissions, thus reducing the risk of legal challenge to the approach taken by the LPA.
- Allow a more proportionate approach to approving non-material amendments in cases where an entirely new application is not justified. This will reduce unnecessary delay, uncertainty and expense for applicants, as well as unnecessary time and expense for LPAs
- Provide a more consistent approach between LPAs to determine these amendments.

The Welsh Government does not propose to provide a statutory definition or guidance that gives a definitive position as to whether or not a proposed change is non-material, given that the circumstance and context of each proposal will vary considerably from one application to another. The possible amendment(s) sought to the original planning permission, the specific circumstances of the site and its surroundings, as well as the overall context of the development scheme are some of the key determining factors, which will vary from one application to another.

Local judgement will be important when considering the context and more importantly the result of the proposed change. The responsibility of determining whether a proposed amendment will be acceptable will lie with the LPA. This is supported by case law, in particular by the *Lever Finance Ltd v Westminster City Council* (1970) judgement, which affirms the practice that planning officers are best placed to decide whether a variation from an approved plan is material or not.

While not providing detailed guidance, the Welsh Government proposes to issue tests that LPAs may wish consider in assessing and determining whether or not a proposed change would qualify as a non-material amendment. The following tests, some of which derive from case law, are suggested:

- Is the proposed change significant in terms of its scale in relation to the original approved development scheme?
- Would the proposed change result in a detrimental impact either visually or in terms of amenity?
- Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

DEVELOPMENT CONTROL COMMITTEE MEETING – 10 JANUARY 2013

- Would the proposed change conflict with national or development plan policies?

The Welsh Government has identified a number of questions and sought a response from this Authority and others on its consultation.

Q1. Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.

A1. The four tests suggested would seem appropriate and reflect the thinking behind the criteria that this Authority used for defining those types of alterations that could be considered as a minor amendment.

The Welsh Government considers that such an application should be made in writing on a dedicated standard application form to the LPA. This form should include:-

- Standard information associated with the applicant / agent and the site.
- Confirmation that the applicant holds an interest in the land and has met the notification requirements.
- Declaration whether the applicant/agent is a council employee or elected member or is related to a member of staff or elected member of the Council.
- Information associated with the original planning permission.
- Details associated with the non-material amendment(s) sought, which may include any amended plans or drawings to accompany the application.
- The standard declaration associated with the completion of the form.
- The completed application form must be accompanied by a fee

Q2. Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.

A2. This Authority has successfully dealt with minor amendments by an exchange of correspondence. Whilst there is no objection in principle to the use of a form with standardised information it is unclear whether this is essential.

Q3(a). Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.

DEVELOPMENT CONTROL COMMITTEE MEETING – 10 JANUARY 2013

A6. LPA's should aim to respond to requests for minor amendments as quickly as possible. We endeavour to respond to proposed minor amendments within 10 working days.

It would be unwise to incorporate a remedy that defaulted to approval if a specified time period for dealing with such matters was exceeded. Such an arrangement may be prejudicial to other interested parties.

Q7. Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.

A7. A draft guide has been prepared to provide practical guidance on the use of the proposed procedure detailed in the consultation paper. It sets out the key features and statutory requirements for the procedure, provides a practical guide to its use, and explains how it differs from existing procedures. The guide covers a number of issues that would be particularly relevant to an Authority wishing to establish or seeking to modify a protocol for dealing with minor amendments. The arrangements in place for dealing with those minor changes that this Authority considers acceptable are already well established and appear to be working successfully.

Q8. Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?

A8. No comments to make.

Q9. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: (on the consultation form at Annex 3).

A9. No comments to make.

RECOMMENDATION:

That the Development Control Committee endorse the views of the Corporate Director Communities expressed within this report as the Authority's response to the Welsh Government consultation.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Robert A Robinson FRICS AILCM	
Organisation	North Wales Association of Town and Larger Community Councils	
Address	Triangle House Union Street Welshpool SY21 7PG	
E-mail address	wtcouncil@btinternet.com Telephone 01938 553142	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: In general yes. However informed guidance should be issued to local planning authorities to ensure consistency across the local authorities.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes. It is agreed that there should be no need for any further design or access statements for such an application.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The fee levels are generally acceptable. However the lower fee level of £25 should be extended to advertising consents, boundary walls, changes of use consents and alteration of planning conditions (of smaller applications). These applications do not require a lot of consideration and the lower fee would be more in proportion to the original applications.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes in general. However the Town or Community Council should be informed with a shorter time period for responding (ie 14 days). Local knowledge is very important in all applications. It is likely that Planning Officers will be determining such applications but there should be a requirement for them to consult the local County Council member and the Town and Communitiy Council.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No. Although the planning register is one method of notification there should be a communication to the Town or Community Councils at the same time.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, even consulting Town and Community Councils this should be achievable. However if it does take longer the local planning authority should be allowed to issue a decision later and not just go to a refusal due to lack of time.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The planning authority should be allowed to agree an extension of time with the applicant for a period of 14 days.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No, other than those noted in other parts of this consultation.				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The existing situation is in consistant, however any statutory basis of approvals needs to encompass the need for quick decisions in cases where site conditions dictate a change during construction.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>9a. Persons able to make an appliction: There is no reference in the list of those able to make such an application ot the applicant of the original application. The Association believes that this should be added to the list in para 2.8 of the consultation document.</p> <p>9b. Planning applications: There should be a mechanism whereby minor ammendments can be dealt when time is of the essence. For example during construction where unforeseen circumstances exist.</p> <p>9c. The Association The Association represents 34 Town and Community Councils ranging from Bangor, Llandudno, Rhyl and Flint in the north to Welshpool and Newtown in the south.</p> <p>9d. Oral evidence: The respondant is prepared to attend to give oral evidence if felt that it would be of value.</p>	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include '*Non-material Amendments to Planning Permissions – WG16763*' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619



Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Ffion Lanchbury (on behalf of the development team)	
Organisation	Grŵp Gwalia Cyf.	
Address	Ty Gwalia, 7-13 The Kingsway Swansea SA1 5JN	
E-mail address	ffion.lanchbury@gwalia.com	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input checked="" type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We agree in principle with the tests identified above although wish to emphasise that we feel it is important to evaluate on a case-by-case basis and suggest some additional considerations below.

We feel that minor increases (up to 500mm) in the height of a building should be classified as non-material amendments that do not require a fresh planning application. Due to the way that most buildings are procured, planning consent is often obtained before a contractor is brought on-board and the building is fully detailed (i.e. Stage D of the RIBA Plan of work). Once the contractor and design team have undertaken more detailed design, it is often inevitable that the 'floor to floor' dimension increases. Unless there are very sensitive issues affected by height increases (setting of listed buildings, conservation area, AONB) there is very little justification for a further planning application.

If the amendment affects the shape of the roof or the width/depth of the building, there should be some reasonable latitude (500mm) to allow this (subject to disclosure to the local planning authority) unless there are matters of heightened sensitivity affected adversely by such amendments.

We feel that modest amendments to materials and elevations (window sizes, and positions) should be non-material. We accepted that more profound amendments should require fresh planning consents.

Since some planning applications directly affect parties such as direct neighbours of adjoining properties, the question of whether the interests of any third party or body who participated in or were informed of the original decision would be disadvantaged in any way is sensitive. If the interests are disadvantaged, and the amendments take a project beyond what was agreed, there is a strong argument that a fresh application for planning consent would be required if the public is to have any faith in the planning process.

If for example the approved siting of a building is being amended by less than 500mm, this should not be problematic (i.e. non-material) unless it would affect an easement, affect a sensitive view, cause overshadowing or be detrimental to a listed building or conservation area.

Whether a proposed change conflicts with national or development plan policy is a reasonable test. If local plan policies are affected, there is a case for treating amendments as being material, and therefore requiring a fresh planning consent. However, we emphasise the importance of the magnitude of amendments proportional to the scale and appearance of the approved building.

Value engineering is often necessary and this process can result in essential changes to design after planning has been granted. These changes may be classed as non-material amendment that should not be subject to planning e.g. changes to materials.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree that this seems a reasonable request in order to fully explain the amendments and provide the local planning authority with a paper trail.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, both proposed figures seem reasonable in order to cover the administrative costs of the local planning authority.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We feel this is a little more bureaucracy than perhaps is needed. However, if officers make a judgement on this before referring it to other owners of the land, this would string out the 28 days for determining the application. On balance therefore, we would support this method and level of notification.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days	Yes	Yes	No
			(subject to	

	of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.		further comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, however if the response is not received within 28 days; the applicant should be able to implement the non-materials amendments in question.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post
Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-b@wales.gsi.gov.uk Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.</p>

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Vicki Hirst	
Organisation	Pembrokeshire Coast National Park Authority	
Address	Llanion Park Pembroke Dock Pembrokeshire SA72 6DY	
E-mail address	vickih@pembrokeshirecoast.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Whilst the tests are considered to be appropriate in principle, there is concern that these are open to interpretation. The tests refer to matters such as significant changes, detrimental impacts, and disadvantaged without definition of these terms. The interpretation of these matters will depend on the standpoint of the individual; for example a neighbour may consider an additional window to be significant as it will be detrimental to their amenity, whereas the planning officer may have a different interpretation. It is considered that the tests are likely to lead to further confusion and a lack of transparency which is regrettable when the intention is to simplify procedures for minor non material changes.

It is considered that a definition of non-material amendments is required to enable effective and consistent application of this proposal.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>It is considered that the fee should be applicable to each amendment sought as there is concern that a number of "non-material" amendments on the same proposal could amount to an overall material change to the original application.</p> <p>Furthermore, it is suggested that each permission be subject to a limit on the number of amendments that can be made to avoid incremental changes which cumulatively result in a material amendment occurring.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
Due to the comments set out in Q1 above, it is considered that consultation should be carried out with adjoining properties and those who may have made representations on the original application to ensure that the process is transparent and any conflicting views on whether an amendment is indeed non-material can be made.

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: In view of the comment regarding consultation under Q4 above, it is considered that a period of six weeks would be more appropriate to enable representations to be invited and considered.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: It is suggested that the remedy should comprise a "deemed consent" such as already in place for applications for prior approval unless the LPA agrees an extension of time in writing with the applicant.				

Draft Guide

Q7	Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The draft guide should take account of the above comments in particular with regard to the need for a definition.				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>It is considered that S73 of the Act already provides a process for dealing with non-material or minor material amendments to an existing permission and greater use of this section would negate the need for a further process which only serves to add further complexity and confusion. S73 could be adapted to refer to all amendments (either non-material or minor) with all permissions required to include a condition listing the approved plans to enable this section to be used for amending a permission.</p> <p>The use of Section 73 would therefore require all amendments to be subject to the same process and a fee could be imposed relating to type as is advocated in this consultation. There would therefore be no opportunity for disagreement over whether amendments are material or not - as all amendments would be subject to the same process.</p> <p>It is understood that there is shortly to be a consultation on minor material amendments to existing planning permissions. A further process will effectively introduce three different procedures to deal with amendments. The above suggestions in relation to S73 would remove this need and be a far simpler and more effective mechanism than three separate but linked procedures.</p>	

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I do not want my name/or address published with my response (please tick) ☐

How to Respond

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Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
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Consultation Response Form

Non-material Amendments to Planning Permissions

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Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Steven Durno	
Organisation	Law Society of England and Wales	
Address	113 Chancery Lane London WC2A 1PL Capital Tower Greyfriars Road Cardiff CF10 3AG	
E-mail address		
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

In principle, the four tests set out at paragraph 3.5 ask the right questions to enable a judgement to be made as to whether an amendment is non material.

However, we think that in the first test, relating to scale, the introduction of the term "significant" is an unnecessary elaboration and that it will be clearer to stick to the concept of materiality. The first test should therefore be whether the scale is material in relation to the original scheme.

The use of the term "material" in this test does not compromise the overarching test of non materiality as it only deals with scale and the remaining three tests cover other aspects that might make a change material.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We are concerned about the precision with which a person with a sufficient interest in the land is defined. In general terms we think the guiding principle should be that the interest should be a legal estate or other interest sufficient to enable the applicant to implement the development. This would cover freeholders and long leaseholders and would also cover developers in occupation under a development agreement (and which will be protected by entries on the Land Register).

The standard form should require the applicant to confirm this and give details of the interest.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

The proposals for the level of fee appear to be proportionate to the fees for similar types of application.

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

See comment above.

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify	Yes		No
			Yes (subject to	

	the reasons.		further comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes, if an application is considered to require consultation or publicity then this is a factor that would suggest a detrimental impact either visually or in terms of amenity, or that the interests of a third party who previously commented are disadvantaged, so that the amendmnet is held to be material. The need to consult should therefore be an exception based on circumstances that are specific to the development. For example, in a national park in the case of a non material amendment to an access it would nevertheless be appropriate to consult the local highway authority (i.e. the unitary authority).

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
In general terms we agree that notification should be restricted. However, we suggest that the test of notification should be anyone with a legal estate or interst in the land and anyone otherwise in lawful occupation of the land.

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
We agree with the approach that a non material amendment by its very nature should not be a matter that should trouble a planning committee.

If thought appropriate, planning authorities can set up local arrangements to notify local members of non material applications and the timescales.

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please	Yes	Yes (subject to further comment)	No

specify what remedy is considered appropriate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We foresee that in practice there may be difficulties in introducing an effective remedy given that there is no provision in section 96A of the Town and Country Planning Act 1990 for any remedy, e.g. deemed consent or a right of appeal.</p> <p>Although not a specific recommendation of the Independent Advisory Group, we also believe that consideration should be given to making provision in the Planning Bill of a right of appeal to the Ministers (possibly restricted to a right of appeal "on paper") in the event of a decision not being made within 28 days and against the view of the planning authority that an amendment is material.</p> <p>In addition to providing a remedy in cases of non determination within the time limit, we think that there could be cases where the making an application for a material change, whether under section 73 of the Town and Country Planning act 1990 or by planning application will place a significant additional cost burden on an applicant. In this regard we draw attention to the examples quoted at paragraph 2.10 of the Partial Regulatory Impact Assessment.</p> <p>Furthermore, the lack of an effective remedy may still result in planning authorities differing in their interpretations of materiality. The availability of an appeal will also lead over time to a body of case studies becoming available from appeal decisions which could inform further guidance/research to assist in developing uniformity of approach.</p>			

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We think that the model notice at Annex 1 could be more informative by explaining what a non material amendment is by reference to the tests recommended in the guidance. This should help those notified make more focussed comments.</p>				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree with the assessment of the benefits both in cost saving and the</p>			

removal of undertainty for developers, but the full benefits will only be realised if the Welsh Government and local planning authorities take steps to share experience of operating the propsoed tests and to work together to develop a uniform aproach across Wales based on a sharing of experience. This would be a task well suited to the Planning and Advisory Body proposed by the Independent Advisory Group in their report.

General

Q9

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

We welcome the references in the consultation document to the intention to take forward the recommendations in the report of the Independent Advisory Group for a procedure to enable minor material amendments to be made and look forward to seeing the Government's proposals.

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Philip Thomas	
Organisation	Monmouthshire County Council	
Address	PO Box 106 Caldicot NP26 9AN	
E-mail address	philipthomas@monmouthshire.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Fee scales look reasonable.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Fee scales look reasonable.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Normally yes, but some issues may be more complicated and may require clarification which would rely on dialogue with the applicant and possibly a consultee. There should be the ability to agree an extension of time. There should not be a default position to enable the development to proceed if no decision is given within 28 days, as this could prejudice a neighbour (third party's position).</p>				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>If in doubt, an applicant may make a fresh planning application.</p>				

Draft Guide

Q7	Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>I would suggest a standard application form is devised and made available via the Portal to complement the 1APP work already done. This will improve consistency.</p>	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
Post
<p>Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ</p>
Additional information
<p>If you have any queries on this consultation, please Email: planconsultations-b@wales.gsi.gov.uk Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619</p>

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Ben Porte	
Organisation	Redrow Homes (South Wales)	
Address	Redrow House, Copse Walk Cardiff Gate Business Park Cardiff, CF23 8RH	
E-mail address	ben.porte@redrow.co.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We agree with the proposed 'tests' by which all applications for non-material amendment should be determined.

We consider that such tests should be set out in guidance and practice notes available to both applicants and practitioners so as to ensure consistency of application. It is suggested that such guidance should sit alongside the validation requirements (discussed below) for S96A applications and available (as a minimum) on the Local Planning Authority's (LPA) website.

This would also ensure transparency and a degree of understanding for the public at large, explaining how the legislative procedure relates to the wider application process.

It is also suggested that a circular should accompany any proposed Development Order. We consider that this would better formalise the legislative change.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

The level of information, in the form of a standard 1APP form, is supported. This will be consistent with the current regime utilised by paper and online submission procedures.

We consider that for clarity the guidance note should prompt applicants to submit approved and proposed materials. This should be specified in a guidance/validation note. For example, both the approved drawing and proposed (amended) drawing would be submitted.

We consider that this will provide the necessary context for decision makers to determine the application in an expedient manner.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

We welcome the added flexibility that the introduction of a non-material amendment application will provide.

However, we do not agree that a fee should be payable in this instance.

The procedure is designed to confirm in writing that any amendment is in fact de minimis - and does not require planning permission.

The assertion that pre-application discussions are necessary is contradictory. For example, pre-application discussions can be to upwards of £500 (i.e. Cardiff and Vale of Glamorgan). The cost and additional time associated with an additional procedure only serves to contradict the rationale for this proposal.

The proposed fee level is consistent with the current S73 application procedure. A S73 application includes a more onerous consultation process and longer determination period.

In contrast an application under S96A, as proposed, requires a shorter consultation and determination period, without the need for publicity or mass consultation, and can therefore be summarily dealt with under delegated powers.

As the matters are non-material it is considered that officers have the majority of the material before them to form a decision, all provided for at the cost and time of the applicant. The level of coordination and work to do is therefore less than that required under S73, and more akin to a routine referral to the pertinent regulations to formulate a response, such as a 'screening' or 'scoping' request.

Furthermore, the application route does not provide a route of appeal - nor are there incentives for officers to determine the application within the specified timeframe. Given recent statistics on poorly performing Local Authorities (Welsh Government Quarterly Update) it is unclear as to whether these authorities are being penalised.

On this basis, no fee is warranted given that the payment of monies would be disproportionate to the scale of the decision makers undertaking and does not represent good value to the applicant.

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: See Q3(a) above.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We agree that publicity should not be required as the purpose of the application is confined to the amendment sought. Consultation and publicity would only serve to duplicate works already undertaken (incurring further cost) - or encourage further negative responses from aggrieved parties.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				
<p>In the interests of expediting the determination of planning applications and enabling development, we support this objective. This is consistent with other formal mechanisms available to developers which seek notification/information from a Local Planning Authority (i.e. screening and scoping opinions).</p> <p>However, we consider that a 14 day period is proportionate - particularly in the absence of a long statutory consultation period and the requirement for Local Planning Authorities to have dedicated delegation powers in place.</p> <p>We therefore consider that in the interests of efficiency and transparency the 14 day period should be the maximum time afforded to Local Planning Authorities.</p> <p>Should this period expire without a response then it is proposed that applicants have deemed consent. This is considered appropriate since an applicant has no right of appeal, placing an incentive on a Local Planning Authority to determine the application.</p>				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>The purpose of this application procedure is to enable the swift determination of an otherwise minor change which would result in a development of a scale and nature not significantly different from that permitted.</p>				

That a fee is paid and delegatory powers put in place does not guarantee a determination within the specified timeframe - and a lack of appeal process is not considered to provide the necessary incentive for a Local Planning Authority to complete the application.

For the same reasons set out in 6(a); applicants will have deemed consent should the LPA not respond within the timeframe set. This will place the onus on the LPA to uphold the rationale behind the S96A procedure - providing a swift decision and assisting in reducing the burden of regulation on applicants.

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>This consultation does not deal with minor material amendments to planning consents.</p> <p>It is understood that the Welsh Government intend to introduce this procedure</p>	

by way of primary legislation as part of the White Paper and draft Planning Reform Bill to be issued for consultation in 2013.

Redrow are of the view that the change to primary legislation will not be enacted until early 2015.

The current mechanism for making material amendments lies in the provisions of S73 of the Town and Country Planning Act 1990 (as amended). This approach is currently dependent on the existence of a relevant planning condition that can be modified on the original grant of consent.

Given that the primary change to legislation will not occur until 2015 we consider that a stream-lined and flexible S73 mechanism should be introduced - as an interim measure.

The interim measure should include a duty on Local Planning Authorities to impose a condition listing the approved documentation that underpins the grant of planning consent. This would be consistent with the guidance contained within Planning Policy Wales (PPW) at paragraph 3.6.2.

This could be dealt with by virtue of a standard condition to be attached to all grants of planning consent. The standard condition can be implemented at little cost or change to existing Local Planning Authority working parameters.

Given that this consultation deals with introducing flexibility and consistency to applicants and Local Planning Authorities (respectively) it is considered that there is merit in doing so.

By placing the duty on the LPA to do this at the outset it will facilitate the determination of material amendments until the formal mechanism/provision is introduced in 2015.

This therefore provides a practical interim solution, reinforced by the rationale that underpins the proposed introduction of S96A to Wales.

I do not want my name/or address published with my response (please tick) ☐

How to Respond

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Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include '*Non-material Amendments to Planning Permissions – WG16763*' in the subject line]

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**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Ffurflen Ymateb i'r Ymgynghoriad

Diwygiadau Ansylweddol i Ganiatadau Cynllunio

Hoffem gael eich barn ar ein cynigion i gyflwyno gweithdrefn statudol o dan Adran 96A Deddf Cynllunio Gwlad a Thref 1990 i gymeradwyo diwygiadau ansylweddol i ganiatadau cynllunio cyfredol. Rydyn ni hefyd yn ceisio'ch barn ar ganllaw drafft i roi cyfarwyddyd ymarferol ar ddefnyddio'r weithdrefn arfaethedig.

Anfonwch eich sylwadau erbyn 15 Mawrth 2013.

Os oes gennych unrhyw gwestiynau am yr ymgynghoriad hwn, e-bostiwch: planconsultations-b@cymru.gsi.gov.uk neu ffoniwch Nick Butler ar 029 2082 3585 neu Hywel Butts ar 029 2082 1619.

Diogelu Data
<p>Bydd unrhyw ymateb y byddwch yn ei anfon atom yn cael ei weld yn llawn gan staff Llywodraeth Cymru sy'n ymdrin â'r materion y mae'r ymgynghoriad hwn yn ymwneud â hwy. Gallai gael ei weld hefyd gan aelodau eraill o staff Llywodraeth Cymru er mwyn eu helpu i gynllunio ymgynghoriadau yn y dyfodol.</p> <p>Mae Llywodraeth Cymru'n bwriadu cyhoeddi crynodeb o'r ymatebion i'r ddogfen hon. Efallai y byddwn hefyd yn cyhoeddi ymatebion yn llawn. Fel arfer, bydd enw a chyfeiriad (neu ran o gyfeiriad) yr unigolyn neu'r sefydliad a anfonodd yr ymateb yn cael eu cyhoeddi gyda'r ymateb. Mae hyn yn helpu i ddangos bod yr ymgynghoriad wedi ei gynnal mewn modd priodol. Os nad ydych yn dymuno cael cyhoeddi eich enw na'ch cyfeiriad, ysgrifennwch atom yn nodi hynny pan fyddwch yn anfon eich ymateb, ac wedyn, byddwn yn sicrhau nad oes modd darllen y wybodaeth honno.</p> <p>Mae'n bosibl y gallai enwau neu gyfeiriadau yr ydym yn eu trin yn y modd hwn ddal i gael eu cyhoeddi'n ddiweddarach, ond nid ydym yn meddwl y byddai hynny'n digwydd yn aml iawn. Mae Deddf Rhyddid Gwybodaeth 2000 a Rheoliadau Gwybodaeth Amgylcheddol 2004 yn caniatáu i'r cyhoedd ofyn am gael gweld gwybodaeth a gedwir gan lawer o gyrff cyhoeddus, gan gynnwys Llywodraeth Cymru. Mae hyn yn cynnwys gwybodaeth nad yw wedi ei chyhoeddi. Fodd bynnag, mae'r gyfraith hefyd yn caniatáu i ni wrthod rhyddhau gwybodaeth dan rai amgylchiadau. Os bydd unrhyw un yn gofyn am gael gweld gwybodaeth yr ydym wedi gwrthod ei rhyddhau, bydd yn rhaid i ni benderfynu pa un ai i'w rhyddhau ai peidio. Os oes rhywun wedi gofyn i'w enw a'i gyfeiriad beidio â chael eu cyhoeddi, mae honno'n ffaith bwysig y byddem yn ei hystyried. Fodd bynnag, gallai fod rhesymau pwysig weithiau pam y byddem yn gorfod datgelu enw a chyfeiriad rhywun, hyd yn oed os yw wedi gofyn i'r wybodaeth honno beidio â chael ei chyhoeddi. Byddem yn cysylltu â'r unigolyn ac yn gofyn am ei farn cyn i ni wneud penderfyniad terfynol i ddatgelu'r wybodaeth.</p>

Diwygiadau Ansylweddol i Ganiatadau Cynllunio		
Y cyfnod ymgynghori: 10 Rhagfyr 2012 – 15 Mawrth 2013		
Enw	John Bowers	
Sefydliad	Awdurdod Parc Cenedlaethol Eryri	
Cyfeiriad	Swyddfa'r Parc Cenedlaethol, Penrhyndeudraeth, Gwynedd LL48 6LF	
Cyfeiriad e-bost	john.bowers@eryri-npa.gov.uk	
Math (dewiswch un o'r canlynol)	Busnes/Ymgynghorwyr Cynllunio	<input type="checkbox"/>
	Awdurdod Cynllunio Lleol	<input checked="" type="checkbox"/>
	Asiantaeth y Llywodraeth/Sector Cyhoeddus Arall	<input type="checkbox"/>
	Cyrff Proffesiynol/Grwpiau Buddiant	<input type="checkbox"/>
	Sector gwirfoddol (grwpiau cymunedol, gwirfoddol, grwpiau hunan-gymorth, cwmnïau cydweithredol, mentrau cymdeithasol, mudiadau crefyddol a mudiadau di-elw)	<input type="checkbox"/>
	Arall (grwpiau eraill sydd heb eu rhestru uchod) neu unigolyn	<input type="checkbox"/>

Cw1	Ydych chi'n cytuno â'r profion sydd wedi'u nodi i helpu i asesu a fyddai newid arfaethedig yn cyfrif fel diwygiad anfateriol i'w bennu o dan Adran 96A Deddf Cynllunio Gwlad a Thref 1990? Os nad ydych, rhowch y rhesymau a rhowch awgrymiadau gwahanol.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.				

Cw2	Ydych chi'n cytuno â'r gofynion gwybodaeth arfaethedig i gefnogi cais ar gyfer gwneud diwygiadau ansylweddol? Os nad ydych, rhowch y rhesymau a'r gofynion gwybodaeth sy'n angenrheidiol yn eich tyb chi.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.				

Cw3 (a)	A ydych chi'n credu y dylid codi ffi am wneud cais ar gyfer gwneud diwygiadau ansylweddol i ganiatâd cynllunio cyfredol? Os na, rhowch y rhesymau.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Cw3 (b)	Os mai ydw yw'ch ateb i gwestiwn 3(a), ydych chi'n cytuno â lefel y ffi arfaethedig? Os nad ydych, rhowch y rhesymau a lefel y ffi sy'n briodol yn eich barn chi.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Cw4	Ydych chi'n cytuno â'r dull ymgynghori / cyhoeddusrwydd ar gyfer ceisiadau diwygiadau ansylweddol? Os nad ydych, rhowch y rhesymau.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Cw5	Ydych chi'n cytuno â'r dull o roi hysbysiadau ceisiadau ar gyfer diwygiadau ansylweddol? Os nad ydych, rhowch y rhesymau.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Cw6 (a)	A ydych chi'n credu y dylid gwneud penderfyniad ar gais am ddiwygiadau ansylweddol o fewn 28 diwrnod i'w dderbyn? Os nad ydych, rhowch y rhesymau a'r cyfnod penderfynu priodol ar gyfer cais o'r fath.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Cw6 (b)	Ydych chi'n credu bod angen unioni os na fydd awdurdod cynllunio lleol yn penderfynu ar gais cyn pen y 28 diwrnod arfaethedig? Os ydych, nodwch y mesur unioni sy'n briodol yn eich barn chi.	Ydw	Ydw (gyda sylwadau pellach i'w gwneud)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Canllaw Drafft

Cw7	A oes unrhyw faterion eraill y dylai'r canllaw drafft yn Atodiad 1 ddelio â nhw i esbonio'r weithdrefn arfaethedig ar gyfer cymeradwyo diwygiadau ansylweddol? Os felly, nodwch y materion hyn.	Oes	Oes (gyda sylwadau pellach i'w gwneud)	Nac oes
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>				

Asesiad Effaith Rheoleiddiol Rhannol Drafft

Cw8	Oes gennych chi unrhyw sylwadau i'w gwneud am yr Asesiad Effaith Rheoleiddiol rhannol drafft yn Atodiad 2?	Oes	Nac oes
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.</p>			

Cyffredinol

Cw9	Rydyn ni wedi holi nifer o gwestiynau penodol. Os oes gennych unrhyw faterion neu sylwadau nad ydyn ni wedi ymdrin â nhw'n benodol, nodwch hwy isod:
Gweler sylwadau ar y dogfen arall os gwelwch chwi'n dda.	

Nid wyf am i fy enw/cyfeiriad gael eu cyhoeddi gyda fy ymateb (ticiwch) <input type="checkbox"/>
--

Sut i Ymateb

Anfonwch eich sylwadau drwy un o'r ffyrdd gwahanol:

E-bost
Llenwch y ffurflen ymgynghori a'i hanfon i: planconsultations-b@cymru.gsi.gov.uk [Rhowch 'Diwygiadau Ansylweddol i Geisiadau Cynllunio – WG16763' fel pwnc]
Post
Llenwch y ffurflen ymgynghori a'i hanfon i: Diwygiadau Ansylweddol i Geisiadau Cynllunio Y Gangen Datblygu Rheoli Yr Is-adran Gynllunio Llywodraeth Cymru Parc Cathays Caerdydd CF10 3 NQ
Gwybodaeth ychwanegol
Os oes gennych unrhyw gwestiynau am yr ymgynghoriad hwn E-bostiwch: planconsultations-b@cymru.gsi.gov.uk Ffoniwch: Nick Butler ar 029 2082 3585 neu Hywel Butts ar 029 2082 1619

WELSH GOVERNMENT CONSULTATION

“APPROVING NON-MATERIAL AMENDMENTS TO AN EXISTING PLANNING PERMISSION”

COMMENTS ON BEHALF OF SNOWDONIA NATIONAL PARK AUTHORITY

Introduction

The Consultation refers to a recommendation in the “*Study to Examine the Planning Application Process in Wales*” carried out by GVA Grimley and published in 2010 by the Welsh Assembly Government. [The *Study*] The paragraph number quoted is 7.7. The recommendation is number 11, which appears below paragraph 7.12 on page 72.

The *Study* suggests that other measures are also required. One is “...*advice on what may be considered [a non-material amendment]...*” (Recommendation 11). The Draft Guide published as part of the consultation considers this in paragraphs 2.4 to 2.7 inclusive. In short, it states “...*responsibility lies with the local planning authority...*” Paragraph 7.1 of the *Study* quotes a single sentence written by consultants White Young Green Planning for the Department of Communities and Local Government as a useful working definition. The second measure is “*the inclusion of planning conditions which give more flexibility to planning permissions...*” (Recommendation 16c, page 92). There is no reference to using planning conditions in this way in the Consultation.

Why change the law?

The Consultation refers to potential problems with the present system. One is the size of the application fee if a local planning authority insists on a new planning application. Any application will also require all the information required by statute. The local planning authority will have the burden of processing, including consultation and publicity. The time for a decision will reflect these requirements. Local planning authorities are stated to be inconsistent with their approaches to amendments. A statute would “*[reduce] the risk of legal challenge...*”. It would reduce the workload on local planning authorities. It would also “*provide a more consistent approach between LPAs...*”.

The *status quo* in Wales

Case law provides a general power to approve minor amendments informally. The case cited in the Consultation is *Lever Finance Ltd v Westminster City Council* (1970). A more recent case was *R (on application of Mid Counties Co-operative Ltd) v Wyre Forest District Council* (2003). Ouseley J stated “*I accept the existence of a very limited power to make immaterial variations informally*”. (Paragraph 70 of the judgement as reported.)

Planning Conditions

Welsh Office Circular 35/95 gives practical advice on planning conditions. None of the standard conditions ties development to specific plans. Recommendation 11 of the *Study* refers to “...the need to ensure that all permissions include a condition which includes the drawings approved – see recommendation 16”.

The Planning Inspectorate wording for such a condition is “*The development hereby permitted shall be carried out in accordance with the approved plans validated on...*”. (Quoted from a recent decision letter allowing an appeal.) The Wyre Forest judgement considered a condition which ended “...unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.” Ouseley J found that the condition was lawful. Snowdonia National Park Authority use the following wording: “*Unless agreed in writing with the Local Planning Authority the development hereby permitted shall not be carried out otherwise than in complete accordance with the drawings received on...*”

Options if Section 96A becomes law in Wales

1. Deal with requests for variation as applications for approval or agreement required by a planning condition. No fee under existing Regulations. Anyone can apply, not just landowners. Failure to agree or approve allows an appeal under Section 78(1)(b). No statutory requirement for publicity or consultations. Good practice requires giving neighbours and interested parties an opportunity to comment. This option is only available when a planning condition includes the words: “*Unless agreed in writing with the Local Planning Authority the development hereby permitted shall not be carried out otherwise than in complete accordance with the drawings received on...*” Most permissions for built development and approvals of reserved matters granted by Snowdonia National Park Authority include such a condition.
2. Accept informal requests for a variation without a fee. There are not likely to be many in Snowdonia because of our standard condition which refers to approved plans. Anyone can apply, not just landowners. No right of appeal for the developer – either for failure to consider a request or failure to agree to a request. Possible increased risks of a finding of maladministration or a judicial challenge.
3. Deal with requests for variation under Section 96A and charge the statutory fee. No right of appeal for the developer – either for failure to consider a request or failure to agree to a request. Dangers include failure to ensure that the applicant is a landowner. Procedural failings would probably constitute maladministration and grounds for judicial challenge. Possible maladministration if the planning authority ask for formal applications and fees in some cases but not others. Risk of justified criticism could be reduced if the authority have published criteria approved by Committee for what needs an application and what is dealt with by letter. Permissions for built development and approvals of reserved matters granted by

Planning Inspectors do not normally include conditions which allow appeals under Section 78(1)(b).

4. Ask for a new application. If not qualifying for a free go, a new application fee would be needed.

Related matters

1. Should there be an application fee for approval required or allowed by a planning condition? At present, applications for approval of “reserved matters” require a fee, but no other matters requiring approval under a planning condition.
2. Should the Welsh Government revise Circular 35/85 on planning conditions to include its view on best practice for conditions relating to approved drawings? The “Inspectorate” model would lead to applications for variation under Section 96A – or new applications. The “Wyre Forest” model would mean a developer losing any right of appeal by using Section 96A. Similar considerations apply to the “Snowdonia” model. The “Snowdonia” model condition appears to anticipate Recommendation 16c of the GVA Grimley Study.
3. Authorities which use more flexible conditions will lose potential fee income from applications under Section 96A and may need to justify any decisions not to approve at an appeal. This may create incentives to be unhelpful. Authorities in England have absolute discretion NOT to accept applications under Section 96A. The GVA Grimley Study quoted in support of the current Welsh Government proposals implies that the charging fees for new applications for minor variations is unfair on developers. Nothing in Section 96A as enacted in England appears to prevent this. A Welsh equivalent of Section 96A will not prevent this. Amendment to the Fees Regulations could reduce financial incentives for authorities to ask for new applications.

Conclusions

No objection to Section 96A in Wales.

I have sought information from the UK Government on how Section 96A works in their country. No information received. I have asked the Welsh Government for copies of any evidence sought from the UK Government. No information received.

In the absence of any evidence, I believe that Section 96A will achieve nothing which cannot be achieved with less fuss by amending Circular 35/85 on planning conditions.

Cyngor Sir CEREDIGION County Council

Response to Welsh Government Consultation Document – Draft Guide – Approving Non-Material Amendments to Existing Planning Permission

Q1. Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.

Suggested Answer: The four tests suggested would seem appropriate and closely reflect the criteria that this Authority already uses for defining those types of amendments that could be considered as a minor amendment.

Q2. Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.

Suggested Answer: To date, this Authority has successfully dealt with minor amendments by an exchange of correspondence with the applicant/developer. Officers within the department will then write a short report (similar to a delegated report) setting out the approved scheme and then the details associated with the proposed amendments. This report is assessed and signed by senior officers and a letter is then sent to the applicant agreeing or disagreeing to the proposed amendments. Whilst there is no objection in principle to the use of a form with standardised information it is questionable whether this is essential.

Q3(a). Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.

Suggested Answer: If the procedure for dealing with minor amendments is formalized through an application form then this Authority would agree that a fee should be paid to cover the administrative costs and officer time dealing with such applications.

Q3(b). If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.

Suggested answer: LPA's will be involved in extra preparation and administrative works for processing a formal minor amendment application and it is only reasonable that a fee should be paid for that extra work (which would not be

covered by the original planning fee).

The fee level of £25 for a minor amendment to a householder application and £166 for other applications would contribute to covering the costs of the work involved. Given that the changes sought will be non-material in nature it is not expected that consultation or publicity will be necessary. However, if it transpires that WG feel it necessary to consult with neighbours then this Authority feels that the fee should be higher to cover these extra costs.

Q4. Do you agree with the approach taken to consultation/publicity for nonmaterial amendment applications? If not, please specify the reasons.

Suggested answer: This Authority does not undertake publicity/consultation for the minor amendments that it authorises as they are, by their very nature, strictly limited in their scale and impact. If there was a necessity to consult or publicise an amendment no longer qualifies as a minor amendment and a new planning application will be sought and then consultation will take place.

Q5. Do you agree with the approach taken in relation to notification for nonmaterial amendment applications? If not, please specify the reasons.

Suggested answer: The process of notification appears to be a private matter and its introduction into this procedure is likely to result in delay and confusion. Disagreements between the landowner/tenant and the developer should not affect the merits of whether a proposal is or is not a minor amendment.

Q6(a). Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.

Suggested answer: The Council already aims to respond to requests for minor amendments as quickly as possible, and we endeavor to respond to proposed minor amendments within 10 working days.

However, if a formal application is required then a longer timeframe should be considered, especially if there is a requirement to consult neighbours. The determination period should be 8 weeks.

Q6(b). Is it necessary to introduce a remedy in the circumstances that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.

Suggested answer: The LPA considers it to be unwise to incorporate a remedy that defaulted to approval if a specified time period for dealing with such matters was exceeded. Such an arrangement may be prejudicial to other interested parties

and it could result in developments having a harmful impact on neighbouring residents or have an impact on the character and appearance of a locality.

Q7. Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.

Suggested answer: A draft guide has been prepared to provide practical guidance on the use of the proposed procedure detailed in the consultation paper. It sets out the key features and statutory requirements for the procedure, provides a practical guide to its use, and explains how it differs from existing procedures. The guide covers a number of issues that would be particularly relevant to an Authority wishing to establish or seeking to modify a protocol for dealing with minor amendments. The arrangements in place for dealing with those minor changes that this Authority considers acceptable are already well established and appear to be working successfully.

Q8. Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?

No comments to make.

Q9. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: (on the consultation form at Annex 3).

No comments to make.

V2.

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Michael Simmons	
Organisation	Pembrokeshire County Council	
Address	County Hall Haverfordwest Pembrokeshire SA61 1TP	
E-mail address	mike.simmons@pembrokeshire.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

- The first test asks "is the proposed change significant in terms of its scale in relation to the original approved development scheme?". This suggests that a proposed amendment is either "significant" or "non-material" but one could argue that a "non-significant change" could still be "material". The use of "significance" is already overused in Planning parlance and, depending on context, its emphasis can vary (eg. "significance" in terms of EIA Regs differs from "significance" when assessing matters such as amenity). Therefore would support alternative wording that avoids "significance".

- "Would the proposed change conflict with national or development plan policies?" - what would be the approach for cases where the original planning permission was one that was contrary to the development plan?

- Would the "de minimis" alteration test still apply as this a legal test rather than a planning test?

- "Would the proposed change result in a detrimental impact either visually or in terms of amenity?" - assume that visual & amenity covers issues of design, access (including "inclusive").

- "Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?" - these "interests" should not extend to simply whether a third party objected or not at the time of the original application.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

- the proposed amendment(s) should be explicitly stated on the application form & on the final decision notice (this will also avoid other undisclosed changes to larger scale applications, that might be indicated on submitted plans, being approved "by default").

- The application form should ask the question whether development has commenced & whether proposed amendment already implemented.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments: - consultation (other than any necessary internal officers within LA) should be explicitly stated as not necessary for non-material amendments.
--

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

- In principle - yes, but a default approval if no decision within 28 days should be avoided (this would also attract disingenuous applications that are clearly material but are submitted & will wrongly benefit from consent after 28 days). One possibility would be that after 28 days the applicant could have the option to formally write to the LPA stating that, because no decision has been made, the proposed amendments will be lawfully undertaken after expiration of 14 days from the date of applicant's letter unless decision made before the expiration of the 14 days.

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

- Model application form and decision notice should be appended.

- "Can a non-material amendment be made to conditions using this procedure? Yes. Provided the change is non-material" - how do the materiality tests apply here? Assume this is relevant to cases where the proposed amendment does not accord with a condition & therefore the condition also needs to be changed (rather than the application to be to modify a condition per se - as per Section 73) - needs clarification.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

General

Q9

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

- Strongly agree to the principle of formalising an approach for dealing with non-material amendments. LPAs are often criticised for a seemingly inflexible approach but existing legislation does not allow for such flexibility. If LPAs do try to be flexible in terms of dealing with such matters informally then there are issues of whether amended development is lawful, and whether original planning conditions apply to a development that is now different to that which was approved etc.
- The status of the original planning permission (including planning conditions) and the relationship between a non-material amendment and the original consent must be explicitly addressed.
- if a third party felt aggrieved by a decision to accept a change as "non-material" then assume still open to Judicial Review.
- One consideration stated is whether planning policy has changed significantly since the original planning permission. However, it should be made clear that this test only applies to the proposed amendment (& not the development as a whole)

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Vicki Hirst	
Organisation	Planning Officers Society for Wales	
Address	c/o Pembrokeshire Coast National Park Authority Llanion Park Pembroke Dock SA71 6DY	
E-mail address	vickih@pembrokeshirecoast.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The four tests suggested would seem appropriate; however, there is concern that these could be open to interpretation. The tests refer to matters such as significant changes, detrimental impacts, and are disadvantaged without definition of these terms. The interpretation of these matters will depend on the standpoint of the individual; for example a neighbour may consider an additional window to be significant as it will be detrimental to their amenity, whereas the planning officer may have a different interpretation. It is considered that the tests are likely to lead to further confusion and a lack of transparency which is regrettable when the intention is to simplify procedures for minor non material changes. Clearer direction on a definition of non-material changes is considered to be necessary for effective and consistent application of this proposal.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Some Authorities in Wales have successfully dealt with minor amendments by an exchange of correspondence, however the use of a form may provide a standardised approach across Wales and make it easier for those who are not regular users of the planning system.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

It is considered that the fee should be applicable to each amendment sought as there is concern that a number of 'non-material' amendments on the same proposal could amount to an overall material change to the original application. Furthermore, it is suggested that each permission be subject to a limit on the number of amendments that can be made to avoid incremental changes.

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

LPA's will be involved in extra works for processing a minor amendment and it is only reasonable that a fee should be paid for that extra work (which would not be covered by the original planning fee).

The fee level of £25 for a minor amendment to a householder application and £166 for other applications would contribute to covering the costs of the work involved.

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Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Given that the changes sought will be non-material in nature it is not expected that consultation or publicity will be necessary, as they are by their very nature strictly limited in their scale and impact. If there was a necessity to consult or publicise an amendment it is likely to no longer qualify as a minor amendment. However this is subject to the comments against Q1.</p> <p>The Welsh Government propose a requirement for the applicant to notify any other owners of the land, who would be affected by the non-material amendment; or where any part of the land comprises an agricultural holding, the tenant of that holding. Details of those persons consulted will need to be included on the standard application form,</p>				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The process of notification appears to be a private matter and its introduction into this procedure is likely to result in delay and confusion. It is considered better that this matter be addressed directly between the parties involved. Disagreements between the landowner/tenant and the developer should not affect the merits of whether a proposal is or is not a minor amendment.</p>				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

However, if consultations were required, then it is considered that a period of six weeks would be more appropriate to enable representations to be invited and considered.

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

LPAs should aim to respond to requests for minor amendments as quickly as possible.

It is suggested that the remedy should comprise a 'deemed consent' such as already in place for applications for prior approval unless the LPA agrees an extension of time in writing with the applicant.

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

The guide is welcomed, however it should take account of the above comments in particular with regard to the need for a definition (Q1).

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

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General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>It is considered that S73 of the Act already provides a process for dealing with non-material or minor material amendments to an existing permission and greater use of this section would negate the need for a further process which only serves to add further complexity and confusion. S73 could be adapted to refer to all amendments (either non-material or minor) with all permissions required to include a condition listing the approved plans to enable this section to be used for amending a permission.</p>	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	JUDITH JONES	
Organisation	MERTHYR TYDFIL COUNTY BOROUGH COUNCIL	
Address	TOWN PLANNING DIVISION, UNIT 5 TRIANGLE BUSINESS PARK, PENTREBACH, MERTHYR TYDFIL	
E-mail address	judith.jones@merthyr.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: A definition of 'non-material amendment' must be provided otherwise it will be left open to each Authority's interpretation which will result in continued inconsistency across Authority's.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Deemed consent.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

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[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

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Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

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Please submit your comments by 15 March 2013.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Paul Mead	
Organisation	Denbighshire CC	
Address	Caledfryn, Denbigh, LI16 3RJ	
E-mail address	planning@denbighshire.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Welcome extra fee income but fear that some people may make amendments anyway leading to increased enforcement workload.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>As above. Fee level OK.</p>				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The Authority is best placed to decide who to reconsult with on possible amendments.</p>				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: There needs to be a time period set on VALID receipt.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: This places pressures on over stretched Officers.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) ☐

How to Respond

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planconsultations-b@wales.gsi.gov.uk

[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Fenella Collins MRICS (A1535020)	
Organisation	CLA	
Address	16 Belgrave Square London SW1X 8PQ	
E-mail address	fenella.collins@cla.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

In principle the CLA opposes the payment of fees largely because CLA members have seen no improvement at all in the service provided by planning authorities since planning fees were introduced. If fees are to be paid then it is on the understanding that planning authorities provide a helpful, efficient and effective service to the applicant - in many cases this kind of service is not being provided to applicants. Given the many experiences of CLA members when dealing with planning authorities, if a fee is to be introduced for a minor amendment application, we fully expect the planning authority in question will handle the application efficiently and effectively within the given timeframe using the guidance provided. Likewise if pre-application advice has been requested we expect the LPA to provide as good a service as possible.

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The fee level at £166 is too high for minor amendment applications for agricultural, forestry and small scale rural economic development. We suggest it is set at £83.

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: 28 days is adequate but we suggest that the regulations/guidance also allow for a longer determination period but ONLY if agreed in writing by both applicant and planning authority.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: CLA member's experiences of obtaining decisions on applications suggests that a sanction IS required if a planning authority has not made a decision within the required timeframe. We suggest that the fee paid by the applicant is returned to the applicant if the LPA is at fault. On the other hand if the delay is caused by the LPA and applicant not agreeing on the information required, we suggest the LPA and applicant should agree a longer timeframe for a decision. If there were an Alternative Dispute Resolution process then an independent assessment could be made of such conflicts.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
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		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>In order to provide a consistent approach to this matter by both applicants and LPAs it is important that option 2 is introduced as quickly as possible.</p> <p>However, the fee of £166 to apply for non material amendment will be expensive for a small farming, forestry or rural business, many of whom are struggling financially. We have suggested in our response to question Q3b that the fee should be £83 for landbased and small scale rural businesses.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

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[Please include '*Non-material Amendments to Planning Permissions – WG16763*' in the subject line]

Post

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Development Management Branch
Planning Division
Welsh Government
Cathays Park
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CF10 3 NQ**

Additional information

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Non-material Amendments to Planning
Permissions Consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

13 March 2013

Lydia Whitaker
3rd Floor, Temple Point
Redcliffe Way
Bristol
BS1 6NL

Tel: 0117 3721120/ 07711 601462

Fax: 0117 3721146

Email: lydia.whitaker@networkrail.co.uk

Dear Sir / Madam

Re: Non-Material Amendments to Planning Permissions – Consultation Document

We write with regards to the Welsh Government's proposal to introduce a statutory process for making non-material amendments to existing planning permissions. Thank you for providing Network Rail with the opportunity to comment on this consultation document. This letter sets out our response to the matters raised.

Network Rail is a statutory undertaker responsible for maintaining and operating national railway infrastructure and associated estate. Network Rail owns, operates, maintains and develops the main rail network. This includes the railway tracks, stations, signalling systems, bridges, tunnels, level crossings and viaducts. Changes to planning procedures and processes have the potential to impact upon Network Rail's ability to protect and enhance its infrastructure. In this regard, please find our comments below.

Network Rail welcomes greater certainty and clarity in the planning system. The implementation of a formal application process to permit non-material amendments to planning permissions would be supported in principle by Network Rail provided it did not create unnecessary and onerous additional procedural requirements.

We note that through providing a legal basis for making non-material amendments to planning permissions the Welsh Government aim to achieve greater certainty for Local Planning Authorities (LPAs) and applicants; a more responsive planning system; greater certainty and transparency in terms of the process and procedure; a more proportionate approach to approving non-material amendments; and a more consistent approach between LPAs. Network Rail fully supports these objectives.

We hope these are comments will be taken into account in the progression of the proposed changes.

Yours faithfully

Lydia Whitaker MRTPI AIEMA
Town Planner

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	GLYN P. JONES	
Organisation	FLINTSHIRE COUNTY COUNCIL	
Address	COUNTY HALL MOLD CH7 6NF	
E-mail address	glyn.p.jones@flintshire.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

It is agreed that a statutory definition would not work (if indeed such a thing was possible) but the danger in not being more specific with the 'tests' suggested is that things will not change significantly in respect of the 'consistency' which the Guide seeks, as officers within each Authority will continue to apply their own judgement in deciding whether an amendment falls under the proposed S.96a provisions, as they do now in addressing working amendments.

In deciding whether a change can be accommodated under our current procedure in Flintshire we decide firstly whether the change amounts to development in its own right (e.g. the introduction of a dormer window on the front roof slope of a new dwelling, or the introduction of a chimney where the approved plans did not show one). In such cases the developer is advised that a new application is required. We also consider other factors, e.g., whether an extension comes closer to the boundary with a neighbouring property or is higher or on a higher ground level than that approved. Again, in such cases a new application would be required.

The above gives an element of certainty and consistency but the tests suggested in the consultation document are not considered to be precise and clear enough, particularly in respect of the following:

- "significant in terms of scale" - if the amendment is larger in terms of scale it is probably going to be "significant", but it can be considerably smaller without being "significant".

- "detrimental impact either visually or in terms of amenity" - these potentially conflict, but in any case it is all a matter of subjective judgement, which will not lead to the consistency which is being sought.

- "...interests of ..third party or body..be disadvantaged " - who decides ? - if someone has objected to the original application they are likely to object to any proposed changes post decision as a matter of principle. If there is to be notification/consultation on a S.96A application (as is suggested) then few changes would get through this test as minor amendments.

- "...proposed change conflict with national or development plan policies" - really is not needed as a test. If a development which complied with policy at the time of granting planning permission would, as a result of a change, become non-compliant, then it clearly cannot be treated as a minor amendment.

The reference in para 3.6 to 'Pre-application discussions' is a little confusing. This presumably refers to pre-S.96 application discussions, as any pre-apps undertaken before the substantive application and planning permission will not have touched on any future amendments. This being the case, the contact will only concern the question of whether the amendments are considered to be acceptable and what procedure needs to be followed to implement them. If the amendments are not considered acceptable, this must be for sound planning reasons, i.e a significant impact on a recognised interest, which would not pass the 'tests' referred to above and could not therefore be treated as a non-material amendment. By the same token it is extremely unlikely that someone would submit a S. 96 application without first contacting the planning department as to whether this is the correct procedure. Consequently, there is little likelihood of "abortive work" on either side.

If amendments to a development (and however minor they constitute a different development scheme) are to be considered in this way then there are inevitably going to be challenges, even to the extent of judicial review. In these circumstances it is clearly desirable that the grounds for the decision are robust and based on clear criteria in the relevant legislation and guidance.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Surely the key information requirement is the detail of the proposed amendment				

in relation to the corresponding detail of the original permission. When such changes are considered by officers as working amendments the response can be given by return and the amended plans are stamped up to supersede those permitted with the planning permission.

If this is to be a formal application then the information listed will be required and there needs to be guidance on the validation requirements including the standard of the plans/drawings, which are as important to the consideration of this application as they were to the original application for planning permission. As amendments of this nature are likely to concern changes to the external appearance of built development, then their impact needs to be assessed also against current guidance on Design (a word which does not seem to appear in either the Consultation document or the Draft Guide).

Para. 1.6 of the consultation document refers to S. 73 applications as being one current means of addressing amendments. Where permission is granted under S.73, this sets up a new planning permission, differing from the original in respect of one or more of the conditions. The effect of this is that the developer has a choice of which planning permission to implement (hence the importance of duplicating all of the conditions/obligations on each). Despite the consultation document and draft guidance making it clear that this is "not an application for planning permission" the same would presumably be true of a S.96 approval, which would become the substantive permission if the amendments are implemented. If this is the case then the assessment of the amended proposals in terms of design, sustainability, etc. are as important as they were originally ?

(The reference to the effectiveness of S.73 applications in para 1.6 is qualified in para 1.7 to the effect that this is dependent on the existence of a relevant condition. The reference in para.2.3 to "a Certificate of Lawfulness to test whether the changes are "de minimis" is wrong, in that both a CLEUD and a CLOPUD establish if something is development. The decision as to whether such development is de minimis is entirely separate).

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: If this is to be a formal statutory procedure, with its resource implications, then it is right that the local authority receives an income.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please	Yes		No
		Yes		

	specify the reasons and the fee level considered to be appropriate for such an application.		(subject to further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
The Householder fee seems reasonable and setting the 'other applications' fee at the same rate as S.73 apps. makes sense as this process should remain as an equally attractive alternative. If a S.96A application is unsuccessful (rarely) then the alternative would be another full application (with a new fee) or a S.73 application as indicated. Unless there is clarification of the point made above (in response to Q2) in relation to the status of a S. 96A permission then it is envisaged that S.73 will remain a more attractive option for many.

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
This consultation is to "simplify the process of amending planning permissions" and Flintshire, along with most Authorities, it should be imagined, already has a simple means of dealing with working amendments (ours outlined in the response to Q9) which does not involve reconsultation/publicity. The only real question here is whether the amendment(s) can be considered as being non-material and if the tests to determine this are right there should be no scope for the input of potentially subjective third party views. As suggested above, if a neighbour has objected, often to the principle of a development, they are likely to repeat their objection on any subsequent application regardless of the nuances of a non-material amendment.

The S.96A process and Guidance should make clear the basis for a decision as to whether something can be dealt with as a non-material amendment and that this does not involve any third party representation. If there is any doubt over this decision then Authorities should err on the side of requiring new applications, but if there is to be scope for a 'mini' planning application then this enters the democratic realm making it difficult for officers and elected Members alike (the latter who will feel obliged to represent the views of their electors) and will lead to a re-run of the original application in many cases.

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No

		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: As above				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: If third party involvement is dropped then there is no reason why a decision cannot be taken by return in most cases. If it becomes a 'mini' planning application as suggested above, then there is every likelihood that decision speeds will be closer to those applicable to a corresponding planning application. Amendments are often presented as a development progresses, sometimes to address unforeseen circumstances, and any delay arising out of a protracted process which deprives the Authority of the ability to take a pragmatic and flexible approach, is in no-one's best interests.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: It is difficult to see what the remedy would be considering that the new procedure is designed to avoid the need for a full application; but if this becomes bogged down in negotiations involving third parties then it becomes something of a 'hostage to fortune'. As with any planning decision this will potentially be open to challenge and if this process is not going to deliver a speedy decision because of the involvement of other parties or other complications then it will have to be assumed that the changes go beyond what can be considered as non-material amendments. It has to be assumed also that a number of applications under the new procedure will be retrospective, possibly because of a genuine misunderstanding over approved details on a planning permission. In such circumstances the development will often be proceeding and a lengthy delay in approving amendments will be costly in terms of time and money. If the decision as to whether the development can proceed is tied in to a S.96A application which cannot be resolved quickly for whatever reason then there is every possibility that the development will continue and the Authority would then be faced with				

a decision as to the expediency of taking enforcement action. In such a case and if this is genuinely a non-material amendment then no further action would be taken by the Authority.

As the tests for expediency in enforcement cases are similar to the tests to be applied to non-material amendments then it could be argued (but certainly not advocated) that both should be subject to this formal approach. Alternatively, that both decisions should be left to the discretion of officers.

Draft Guide

Q7	Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>It is appreciated that the guidance needs to be concise but it is felt that some of the questions posed need to be explored in a bit more detail.</p> <p>By way of example, para 2.16, in response to the relevant question, states that "a non-material amendment can be made to conditions". It is not clear how this would work in relation to the existing S.73 provisions. This also raises the question of the status of the 'new' permission, which is commented upon in the response to Q2 of the consultation document above.</p>				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>			

General

Q9

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

It is significant that the first question doesn't ask whether consultees agree with the proposals to introduce a statutory procedure to approve non-material amendments. Whilst acknowledging the benefit of aligning with the system just over the border, we in Flintshire currently have few issues in dealing with amendments. If a change to an approved scheme is significant, we ask for a new application; if the amendment is not considered to be significant we confirm it as a working amendment within the scope of the existing permission. In granting most planning permissions we impose, more or less as a standard condition, the following:

" The development hereby permitted shall be carried out in accordance with the plan(s) and specifications (which are listed in the 'Notes to Applicant' below), unless specified otherwise by the conditions of this permission, or otherwise agreed in writing by the Local Planning Authority"

This condition allows us the leeway to deal with working amendments of a minor nature at officer level, without the need to go through a formal process (and the time and expense that this entails). When suggested in the context of an appeal and when negotiating amendments with developers we have had no problems with this approach.

We will continue to impose this condition, where it is considered to be appropriate and we will therefore, presumably, still be able to deal with what we consider to be minor working amendment by letter, without invoking the new S.96A procedure, where we choose to do so ? It is accepted that the draft guide (para. 2.17 states that this will no longer be an option, but a liberal interpretation of the 'de minimis' principles would allow this approach.

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Mr. Rhodri Davies, Principal Planning Officer (DC)	
Organisation	Brecon Beacons National Park Authority	
Address	Plas y Ffynnon Cambrian Way Brecon Powys LD3 7HP	
E-mail address	rhodri.davies@breconbeacons.org	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The four suggested tests are similar to the unwritten criteria that the BBNPA use to determine whether a change in design can be dealt with as a minor amendment or if the changes require a formal application to vary the approved plans condition via a S.73 application.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The BBNPA currently deal with very minor amendments via exchange of correspondence with the applicant/agent. However, there is no objection to the				

use of a standard application form to be consistent with the 1App approach. The only possible complication that could arise is the need to create a new reference number in the planning application system that would not correspond to the original application reference number.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The proposed fee levels would seem to be commensurate to the level of work required to process the applications within a reasonable time frame.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The BBNPA consider that if a subsequent change to an approved scheme requires consultation with affected/interested parties then it is not a minor amendment and should be the subject of a formal S73 application to vary or remove a condition with a 21 day consultation period. This rate is possible at the BBNPA as it is normal procedure to identify the approved plans in a condition.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The approach depends largely on the applicant being able to determine whether the proposed changes would affect other owners of the land and this could lead to confusion and delays. This process is likely to heighten the expectation of third parties that their views will be taken on board in the determination of the application but the consideration of the application should be based on the impact of the changes in planning terms.</p>				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>If the application is not supported by a sufficient amount of information, the LPA should be allowed to refuse the application on that basis.</p>				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>It would not be wise to allow the changes by default if a formal decision is not received within a set period as other issues such as Committee report deadlines could impinge on an Officer's ability to process all applications in a timely manner. The default position should be the scheme as approved but if the LPA require an extension of time to determine the application then the applicant should be notified of this in writing.</p>				

Draft Guide

Q7	Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-	Yes	Yes (subject to	No
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	material amendments? If so please specify what.		further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
There could be scope to include reference to the need to discharge pre-conditions attached to the original consent before the commencement of works.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

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<p>Please complete the consultation form and send it to :</p> <p>planconsultations-b@wales.gsi.gov.uk</p> <p>[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

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planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Linda Jones	
Organisation	Acanthus Holden	
Address	Waterman's Lane, The Green, Pembroke, SA71 4NU	
E-mail address	linda@acanthus-holden.co.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Ideally, every minor amendments should still be able to be dealt with as 'working amendments' through an exchange of letters.</p> <p>When we have seen some local authorities avoiding using conditions which will not allow Section 73 amendments to force applicants to make completely new applications to increase fee income, there is a danger that LPAs will see this procedure in a similar way. Whilst I am sure it is not in the spirit of the initiative it is a potential outcome which should be realised.</p>				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered	Yes	Yes (subject to further comment)	No
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	are necessary.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Would have thought drawings should be mandatory not optional? - to at least locate the proposed change.</p>				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes, providing very minor amendments can be dealt with expediently through an exchange of letters. £166.00 for businesses does not represent any real benefit from current system if a section 73 can be made. Less time but this has to be balanced against potentially no right for appeal.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Should certainly be no more. £25.00 is reasonable for householder. Not all businesses are multi-million enterprises or making profits. Wales is dominated by SMEs.</p>				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: If it is not quicker there is less improvement from current system.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Amendments can be made for very good reasons. Delays often cost money and projects may be on site. If it is not quicker and cheaper than an Section 73 application there is no benefit to the change. There must be a penalty for non-decision. A late decision could cause many thousands of pounds of costs on site and not all amendments can be anticiapted! A financial penalty would seem to be appropriate. Should be a right to appeal against non-dermination at least.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

Too many annex 1's. - so far I have found annex 1 of the annex 1 !

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<p>Comments: Only that the purpose of this exercise should be to provide a simple and non costly mechanism for minor amendments to be made, (for applicants and LPAs). Development usually generates jobs and enables prosperity so hurdles should not be created, especially in our current economic climate.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
<p>As the Section 96A application is not intended to be a planning permission as such it seems in appropriate to 'add conditions'. Surely any conditions added should not be any more onerous that the original permission?</p> <p>Whilst my spelling may not be perfect there are a number of typos.</p>	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

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Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include '*Non-material Amendments to Planning Permissions – WG16763*' in the subject line]

Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Matthew Williams	
Organisation	RenewableUK Cymru	
Address	22 Cathedral Road Cardiff CF11 9LJ	
E-mail address	matthew.williams@renewableuk.com	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree that applications should be made on a standard application form, and also agree that applicants should not be required to provide a design and access statement for non-material amendments.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Provided that there is consistency across the LPAs in the handling of non-material amendments to an existing planning permission (and timely decisions made), we believe that a fee would be acceptable for this service, so long as it is fair and reasonable.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We believe that the proposed fee level is fair and reasonable.</p>				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree that since changes sought will be non-material in nature that consultation and publicity will not be necessary. Therefore there should be a presumption against further consultation or publicity unless there are exceptional circumstances which would require the notification of the local community.</p>				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify	Yes	Yes (subject to further comment)	No

	the reasons.		comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, it is vital for all parties that certainty is provided on proposed developments. Since the changes sought are non-material we believe 28 days is sufficient time for the proposals to be considered fully.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We believe that rights of appeal under Section 78 of the Town and Country Planning Act 1990 should apply if the application is refused or not determined within 28 days.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Energy UK believes that it would be helpful if 2.21 made it clear that there is a general presumption against the need for further consultation or publicity for applications for non-material changes, unless the Local Planning Authority considers there are exceptional circumstances in which further consultation or publicity is necessary.				

We believe that it is necessary to introduce a remedy in the circumstance that a Local Planning Authority does not determine an application within the proposed 28 days and we believe it would be helpful to detail this in part of 2.28 in the Draft Guide.

We also suggest that part 2.37 should be amended so that the usual rights of appeal should apply (under Section 78 of the Town and Country Planning Act 1990) if the application is refused or not determined within 28 days.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post

Please complete the consultation form and send it to:

Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Richard Lewis	
Organisation	Torfaen County Borough Council	
Address	Torfaen County Borough Council Planning & Public Protection Tŷ Blaen Torfaen, Panteg Way New Inn Pontypool NP4 0LS	
E-mail address	richard.lewis@torfaen.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

suggested additional criteria for consideration:

- would the change be at variance with any condition
- would the change conflict with any mitigation
- would the change be fully within the scope of the application description.
- should not result in any change to site area.
- consideration of cumulative effects of amendments on amendments.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered	Yes	Yes (subject to further comment)	No
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	are necessary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: What about multiple amendments? I'm thinking of a large residential estate with many proposed amendments that may each be non-material but involving a lot of work. perhaps £330 for such circumstances?				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: I do wonder that if consultation is necessary even as a discretionary measure whether a change could be considered non material?				

Q5	Do you agree with the approach taken in	Yes	Yes	No
-----------	---	-----	-----	----

	relation to notification for non-material amendment applications? If not, please specify the reasons.		(subject to further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: as above				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: provided there is no automatic right for a change to be deemed non material in the absence of such decision. Council should notify applicant if decision will be longer than 28 days + explain why. no need to agree extension because what happens if agreement not given? default of not making a decision within 28 days should be the ability for an applicant to submit a formal planning application.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: see above				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: 2.15 unclear in terms of what may constitute non material amendments to conditions. see comments under Q1 above. some examples of what are regarded to be non - material and material changes				

would be very useful although it is understood that context will be important in each case.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
Consultation document at 2.10 states that WG are minded to apply the provisions of 96A (currently England only). But this appears to allow the imposition of conditions - this is not mentioned or clarified anywhere in the documentation.	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

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Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

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Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

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Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Ian Gorton / Dawn Power	
Organisation	Cyngor Cefn Gwlad Cymru / Countryside Council for Wales	
Address	Maes y Ffynnon, Ffordd Penrhos, BANGOR, Gwynedd, LL57 2DW.	
E-mail address	i.gorton@ccw.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

CCW agrees with the statement that local judgement will be important when considering the context and result of the proposed change. We agree it is important to emphasise that the proposed tests are for guidance only and that other matters not set out in the tests may be relevant when assessing the status of a proposed change. In particular, CCW advise that the potential impact on international and nationally designated nature conservation sites and landscape areas or protected species should be given sufficient regard where appropriate in accord with the statutory duties of the LPAs/determining body under legislation such as the Conservation of Habitat and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: CCW advises that where the original planning application required the submission of environmental information, the LPA should satisfy themselves that no further or updated environmental/survey information is required to assess the proposed non-material amendments.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: CCW approves of the discretion on LPAs to consult CCW and other statutory bodies where appropriate and would recommend further consultation only be				

undertaken if the proposed changes have a potential impact on a matter where CCW has previously commented.

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: CCW agree that this timeframe is appropriate.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No comments.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

A flowchart of the application process would be beneficial.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Comments: No comments.			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
No comments.	

I do not want my name/or address published with my response (please tick) ☐

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Please complete the consultation form and send it to:

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Welsh Government
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Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Roisin Willmott	
Organisation	RTPI Cymru	
Address	PO Box 2465 Cardiff CF23 0DS	
E-mail address	roisin.willmott@rtpi.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Overall, RTPI Cymru welcomes the proposals to bring the provisions of s96A into force in Wales following the recommendations (74-77) of the IAG Group and the earlier GVA research report (2010). We feel it will be a positive improvement to the operation of the planning system in Wales to have a simple, low-cost, consistent and quick process to formalise approval of non-material amendments to planning permissions. We have a number of comments which we hope will help to improve the proposals.

In relation to non-materiality and the suggested tests, we agree with the approach that whether or not a proposed change is non-material will depend on the circumstances of each case and that this is best assessed and determined by the planning authority. We feel the inclusion of clear tests in the guidance is essential to secure consistency in approach, interpretation and implementation.

Broadly we feel the proposed tests are satisfactory but we think it needs to be recognised that they should not be interpreted rigidly or solely limited to these matters - there may be other considerations which may be relevant in particular cases. We also have the following specific comments which we hope would

improve them:

- a material change in the legislative, policy or site context since the original decision was issued may also be relevant;
- (re suggested test 4) development plan policies may be amplified by Supplementary Planning Guidance (e.g. on design matters) and these may also be useful in assessing the effect or impact of a proposed change;
- (re suggested test 2) suggest that 'either' be replaced by 'for example' to avoid a restrictive interpretation;

Our attention has been drawn to the case of *Burroughs Day v Bristol City Council* (1996) 19 E.G.126 which gave some guidance on 'material effect' in relation to external appearance of a building - and with which the first test would seem to be consistent.

It would also be helpful if the guide were clearer about how the cumulative impact of multiple non-material changes should be treated - is it the position that each change should always be considered by reference to the original permitted position and that the effect to be considered is that of the proposed change plus all non-material changes already approved? Also, if there are more than one changes in an application, how are they to be addressed - as a package or individually (and, if the latter, how is that to be done)?

We agree that pre-application discussions are important and there should be no need to make these mandatory, particularly where experienced professionals are clear about the process and understand the considerations of what constitutes non-material. We think the Welsh Government should consider some awareness raising with practitioners as proposals are introduced to ensure a smooth introduction of the new provisions and consistent understanding and interpretation of the provisions across Wales.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: RTPI Cymru agrees there should be a single consistent form for s96A applications across all planning authorities in Wales and we think the information requirements are reasonable.				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further	No

			comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
We agree that a fee should be required for an application

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
We agree that there should be a distinction between householder and non-householder applications and we note that the same fees as proposed apply currently in England, which seems sensible although it has been questioned whether there is comparability between processing a s73 application and a s96A application.

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Generally it is agreed that consultation and publicity will usually be found not to be necessary. We agree that this is a matter best left to the planning authority to decide; although planning authorities should not be discouraged if they think it would be desirable. For example, this may be felt to be appropriate in cases where there has been considerable public controversy and/or objection and where it may be thought to be desirable to consult or publicise a s96A application from the point of view of openness. The use of publicity and consultation documents based on the suggested notification letter could be endorsed

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree with the proposals.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We think this period strikes the right balance between preventing undue delay to development and giving case officers sufficient time to fit assessment of a proposal into their workload. Our understanding from experience in England, is that only in a few cases has this period been exceeded.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We think remedy through appeal would negate the objective of a quick decision process and is not favoured. There should be sufficient means to encourage planning authorities to determine applications within the specified timescale providing sufficient information has been supplied with the application. Monitoring of timescales for determination should be undertaken to establish if there are issues and concerns which need further Welsh Government action on this particular question.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We welcome the production of guidance and have a number of questions and comments on the scope and content of the guide which we hope will be				

considered to help to improve the understanding and consistent interpretation and operation of the provisions in Wales.

The provisions have been in operation in England for some time and we have received some input from colleagues familiar with the operation of the provisions in England. Experience is substantially positive and it appears that very few practical problems have resulted. Nevertheless, some points have been raised from this experience which we think ought to be considered:

- there seems to be some lack of awareness or clarity among some practitioners in England about the application of s96A to non-material changes to conditions (see, for example, the discussion on the PAS website: www.pas.gov.uk/pas/forum/thread-maint.do?topicId=2352008). It would be helpful if the guide were to make the position absolutely clear - particularly as to what should or should not fall under s73 and s96A respectively (and, also, what would not fall under either, i.e. change which goes beyond the scope of s73 and s96A).
- there seems to be a lack of consistency between planning authorities in England in applying the s96A provisions to changes to reserved matters approvals. Most apparently accept s96A applications for non-material changes but we are advised that some do not. Again, it would be helpful if the guide were to address this explicitly to ensure consistency across Wales.
- As there is no prescribed format for decision notices, local authorities in England vary in the level of detail provided. As the decision is supposed to be read with the original consent to define the development permitted (para 58 of the English guidance) we think that there should be minimum requirements for the information provided in the decision document, including clear descriptions of the changes and any document or drawing references. We also agree that the decision should be recorded in the planning register (which supports the need for consistency in format and detail).

We have received several comments about who may submit a s96A application, particularly cases where land is being or is intended to be purchased plus a suggestion this could usefully be extended to include the original applicant.

It would be helpful if the guide was clearer about planning permissions where the conditions of approval include a condition which lists the approved plans, as this is a common, although by no means universal, practice in Wales. The English guidance (paras. 64 - 66) addresses this directly. The IAG report (para 5.16) considered that the plans and other documents that are to be read with the conditions attached to the permission should be clearly stated in the permission and that this requirement should be set out in a development order. This was the subject of recommendation 77 in the IAG report.

It would be helpful if the guidance could also clearly set out the position where development has already been implemented (retrospective applications).

The difference between the outcome of a s73 application (where a new planning permission is created additional to the original) and s96A (where the original permission stands but includes the approved changes) needs to be made clear. It has implications for developers in that in the s73 case there is then a choice as to which permission is implemented while in the s96A case there is only the changed permission to implement. This would appear to give less flexibility to

developers and the scope for providing greater flexibility in s96A cases should be considered.

There is currently no ability to apply for a non-material amendment via the Planning Portal. We understand that this is due to be rectified but we think WG should keep the pressure on to ensure this route is available. The use of the Planning Portal would be ideal for these small applications and reduce costs and improve timescales for submission.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We have no comments on this.			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
No further comments	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.</p>

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Rhidian Clement	
Organisation	Dŵr Cymru\Welsh Water	
Address	Dŵr Cymru\Welsh Water Developer Services PO Box 3146 Linea Fortran Road Cardiff CF30 0EH	
E-mail address	Rhidian.Clement@dwrcymru.com	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

We agree in principle and acknowledge that a non-material amendment such as the repositioning of a window would generally not be an issue to Dwr Cymru Welsh Water (DCWW).

We also recognise that the responsibility for determining whether a proposed change in non-material amendment with the local planning authority, however it is critical that in this determination, each LPA considers any potential consequential impact upon public assets, including any impact upon water and sewer networks.

Accordingly, as and when relevant and practical we would welcome involvement in pre-application discussions as recommended in paragraph 2.7 of Annex 1.

We consider that as a statutory undertaker, we should be afforded the opportunity to provide general guidance on what may or may not be considered as non-material amendments, in order to ensure that such amendments do not prejudicially impact upon our assets and the environment. We consider that other statutory undertakers/statutory consultees may also welcome this opportunity.

For example, we consider that any alteration to the management of surface water runoff should not be considered a non-material amendment. Uncontrolled surface water communications with the public sewerage system will result in an increase in hydraulic overloading of sewers and place increased stress on the capacity at receiving Waste Water Treatment Works. Accordingly, such an alteration should require the submission of a revised planning application for such matters to be fully considered.

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree in principle however, as an advisory body to all Local Planning Authorities within Wales and parts of England we recommend that in cases where it is relevant, drainage details to demonstrate any impact of the proposed non-material amendment are submitted to determine any impact upon public assets under the control of DCWW.</p> <p>This provides us as a statutory undertaker the opportunity to consider whether the revised development would cause any detrimental harm to our existing assets and networks, in the context of protecting the environment and services to existing customers. We accept and agree that 14 days consultation with interested parties such as ourselves would be sufficient and reasonable.</p>				

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>No comment</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No comment				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree in principle however we consider that further guidance in respect to consultation with statutory consultee's/advisory bodies' would be beneficial.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree in principle.				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Agree provided that a consultation period of at least a minimum 14 days with interested parties is provided, where it is relevant to the proposed non-material amendment.				

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Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: As and when relevant and practical we would welcome involvement in pre-application discussions as recommended in paragraph 2.7 of Annex 1. Further to the above, we consider that as a statutory undertaker, we are afforded the opportunity to provide general guidance on what may or may not be considered as non-material amendments, in order to ensure that such amendments do not prejudicially impact upon our assets and the environment. We consider that other statutory undertakers/statutory consultees may also welcome this opportunity. For example, we consider that any alteration to the management of surface water runoff should not be considered as a non-material amendment. Uncontrolled surface water communications with the public sewerage system will result in an increase in hydraulic overloading of sewers and place increased stress on the capacity at receiving Waste Water Treatment Works. Accordingly, such an alteration should require the submission of a revised planning application for such matters to be fully considered. Further guidance is required to establish whether additional conditions can be inserted to the original planning consent. This may be relevant in cases where additional conditions are required to protect assets affected by the non-material amendment.				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input checked="checked" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree in principle however, we would request that when a householder wishes to make non-material amendments to extend or improve their property our comments made to Q1 be considered.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
N/A	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to :</p> <p>planconsultations-b@wales.gsi.gov.uk</p> <p>[Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]</p>
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

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planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Paula Jones	
Organisation	Conwy County Borough Council	
Address	Regulatory Services Development Management Civic Offices, Colwyn Bay LL29 8AR	
E-mail address	paula.jones@conwy.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Perhaps it would be clearer if the guide gave examples of what constitutes a non-material amendment as the degree of change could vary between applications. For instance this could depend on the extent of change and the size of development and whether in fact any neighbours will be affected.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

No this process seems unnecessary, someone who doesn't have an interest in the land can apply for planning permission and it is unclear why only an "owner" or their agent can apply for an amendment.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: yes this seems a reasonable approach and it is welcomed that a small fee is required for provision of this service.				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No

		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There is sometimes a need to notify neighbours of the amendment so that they are kept informed and are aware that the approved design could change thus giving neighbours an opportunity to comment. There may be also be a need to consult a statutory consultee if the change involves a matter that they have previously been consulted on i.e. changes to parking layout.</p>				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>this time is reasonable, if the proposal relates to a non-material amendment then this should take no more than 28 days.</p>				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>it is unlikely that non-material amendments will take more than 28 days to be processed but if this does happen then the authority could re-imburse the fee.</p>				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.qsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post

Please complete the consultation form and send it to:

Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Consultation Response Form

Non-material Amendments to Planning Permissions

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Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

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Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Tracey Brooks	
Organisation	Newport City Council	
Address	Civic Centre Godfrey Road Newport, NP20 4UR	
E-mail address	tracey.brooks@newport.gov.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Previous application could have been made by someone without a legal interest in the land, e.g. a prospective purchaser. Proposal is for only a person who owns the land or has a legal interest in the land to be able to apply to make an

Annex 3

Consultation Reference: WG16763

amendment. Whilst there should be restrictions on who can apply to amend a permission, this should not preclude the original applicant, irrespective of whether they have secured a legal interest in the land.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The fee paid should be more reflective of the original planning application fee. The proposed householder fee is considered acceptable and represents 15% of the original application fee. This 15% fee should also be applied to all other applications for non material amendments.				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Annex 3

Consultation Reference: WG16763

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: No right of appeal should be introduced as this will serve to prolong a process which should be relatively straight forward. It may be possible to introduce powers whereby the minor amendment is permitted in default, unless agreement has been given to an extension of time.				

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

--

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : <u>planconsultations-b@wales.gsi.gov.uk</u> [Please include ' <i>Non-material Amendments to Planning Permissions – WG16763</i> ' in the subject line]
Post

Annex 3

Consultation Reference: WG16763

Please complete the consultation form and send it to:

Non-material Amendments to Planning Permissions

Development Management Branch

Planning Division

Welsh Government

Cathays Park

Cardiff

CF10 3 NQ

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

15 March 2013

Sent by email: planconsultations-b@wales.gsi.gov.uk

Dear Sir / Madam

Consultation on Non-Material Amendments to Planning Permissions

Energy UK is the trade association for the energy industry. Energy UK has over 70 companies as members that together cover the broad range of energy providers and supplies and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

Energy UK is generally supportive of the Welsh Government's proposals in respect of non-material amendments to planning permissions. Together with the UK's major energy trade associations – the Energy Networks Association; the Renewable Energy Association; and RenewableUK, we have been working for a number of years in support of planning reform. An effective, timely, and proportionate planning system that provides certainty for developers, communities and consultees is essential to meet the Welsh Government's energy, growth and sustainability objectives. In order to meet the UK's renewable targets and ensure continued security of supply needs a £110 billion investment over the next ten years.

In particular, we agree that applications should be made on a dedicated standard application form and we support the proposed list of information requirements.

However, we believe that applicants should not normally be required to provide a Design and Access Statement for non-material change applications, and that consultation or publicity should not generally be necessary. Therefore, the industry urges the Welsh Government to introduce an explicit presumption against further consultation or publicity, unless there are exceptional circumstances to warrant consultation / publicity.

Energy UK
Charles House
5-11 Regent Street
London SW1Y 4LR
T 020 7930 9390
www.energy-uk.org.uk
t @EnergyUKcomms

We support the proposal of a 28 days time-limit for decision-making for non-material amendments to planning permissions, which believe is vital to provide certainty for developers, communities which will host the proposed development and all consultees. I hope that our comments are helpful. If you wish to discuss any of the content of our response please do not hesitate to contact our Planning Adviser, Jane Smith on 07836 668449 in the first instance.

Yours faithfully

A handwritten signature in grey ink that reads "Clare Dudeney". The signature is written in a cursive, flowing style.

Clare Dudeney
Director Strategic Policy

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name	Jane Smith	
Organisation	Energy UK	
Address	Charles House 5 -11 Regent Street London	
E-mail address	jane.smith@energy-uk.org.uk	
Type (please select one from the following)	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes. In particular, we agree that applications should be made on a dedicated standard application form to provide certainty and consistency, and we support the proposed list of information requirements. We also strongly agree that				

applicants should not be required to provide a Design and Access Statement for applications for non-material changes.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We recognise that currently, where non-material amendments to an existing planning permission have been dealt with in an informal manner by the Local Planning Authority, no fee has been charged for the consideration of such changes. Provided that there is consistency across the Local Planning Authorities in the handling of non-material amendments to an existing planning permission (and timely decisions made), we believe that a fee could be acceptable for this service, so long as it is fair, proportionate and reasonable and that it ensures timely decision making.</p>				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We believe that the proposed fee level for non-householder applications (in line with the existing fee of \$73 applications) is fair and reasonable and will allow for more than one non-material amendment to be applied for on the same form and for a single fee payment, provided that they all concern the same extant planning permission.</p>				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We are concerned that the consultation document appears slightly ambiguous in</p>				

that, on the one hand, it states that "Given that the changes sought will be non-material in nature it is not expected that consultation or publicity will be necessary " but, on the other hand, it says that "LPAs will therefore have discretion in whether and how they choose to inform other interested parties or seek their views."

We strongly agree that, given that the changes sought will be non-material in nature, it should not be expected that consultation or publicity will be necessary. Therefore, we believe there should be an explicit presumption against further consultation or publicity, unless there are exceptional circumstances which a Local Planning Authority considers it necessary that a developer should consult with, and publicise within the local community. This will help to provide certainty and ensure timely decision making.

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes				

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes - We believe that it is vital to set a time limit on deciding non-material amendments in order to provide certainty for developers, communities which will host the proposed development and all consultees. The proposal of 28 days gives sufficient time to examine the non-material amendment in sufficient detail, but is not so long as to materially delay a project.				

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please	Yes	Yes (subject to further comment)	No

specify what remedy is considered appropriate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We believe that it is important that decisions are made on non-material amendments to planning permissions in a timely fashion.</p> <p>We therefore believe that the usual rights of appeal should apply (under Section 78 of the Town and Country Planning Act 1990) if the application is refused or not determined within 28 days.</p>			

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Energy UK believes that it would be helpful if 2.21 made it clear that there is a general presumption against the need for further consultation or publicity for applications for non-material changes, unless the Local Planning Authority considers there are exceptional circumstances in which further consultation or publicity is necessary.</p> <p>We believe that it is necessary to introduce a remedy in the circumstance that a Local Planning Authority does not determine an application within the proposed 28 days and we believe it would be helpful to detail this in part of 2.28 in the Draft Guide.</p> <p>We also suggest that part 2.37 should be amended so that the usual rights of appeal should apply (under Section 78 of the Town and Country Planning Act 1990) if the application is refused or not determined within 28 days.</p>				

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Energy UK has no further comments to make.</p>			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
N/A	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post
Please complete the consultation form and send it to: Non-material Amendments to Planning Permissions Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-b@wales.gsi.gov.uk Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619

March 2013

Non-material Amendments to Planning Permissions Consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Dear Sir,

Non-material Amendments to Planning Permissions

Thank you for the opportunity to respond to the consultation dated 10 December 2012.

RICS Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members

Our detailed response to the Consultation is as follows:

Q1. Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.

Yes.

Q2. Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.

Yes.

Q3(a). Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.

Yes, as there will be some work for the LPA.

Q3(b). If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.

No – given the relative amount of work involved and assuming that the intended object is to encourage flexibility then £25 across the board sounds reasonable.

Q4. Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.

Yes.

Q5. Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.

Yes.

Q6(a) Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.

Yes.

Q6(b) Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.

Yes – RICS Wales feels that an applicant should not have to face the prospect of a refusal without the right for their amendment to at least be referred to the Planning Committee for determination.

Q7. Are there any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.

No.

Q8. Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?

No.

Q9. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: (*on the consultation response form at Annex 3*).

Only that in drawing up instructions to LPAs, we would recommend Welsh Government urge LPAs to be flexible according to each individual application as appropriate.

If you have any queries in respect of this response please do not hesitate to contact me.

Yours sincerely,

David Morgan
Policy Manager

T + 44 (0) 29 2022 4414
F + 44 (0) 29 2022 4416
dmorgan@rics.org

Consultation Response Form

Non-material Amendments to Planning Permissions

We want your views on our proposals to introduce a statutory procedure under Section 96A of the Town and Country Planning Act 1990 to approve non-material amendments to an existing planning permission. Your views on a draft guide that provides practical guidance on the use of the proposed procedure are also sought.

Please submit your comments by 15 March 2013.

If you have any queries on this consultation, please email:

planconsultations-b@wales.gsi.gov.uk or telephone Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Non-material Amendments to Planning Permissions		
Date of consultation period: 10 December 2012 – 15 March 2013		
Name		
Organisation		
Address		
E-mail address		
Type (please select one from the following)	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the identified tests to assist in assessing whether or not a proposed change would qualify as a non-material amendment to be determined under Section 96A of the TCPA 1990? If not, please specify the reasons and provide suggested alternatives.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The test of whether the interests of any third party or body who participated in, or were informed of, the original decision is disadvantaged in any way is particularly important. Any third party disadvantaged should have an opportunity to respond, albeit during the brief consultation period of 14 days.				

Q2	Do you agree with the proposed information requirements to support an application for making non-material amendments? If not, please specify the reasons and what information requirements that you considered are necessary.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Amended plans, approved under this process, should be referenced to the original approved plans. These are important documents as planning permission				

runs with the land and applies to successive land owners.

Q3 (a)	Should a fee accompany an application for making non-material amendments to an existing planning permission? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3 (b)	If the answer to question 3(a) is yes, do you agree with the proposed fee level? If not, please specify the reasons and the fee level considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the approach taken to consultation / publicity for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Site notice should be erected to advise third parties that an application for non-material amendment is being processed.				

Q5	Do you agree with the approach taken in relation to notification for non-material amendment applications? If not, please specify the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Third parties affected {and drainage asset owners} should be notified when non-material amendments to on-site drainage networks are proposed. Water flows under the influence of gravity and does not respect site boundary. Amendments to on-site drainage networks can adversely affect third parties off-site.

Q6 (a)	Should a decision on an application for non-material amendments be made within 28 days of its receipt? If not, please specify the reasons and the determination period considered to be appropriate for such an application.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
28 days following receipt of a "valid" application for non-material amendment. Planning Officers should be required to record the reason why they consider the application to be "valid". The reason should be recorded in the planning public register.

Q6 (b)	Is it necessary to introduce a remedy in the circumstance that a local planning authority does not determine an application within the proposed 28 days? If the answer is yes, please specify what remedy is considered appropriate.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Draft Guide

Q7	Are there are any other issues that the draft guide at Annex 1 should cover in explaining the proposed procedure for approving non-material amendments? If so please specify what.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
My response to question 5 above refers. A note explaining the procedure with regard to non-material amendments to on-site drainage networks would be helpful. On-site amendments can have significant impact off-site {e.g. flooding} on land not under the applicant's ownership or control.

Draft Partial Regulatory Impact Assessment

Q8	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

General

Q9	We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:
Your proposal to introduce a statutory procedure {under S.96 A of Town & Country Planning Act 1990} to approve non-material amendments to an existing planning permission is a welcome development and is endorsed, particularly when considered in conjunction with your other proposals to reform the planning process in Wales through new primary and secondary planning legislation and / or revised policy and guidance to local authorities.	

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include 'Non-material Amendments to Planning Permissions – WG16763' in the subject line]
Post

Please complete the consultation form and send it to:

**Non-material Amendments to Planning Permissions
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: Nick Butler on 029 2082 3585 or Hywel Butts on 029 2082 1619