



A cheap way to extend planning permissions for major developments

Summary and implications

The government is proposing a quick new planning procedure to breathe life into existing planning permissions. The proposal is in response to a dramatic slowdown in the take-up rate of major development schemes that already have planning permission.

The proposal, published as a consultation paper on 18 June, allows developers to apply for an extension to add another 3 years to the life of an existing planning permission for major development for a fee of only £170.

The proposal is part of a package of measures which includes streamlined procedures for making minor amendments to existing permissions. The package of measures is welcome news for landowners and developers and will mean:

- more flexibility on the start date for development;
- less costs and more certainty than applying for fresh planning permission; and
- more flexibility around the detail of the development – this will be useful where, for example, changes to a building are required to meet the needs of different tenants.

Extensions give 3 more years

Having only in 2004 reduced the standard period for implementation of a planning permission from 5 years to 3 years and prohibited any application to extend the period, the Government now proposes a "simpler and cheaper" way of extending a planning permission without going back to the start of the application process.

The proposal is a new type of planning application – an extension application – and will be available for planning permissions granted on or before 1 October 2009. A successful application will result in a new permission with a new implementation period. The new period will usually be three years from the date of the permission, although the Government is encouraging local authorities to grant longer periods.

Ask a question

If you have any questions please contact Wesley Fongenie, Partner
T +44 (0)20 7524 6241
w.fongenie@nabarro.com

The Planning team

To find out more about the team, and our capabilities [click here](#)

Only "major developments" need apply

The measures are designed to deal with the dearth of significant redevelopment schemes and therefore will apply only to those developments which fall to be considered as "major development" under the current rules. These include developments consisting of more than 10 houses or more than 1000 sqm of floorspace.

The measures are designed to deal with the dearth of significant redevelopment schemes and therefore only apply to major development

Extensions alone could save millions

The government estimates that about 15,000 major applications might potentially be affected by the legislation. They say that up to 20 per cent of the 15,000 eligible schemes might apply for an extension. This equates to 3000 schemes, saving £10m, plus reduced fees of £12m, over a three-year period.

Planning obligations are affected

If the existing planning permission is linked to a s.106 agreement developers should think about a supplementary deed so that the new permission is covered by the same obligations.

Think about a supplementary deed so that the new permission is covered by the same obligations

Minor changes to planning permissions to be made more easily

At present there is no formal statutory process for altering a planning permission (other than its conditions) after permission is granted, and the courts have held that a local authority's power to agree any alteration to a planning permission outside of the statutory process is extremely limited. So implementing any development not strictly in accordance with the wording of the planning permission, even if the alteration is agreed in writing by the local authority, carries something of a risk.

The Government is wisely seeking to resolve this situation. However, because it wishes to do so quickly and without going back to Parliament to amend primary legislation, the solution is slightly awkward. It involves a distinction between "non-material" amendments (dealt with in the Planning Act 2008) and "minor material" amendments. In each case the proposal involves limiting the amount of required supporting information as well as reducing the notification and consultation requirements.

Responses to the consultation close on 13 August

The government believes there is a need for urgency and hopes to implement the changes in stages from October 2009.

Responses to the consultation can be sent by email to: flexibilityforplanningpermissions@communities.gsi.gov.uk.

Alternatively, paper communications can be sent to Maria Stasiak Department for Communities and Local Government, Zone 1/J1, Eland House, Bressenden Place, London SW1E 5DU

<p>London Lacon House, 84 Theobald's Road, London WC1X 8RW T +44 (0)20 7524 6000 F +44 (0)20 7524 6524</p>	<p>Sheffield 1 South Quay, Victoria Quays, Sheffield S2 5SY T +44 (0)114 279 4000 F +44 (0)114 278 6123</p>	<p>Brussels 209A Avenue Louise, 1050 Brussels, Belgium T +32 2 626 0740 F +32 2 626 0749</p>	
<p>Alliance firms</p>			
<p>France August & Debouzy Gilles August T +33 (0)1 45 61 51 80 www.august-debouzy.com</p>	<p>Germany GSK Stockmann & Kollegen Rainer Stockmann T +49 (30) 20 39 07 - 0 www.gsk.de</p>	<p>Italy Nunziante Magrone Gianmatteo Nunziante T +39 06 695181 www.nunziantemagrone.it</p>	<p>Spain Rodés & Sala Gonzalo Rodés T +34 932 413 740 www.rodessala.com</p>

Nabarro LLP
 Registered office: Lacon House, 84 Theobald's Road, London, WC1X 8RW.
 Nabarro LLP is a limited liability partnership registered in England and Wales (registered number OC334031) and is regulated by the Solicitors Regulation Authority. A list of members of Nabarro LLP is open to inspection at the registered office. The term partner is used to refer to a member of Nabarro LLP.

Disclaimer
 Detailed specialist advice should be obtained before taking or refraining from any action as a result of the comments made in this publication, which are only intended as a brief introduction to the particular subject. This information is correct on the date of publication. We cannot be responsible for links to external websites that may become broken in the future.

© Nabarro LLP 2009