

Arun District Council

REPORT TO:	Planning Committee 8 August 2024
SUBJECT:	Non-Material Amendments to planning permissions
LEAD OFFICER:	Neil Crowther, Group Head of Planning
LEAD MEMBER:	Cllr McDougall
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The recommendations support:- <ul style="list-style-type: none">• Delivering the right homes in the right places.• Supporting our environment to support us.	
DIRECTORATE POLICY CONTEXT: The proposed changes will assist with the delivery of approved developed whilst at the same time ensuring that matters of importance are considered through a planning application.	
FINANCIAL SUMMARY: None	

1. PURPOSE OF REPORT

- 1.1 In November 2017, the Committee agreed a set of guidelines around what the Council would and would not accept as Non-Material Amendments (NMA's) to previously granted planning permissions. Officers have been working with this report in coming to decisions on what to accept as an NMA. This is an approach that is required by the National Planning Policy Guidance and S96A of the Town & Country Planning Act 1990 (as amended).
- 1.2 It is considered prudent to update the guidelines to reflect current ways of working and national guidance and legislation.

2. RECOMMENDATIONS

- i. That, considering the scale of the development and the context of the site, proposed Non-Material Amendments to 'non-major' (fewer than 10 dwellings and commercial development under 10,000sqm) development will, when considering the context of the site and the scale of proposals, be considered as a Non-Material Amendment if
 - They do not materially amend the use or intensity of the original planning permission or would result in a change to the description of the application.
 - The application site area (red line) does not differ from the original application.
 - A planning obligation on the original permission is not affected.
 - Windows are introduced that would not permit harmful overlooking of other properties.

- The proposal would not result in significant changes to the external details that would materially alter the appearance of the building(s).
 - The amendments would not warrant re-consultation either of neighbours, council departments or statutory bodies.
 - The proposals do not result in a material increase in height of the building(s).
 - The proposals do not result in a material increase in width/length/footprint.
 - The development is not sited substantially differently from that previously approved relative to the adjoining buildings/uses.
- ii. That, considering the scale of the development and the context of the site, proposed Non-Material Amendments to 'major' development will, when considering the context of the site and the scale of proposals, be considered as a Non-Material Amendment if they
- Do not materially change the overall appearance of the development.
 - Do not significantly increase the intensity of development.
 - Would result in no significant additional material impact on amenity or infrastructure requirements.
 - Would not result in a change in application description.
 - Would not require a planning obligation to be amended.

3.0 EXECUTIVE SUMMARY

- 3.1 In November 2017, the Planning Committee agreed a set of guidelines around what the Council would and would not accept as Non-Material Amendments (NMA's). Officers have been working with this report as guidance and considering the context of the scale of the proposals and site in coming to decisions on what can be accepted as an NMA.
- 3.2 Obviously, what would not be classed as a NMA for a minor scheme is not the same as what would not be accepted for a larger scheme and what might be material to one permission will not be material to another.
- 3.3 It is sensible to update the guidelines for Committee to reflect the current guidance and legislation because the current ones are contrary to these.

4.0 DETAIL

- 4.1 The National Planning Policy Guidance states 'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under [section 96A of the Town and Country Planning Act 1990](#).'
- 4.2 Section 96A of the Town & Country Planning Act requires the LPA to determine what is non-material having regard to the effect of the change (i.e. the context and scale referred to in para 3.2 above). It explicitly confirms that NMA's can be made that either impose new planning conditions or remove or alter existing conditions. Non-Material Amendments cannot be made to Listed Building Consents.

- 4.3 Updating the 2017 report to current interpretations of how we use the legislation would allow for better ways of working. Seeking agreement to an updated set of principles that reflect how NMA's should be considered is therefore necessary.
- 4.5 It needs to be clarified that the matters listed within the recommendation in section 2 in the recommendations are guidelines and a starting point. Each application for a non-material amendment will require a professional judgement to be made based on the context, history, and scale of proposals.

5.0 CONSULTATION

- 5.1 None

6.0 OPTIONS / ALTERNATIVES CONSIDERED

- 6.1 As per para 8.1 below.

7.0 COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

- 7.1 There are no direct financial implications arising from this report, officer time is met with existing budgets.

8.0 RISK ASSESSMENT CONSIDERATIONS

- 8.1 To continue working strictly to the guidance in the 2017 report significantly increases the risk of complaints because we would not be working in accordance with the current guidance or legislation. It would also result in a significant increase in workload in the department because of applicants having to make section 73 applications instead of NMA's, which would in turn result in a drop in performance. This would be an unnecessary burden of work.

9.0 COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1 The Government guidance on non-material amendments issued some time ago but does not define what changes may be treated as being non-material. This update seeks to provide further guidance on the procedure and how Arun District Council proposes to assess non-material amendments.
- 9.2 Section 96A of the Town and County Planning Act 1990 says the following: 'In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted.'
- 9.3 Updating our guidelines allows for further flexibility in the decision-making process.

10.0 HUMAN RESOURCES IMPACT

- 10.1 N/a

11.0 HEALTH & SAFETY IMPACT

11.1 N/a

12.0 PROPERTY & ESTATES IMPACT

12.1 N/a

13.0 EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1 N/a

14.0 CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1 N/a

15.0 CRIME AND DISORDER REDUCTION IMPACT

15.1 N/a

16.0 HUMAN RIGHTS IMPACT

16.1 N/a

17.0 FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 N/a

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BACKGROUND DOCUMENTS:

Planning Committee agenda 15 November 2017

[Arun District Council](#)