EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (AMENDMENT NO. 3) (ENGLAND) ORDER 2009

2009 No. 2261

THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS (AMENDMENT) (ENGLAND) REGULATIONS 2009

2009 No. 2262

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 amends the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) (the "GDPO") for the purpose of implementing section 190 of the Planning Act 2008.

2.2 The Order also amends the procedure for applications under section 73 of the Town and Country Planning Act 1990 ("the 1990 Act") for permission to develop land without conditions previously attached.

2.3 Thirdly, it introduces a new procedure for dealing with applications to replace an extant planning permission which meets specified criteria.

2.4 The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009 amend the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) to remove the requirement for a design and access statement, and additional copies, where applications to replace an extant consent meet specified criteria.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Section 190 of the Planning Act 2008 (power to make non-material changes to planning permission) comes into force on 1st October 2009[1]. The GDPO sets out the procedure for making and determining planning applications and other applications under the 1990 Act.

4.2 The requirements for certain consent applications are set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, and the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

4.3 *Non-material changes to planning permissions*
Section 190 inserts a new section 96A into the 1990 Act. This allows local planning authorities to make non-material changes to planning permissions following an application by a person with an interest in the relevant land.

[1] The Planning Act 2008 (Commencement No. 2) Order 2009 (S.I. 2009/2260).

4.4 *Minor material changes to planning permissions*
Section 73 of the 1990 Act provides for the granting of permission for development without complying with conditions previously attached. Although sometimes referred to as 'varying' those conditions, the effect is to grant a new permission. An application under section 73 is therefore still an application for planning permission.

4.5 *Replacement of extant planning permissions and consents*
Sections 91 and 92 of the 1990 Act impose default time limits on the implementation of planning permissions: three years on a full permission and, on an outline permission, three years to apply for reserved matters and two years to implement the permission from the final approval of reserved matters. In 2004, the period in section 91 was reduced from five to three years, and section 73 was amended[2] so that an application to vary conditions could no longer be used to extend the time limit for implementation of a permission.

4.6 Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes an equivalent time limit of three years on the implementation of listed building and conservation area consents.

5. Territorial Extent and Application

This instrument applies only in relation to England.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

What is being done and why

7.1 The measures in the Order form part of a package which will allow for greater flexibility and certainty in the planning system and will provide a proportionate and graded approach to making changes to existing planning permissions in cases where an entirely new full application is not justified. The aim has been to create a package of measures which are easily understandable, easily usable and which rely as far as possible on existing powers and existing law. The measures were consulted on in the consultation paper *Greater Flexibility for Planning Permissions*:

www.communities.gov.uk/publications/planningandbuilding/flexibilitypermissions.

7.2 *Non-material changes to planning permissions*

In May 2007 the White Paper *Planning for a Sustainable Future* consulted on the possibility of 'allowing minor amendments to be made to planning permissions' (www.communities.gov.uk/publications/planningandbuilding/planningsustainablefuture). As a result, section 190 of the Planning Act 2008 introduced a power in the 1990 Act for non-material amendments to be made to existing planning permissions. This will remove the need for entirely new applications where only a very small change is sought. The application is to be made in the form and manner set out by development order, which is the purpose of this Order. The application is to be made on a standard application form, and the local planning authority must issue a decision within 28 days. Given the shorter decision period, and the fact

[2] by section 51 of the Planning and Compulsory Purchase Act 2004, brought into force by the Planning and Compulsory Purchase Act 2004 (Commencement No. 5 and Savings) Order 2005 (S.I. 2005/2081).

that notice requirements would have applied in relation to the original application, other owners of the land will have 14 days for making representations. Requirements for design and access statements, publicity and consultation, and to take reasonable steps to identify unknown owners, would already have applied to the original application if relevant. Therefore, those requirements are not to apply to this kind of application.

7.3 *Minor material changes to planning permissions*
The Killian Pretty Review recommended in November 2008 that
'Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted' (Recommendation 8 of the Killian Pretty Review: Planning Applications – A Faster and More Responsive System: Final Report:

www.communities.gov.uk/publications/planningandbuilding/killianprettyfinal.

This recommendation arose from concerns that, in some cases, new planning applications were being required where relatively small changes to schemes were being sought. Consultants WYG Planning and Design were commissioned to consider the options for either introducing a new procedure for making minor material amendments, or for using or adapting existing procedures. WYG's recommendation was that the existing route under section 73 of the 1990 Act to allow changes to conditions should be streamlined and clarified. These amendments streamline the procedure by requiring local planning authorities to consult only those bodies listed in the GDPO that they consider appropriate, as consultation will have already been carried out in relation to the existing permission.

7.4 An additional change to the procedure for applications under section 73 is to remove the express requirement in article 4E(4) of the GDPO to provide information sufficient to identify the previous permission. This is because the application must already be made on a standard application form, introduced in April 2008, which itself requires that information.

7.5 *Replacement of extant planning permissions*
There are currently signs of a dramatic reduction in the implementation rate of major schemes that already have planning permission (see figures in the attached impact assessment). If large numbers of permissions are not implemented and subsequently lapse, this could delay economic recovery. Developers would have to make new planning applications for those schemes, which could lead to delay and additional costs. Furthermore, local planning authorities could find themselves dealing with a sudden upsurge in applications as the economy moves out of recession. There have been calls from the Local Government Association, the Confederation of British Industry and the British Property Federation for a power to be introduced which allows the time limits for implementation of existing planning permissions to be extended. The amendments in the Order will enable existing planning permissions to be replaced before they expire, in order to allow a longer period for implementation (although the previous planning permission will not be revoked, rather a new permission granted subject to a new time limit). For this new kind of application, the requirement for design and access statements is removed, and the requirements for consultation are modified.

7.6 The intention is to amend the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 later this year so that a reduced fee will be payable on this type of application.

7.7 The planning permissions which are being replaced may have listed building or conservation area consents associated with them. In order to ensure that the development can proceed expeditiously, the Regulations attached to this memorandum will allow listed building and conservation area consents to be replaced through a simplified application procedure. The requirement to provide a design and access statement is removed, as one will have been

supplied with the previous application, and the requirement to provide three copies of the form will not apply.

- ***Consolidation***

7.8 There are plans to consolidate the GDPO in April 2010. There are currently no plans to consolidate the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

8. Consultation outcome

8.1 *Non-material amendments*
The question of minor amendments has already been consulted on in the Planning White Paper *Planning for a Sustainable Future* in 2007. Responses to that are set out in para. 4.3.3 of *Planning for a Sustainable Future: Analysis of consultation responses: Background report A* (Arup for CLG, November 2007). A large majority of those who answered the question supported the proposed flexibility for local planning authorities to make minor amendments to planning permissions. The main points raised were detailed suggestions about how a scheme could be made to work effectively and be fair for those affected by minor amendments, and concern about cumulative impact, particularly in designated areas. Following this consultation, the proposal was amended to provide a procedure for making non-material amendments, and was further debated in Parliament during the passage of the Bill that became the Planning Act 2008.

8.2 For the current measures, a web-based consultation was carried out between 18 June and 13 August 2009. An 8-week consultation period was agreed by ministers in recognition of the fact that the proposal to allow minor amendments (which resulted in section 190 of the Planning Act 2008) was consulted on as part of the White Paper *Planning for a Sustainable Future* in 2007; the need for a procedure to address minor material amendments has already been accepted in the Government's response to the Killian Pretty Review; and it is considered important, in light of the number of planning permissions which have not been implemented and are approaching their expiry date, that a mechanism for replacing those permissions is introduced as soon as possible.

8.3 *Responses to consultation*
Responses to the consultation document were received from a range of organisations and individuals. The largest group of respondents were businesses, followed by government bodies.

8.4 *Non-material changes to planning permissions*
A large majority of respondents agreed with the proposed approach to information requirements relating to non-material amendments, and that a decision should be made within 28 days. A majority of respondents agreed with the proposed approach on notification and representations for non-material amendments.

8.5 *Minor material changes to planning permissions*
A large majority agreed with the proposal that local planning authorities should have discretion to decide which statutory consultees should be consulted when dealing with an application under section 73 of the 1990 Act, with some concerns expressed about how the provision would work in practice.

8.6 *Replacement of extant planning permissions and consents*
A large majority of respondents were in favour of introducing the power to extend the time limits for implementing planning permissions, as well as listed building and conservation area consents. A small minority expressed outright opposition to the measure, on grounds that it is unnecessary, is not the best way to encourage economic recovery, would be counterproductive or would deprive local residents and community groups of an

opportunity to express their views. Many respondents expressed the view that the ability to extend the time for implementation, which existed before the amendment to section 73 made by the Planning and Compulsory Purchase Act 2004, should be reintroduced permanently.

8.7 The majority of respondents considered that the power to extend the time for implementation should not be confined to major developments, which was the original proposal in the consultation. A large majority of respondents from business sectors took this view. The reasons advanced included:

- there are a great number of extant permissions for development consisting of under 10 homes and to exclude these would defeat the object of the exercise;
- in some areas of the country (particularly rural areas) smaller infill/windfall schemes play a significant part in overall housing delivery and builders delivering these schemes are as equally affected by the economic recession as larger volume housebuilders;
- smaller schemes may have more chance of coming forward in the current funding climate and therefore ought to be strongly encouraged;
- permissions for smaller 'enabling' development may form an integral part of the delivery of a large scheme.

The opinions of local planning authorities were more evenly split on this issue, with a majority considering that extensions should only be possible for major development schemes.

8.8 A large majority of respondents agreed with the proposed approach to information requirements, with some concerns expressed about how the provision would work in practice.

8.9 A large majority agreed with the proposal that local planning authorities should have discretion to decide which statutory consultees should be consulted when dealing with an application, with some concerns expressed about how the provision would work in practice.

8.10 *Amendments resulting from consultation*
As a result of this consultation, the policy has been amended so that replacements of permissions are possible for all planning permissions, not just those relating to major development.

9. Guidance

9.1 Draft guidance on these measures was provided in the consultation paper *Greater Flexibility for Planning Permissions*. Revised guidance on the provisions of the Order and the Regulations will appear as part of the new development management policy framework, which will set out national policy on the development management process and will include a policy statement on the Government's aims and key policies on effective development management. It is due to be launched later this year.

10. Impact

10.1 A consultation stage impact assessment was included in the consultation paper *Greater Flexibility for Planning Permissions.* Following consultation, an updated impact assessment has been attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply directly to small business. However, small businesses applying for planning permission should benefit from these measures.

12. Monitoring & review

12.1 The numbers of applications made using these new powers and procedures will be monitored through the Planning Portal (the Government's on-line planning service).

13. Contact

Maria Stasiak at Communities and Local Government, on 020-7944-3676, or maria.stasiak@communities.gsi.gov.uk, can answer any queries regarding the instruments.

Department for Communities and Local Government

Summary: Intervention & Options

Department /Agency:	Title:	
CLG	Impact Assessment on measures to improve flexibility in handling changes to existing planning permissions	
Stage: Final	**Version:** 2.1	**Date:** 19 August 2009

Related Publications: Greater Flexibility for Planning Permissions
White Young Green: Minor Material Amendments to Planning Permissions

Available to view or download at:
http://www.communities.gov.uk/publications/planningandbuilding/flexibilitypermissions
http://www.communities.gov.uk/publications/planningandbuilding/minorpermissions

Contact for enquiries: Maria Stasiak **Telephone:** 020 7944 3676

What is the problem under consideration? Why is government intervention necessary?

In current economic circumstances, there is a reduced take-up of existing permissions. Where permissions lapse, there are costs and delays associated with providing and processing an application for a fresh planning permission.

There is also a broader need for added flexibility to allow developers and local planning authorities to make non-material amendments to existing planning permissions and to clarify and streamline the process for making minor material amendments. There is currently a lack of clarity about what can be done, which is resulting in unnecessary expense and time for both parties

What are the policy objectives and the intended effects?

The policy objective is to provide a package of measures which together will allow:
- greater flexibility for the planning system to maintain the flow of development given current economic circumstances;
- a proportionate and graded approach to making minor material and non-material changes to existing planning permissions in cases where an entirely new application is not justified;
- greater certainty about the process by which minor material and non-material amendments can be made to permissions, thus reducing the risk of challenges to the approach taken by the local planning authority, or to their eventual decision.

What policy options have been considered? Please justify any preferred option.

Option 1 (preferred option): i) Allow extensions of lifetime of existing permissions for all development schemes ii) Streamline the process for making minor material amendments to planning permissions through applications under s.73. III) Implement powers to make non-material amendments to planning permissions

Option 2: Do nothing (status quo)

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We will monitor the use of these measures through the Planning Portal

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Bill McKenzie .....Date: 1st September 2009

Summary: Analysis & Evidence

Policy Option: 1	Description: Provide a clearer and more proportionate approach to minor amendments to planning permissions, as well as greater flexibility to maintain the flow of development in current economic circumstances

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£	
Average Annual Cost (excluding one-off)	
£	10

Description and scale of **key monetised costs** by 'main affected groups' Costs of new streamlined procedures for minor material, and non-material, amendments are incorporated in the estimates of overall cost savings under monetised benefits reported below.

Total Cost (PV) £

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£	
Average Annual Benefit (excluding one-off)	
£ **18m to 69m**	10

Description and scale of **key monetised benefits** by 'main affected groups' *all PVs over 10 years. Benefits to business and householders:*

Extending lifetime: £4m to 16m (admin savings) plus £6m to £22m (fee savings); Minor material amendments: £23m to 89m (admin) plus to £32m to 118m (fees); Non-material amendments: £23m to 89m (admin) plus £32m to 118m (fees)

Total Benefit (PV) £ **120m to 450m**

Other **key non-monetised benefits** by 'main affected groups'

Key Assumptions/Sensitivities/Risks A key potential impact of extending lifetime of extant permissions is bringing forward new development, and the benefits that would flow from this. But, given uncertainty as to the effects we assume the net effect on timing of development is neutral. Estimates of admin savings are sensitive to assumptions on proportion of schemes taking up lifetime extension.

Price Base Year 2008	Time Period Years	**Net Benefit Range** (NPV) £ **120m to 450m**	**NET BENEFIT** (NPV Best estimate) £ **285m**

What is the geographic coverage of the policy/option?			England	
Which organisation(s) will enforce the policy?			LPAs	
What is the total annual cost of enforcement for these organisations?			£ n/a	
Does enforcement comply with Hampton principles?			n/a	
Will implementation go beyond minimum EU requirements?			n/a	
What is the value of the proposed offsetting measure per year?			£ n/a	
What is the value of changes in greenhouse gas emissions?			£ n/a	
Will the proposal have a significant impact on competition?			No	
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase £ Decrease £ 18.6m **Net** £ -18.6m

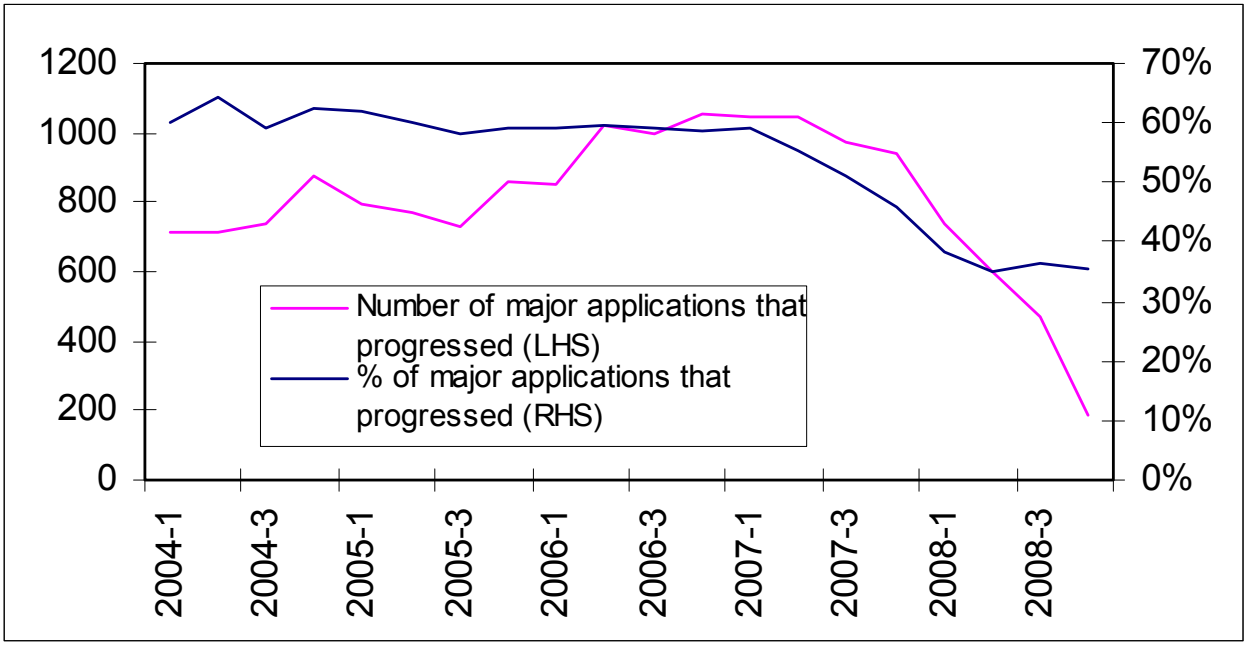
Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Policy context

There are currently signs of a sharp slowdown in the take-up rate of schemes that already have planning permission. Fig.1 provides quarterly data for applications for schemes worth more than £1m, illustrating recent drops both in the absolute number, and in the proportion, of major applications progressing beyond approval stage.

In many cases development of sites with permission is being delayed, increasing the risk that development does not commence prior to the lapse of a permission.

Fig.1: Quarterly applications progressing beyond approval stage



Source: Planning Portal

Where permissions lapse, there are costs and delays associated with putting in and processing an application for a fresh planning permission. This may have the effect of holding back the flow of development through the planning pipeline. Developers would have to reapply for those schemes, with the time and cost implications that carries. And Local Planning Authorities (LPAs) could find themselves dealing with a sudden upsurge in applications as the economy moves out of recession. There have been calls from the Local Government Association, the Confederation of British Industry and the British Property Federation for a power to be introduced which would allow the time limits for implementation of existing permissions to be extended.

Developments in caselaw have left LPAs uncertain of the extent to which they are able to make minor amendments to planning permissions which have already been granted. Given this uncertainty, they may take a precautionary approach, and either undertake an extensive process of consultation, which may not be justified by the size and nature of the amendment sought, or may even require a new planning application.

A consultation stage impact assessment was prepared, which is available as part of the consultation document *Greater Flexibility for Planning Permissions* (see top for web address). The consultation ran from 18 June to 13 August 2009, and following analysis of the responses, achange has been made to the policy, with another change on fee levels proposed but not yet finalised.

Overall, a majority of respondents were in favour of allowing extensions to permissions for all schemes, not just major schemes. A majority of local planning authorities were content with the proposal that extensions should only be possible for major developments, but a strong case has been made by business that extensions should be allowed for all permissions, for example:

- there are a great number of homes covered by extant permissions for under 10 homes and to exclude these would defeat the object of the exercise;
- in some areas of the country (particularly rural areas) smaller infill/windfall schemes play a significant part in overall housing delivery and builders delivering these schemes may be equally affected by the economic recession as larger volume housebuilders;
- smaller schemes may have more chance of coming forward in the current funding climate and therefore ought to be strongly encouraged;
- permissions for smaller 'enabling' development may form an integral part of the delivery of a large scheme.

The policy has therefore been amended so that extensions are possible for all planning permissions, not just those relating to major development

The consultation paper proposed a flat-rate fee of £170 for extensions. There was a clear split in views on this between local authorities and developers. Developers were content with this fee level; however, a large majority of local authorities considered it was too low, and that £170 is inadequate to reflect the cost of processing and determining applications. . We therefore also propose to amend the fee level for applications to extend the time limits for implementation. While proposals are not yet finalised, indicative figures have been used in this impact assessment of a fee level of £500 for major developments, £170 for minor developments and £50 for householder developments.

Outline of policy proposal (Option 1)

The policy option which is being taken forward is the following package of measures to provide a clearer and more proportionate approach to minor material and non-material amendments to planning permissions, as well as greater flexibility to maintain the flow of development in current economic circumstances:

i) Extension of lifetime of existing planning permissions

This will allow LPAs, at a developer's request, to extend existing individual planning permissions so that schemes which have been delayed will not need to make a completely fresh application for planning permission. Only one extension of a permission would be allowed. This is a temporary measure, which will apply to all permissions that are extant at the time it comes into force: the measure will therefore in most cases be in operation for up to three years (depending on the length of time which each individual permission has left to run). The length of time for which each permission may be extended is governed by existing primary legislation; we would expect the existing default period of three years to apply in most cases.

The proposal will apply to all planning permissions. The LPA will have the discretion to refuse the extension and to require a new application instead.

For convenience, the procedure is referred to in this impact assessment as 'extension'; more formally it is an extension of time for the implementation of a planning permission by grant of a new permission for the proposal authorised by the original permission.

ii) Streamline the process for making minor material amendments to planning permissions through the use of s.73 of the Town and Country Planning Act 1990[3]

At present, when a developer wants to make a small, but material, change to a scheme that already has planning permission, it is often necessary to submit a further full planning application, which leads to considerable delay, cost and uncertainty for the applicant and additional work for the LPA. The *Killian Pretty Review – Planning Applications: A Faster and More Responsive System* recommended we explore whether a more proportionate approach could be identified. Research by White Young Green (see top for web address), in consultation with industry including the British Property Federation, has revealed that a quick win would be to encourage the greater use of an existing legislative tool which provides developers an opportunity to change the terms of one condition attached to a permission, rather than the permission as a whole.

III) Implement powers to make non-material amendments to planning permissions

The final part of this package is to introduce changes to secondary legislation necessary to bring into effect a measure in the Planning Act 2008 which provides a simple and quick mechanism for making non-material amendments to planning permissions. Recent case law had been interpreted by many as restricting the potential for developers and planning authorities to agree even the most minor changes to permission, so this change will ensure there is a legal basis for doing so.

Costs and benefits of Option 1

i) Extension of lifetime of existing planning permissions

Take-up of schemes with permission has been falling in the current market, and this increases the risk of a permission lapsing. In cases where the permission would otherwise have lapsed, this measure enables the extension of the permission without having to submit an entirely new application. This will lead to a reduction in administrative costs for LPAs and developers associated with applying for and processing a fresh permission.

It is possible to estimate the number of re-applications for development that might be taken out of the planning system. Based upon CLG development control statistics on planning approvals[4], it is estimated that about 15000 major, 250000 minor, and 500000 householder schemes might *potentially* be affected by the legislation. But it is not straightforward to assess how many of these 'eligible' permissions would proceed with having their lifetime extended. There are a number of reasons why the lifetime of an eligible permission might not be extended:

- some development will proceed within the default 3-year period of permission, regardless of the policy change;
- some development will drop out of the system altogether because it is no longer economically viable – an extension to the permission would not rescue the scheme;
- in some cases, the developer or LPA or both may still insist on a fresh application, e.g. because of a significant change in the development plan or national policy since the original grant of permission.

Our initial estimate, based on discussion with stakeholders including BPF, is that developers may seek to extend the time limits for between 5 and 20% of the 15000 eligible major development schemes – so, between 750 and 3000 schemes, over a 3-year period from October 2009. In addition we assume that the proposal would lead to extending time limits of

[3] TCPA 1990: see http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1.htm
[4] http://www.communities.gov.uk/documents/statistics/xls/1265898.xls

between 2.5% and 7.5% of the eligible minor and householder schemes – so, between 6250 and 18750 minor schemes and between 12500 and 37500 householder schemes. **This implies a total saving to business of £4m to 16m, and reduced fees of £6m to 22m, over the 3-year period.** The basis for these estimates is summarised in Table 1.

Table 1: Estimates of savings through extending lifetime of extant permissions – figures are for the 3-year period from October 2009

	Reduced number of applications[1]	Admin cost saving per application[2]	Fee saving per application[3]	Total admin cost saving	Total fee saving
major	570 to 2280	£1400	£3600	£0.8m to 3m	£2m to 8m
major major	180 to 720	£10000	£3600	£2m to 7m	£0.6m to 3m
minor	6250 to 18750	£150	£380	£0.9m to 3m	£2m to 7m
householder	12500 to 37500	£70	£100	£0.9m to 3m	£1m to 4m

Notes:
1 Based on estimates for the PwC Administrative Burdens Measurement Project, it is assumed that 25% of major applications are 'major major'.
2 Based on the PwC Administrative Burdens Measurement Project. The transaction costs of major, major major, and minor applications were estimated as £13568, £100071, and £1450 respectively. The cost of a householder application is assumed to half that of a minor application – so £725. We have allowed for applications being sent for a second time being cheaper for developers as the majority of work should be done – the administrative cost of submitting a repeat application is assumed to be 10% of the cost of submitting the original one. Note that these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large.
3 Average application fees are estimated at £4100 for major, £550 for minor, and £150 for householder applications, based on 2007/8 statistics on fee income and numbers applications received. In order to estimate a fee *saving* per application, from these figures are subtracted the proposed fees for extensions to applications - £500, £170 and £50 for major, minor and householder schemes respectively.

For LPAs, we assume that the reduced administrative cost associated with processing re-submitted applications is negated by the reduction in fee income.

A further potential benefit of the proposal is that, through reducing delays associated with re-application, some development might be encouraged to come forward earlier – this would contribute towards achieving the Government's objectives on raising housing supply. But we cannot be certain that the proposal would bring forward development – it may have the perverse effect of incentivising developers to delay implementing permissions within 3 years, in the expectation of rising land values as the market recovers. For the purposes of this assessment, we assume that the net effect on timing of development is neutral.

Other costs and benefits, not monetised here, are as follows:

- There will be a small one-off cost to the Planning Portal of amending the standard application form and a cost to the LPA of training staff in the new procedure.
- The proposed changes mean that fewer statutory consultees would need to be reconsulted for extension applications, which would result in a reduced burden on them.
- Greater certainty for developers and LPAs that developments will still go ahead.

Powers to extend to listed building and conservation area consents

There is currently no fee for these applications, and none is proposed. There would be some cost saving for LPAs in processing an application to extend one of these consents instead of dealing with a fresh application, and some cost saving for the applicant in not having to prepare a fresh application. However, as these extensions are likely to represent only a small part of the overall costs and benefits of the proposal, no specific quantification has been included in this IA.

ii) <u>Streamline the process for making minor material amendments to planning permissions through the use of s.73 of the Town and Country Planning Act 1990</u>

For developers, there is a cost and time saving in being able to use s.73 rather than submitting an entirely fresh application. They are required to submit only minimal information, rather than having to generate the plethora of documents necessary for a completely new application. But we have allowed for applications being sent for a second time (our baseline for comparison) being cheaper for developers as the majority of work should be done – overall the administrative cost saving through the s73 route is assumed to be 10% of the cost of submitting the original application. The costs of submitting an original application are again based on the PwC Administrative Burdens Measurement Project: the transaction costs of minor, major and major major applications were estimated as £1450, £13568 and £100071 respectively. Note that these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large.

Also, the flat-rate fee of £170 which applies to s.73 applications is substantially lower than the fee which would be required for a completely new application, which on large schemes could be over £100,000. Average fees associated with major, major major, and minor applications are assumed to be £4100, £4100 and £550 respectively – these are internal estimates based on statistics on number of minor and major applications, and fee income, received in 2007/8.

For LPAs, s.73 applications are much quicker and cheaper than completely new applications to determine, although this is offset by the reduced fee income.

It is possible to estimate the number of re-applications for development that might be taken out of the planning system under this change. CLG's development control statistics only break down the type of development in terms of decisions made (which is lower than applications submitted), but we have estimated total numbers of applications submitted by scaling up the numbers of decisions made in 2008 on each type of development assuming that proportions remain constant. Only a fraction of the total numbers of applications will be re-applications with minor material changes and would thus stand to benefit from the proposed change. Based upon discussions with stakeholders, we have assumed that 5 to 20%, 5 to 20%, and 2.5 to 7.5% of major, major major and minor applications respectively, would be affected. **Overall, we estimate a saving of £4m to 14m per annum in administrative costs for business, and £5m to 18m per annum in fee savings.** The basis for these estimates is summarised in Table 2. The estimates over 10 years reported in the summary table assume that annual costs stay constant in real terms over the period, and apply a discount rate of 3.5%.

As relatively few householders are likely to seek changes via s. 73, given the more straightforward nature of householder planning permissions and the likelihood that fewer conditions will apply to them, we have excluded householder applications from these calculations.

Table 2: Estimates of savings arising from streamlining of process for making minor material amendments – figures are per annum

	Total number of applications per annum	% of applications affected	Reduced number of re-applications	Admin cost saving per application	Fee saving per application	Total admin cost saving	Total fee saving
major	13700	5 to 20%	1700	£1400	£3930	£0.9m to 4m	£3m to 11m
major major	4300	5 to 20%	500	£10000	£3930	£2m to 9m	£0.8 to 3m
minor	152700	2.5 to 7.5%	7600	£150	£380	£0.6m to 2m	£1m to 4m

Other costs and benefits are as follows:

- The proposed changes mean that fewer statutory consultees wouldneed to be reconsulted for s.73 applications, which would result in a reduced burden on them.

- Developers will be able to respond and adapt more effectively, cheaply and quickly where the need to make minor amendments to an existing permission becomes apparent. Given this, our estimates of savings may be regarded as conservative.

III) Implement powers to make non-material amendments to planning permissions

For developers, there is a cost and time saving in being able to make non-material amendments without submitting an entirely fresh application. Our approach to estimating administrative and fee savings is analogous to that used above for minor material amendments. Again a flat-rate fee of £170 applies to new applications (we have disregarded the small fee and administrative savings arising for householder applications).

For LPAs, non-material amendment applications will be much quicker and cheaper than completely new applications to determine, although this is offset by the reduced fee income.

Overall, we estimate a saving of £4m to 14m per annum in administrative costs for business, and £5m to 18m per annum in fee savings. The basis for these estimates is summarised in Table 3. The estimates over 10 years reported in the summary table assume that annual costs stay constant in real terms over the period, and apply a discount rate of 3.5%.

Table 3: Estimates of savings arising from streamlining of process for making non-material amendments – figures are per annum

	Total number of applications per annum	% of applications affected	Reduced number of re-applications	Admin cost saving per application	Fee saving per application	Total admin cost saving	Total fee saving
major	13700	5 to 20%	1700	£1400	£3930	£0.9m to 4m	£3m to 11m
major major	4300	5 to 20%	500	£10000	£3930	£2m to 9m	£0.8 to 3m
minor	152700	2.5 to 7.5%	7600	£150	£380	£0.6m to 2m	£1m to 4m

Other costs and benefits, not monetised here, are as follows:

- The public may sometimes not be consulted on applications where previously they would have been consulted.
- However, there will be greater transparency and consistency between different LPAs in how decisions on minor material and minor non-material applications are dealt with.
- The public will have easier access to decisions on minor non-material amendments, as they will be recorded on the planning register.
- For LPAs, there will be a reduced risk of challenge, as there will be a prescribed procedure for dealing with these applications.
- There will be a small one-off cost to the Planning Portal of amending the standard application form and a cost to the LPA of training staff in the new procedure.

Estimation of the admin burden saving

The saving of £18.6m reported in the summary table takes the annual admin cost savings to business estimated to arise from the minor and non-material amendments proposals, and one-tenth of the admin cost saving to business estimated to arise from the extending lifetime proposal over the relevant three-year period.

Assumptions on appeals

i) Extension of lifetime of existing planning permissions

We assume that virtually all the schemes where extension is sought would otherwise have gone on to be reapplied for if the power to extend did not exist, and also that there would be an equal chance of challenge against refusal of extension or refusal of the reapplied-for scheme. Therefore the impact on appeals is estimated to be neutral.

ii) Streamline the process for making minor material amendments to planning permissions through the use of s.73 of the Town and Country Planning Act 1990

We assume that the increased use of s.73 to make minor material amendments will reduce the number of fresh planning applications that are made by a like amount, and that it is equally likely that a refusal of a s.73 application will be challenged as the refusal of a fresh application for the same thing.

The overall number of challenges against refusal is assumed to remain constant; however a challenge against a refusal of a s.73 application is likely to be somewhat simpler and quicker for Planning Inspectorate to deal with than a challenge against a refusal of a fresh application; therefore in practice the overall effect should be beneficial.

III) Implement powers to make non-material amendments to planning permissions

The effect of this proposal on appeals is somewhat harder to predict; presently some non-material amendments are obtained through fresh planning applications, and some through less formal processes where there is no right of appeal. Hence the introduction of this measure will in some cases reduce the complexity and cost of appeals (as they will be on the much narrower point of the non-material amendment rather than on the whole development), and will in other cases replace an informal process where there is no right of appeal with a formal right of appeal. As the cost of an appeal against a non-material amendment is in any case likely to be relatively low, by virtue of the narrowness of the point at issue, we assume a neutral effect.

Uncertainties and sensitivities

A key potential impact of extending lifetime of extant permissions is bringing forward new development, and the benefits that would flow from this. But, given considerable uncertainty as to the effects, including possible perverse incentives to delay development, for the purposes of this assessment we assume the net effect on timing of development is neutral.

There is uncertainty around our estimates of savings – these are sensitive to a number of assumptions, including:
- the numbers of applications that would be affected by the 3 proposals (a range of uncertainty is reflected in the assumptions underpinning the modelling above);
- PwC's estimates of administrative burdens for business. Note that applying these estimates, being averages, may under-estimate the saving from schemes not now having to re-submit whereas once they would have, because such schemes are more likely to be large.
- internal estimates of average fee levels.

Specific impact tests

In all cases the changes proposed relate to planning permissions which have already undergone extensive scrutiny and been judged acceptable. By definition, there will either be no change to the existing permission except to the length of time for which it is valid, or possible changes will be either minor or non-material.

We have screened these proposals for their impact on competition, small firms, legal aid, health, race, disability, gender, human rights or rural proofing, and do not consider that there are any impacts. In individual cases where changes in the development plan or material considerations may indicate that the effect on sustainable development, carbon assessment or

the environment needs to be reconsidered, the existing mechanisms by which planning permissions are considered would come into play; the introduction of these measures does not, of itself, have any impact. We have carried out an equalities impact assessment initial screening, and consider that we do not need to proceed to a full assessment.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No