

# Negotiation & Amendments Protocol

Improving the quality of development

Development Management

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## Summary

The purpose of this protocol is to set out how we, Uttlesford's Planning Service, will engage with you as the applicant or agent when considering planning applications. It also sets out the roles of an applicant and agent. This is designed to improve the overall customer experience and ensure timely decision making. This protocol, along with our Pre-application Advice Service, is designed to improve the quality of applications that are submitted for planning permission by adding value.

This approach will significantly limit the amount of negotiation and amendments that take place once an application is submitted and instead seeks to have these discussions prior to submission via either pre-application advice or a Planning Performance Agreement (PPA).

Details on how to seek pre-application advice are available at our planning pages, together with the charges for different development types and levels of service.

For the reasons set out below and in common with other local planning authorities, we are introducing this Negotiation & Amendments Protocol.

Once submitted and validated, applications will be categorised as follows and dealt with accordingly:

**Applications which need no amendments** and are likely to succeed in gaining permission. These applicants will have either benefited from pre-application advice or the quality of the application means that it was not required. These will be determined as quickly as possible.

**Applications which may require a minor amendment** or negotiation in order to be valid and for planning permission to be granted. Pre-app advice would benefit these types of applications by determining any changes needed prior to applying – however, we will undertake limited negotiation with applicants to assist them through the planning process in an efficient way.

**Applications which require substantial or material amendments**, re-notification of the public or consultees, or changes that would result in a protracted and inefficient planning permission procedure. These applications will likely be refused without negotiation, and the applicant directed to our Pre-App Advice Service.

Further information on how these categories are defined is provided below.

In all cases, the decision as to which category the application falls within rests with the case officer, following discussions with a senior colleague in some instances. The Council has empowered its Officers to come to these judgements on its behalf to deliver overall operational efficiency.

We believe that it is the responsibility of an applicant (or their agent) to do all they reasonably can to ensure that their application is of good quality, seeking pre-application advice where appropriate.

## Introduction

The purpose of this guidance is to provide clarity and consistency for officers, applicants, agents, and all those involved in the planning process as to how and when we will negotiate on submitted planning applications. This is important to:

- Promote the value of effective and meaningful pre-application discussions.
- Manage expectations of what can be negotiated during the determination of a planning application.
- Guide the efficient and timely processing of applications.
- Provide certainty and reliability in decision-making.

It also provides guidance on when we will seek to extend the statutory period within which a decision upon an application will be reached.

## The Purpose of Negotiations

The ability to negotiate amendments, clarify issues and provide additional information during the determination period of a planning application is an important part of the planning process and can contribute to delivering sustainable, high-quality development. This is recognised by paragraph 39 of the National Planning Policy Framework which states that:

*Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should . . . work proactively with applicants to secure developments that will improve the economic, social, and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*

However, the ability to negotiate during the determination period of an application should not be relied upon as means to resolve issues which could and should have been addressed prior to submission. It is also not an opportunity to enter protracted discussions about whether a proposal which is unacceptable as submitted can be made acceptable. Our approach, as reinforced by Government policy and guidance, is for negotiations to take place prior to the submission of an application, through our Pre-application Advice Service.

We believe that it is the responsibility of an applicant and their agent to ensure – prior to submission – that their development proposal is compliant with the relevant national and local planning policies and is therefore capable of being approved. Planning legislation requires applications to be determined in accordance with the

development plan unless material considerations indicate otherwise. This is a statutory obligation on the local planning authority. Our role therefore primarily involves consultation, assessment, and determination - whereas the role of an applicant and an agent is to ensure that their proposal is capable of being approved. Applications that have been submitted without due regard for whether they are capable of being approved are likely to be refused. It is also important to note that there is difference between an application that is valid i.e. meets all the information and documentary criteria for a valid submission and an application that is approvable i.e. that complies with policy.

### **The Value of Pre-application Advice**

Government guidance is clear about the importance of pre-application discussions. It states that

*“pre-application engagement by prospective applicants offers significant potential to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likely success”.*

Furthermore, although pre-application discussions can be used to establish whether the principle of development is likely to be supported, they also have an important role to play in delivering the Government’s objective of securing high quality design. The guidance goes on to state that *“being able to inform and influence design at (the pre-application stage) is more efficient than trying to implement suggested revisions at a later stage”.*

Uttlesford District Council offers a pre-application advice service, and prospective applicants are encouraged to use this service before submitting an application. Information and guidance about our pre-application advice service, including how to apply, the timescales for a response, and relevant fees is available at our planning pages.

### **The Importance of Timely Decisions**

Timely decisions are important not only to support the delivery of sustainable development, but also to provide certainty and transparency in decision-making for all those involved in the planning process, including consultees and the public. Given the volume and complexity of planning work that the Development Management service deals with on a regular basis (approximately 3,000 applications per year) it is important that decisions are made in a timely manner to enable acceptable developments to go ahead without delay. This is reinforced by paragraph 11c of the National Planning Policy Framework which encourages local planning authorities to *“approve development proposals that accord with an up-to-date development plan without delay”.*

There is a statutory requirement for local planning authorities to determine valid planning applications within nationally set time limits. Usually these are 13 weeks for

applications for major development (16 weeks in the case of development requiring Environmental Impact Assessment), and 8 weeks for all other types of development. Government guidance on determining a planning application states that *“once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit unless a longer period is agreed in writing with the applicant.”*

The guidance goes on to state that once a valid application is being considered, extensions of time should only be requested if it becomes clear that more time than the statutory period is genuinely required. Considering the importance of timely decision making, the ability to agree an extension of time is therefore to be used as an exception and must not be used routinely as a means of negotiating applications which are clearly unacceptable as submitted. Agreeing extensions of time without clarity on what is needed to make a proposal acceptable, and by when, can promote uncertainty and undermine public confidence in the planning system. It can also undermine our ability to manage time and resources efficiently to deliver a good level of service to all those engaged in the planning application process.

Extensions of time are only likely to be appropriate when the applicant and their agent have a clear strategy for what needs to happen to achieve a positive outcome and there is agreement on the timescale within which this can be achieved. If, in the view of the case officer, the applicant and their agent do not have a clear strategy for addressing the issues preventing approval or if the timescale is not clear, the likely outcome is that the application will be determined on its merits as submitted.

Extensions of time may also be required when applications needed to be presented to Planning Committee or when enforcement matters need to be resolved.

## **Initiating Negotiations**

Government guidance on Making an Application is clear that it is at the discretion of the local planning authority whether to accept changes to submitted applications, to determine if the changes need to be re-consulted on, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted.

Our strong preference is that applicants do not submit amendments or additional information once an application is valid, unless invited to do so by the case officer. If amendments or additional information is submitted without having been invited, it will be at the discretion of the case officer whether to accept it.

## **The “Category” Approach to Dealing with Applications**

For the reasons set out above, we intend to deal with planning applications in the following manner:

### **Applications which need no amendments**

Applications that are capable of being approved as submitted. We will seek to determine such applications within the timescales set out by the Government or sooner, where possible.

### **Applications which may require a minor amendment**

Applications that require a small amendment or a limited amount of additional information to be capable of being approved.

When assessing the appropriateness of offering to negotiate with the applicant, a check will be undertaken to see if pre-application advice had previously been sought. If no pre-application advice had been sought, we will normally ask the Applicant to use this facility rather than agreeing to negotiate. If pre-application advice has been sought but not sufficiently engaged with, this may result in refusal.

The decision to negotiate or not rests with the case officer and an extension of time will normally be sought, if needed. Issues that will be considered in this decision will include:

- The scale of the changes needed to make the development acceptable in planning terms.
- Whether the changes are likely to result in a materially different development such that a new application should be submitted.
- Whether the changes needed to make development acceptable in terms of one planning consideration would raise issues with other planning considerations.
- Whether it would be necessary to reconsult or re-notify neighbours on the application.

### **Applications which require substantial or material amendments**

Applications that require significant amendment or additional information to be capable of being approved will be refused. We will communicate this to you as appropriate and the applicant will generally be encouraged to engage with our pre-application service to prepare a suitable resubmission. As with all refusals of planning permission there is also a right of appeal to the Planning Inspectorate

As with the category above, the decision to negotiate (or not) rests with the case officer, taking the same issues into account.

We reserve the right to issue refusals without notice in some circumstances, including:

- Cases where pre-application advice has been sought and provided but has not, in the view of officers, been sufficiently engaged with.
- Cases where significant issues with the application could have reasonably been resolved prior to submission, but this option was not pursued.

- Cases where the quality of the submission in terms of suitability and 'approvability' is unusually low.
- Cases where recommendations contained within supporting documents provided with the application have not been adopted within the proposal, nor has any valid reason been given why these recommendations have not been adopted.

## **Additional Guidance Relevant to Specific Application Types**

### **House Extensions**

Applicants and their agents are strongly encouraged to engage with the policies within the National Planning Policy Framework, adopted Local Plan, any adopted neighbourhood Plan and any supplementary planning documents.

They should also consider the benefits of engaging with our Pre-application Advice service, available at <https://www.uttlesford.gov.uk/planning-pre-application-advice>

### **Discharge of Condition Applications**

The Government expects such applications to be determined within 8 weeks and for the fee to be refunded after 12 weeks if not determined. With this in mind, together with the relatively low fee for these applications, such applications will be determined on their merits as submitted with no negotiation or amendments permitted. If applicants and their agents are concerned about the likely outcome of their discharge of condition applications, they should consider the benefits of seeking pre-application advice.

In the limited circumstances where an amendment on a discharge of condition application is considered appropriate, this will be entirely at the discretion of the case officer. Applicants and their agents should avoid providing additional or amended information based on consultation responses, unless requested to do so by the case officer. Information provided without being requested will generally be disregarded.

### **Major Applications**

We believe that the appropriate mechanism for ensuring the approvability of an application for major development is always via pre-application advice and in the case of largescale major development, a Planning Performance Agreement (PPA) – with the agreement being proportionate to the scale and complexity of the proposal.

Major applications that are submitted without due regard for their approvability and that raise issues that could reasonably have been addressed prior to submission are likely to be refused.

## Minor and Other Developments

For Minor and other application types (i.e. those where the statutory determination period is 8 weeks, including listed building consent, advertisement consent and prior approvals), extensions of time are only likely to be appropriate when the applicant and their agent have a clear strategy for what needs to happen to achieve a positive outcome and there is agreement on the timescale within which this can be achieved. Otherwise, the application will be determined on its planning merits as submitted.

## Useful Links

Uttlesford District Council's Website, Planning Section - [Click Here](#)

Uttlesford Design Code - [Click Here](#)

Essex Design Guide - [Click Here](#)

Uttlesford District Council's Supplementary Planning Documents - Supplementary planning documents – [Click Here](#)

National Planning Policy Framework - National Planning Policy Framework - Guidance - GOV.UK ([www.gov.uk](http://www.gov.uk))

National Planning Practice Guidance - Planning practice guidance - GOV.UK ([www.gov.uk](http://www.gov.uk))

The Planning Portal - [Click Here](#)