

Amendments to planning applications

Planning Service Charter



October 2024
Version 1

Introduction

Over 85% of all planning applications received by Milton Keynes City Council (MKCC) are granted permission¹. A significant number of these involve some form of negotiation and amendment of the scheme prior to the decision being made. In accordance with national planning policy and guidance, this is strongly encouraged before the formal application is made to the Council.

Pre-application engagement, supported by Planning Performance Agreements (PPAs) assist in this pro-active working between applicants, planning authorities and key stakeholders. This approach helps to reduce conflict with planning policy and ensure applications are supported by an appropriate level of information. The Council's [Pre-application engagement and PPA Charter](#) encourages use of these services and sets out expectations of the parties involved.

The outcome of meaningful pre-application engagement is more likely to result in a proposal which does not require further amendment or information during assessment. Where amendments are needed, it can lead to substantial delays in reaching a decision. Pre-application advice also facilitates the drafting of legal agreements before the application is submitted, reducing delays following a resolution to grant permission.

However, the Council must balance the desire to be accommodating and flexible with each application against its resources and the need to issue timely decisions. As a consequence, there should be clear expectations of when the Council will, or will not, seek or accept amendments or further information provided during the assessment of an application. Where consultation or assessment reveals conflict with planning policy, it is for the Council to decide whether to determine the application as submitted or invite amendments or further information in an attempt to overcome concerns. Where pre-application advice has not been sought, it is unlikely that the Council will entertain amendments or further information.

Aims of the Charter

The Charter details how the pre-application service and PPAs are encouraged as part of a more satisfactory and timely application process. Applicants and their agents are expected to respect and fulfil its aims, recognising that 'front loading' reduces uncertainty, delay and inefficient use of resources.

The Charter makes clear when the Council will not engage in amendments to proposals, or seek further information to overcome objection, noting the statutory framework and national guidance. Equally, it sets out where it may be appropriate to 'pause' the assessment of the application so to take focussed pre-application advice under a PPA, with a view to resolving conflict.

¹ Measured over a 12-month period on planning and listed building applications.

The planning framework

- 1.1 The National Planning Policy Framework (NPPF) encourages planning authorities “to approach decisions on proposed development in a positive and creative way” and “use the full range of planning tools available... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area”. It states applicants should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process².
- 1.2 MKCC, in its capacity as the planning authority, must also provide a statement explaining whether and, if so, how it has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising³. This does not require the Council to adopt a permissive approach in handling every application.
- 1.3 The NPPF also highlights that “early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties”, and “good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community”. It goes further to state that “the right information is crucial to good decision-making, particularly where formal assessments are required” and to avoid delay, applicants should discuss what information is needed as early as possible⁴. Ultimately, there is an expectation for applicants to be positive and proactive.
- 1.4 Where amending an existing planning permission, statutory provisions apply. Depending on the level of change involved, this may be a [non-material amendment](#), a [variation of the approved plans condition](#), or a fresh planning application. Applicants should take a proactive approach, first [engaging in pre-application discussions](#).
- 1.5 Where seeking to amend proposals or supporting information before a decision is made, Planning Practice Guidance (PPG) indicates it is possible for an applicant to suggest changes, whilst it is equally possible for MKCC to ask the applicant if it would be possible to revise the application to overcome objection. Importantly, the PPG confirms “it is at the discretion of the local planning authority whether to accept such changes, to determine if the changes need to be reconsidered upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted”⁵.
- 1.6 A planning authority may grant or refuse planning permission⁶. Legislation does not impose a legal duty upon MKCC to enter into discussions or resolve problems with an application that would otherwise result in a refusal. There is also no requirement for MKCC to accept amendments or additional information once an application has been validated.
- 1.7 Furthermore, there is also no requirement to publish responses from consultees or interested parties, with it for the planning authority to balance competing interests. MKCC therefore reserves the right to only publish consultation responses following the end of the consultation period, rather than as responses are received, so to limit the burden on Council resources in responding to several submissions of further information or amendments.

² Paragraphs 38 and 46 of the [National Planning Policy Framework](#)

³ Article 35(2) of the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

⁴ Paragraphs 39 and 43 of the [National Planning Policy Framework](#)

⁵ Paragraph 14-061 [Making an application - GOV.UK \(www.gov.uk\)](#)

⁶ Section 70 of [the Town and Country Planning Act 1990](#)

- 1.8 Furthermore, planning and listed building applications may be ‘turned away’ by MKCC. This ensures that resources are appropriately used, in the public interest, avoiding repetitive applications to wear down interest in, or resistance to, proposals. The PPG provides further guidance⁷.

Balancing resources with timely decisions

- 2.1 When an application is submitted to MKCC, it has a specified period in which to make a decision. This is usually 8 to 16 weeks depending on the scale and/or significance of the proposal. After this, the applicant gains a right of appeal for non-determination.
- 2.2 Legislation presently allows for some flexibility, suspending the right of appeal until after a revised, agreed timeframe. This agreement is commonly known as an ‘extension of time’ (EoT). Equally, entering into a PPA provides for an alternative timeline for reaching a decision, as agreed between MKCC and the applicant.
- 2.3 The time in which MKCC takes to reach a decision is monitored by Government, with current performance metrics requiring 60% of all major applications to be decided within 13 weeks (16 weeks for proposals subject to [Environmental Impact Assessment](#)) and 70% of all minor and other applications to be decided within 8 weeks. Decisions made under EoT or PPA are presently counted as ‘within’ these timeframes. Failure to meet these targets can result in the LPA [losing control over decision making](#).
- 2.4 Applications are accompanied by planning fees to reflect the level of resource required to reach a decision. The Government’s [Planning Guarantee](#) emphasises the need to issue timely decisions on planning applications, thus limiting the scope for amendments and further information to address issues arising through the formal consultation and assessment stages. Furthermore, the response to the 2023 fees consultation⁸ made clear *“whilst it is recognised that a free-go does enable applicants and planning authorities to facilitate amendments and improvements to schemes, it is considered that this is best undertaken at the pre-application stage to ensure that high-quality schemes are submitted first time round”*.
- 2.5 Accordingly, MKCC must have in mind the demand on its resources in negotiating amendments or seeking further information, as well as the statutory timescales for issuing a decision, without negatively affecting performance and/or risk of appeal and associated costs. Consideration should also extend to whether pre-application advice has been taken, whether there has been a material change in circumstances between the taking of that advice and the application being made, the need for further publicity or consultation, the significance of the proposal, and the general approach taken by planning consultants and/or applicants regularly engaging with MKCC in its role as the LPA.

⁷ Such consideration is made under s70A, B & C of the Town and Country Planning Act 1990 and s81A & B of the Planning (Listed Buildings and Conservation Areas) Act 1990, with guidance at [Making an application](#) and [Enforcement and post-permission matters](#)

⁸ Response to question 9: [Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees](#)

The MKCC approach

Before applying

- 3.1 MKCC strongly advocates the take-up of its pre-application service. This should extend to use of a PPA where proposals need to be developed collaboratively to take into consideration advice from consultees, planning officers and other stakeholders. A PPA can also set out realistic timescales and allowances for the review and response to objections and comments raised during both this process and the formal application stage. The overall effect is to deliver a decision on the proposal in less time and with significantly less uncertainty as the scheme evolves.
- 3.2 The Council's [Pre-application engagement and PPA Charter](#) encourages use of these services and sets out expectations of the parties involved.
- 3.3 Applicants should also have regard to the relevant constraints applicable to the site and the scale and type of development proposed, and the information required to assess the proposal. These are captured in the [Planning Application Validation Requirements](#).

During assessment

- 3.4 As a rule, amendments during assessment should be avoided. Except for PPA casework, applicants should opt to withdraw, engage in pre-application advice, revise and resubmit their application to address substantive issues arising.
- 3.5 Furthermore, not all application types carry scope to invite amendments, either by the nature of the proposal or the timeframes associated. Accordingly, the approach set out in Table 1 will generally be followed on applications not proceeding under a PPA, having regard to qualifying application types in Table 2. Where an application type is not listed, the discretion lies solely with the Council.
- 3.6 The case officer leads in making a recommendation on a planning application. This will primarily consider the acceptability of the proposal in principle, having regard to planning policy and other material planning considerations. Where a substantive conflict with policy exists, casting doubt over whether the proposal is acceptable in principle, the planning officer will not seek to resolve this and other issues arising with the proposal. Examples include:
 - Major housing development in the countryside;
 - Loss of employment land or floorspace without justification or marketing evidence; and/or
 - Inappropriate land uses within areas at high risk of flooding, and no sequential assessment is provided.

1	Proposal acceptable as submitted and/or subject to conditions	Amendments not required
2	Promptly submitted minor amendments can overcome residual concerns without the need for further consultation and/or publicity	Invite minor amendments within fixed timeframe
3	Substantial further information, surveys or amendments are required, attracting further consultation and/or publicity	Seek withdrawal or refuse permission
4	Assessment/consultee responses indicate 'in principle' objection	Seek withdrawal or refuse permission

Table 1: Normal approach to inviting amendments

	Amend/request information?	When?
Full*	Possibly	If there is a clear prospect that a single round of amendments or further information would address concerns, this may be appropriate.
Outline*	Possibly	
Reserved matters*	Possibly	
Change of use*	Possibly	
Technical details consent*	Possibly	
Householder*	Exceptionally	There is a preference to refuse permission/consent, or seek withdrawal, if there is conflict with policy.
Advert consent	Exceptionally	
Listed building consent*	Exceptionally	Such proposals are generally not appropriate for PPA and concerns should be addressed through subsequent pre-application and/or a revised application.
Relevant demolition consent	Exceptionally	
LDCs (existing use ⁹ /works and listed building works)	Exceptionally	Only if additional evidence or clarification could likely support approval.
Works to a TPO tree ¹⁰	Exceptionally	
Permission in principle	No	Decision is a matter of principle and amendments are unlikely to resolve conflict.
Approval of details required by condition	No	Issues should be addressed through a revised application.
Prior approvals and notifications	No	This is a binary decision of the proposal as submitted, and deemed consent provisions may also apply.
Non-material amendments	No	This is a binary decision of the proposal as submitted.
LDCs (proposed use/works ¹¹)	No	
Works to trees in a conservation area/hedgerows	No	There is no legal provision to extend the timeframe as a TPO/HRN ¹² must be served if works are unacceptable.

Table 2: Application types and acceptability in principle for use of EoT
*including applications to vary conditions and obligations on such a permission

3.7 The case officer's assessment will often be influenced by professional, technical advice from consultees, such as the local highway authority or ecology officers. This advice may indicate that further, substantive survey work or information needs to be prepared, or significant

⁹ Lawful Development Certificates. Assessment is 'as of the date of application', such that amendments to the proposal would not relate to this date.

¹⁰ Only where prompt arboricultural or structural evidence can likely a relatively minor point.

¹¹ As per footnote 9.

¹² Hedgerow Retention Notice, served in response to the hedgerow being 'important' under the 1997 Regulations.

amendments are needed to the proposal or submitted plans, requiring further consultation and/or publicity¹³. In these cases, it will be rare that the officer seeks to resolve such conflicts during assessment. Examples include:

- Changes to the quantum and types of land use(s) proposed;
- Material changes to the description of the development;
- Movement or enlargement of the application site boundary other than for means of access;
- Considerable changes to the character or appearance of the proposal;
- Considerable changes to the site layout;
- Additional information such as a Transport Assessment or Viability Appraisal; and/or
- Survey work requiring additional time and/or inability to complete seasonal ecological surveys.

3.8 In cases where a decision needs to be made by Committee or Panel, or planning obligations need to be secured, consideration will be given to entering into a PPA.

3.9 Figure 1 indicates the significant reductions in time and cost by entering into a PPA when invited to do so, noting that a fee must be paid on each application. It also demonstrates how certainty of outcome increases much sooner in the process. The ‘without PPA’ route can only be improved by multiple uptake of pre-application advice, often supported by a PPA prior to submitting any formal application(s).

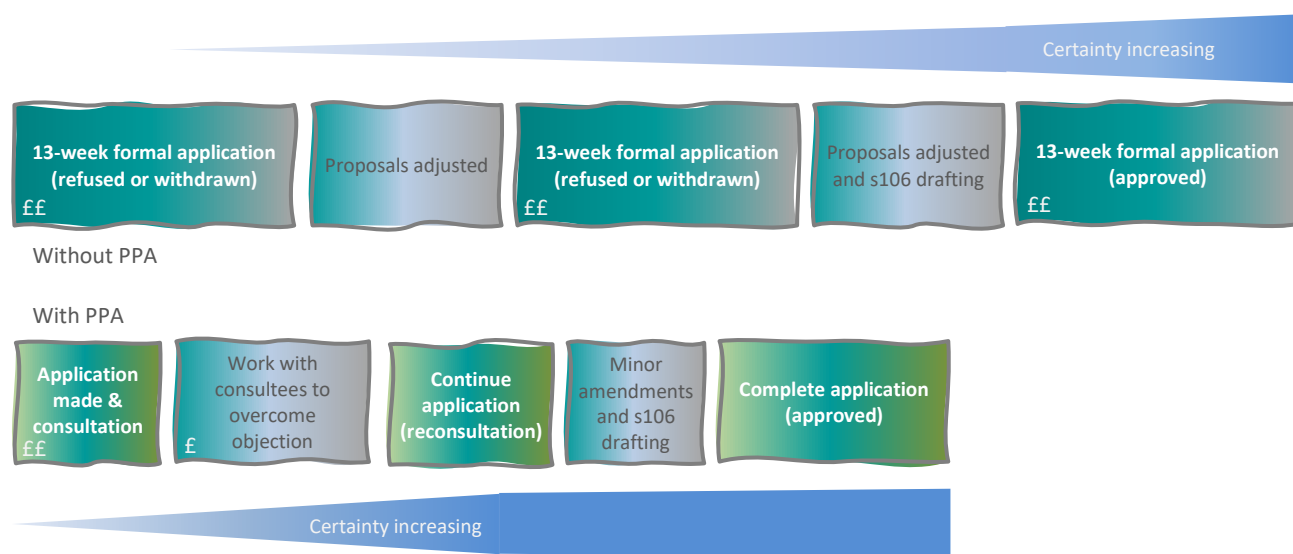


Figure 1: relative costs, timescales and certainty of outcome between PPA and non-PPA schemes

Expectations of parties involved

3.10 Our [Customer Charter](#) states that **“we will initiate contact with the agent or applicant if, and when, we consider amendments or further information could address issues arising within a reasonable timescale”** [emphasis added]. This confirms it is the Council who will lead the direction of travel on an application, so to enable a full assessment of its merits, and not the applicant. Thus, applicants must not unilaterally submit amendments or further information.

3.11 Where amendments and/or further information is unilaterally submitted, the default position will be to reject such amendments and information, having regard to the PPG, as set out at

¹³ See the [Statement of Community Involvement](#) to define when this is required.

paragraph 1.5 above, and to the likelihood of these submissions overcoming conflict with planning policy as set out in this protocol.

- 3.12 Where pre-application advice has been given for the proposal concerned, officers are more likely to consider the scope for minor amendments, or seek further clarification through additional information, prior to deciding an application. Where advice is ignored, or not sought at all, it is unlikely that the Council will engage in amendments, particularly when these are likely to protract timeframes.
- 3.13 Generally, officers will not seek to use EoTs or accept the offer of an EoT from an applicant where the intent to determine the application has been made clear.
- 3.14 In all cases, the case officer may exercise discretion in liaison with managers.
- 3.15 Where an application is refused due to inadequate or missing information, or substantive amendments are required to the proposals, the Council expects these to be addressed through a revised application (whereafter an appeal can be made if objections remain). Where an applicant simply moves to resolve these matters through an appeal, by providing information which could have been supplied at the application stage¹⁴, or by revising the proposals¹⁵, the Council will likely [apply for an award of costs](#) on the basis that there are suitable options available to avoid the need for an appeal (i.e. pre-application advice and a revised application).

Transitional provisions

- 3.16 This Charter will have effect to all applications received on or after 1st October 2024. The Council will seek to develop a 'PPA lite' option subject to government performance measures, revising this document and the [Pre-application engagement and PPA Charter](#) at the earliest opportunity.

¹⁴ See the examples of unreasonable behaviour by an appellant at [Appeals - GOV.UK \(www.gov.uk\)](#)

¹⁵ See the Inspectorate's position regarding the Wheatcroft principles and the Holborn Studios judgement (section 16 of the [Procedural Guide: Planning appeals – England](#))

