

## Guidance

# Use of planning conditions

Explains how conditions attached to a planning permission should be used and discharged effectively

---

From: **Ministry of Housing, Communities and Local Government**  
([/government/organisations/ministry-of-housing-communities-local-government](https://government/organisations/ministry-of-housing-communities-local-government)),  
**Ministry of Housing, Communities & Local Government (2018 to 2021)**  
([/government/organisations/ministry-of-housing-communities-and-local-government-2018-2021](https://government/organisations/ministry-of-housing-communities-and-local-government-2018-2021)) and **Department for Levelling Up, Housing and Communities**  
([/government/organisations/department-for-levelling-up-housing-and-communities](https://government/organisations/department-for-levelling-up-housing-and-communities))

Published 6 March 2014

Last updated 23 July 2019 —

## Contents

- Why and how are conditions imposed?
- What approach should be taken to using conditions?
- Conditions relating to time limits
- The use of pre-commencement conditions
- Discharging and modifying conditions once planning permission is granted
- Deemed discharge

## Why and how are conditions imposed?

## Why are conditions imposed on a planning permission?

When used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

Paragraph: 001 Reference ID: 21a-001-20140306

Revision date: 06 03 2014

## What are the main legal powers relating to use of conditions?

The main powers are in [sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990](#)

(<https://www.legislation.gov.uk/ukpga/1990/8/section/70>). Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by [sections 77, 79, 177, and Schedule 6 of the Act](#)

(<https://www.legislation.gov.uk/ukpga/1990/8/section/77>). In some areas there may also be powers under local Acts which complement or vary the powers in the 1990 Act.

[Section 70\(1\)\(a\) of the Act](#) (<https://www.legislation.gov.uk/ukpga/1990/8/section/70>) enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

A pre-commencement condition must not be imposed on the grant of permission (other than a grant of outline planning permission within the meaning of Section 92 of the 1990 Act) without the written agreement of the applicant except in the circumstances set out in the [Town and Country Planning \(Pre-commencement Conditions\) Regulations 2018](#) (<https://www.legislation.gov.uk/uksi/2018/566/made>).

Paragraph: 002 Reference ID: 21a-002-20190723

Revision date: 23 07 2019 See [previous version](#) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#why-and-how-are-conditions-imposed>)

# What approach should be taken to using conditions?

## What should a local planning authority do to ensure that the tests in national policy have been met?

[Paragraph 55 \(https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para55\)](https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para55) of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply. See also [guidance on the use of model conditions \(https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995\)](https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995).

Paragraph: 003 Reference ID: 21a-003-20190723

Revision date: 23 07 2019 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#Application-of-the-six-tests\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#Application-of-the-six-tests)

## How does the Local Planning Authority ensure that the 6 tests in paragraph 206 of the National Planning Policy Framework have been met?

Paragraph deleted.

Paragraph: 004 Reference ID: 21a-004-20190723

Revision date: 23 07 2019 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#Application-of-the-six-tests\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#Application-of-the-six-tests)

## **How can the local planning authority and the applicant reduce the need for conditions?**

Rigorous application of the [6 tests](#) can reduce the need for conditions and it is good practice to keep the number of conditions to a minimum wherever possible. Early engagement and positive dialogue between the local planning authority and the applicant can also result in planning permission being granted with fewer conditions attached. Effective pre-application discussions can help to establish early in the process what may need to be the subject of conditions. A Planning Performance Agreement can be used to set a timetable for when discussions about conditions will take place.

An applicant may, where it is feasible to do so, seek approval at the application stage for matters which may otherwise have been the subject of conditions. This can reduce potential delays between the decision being taken and development taking place on site.

Paragraph: 018 Reference ID: 21a-018-20190723

Revision date: 23 07 2019 See [previous version](#)  
(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

## **Are there any circumstances where planning conditions should not be used?**

Any proposed condition that fails to meet one of the [6 tests](#) should not be used. This applies even if the applicant suggests or agrees to it, or it is suggested by the members of a planning committee or a third party. Specific circumstances where conditions should not be used include:

- **Conditions which unreasonably impact on the deliverability of a development:**

Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In considering issues around viability, local planning authorities should consider policies in the National Planning Policy Framework and supporting guidance on [viability](#) (<https://www.gov.uk/guidance/viability>).

- **Conditions reserving outline application details:**

Where details have been submitted as part of an outline application, they must be treated by the local planning authority as forming part of the development for which the application is being made. Conditions cannot be used to reserve these details for subsequent approval. The exception is where the applicant has made it clear that the details have been submitted for illustration purposes only.

- **Conditions requiring the development to be carried out in its entirety:**

Conditions requiring a development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development.

- **Conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act):**

Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Use of informatives to remind the applicant to obtain further planning approvals and other consents may be more appropriate.

- **Conditions requiring land to be given up:**

Conditions cannot require that land is formally given up (or ceded) to other parties, such as the local highway authority.

- **Positively worded conditions requiring payment of money or other consideration:**

No payment of money or other consideration can be positively required when granting planning permission. However, where the [6 tests](#) will be met, it may be possible use a [negatively worded condition](#) to prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into of a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure).

Paragraph: 005 Reference ID: 21a-005-20190723

Revision date: 23 07 2019 See [previous version](#)

(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

## **Can a local planning authority use model conditions?**

Model conditions can improve the efficiency of the planning process, but it is important not to apply them in a rigid way and without regard to whether the [6 tests](#) will be met. Local planning authorities may want to consider national model conditions where appropriate in the interests of maintaining consistency (see also [model conditions \(https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995\)](https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995)).

Paragraph: 021 Reference ID: 21b-021-20190723

Revision date: 23 07 2019 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions)

## **Can conditions be used to require the applicant to submit further details after permission has been granted?**

For non outline applications, other than where it will clearly assist with the efficient and effective delivery of development, it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted.

Where it is justified, the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application (eg provision of car parking spaces).

Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed. The local planning authority should ensure that the timing of submission of any further details meets with the planned sequence for developing the site. Conditions that unnecessarily affect an applicant's ability to bring a development into use, allow a development to be occupied or otherwise impact on the proper implementation of the planning permission should not be used. A condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity.

Paragraph: 006 Reference ID: 21a-006-20140306

Revision date: 06 03 2014

## **Can conditions be used to stipulate the sequence that development should be carried out in (phasing)?**

Where the circumstances of the application make this necessary and the [6 tests](#) will be met, conditions can be imposed to ensure that development proceeds in a certain sequence. Conditions may also be used to ensure that a particular element in a scheme is provided by/at a particular stage or before the scheme is brought into use.

It is important that the local planning authority and the applicant discuss and seek to agree any such conditions before planning permission is granted. This is in order to understand how the requirements would fit into the planned sequence for developing the site, impacts on viability, and whether the tests of reasonableness and necessity will be met.

See [guidance on multi-stage consents and Environmental Impact Assessment \(https://www.gov.uk/guidance/environmental-impact-assessment#subsequent-applications\)](https://www.gov.uk/guidance/environmental-impact-assessment#subsequent-applications).

Paragraph: 008 Reference ID: 21a-008-20140306

Revision date: 06 03 2014

## **When can conditions be used relating to land not in control of the applicant?**

Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

Paragraph: 009 Reference ID: 21a-009-20140306

Revision date: 06 03 2014

## **Is it possible to use a condition to require an applicant to enter into a planning obligation or an agreement under other powers?**



A positively worded condition which requires the applicant to enter into a planning obligation under [section 106 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/106) (<https://www.legislation.gov.uk/ukpga/1990/8/section/106>) or an agreement under other powers, is unlikely to pass the test of enforceability.

A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.

However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). In such cases the [6 tests](#) should also be met.

Where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition. The heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency.

Paragraph: 010 Reference ID: 21a-010-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

### **What approach should be taken where the same objective can be met using either a condition or a planning obligation?**

It may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation under [section 106 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/106) (<https://www.legislation.gov.uk/ukpga/1990/8/section/106>). In such cases the local planning authority should use a condition rather than seeking to deal with the matter by means of a planning obligation.



Paragraph: 011 Reference ID: 21a-011-20140306

Revision date: 06 03 2014

### **Can conditions be used to modify plans and other details submitted with an application?**

If a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application. Where this involves significant changes this may result in the need for a fresh planning application.

Depending on the case, it may be possible for the local planning authority to impose a condition making a minor modification to the development permitted. It would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application.

Paragraph: 012 Reference ID: 21a-012-20140306

Revision date: 06 03 2014

### **Can conditions be used to limit the grant of planning permission to only part of the development proposed (a split decision)?**

Express powers to issue split decisions are given to the Secretary of State and Inspectors in [section 79 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/79) (<https://www.legislation.gov.uk/ukpga/1990/8/section/79>).

In cases where the local planning authority considers part of the development to be unacceptable, it will normally be best to seek amended details from the applicant prior to a decision being made. In exceptional circumstances it may be appropriate to use a condition to grant permission for only part of the development. Such conditions will only be appropriate where the acceptable and unacceptable parts of the proposal are clearly distinguishable.

Paragraph: 013 Reference ID: 21a-013-20140306

Revision date: 06 03 2014

### **When can conditions be used to grant planning permission for a use for a temporary period only?**

Under [section 72 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/72) (<https://www.legislation.gov.uk/ukpga/1990/8/section/72>) the local planning authority may grant planning permission for a specified temporary period only.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use').

It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.

Paragraph: 014 Reference ID: 21a-014-20140306

Revision date: 06 03 2014

### **Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?**

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306

Revision date: 06 03 2014

### **How can conditions that are requested by statutory consultees and other third parties be approached?**

Statutory consultees and other third parties can suggest conditions to mitigate potential impacts and make a development acceptable in planning terms. The decision as to whether it is appropriate to impose such conditions rests with the local planning authority (except for the circumstances set out in the [Town and Country Planning \(Development Affecting Trunk Roads\) Direction 2018](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745435/180223_TC_Planning_Development_on_the_Trunk_Road_Direction.pdf) ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/745435/180223\\_TC\\_Planning\\_Development\\_on\\_the\\_Trunk\\_Road\\_Direction.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745435/180223_TC_Planning_Development_on_the_Trunk_Road_Direction.pdf)) (PDF, 123KB). As with any condition, the parties involved should consider whether the [6 tests](#) will be met. Blanket standard conditions are inappropriate without proper consideration of whether they are necessary.

It is not appropriate to require in a condition that a development should be carried out to the satisfaction of a third party as this decision rests with the local planning authority.

Paragraph: 016 Reference ID: 21a-016-20140306

Revision date: 06 03 2014

### **Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?**

Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](https://www.legislation.gov.uk/ukxi/2015/596/contents/made) (<https://www.legislation.gov.uk/ukxi/2015/596/contents/made>), so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under [article 4 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](https://www.legislation.gov.uk/ukxi/2015/596/article/4/made) (<https://www.legislation.gov.uk/ukxi/2015/596/article/4/made>) to enable them to withdraw permitted development rights across a defined area, where justified.

Paragraph: 017 Reference ID: 21a-017-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions)  
(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

**Is it acceptable for a local planning authority to explain in their Local Plan where conditions may be used?**

Paragraph deleted.

Paragraph: 020 Reference ID: 21a-020-20140306

Revision date: 06 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions)  
(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

**Can conditions be used to specify the application drawings and other details which form part of the permission?**

Paragraph deleted.

Paragraph: 022 Reference ID: 21a-022-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions)  
(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions>)

**Does the local planning authority need to give reasons for imposing conditions?**

Clear and precise reasons must be given by the local planning authority for the imposition of every condition.

Paragraph: 023 Reference ID: 21a-023-20140306

Revision date: 06 03 2014

## **How should a local planning authority order conditions on decision notices?**

In addition to precise drafting, clear ordering of conditions on a decision notice will help ensure they are understood. It is good practice to list the conditions in the order that they need to be satisfied. A good structure is:

1. the standard time limit condition for commencement of development
2. the details and drawings subject to which the planning permission is granted
3. any pre-commencement conditions
4. any pre-occupancy or other stage conditions
5. any conditions relating to post occupancy monitoring and management.

Paragraph: 024 Reference ID: 21a-024-20140306

Revision date: 06 03 2014

## **Conditions relating to time limits**

### **How should conditions be used to specify the time limit within which development granted planning permission must begin?**

Under [section 91 Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/91) (<https://www.legislation.gov.uk/ukpga/1990/8/section/91>) if the local planning authority grants planning permission it is subject to a condition that sets the time limit within which the development must begin.

The relevant time limit for beginning the development is not later than the expiration of:

- 3 years beginning with the date on which the permission is granted, or;
- such other period (whether longer or shorter) as the local planning authority may impose.

The local planning authority may wish to consider whether a variation in the time period could assist in the delivery of development. For example, a shorter time period may be appropriate where it would encourage the commencement of development and non-commencement has previously had negative impacts.

The national planning policy framework encourages local planning authorities to consider imposing a shorter time period to ensure that proposals for housing

development are implemented in a timely manner. A longer time period may be justified for very complex projects where there is evidence that 3 years is not long enough to allow all the necessary preparations to be completed before development can start.

Where planning permission is granted and the decision notice does not include a condition stating the time limit within which development must begin, it is deemed to be granted subject to the conditions set out in [section 92 Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/92) (<https://www.legislation.gov.uk/ukpga/1990/8/section/92>).

Paragraph: 027 Reference ID: 21a-027-20140306

Revision date: 06 03 2014

### **What about time limits for outline planning permissions?**

Paragraph deleted.

Paragraph: 028 Reference ID: 21a-028-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#conditions-relating-to-time-limits) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#conditions-relating-to-time-limits>)

### **What happens if planning permission is granted but there is no condition specifying the time limit within which development must begin?**

Paragraph deleted.

Paragraph: 029 Reference ID: 2a-029-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#conditions-relating-to-time-limits) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#conditions-relating-to-time-limits>)

### **Can conditions be attached to reserved matters applications relating to outline planning permissions?**

The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters. Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted.



Paragraph: 025 Reference ID: 21a-025-20140306

Revision date: 06 03 2014

### **What status do informative notes appended to decision notices have?**

Informative notes allow the local planning authority to draw an applicant's attention to other relevant matters – for example the requirement to seek additional consents under other regimes. Informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes.

Paragraph: 026 Reference ID: 21a-026-20140306

Revision date: 06 03 2014

## **The use of pre-commencement conditions**

### **When can pre-commencement conditions be used that prevent any development until the requirements of the condition have been met?**

Care should be taken when considering using pre-commencement conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that 'no development shall take place until...' or 'prior to any works starting on site...'

Such pre-commencement conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.

A pre-commencement condition that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Development carried out without having complied with a pre-commencement condition would be unlawful and may be the subject of enforcement action.

Paragraph: 007 Reference ID: 21a-007-20180615

Revision date: 15 06 2018 See [previous version](#)

<https://webarchive.nationalarchives.gov.uk/ukgwa/20180411211011/https://www.gov.uk>

## **When must a local planning authority agree pre-commencement conditions with an applicant before imposing them?**

Section 100ZA(5) provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of Section 92 of the 1990 Act or in the circumstances set out in the [Town and Country Planning \(Pre-commencement Conditions\) Regulations 2018](#)) (<https://www.legislation.gov.uk/uksi/2018/566/made>).

Paragraph: 036 Reference ID: 21a-036-20180615

Revision date: 15 06 2018

## **When may local planning authorities serve a notice to seek the written agreement of the applicant to a pre-commencement condition?**

A local planning authority may decide to serve a notice if it has not been able to obtain written agreement, to a pre-commencement condition it wishes to impose, during the course of negotiations, as described in paragraph 019.

The application cannot be determined until the period specified in the notice has expired unless, before that date, the applicant provides a substantive response or written agreement to the pre-commencement condition.

Paragraph: 037 Reference ID: 21a-037-20180615

Revision date: 15 06 2018

## **What options are available to the applicant if they have received a notice from the local planning authority seeking to impose a pre-commencement condition?**

The applicant can:

- provide written agreement (within the time limit) to the terms of the proposed pre-commencement condition, in which case the local planning authority may grant planning permission subject to that pre-commencement condition

- provide comments (within the time limit) on the proposed pre-commencement condition, in which case that condition cannot be imposed
- choose not respond (i.e. remain silent). If there is no response by the date given in the notice the local planning authority may grant planning permission subject to the terms of the pre-commencement condition specified in the notice
- indicate (within the time limit) that they do not agree to the terms of the proposed pre-commencement condition, in which case the local planning authority may then either:
  - i. grant planning permission without the pre-commencement condition,
  - ii. seek written agreement to an alternative pre-commencement condition, or
  - iii. refuse to grant permission (if it considers that the disputed pre-commencement condition is necessary to make the development acceptable in planning terms).

Paragraph: 038 Reference ID: 21a-038-20180615

Revision date: 15 06 2018

### **What options are available to an applicant who does not wish to comply with a condition?**

Following the decision of a local planning authority to grant planning permission subject to conditions, an applicant may consider taking the following actions if they do not wish to be subject to a condition.

These options remain available where the applicant has agreed a pre-commencement condition, or the pre-commencement condition has been imposed where the applicant has not responded within the time limit set out in a notice served under the [Town and Country Planning \(Pre-commencement Conditions\) Regulations 2018](https://www.legislation.gov.uk/ukxi/2018/566/made) (<https://www.legislation.gov.uk/ukxi/2018/566/made>):

- Some or all of the conditions could be removed or changed by making an application to the local planning authority under [section 73 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/73) (<https://www.legislation.gov.uk/ukpga/1990/8/section/73>). In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.

- Appeal to the Secretary of State against the decision of the local planning authority to grant planning permission subject to conditions. An appeal must be received within 12 weeks of the date on the decision notice for householder planning applications or 6 months for other planning decision types. A Planning Inspector on behalf of the Secretary of State will re-determine the whole application (not only the decision to impose the conditions) – so there is a risk that the Inspector could refuse planning permission and therefore reverse the decision of the local planning authority. Further [guidance on appeals \(https://www.gov.uk/guidance/appeals\)](https://www.gov.uk/guidance/appeals).

Development that is taken forward in breach of conditions may be subject to local authority enforcement action. It is also possible to apply for retrospective planning permission under [section 73A of the Town and Country Planning Act 1990 \(https://www.legislation.gov.uk/ukpga/1990/8/section/73A\)](https://www.legislation.gov.uk/ukpga/1990/8/section/73A). Further [guidance on enforcement \(including section 73A\) \(https://www.gov.uk/guidance/ensuring-effective-enforcement\)](https://www.gov.uk/guidance/ensuring-effective-enforcement).

Paragraph: 031 Reference ID: 21a-031-20180615

Revision date: 15 06 2018 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions)

## **What information must be included in a notice under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018?**

Paragraph deleted.

Paragraph: 039 Reference ID: 21a-039-20190723

Revision date: 23 07 2019 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions)

## **Should the local planning authority agree conditions with an applicant before imposing them?**

Paragraph deleted.

Paragraph: 019 Reference ID: 21a-019-2090723

Revision date: 23 07 2019 See [previous version \(https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions)

[k/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions\)](https://www.gov.uk/guidance/use-of-planning-conditions#what-approach-should-be-taken-to-imposing-conditions)

## **What are pre-commencement conditions?**

Paragraph deleted.

Paragraph: 035 Reference ID: 21a-035-20180615

Revision date: 23 07 2019 [See previous version](#)

[https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions\)](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions)

## **How are conditions treated under section 73?**

The original planning permission will continue to exist whatever the outcome of the application under section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

Any pre-commencement conditions may not be imposed without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of section 92 of the 1990 Act or in the circumstances set out in the [Town and Country Planning \(Pre-commencement Conditions\) Regulations 2018](#)) (<https://www.legislation.gov.uk/uksi/2018/566/made>). Further [guidance on section 73](#) (<https://www.gov.uk/guidance/flexible-options-for-planning-permissions>).

Paragraph: 040 Reference ID: 21a-040-20190723

Revision date: 23 07 2019

## **Will conditions on planning permissions affect future purchasers of the land?**

Paragraph deleted.

Paragraph: 030 Reference ID: 21a-030-20190723

Revision date: 23 07 2019 See [previous version](#)

(<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions>)

## **Discharging and modifying conditions once planning permission is granted**

### **How can a developer seek to discharge conditions attached to a planning permission that require local planning authority approval of further details?**

Requests for approval of further details required by conditions must be made to the local planning authority in writing, enclosing any relevant details.

Paragraph: 032 Reference ID: 21a-032-20140306

Revision date: 06 03 2014

### **Is there a fee payable to a local planning authority to discharge a planning condition?**

The local planning authority will charge an application fee for written requests for both:

- written confirmation of the discharge of conditions; and
- written confirmation that one or more of the conditions imposed on a grant of planning permission have been satisfied

More [details on fees \(https://www.gov.uk/guidance/fees-for-planning-applications\)](https://www.gov.uk/guidance/fees-for-planning-applications).

The fee must be paid when the request is made, and cannot be paid retrospectively.

Paragraph: 033 Reference ID: 21a-033-20140306

Revision date: 06 03 2014

### **How long should it take for a local planning authority to discharge a planning condition?**



The local planning authority should respond to requests to discharge conditions without delay and must give notice to the applicant of its decision within a period of 8 weeks, beginning with the day immediately following that on which the application is received, or any longer period agreed in writing between the applicant and local planning authority.

Where the LPA is determining an application for approval required by a condition imposed on planning permission for EIA development, which must be obtained before all or part of the development may be begun, the period is 16 weeks. ([Article 27 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/595/article/27/made) (<https://www.legislation.gov.uk/uksi/2015/595/article/27/made>) and [regulation 68 of the Town and Country Planning \(Environmental Impact Assessment\) Regulations](https://www.legislation.gov.uk/uksi/2017/571/regulation/68/made) (<https://www.legislation.gov.uk/uksi/2017/571/regulation/68/made>)).

If no decision is made to discharge the condition within 12 weeks, the local planning authority must return the fee to the applicant without further delay.

These timeframes and the return of fees do not apply to prior approval procedures under [Schedule 2 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/596/schedule/2/made) (<https://www.legislation.gov.uk/uksi/2015/596/schedule/2/made>), or where the request relates to a reserved matter, which should be subject to a reserved matters application.

Where an applicant has concerns about the timeliness of the local planning authority in giving notice of its decision, a deemed discharge may be available under [article 28 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/595/article/28/made) (<https://www.legislation.gov.uk/uksi/2015/595/article/28/made>).

There is a right of appeal where an application is refused or is not determined within the statutory timescale.

Paragraph: 034 Reference ID: 21a-034-20190723

Revision date: 23 07 2019 See [previous version](https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20190606212244/https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions>)

## Deemed discharge

### What is deemed discharge?

Deemed discharge of a condition means that the local planning authority's consent, agreement or approval to any matter as required by the condition is deemed to have been given.

If seeking a deemed discharge the applicant must follow the procedure set out in [Articles 27 to 30 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/595/article/27/made) (<https://www.legislation.gov.uk/uksi/2015/595/article/27/made>).

The procedure is designed to avoid unacceptable delays and costs at a stage in the development process where applicants are close to starting on site or where development is underway.

Paragraph: 041 Reference ID: 21a-041-20190723

Revision date: 23 07 2019

### **What conditions are eligible for deemed discharge?**

The deemed discharge procedure only applies to a condition which: (a) has been imposed on the grant of planning permission for the development of land in England after 15 April 2015; and (b) requires the consent, agreement or approval of an authority to any matter – i.e. the applicant has to come back to the authority for their approval.

The deemed discharge procedure cannot be applied:

(a) to a condition attached to the grant of planning permission where the condition falls within the exemptions listed in [Schedule 6 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/595/schedule/6/made) (<https://www.legislation.gov.uk/uksi/2015/595/schedule/6/made>); or

(b) where the applicant for planning permission and the local planning authority have agreed in writing that the provisions of section 74A of the 1990 Act (deemed discharge of planning conditions) do not apply.

Paragraph: 042 Reference ID: 21a-042-20190723

Revision date: 23 07 2019

### **What is the process for activating deemed discharge?**

Deemed discharge needs to be activated by the applicant.

If the applicant considers there is a delay in the discharge of a condition, the 'deemed discharge' process may be activated (where that is permitted, and where no appeal has been made under section 78 of the 1990 Act) by serving a 'deemed discharge' notice on the local planning authority.

A deemed discharge notice may only be served once one of the following have elapsed:

- at least 6 weeks beginning with the day immediately following that on which the application is received by the local planning authority; or
- such shorter period as may be agreed in writing between the applicant and the local planning authority for serving a notice.

If the applicant has served a deemed discharge notice and the local planning authority fails to determine the application by the date specified in the notice or such later date as may have been agreed in writing, approval is deemed to have been given, with the consequence that the condition is deemed to be discharged.

Paragraph: 043 Reference ID: 21a-043-20190723

Revision date: 23 07 2019

### **How is the date specified in the notice calculated?**

The date specified in the notice must be no earlier than the date referred to in paragraph 034 above elapses, or 14 days after the day immediately following that on which the deemed discharge notice is received by the local planning authority, whichever is later.

Paragraph: 044 Reference ID: 21a-044-20190723

Revision date: 23 07 2019

### **What information needs to be included in the deemed discharge notice?**

Statutory requirements for what information must be included in the deemed discharge notice are set out in [Article 29 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](https://www.legislation.gov.uk/uksi/2015/595/article/29/made) (<https://www.legislation.gov.uk/uksi/2015/595/article/29/made>).

Paragraph: 045 Reference ID: 21a-045-20190723

Revision date: 23 07 2019

---

Published 6 March 2014

Last updated 23 July 2019 [+ show all updates](#)



**OGL**

All content is available under the [Open Government Licence v3.0](#), except where otherwise stated



© Crown copyright