

Case Name: *Fulford Parish Council, R (On the Application Of) v City of York Council* [2019] EWCA Civ 1359 (30 July 2019)

Full case: [Click Here](#)

Commentary: The Court of Appeal held that the statutory power conferred by section 96A of the Town and Country Planning Act 1990 to make non-material changes to a planning permission includes power to make non-material changes to conditional approvals of reserved matters.

The Parish Council argued that the statutory power is limited to making non-material amendments to a “planning permission”; and an approval of reserved matters is not a “planning permission”. The Court held that “the “planning permission” to which section 96A refers is the package consisting of the grant of planning permission itself, together with any conditions to which the grant is subjected, whether the conditions are imposed at the time of or subsequent to the grant of permission. An application for an amendment to an approval (or conditional approval) of reserved matters is, in my judgment, an application for the alteration of an existing condition; which is expressly permitted by section 96A (3) (b).”

The Court also rejected the argument that section 96A did not allow changes to be made retrospectively (although in this case, on the facts the Court was not persuaded that it was being used retrospectively.)

Case summary prepared by Susannah Herbert