

Non-Material Variation (NMV)



Introduction

Our planning customer guidelines set out what we look for when someone wants to vary a planning permission in a minor and non-material way. They are guidelines as to how we will provide a service or consider issues that might arise as part of the assessment of an application. These are non-statutory documents which the Planning Authority publishes to provide clarity and assistance to those submitting applications or those who may be affected or concerned by proposals. They are not formal policy documents and the Planning Authority has discretion to depart from them depending on the individual circumstances of a case. Where we do so however we will explain why we have done so as part of the assessment of the application.

They should also help individuals and organisations – such as neighbours and community councils – to know what we consider relevant and appropriate.

This guidance note is for anyone who wants to vary a planning permission (applicant or developer) or anyone who may be affected by a variation to a planning permission (neighbour, objector or Community Council). It details:

- How planning works
- What is a Non-Material Variation (NMV)?
- What permissions does an NMV relate to?
- How does the Council Assess an NMV?
- What criteria does the Council use?
- How does the Council process an NMV?
- Charges for NMV

How Planning works

Our role in Fife Council is to assess planning applications, complaints and appeals. We do this by considering the Development Plan and other material considerations, including these guidelines and other planning policy and advice documents. The guidelines reflect local and national planning policies and laws.

Fife Council approves or rejects planning applications based on planning laws, policies and issues.

When Fife Council approves planning permission it can impose conditions. These might cover, for example, what materials you can or can't use. Conditions when imposed are normally to overcome an unacceptable element of a proposal. Our job is also to make sure developers and housebuilders meet these conditions and build what is approved.

Minor changes to proposals are often submitted and we can treat these as nonmaterial variations (NMVs) under delegated powers to officers. This guideline on NMVs shows what they are and how we deal with them.

Any changes to buildings or structures also need to be checked out with the Council's Building Standards and Public Safety Service to confirm if any permission is needed to change the Building Warrant plans or approvals.

What is a Non-Material Variation?

Once planning permission has been granted, there can be instances where the proposed approved scheme may require to be amended by the applicant for any number of practical or design reasons. Section 64 of the Town and Country Planning (Scotland) Act 1997 allows a Planning Authority to “vary any planning permissions granted by them, if it appears to them that the variation sought is not material”. Such variations if minor in nature can be dealt with by submitting a request for a non-material variation (NMV). A non-material variation essentially means that the amendments proposed will not significantly change the scheme that was originally granted planning permission. Alterations that qualify as a non-material variation are therefore by definition minor changes.

Some conditions attached to consents have provisions which enable changes to be made subject to written agreement between the Planning Authority and the applicant. These will include a phrase such as “...unless otherwise agreed in writing with the Planning Authority...” or similar. As the wording of such conditions indicate these changes are not required to be addressed through the NMV process or require the submission of a new planning application to consider the alternative detail. Only alternative options within the scope of the requirements of the original condition however can be amended in this way.

What permissions does an NMV relate to?

An NMV can **only** apply to a grant of planning permission. It does **not** apply to other consents such as Listed Building Consents, Conservation Area Consents, or Advert Applications. It is also important that you check and confirm any changes with the Building Standards and Safety Team to ensure that your proposal still complies with the relevant Building Regulations.

How does the Council assess an NMV?

All requests for a variation to a planning permission require to be assessed in the context of the development as approved. Each case is different and the judgement as to when a variation is material is a matter of fact and degree e.g. a proposed variation in a small but visually prominent development may be material while that same change may not be material in a larger scale development. For example,

- Increasing the height of a residential extension by 1 metre is likely to require planning permission in most urban settings but a similar increase in the height of a large industrial building complex will often be assessed as being non-material.
- Similarly, if a residential extension for an isolated rural property was increased in depth by 1 metre, it may be properly considered as an NMV, whilst a similar increase on a residential extension within an urban context impacting on neighbours could require a new planning permission.

In assessing whether a proposed change to an approved plan or development under construction can be considered as non-material it must by its nature not create or introduce new or additional detrimental amenity issues. These can include, for example, new overlooking impacts, impact on the daylight/sunlight received by neighbours or new noise impacts.

An NMV cannot introduce changes to a proposal which would require planning permission in its own right. Also, some changes to buildings once they are constructed and occupied can be built without the need for additional planning permission. This is called Permitted Development and is set out in the planning legislation.

The scale of the change relative to the size and scale of the development and the nature of the surrounding area will be the main factors in considering whether the proposed change is non-material.

What criteria does the Council use?

Each case needs to be assessed on its own merits but with regard to a general set of criteria which provide the context for considering the appropriateness of accepting a proposed change as an NMV.

In dealing with requests to allow non-material variations to planning permissions, the following criteria should all be met prior to agreeing that formal planning permission is not required:

1. NMVs can only be submitted by the original applicant or someone acting with their express permission.
2. The request for a non-material variation must be made online and accompanied by scaled plans and/or drawings with the variation clearly highlighted. The original planning application reference number and site address must also be clearly indicated. The relevant fee must be submitted. The request should be submitted clicking [Submit a request for a Non-Material Variation](#).
3. The proposed non-material variation must comply with the relevant Development Plan policies and related guidelines.
4. The proposed change does not require formal planning permission or Listed Building/Conservation Area consent.
5. The proposed change does not reintroduce or alter an element which had previously been removed from the approved scheme either through a planning condition or subsequent negotiations to address objections received when the original scheme was approved. To avoid any doubt, details covered by a specific planning condition cannot be adjusted or deleted by submitting an NMV request.
6. The proposed change does not require the imposition of additional planning conditions for it to be considered acceptable.
7. The proposal should not involve the relocation or re-siting of elements of the proposal which would affect the relationship between buildings.

8. Consideration will always be given to the cumulative nature of a series of non-material variations. While each change may be minor in itself the combination of a series of changes may lead to a more significant change to the original approved scheme which would require a new application. It is however not possible to apply an automatic maximum number of NMVs which would be considered as this will be different in each situation.

9. For Listed Buildings and development in Conservation Areas consideration will also be made to the context of the approved development and the prospective NMV. For instance, where a new extension has been approved to a listed building then the primary consideration will be whether the change is significant in the context of that approved extension, as opposed to simply a new alteration to a listed building. In other cases where the proposed change is to a main frontage or prominent public elevation of a property in a conservation area then it is likely that a new planning permission will be required. If the proposed alteration is to any part of the original listed building a new listed building consent would be required.

How does the Council process an NMV?

Assuming the above criteria have all been met, the plans accompanying the request for variation will be dated and uploaded to the electronic case file and a formal letter advising that the proposed change is acceptable will be issued to the applicant or agent.

An informative letter will also be issued to those who made representations to the original application to ensure that they are aware that an amended version of the approved plan has been accepted as a NMV. The decision to approve or refuse a NMV is a delegated matter dealt with by officers and does not require Committee approval.

The NMV plan will be made available to view on the public website together with the other approved plans.

Where a request for non-material variation fails to meet one of the above criteria then a planning application will be requested. The new application would then be determined in the normal manner, including neighbour notification being carried out, by either delegated powers to officers, or by the Planning Committee or by any other relevant committee of the Council.

All NMVs will be signed off by the appropriate Lead Officer or Service Manager and **not** by the planning case officer.

Charges for NMV

Application Type	Timescale
Householder Development	4 weeks
Local Development	4-6 weeks
Major Development	12 weeks

Until we receive your fee, we will be unable to process your application. Current charges for Non-Material Variations can be found on the [Planning Costs and How to Pay](#) section.

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