

Non-Material Variation Service: Customer Service Guide

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1.) Introduction

This guide provides information for customers (applicant or developer) who wish to vary a planning permission in a non-material way or anyone who may be affected by a variation to a planning permission (e.g. a neighbour, objector or Community Council). It is a non-statutory guide which explains how we will provide the service and provides assistance to those submitting applications or those who may be affected or concerned by proposals.

Requests for a non-material application can be made using the electronic form at www.edinburgh.gov.uk/nonmaterialvariations

Please ensure you have read this Guide in full before submitting a request form. Queries should be directed to nonmaterialvariations@edinburgh.gov.uk.

2.) The Planning System and Non-Material Variations

The Council's role is to assess planning applications, complaints and appeals. We do this by considering the Development Plan and other material considerations, including guidelines and other planning policy and advice documents. The Council approves or refuses planning applications based on planning laws, policies and other material considerations.

When planning permission is granted, conditions are often attached to the decision. These might cover a range of matters, for example, which materials you can and cannot use or a requirement for additional information. Conditions are imposed to allow the Council to further assess parts of the planning application which have not been fully considered during the application process, or to ensure additional requirements are undertaken. The Council's role is to make sure that these conditions are fully addressed and that development is built as approved in the planning permission.

Following the grant of planning permission, applicants may wish to make changes to their proposed development. This may be for practical or design reasons. If an applicant wishes to make changes that do not raise new substantive planning considerations, these may be considered as non-material variations to the planning application. This guide on non-material variations explains what they are and how we deal with them.

3.) What is a Non-Material Variation (NMV)?

Non-material variations (NMVs) are permitted under Section 64 of the Town and Country Planning (Scotland) Act 1997, which makes provision for the variation of planning permission once it has been granted, provided the changes are not material.

Once planning permission has been granted, changes to proposals are often submitted. A non-material variation essentially means that the proposed changes to a development will not significantly alter the scheme that was originally granted planning permission. Non-material variations are dealt with under delegated powers to planning officers. When considering a request for a non-material variation, planning officers will consider the cumulative impact of the proposed change alongside any other requests for non-material variations that have been made previously.

4.) What permissions does an NMV relate to?

A non-material variation can only relate to a planning permission that has been granted. A NMV is tied to the original planning permission and is not a new consent. It is not possible to apply for a NMV in relation to any other type of application such as Listed Building consent, Conservation Area consent, Advert applications or prior notifications.

If a planning application is at minded to grant stage subject to a legal agreement which has not yet been completed, it is not possible to apply for a NMV on the application. The applicant must wait until the legal agreement has been concluded and planning permission granted before an NMV application can be made.

It is also important that you check and confirm any changes with the Building Standards team to ensure that any variations proposed in your NMV application still comply with the relevant Building Regulations.

5.) How does the Council assess an NMV application?

The Council will assess all requests for a variation to a planning permission in the context of the development as approved. Each case will be considered on an individual basis, and the case officer will consider if the proposed variation will make a material change to the outcome of the development, or if they will raise any new material considerations. The case officer will consider matters such as;

- Do the revisions comply with policies and guidance?
- Do the revisions raise additional amenity issues for neighbours?
- Do the revisions raise any other planning issues such as transport implications, e.g. an increase or reduction of parking?
- Has the design and materials changed to such an extent that they are no longer compatible with the character of the area?

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

NMV Assessment Criteria

There is no statutory definition of a NMV, but the Council must be satisfied that the changes sought are non-material in order to approve a NMV application. Each NMV case will be assessed on its own merits and in the context of any cumulative impacts that may arise from a series of NMV requests from applicants. The following criteria are used to assess any variations.

1. The varied scheme must be within the same application site boundary as the original planning permission. It must be submitted by the original applicant, someone acting with their consent or successors in title to the land in question.
2. The varied scheme must comply with the Development Plan policies and any relevant guidance.
3. The varied scheme must not require formal planning permission.
4. For Listed Buildings and Conservation Areas, consideration will also be made to the context of the approved development and the NMV that is proposed. The level of change proposed will be assessed giving due consideration to the Council's legislative requirements to preserve the character and setting of a Listed Building and/or Conservation Area.
5. The proposed variation must not re-introduce or alter any element that had previously been removed or added to a scheme through a planning condition or subsequent discussions with the Council to address objections or comments raised through the assessment process. For the avoidance of doubt, details covered by a specific planning condition cannot be deleted or adjusted through a NMV application.
6. The varied scheme must not require the imposition of any additional planning conditions for it to be considered acceptable, nor must it require the alteration of a condition or the terms of any agreement relating to the consent (e.g. S69 or S75 agreements).
7. The varied scheme must not require further neighbour notification.
8. The cumulative impact of a series of NMVs must be considered by the Council. Whilst each variation may be minor in itself, the combined impact of a series of smaller variations could result in more significant changes to the original approved scheme which could require a new application.
9. As the variation is not a new consent, the date of the original consent still applies.

6.) How do you apply for an NMV?

All applications for non-material variations should be made using the form on the Council website: www.edinburgh.gov.uk/nonmaterialvariations

Customers should complete the form in full. In addition to the form you must submit a site location plan (1:1250 or 1:2500 in scale) and amended drawing(s) which clearly indicate the proposed variations as listed on the application form. Drawings should be to the same scale as those approved

under the planning permission and the proposed variations should be clearly highlighted in colour. Applicants are requested to provide the original drawing numbers, as per the Council's planning portal references in the original application, to facilitate comparison of the amended plans with the previously approved plans.

If a previous NMV application has been made, customers should ensure that these are referenced on the application form in the space provided. It should be noted that where more than one application for an NMV has been made, the cumulative effects of all variations will be considered by the Council to establish whether the resultant development is materially different from the original approval to the extent that a new application is required.

The application form and supporting drawings should be submitted by email to nonmaterialvariations@edinburgh.gov.uk. Accompanying documents should be in pdf format and should total no more than 10MB in size.

Once the form has been submitted, the application will be checked to ensure that sufficient information has been provided. The Council will then make contact to take payment and to deliver the service.

The plans and any supporting information submitted for the NMV application will be displayed on the Council's planning portal for public view. As a NMV does not by nature raise new material planning issues, neighbour notification is not required for these applications.

If an application for a NMV is successful, we will agree the variation in writing and a copy of the decision letter will be added to the planning portal on the Council's website. The drawings will then constitute the approved drawings for your planning permission. The original permission remains in effect but must be read in conjunction with the variations agreed under the NMV application.

Where a request for a NMV fails to meet one of the above criteria, then you will be advised by letter and a copy of this decision will be added to the planning portal on the Council's website. You may then choose to submit a further planning application, which would be determined in the normal manner. Further guidance is provided on this process [here](#).

7.) Scale of charges for NMV

As of 1st April 2021, all NMV applications are subject to a charge, with the sole exception of developments primarily relating to works to improve accessibility for people with a disability, for example the installation of a wheelchair ramp. If customers are making an application relating to works to improve accessibility in this regard, they should specify in the application form that they consider that they are exempt from the charges on this basis.

Charges are based upon the scale of development that is being undertaken. Charges will be reviewed regularly to ensure that they accurately reflect the costs of delivering the NMV application service.

The following scale of charges applies;

Application Type	Charge
Householder non-material variation	£80 + VAT
Local development non-material variation	£150 + VAT
Major/ national development non-material variation (see notes below)	
- Initial matter	£250 + VAT
- Additional matter	£150 + VAT
Any development relating primarily to improving accessibility for people with disabilities	Free (*)

() As per current structure for planning applications for development that is intended solely to improve access, safety, health or comfort for a disabled person and works to provide means of access for disabled persons to a building to which members of the public are admitted. NMV fees will be waived for cases which relate to a previous planning consent that was deemed to be free of charge under these provisions or for new issues that fit the criteria as noted above.*

Guidance for calculating a charge for major development NMVs

The fee structure for major development NMV applications has been designed to reflect the amount of work undertaken by the Council to assess the application. This can include the need to consult specialist officers from different teams, such as Transport.

The fee structure for major development NMV applications is based around a subject matters model. The application form contains a list of subject matters that are frequently dealt with as part of NMV applications for major developments. Applicants should select the subject areas from the list to which their NMV application applies. This process will allow applicants to calculate the relevant fee for their application.

If an application for one subject matter for a major application is submitted, the fee will be £250. This charge covers the administration, assessment and determination of the application. For example, an application for a major development for a change of materials would incur a charge of £250 + VAT.

If the applicant wishes to include an additional subject matter in the same NMV application, an additional £150 charge would be added to the fee for that additional subject matter. For example, a NMV application for a major development for a change of materials and a change to the site layout would incur a charge of £250 + £150, totalling £400 + VAT.

As another example, an NMV application for a change of materials, a change to the site layout and a change to the parking arrangement would incur a charge of £250 + £150 + £150, totalling £550 + VAT.

The applicant can email nonmaterialvariations@edinburgh.gov.uk if further guidance is required regarding the fee.

Please note the following;

- Until we receive your fee we will be unable to process your application.
- Payment of the fee cannot guarantee that the amendment will be non-material.
- The fee is non-refundable if the Council determines that the changes are material.
- If a subsequent separate NMV application is made for a major development, this will also incur an initial fee of £250 + VAT and additional £150 + VAT for each subject matter.