

# South Ayrshire Council Planning Service

## Guidance Note on Non-Material Variations

Please read these notes carefully before submitting a Non-Material Variation request to ensure compliance with the Regulations



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## 1. Scope of Guidance

This guidance note is intended to explain the process of Non-Material Variations, what they are and what we do, to Service Users.

It is a non-statutory guide which explains how we will provide the Non-Material Variation Service and aids those submitting applications or those who may be affected or concerned by proposals, such as neighbours, Representees or other interested parties.

Section 64 of [The Town and Country Planning \(Scotland\) Act 1997](#) (as amended) (*'the 1997 Act'*) provides the mechanism for a Planning Authority to *"vary any planning permission granted by them, if it appears to them that the variation sought is not material..."*, *"...at the request of the grantee or a person acting with his consent"*.

**For any enquiries that cannot be resolved from the information provided in this guidance note, please contact the Planning Service by email to [Planning.Development@south-ayrshire.gov.uk](mailto:Planning.Development@south-ayrshire.gov.uk) for further advice.**

## 2. Background

The Council's role as Planning Authority 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 Planning Service 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 Planning Service 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 Planning Service'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 Variation(s) to the Planning application.

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

Non-Material Variations ('NMV's') are submitted by applicants/agents 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. There are no statutory criteria in how NMVs should be assessed, however, the following criteria is reasonable and proportionate to apply in consideration of NMVs:

- 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.
- The varied scheme must comply with the Development Plan policies and any relevant guidance.
- The varied scheme must not require formal planning permission.
- The varied scheme must not require further neighbour notification.
- 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.
- 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 Planning Service 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.

- 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).
- 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.
- As the variation is not a new consent, the date of the original consent still applies.

Once Planning permission has been granted, changes to proposals can be 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. NMVs are dealt with under Delegated Powers to Planning Officers. When considering an NMV request, Planning Officers will consider the cumulative impact of the proposed change alongside any other requests for Non-Material Variations that have been made previously.

An NMV can only relate to a Planning permission that has been granted. An NMV is tied to the original Planning permission and is not a new consent. It is not possible to apply for an NMV in relation to any other type of application such as Listed Building Consent, Conservation Area Consent, Advertisement Consent or Prior Notifications.

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



#### 4. Submitting an Application for Non-Material Variation

You can obtain a copy of the Application form for Non-Material Variation(s) from our [website](#).

Please email your completed application form and any accompanying documents to [Planning.Development@south-ayrshire.gov.uk](mailto:Planning.Development@south-ayrshire.gov.uk).

Please include as an email attachment (in PDF format, maximum 10MB) a site location plan with the site outlined in red (1:1250 or 1:2500 in scale) and the relevant plans showing the proposed variations. Drawings should be to the same scale as those approved under the Planning permission and the proposed variations should be clearly denoted on drawings.

Once the form has been submitted, the application will be checked to ensure that sufficient information has been provided. If there is insufficient detail regarding the proposed amendments, or the application form is incomplete, we will write out to you to request the information/updated form as soon as possible.

Once in receipt of a competent submission, we will then make contact to seek payment for the submission based on the submission level, as explained below:



##### Householder Development

For alterations/amendments to previously consented householder developments

**Fee: £58\* per each request**

*\*Unless works are for the purpose of providing means of access to or within the dwellinghouse for a disabled person who resides or proposes to reside in that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health, or comfort.*



##### Local Development

For alterations/amendments to previously consented local developments (such as change of use, erection of dwellinghouse(s) (max. 49 dwellings)

**Fee: £105 per each request**



## Major Development

For alterations/amendments to previously-consented major developments (such as large scale residential or commercial developments, as set out in [The Town and Country Planning \(Hierarchy of Developments\) \(Scotland\) Regulations 2009](#)).

### Fee: £200 per each request

The fee amount will be calculated based on the number of proposed variations to be considered.

Once the Planning Service is satisfied that sufficient information (include the requisite fee) has been provided, we will then commence our assessment of your submission.

## 5. How does the Planning Service assess an NMV application?

The plans and any supporting information submitted for the NMV application will not 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.

The Planning Service 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 makes a material change to the outcome of the development, or if they will raise any new material considerations. The Planning 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.

## How long will it take?

There is no statutory time period within which the Planning Authority is required to determine a request under Section 64 of the 1997 Act.

The following targets have been set to assist with prioritisation of Officer casework, and to inform customer's expectations of timescales for determination that are likely to apply to the application process (weeks taken from date of competent submission lodged):

- 🕒 Householder Development: 4 weeks
- 🕒 Local Development: 6 weeks
- 🕒 Major Development: 8 weeks

## 4a. Non-Material Variation – Refusal

Where the Planning Service assesses and concludes that the proposed amendment(s) are material and would include matters of a notifiable interest, a decision notice will be provided which confirms that the proposed Non-Material Variation is refused, noting reasons why and an invitation to submit an appropriate application (e.g., for Planning permission) shall be invited.

There is no statutory right of appeal for NMV decisions. The consideration of an NMV is entirely at the discretion of the Planning Authority.

In the event that the NMV is refused, no refund will be provided.

## 4b. Non-Material Variation – Approval

Where the Planning Service assesses and concludes that the proposed amendment(s) are non-material and do not include matters of a notifiable interest, a decision notice will be provided which confirms that the proposed Non-Material Variation is approved, noting reasons why.

The revised drawing(s) will then constitute the approved drawings for your Planning permission. The original permission remains extant but must be read in conjunction with the variations agreed under the NMV application.