

APPLICATION FOR NON-MATERIAL AMENDMENT

FORMER ROYDS EDGE DYEWORKS, MELTHAM

1. Introduction and Context

Planning Permission was granted, by way of outline planning permission in 2007 (2007/92595), with a subsequent approval of reserved matters ('ARM') in 2009/92557, granted in 2010. The outline and ARM make up the planning permission for the development on the Site ('Permission').

A Section 106 Planning Obligation was submitted later and remains associated with the Permission and the Site. All obligations therein remain outstanding and to be fully complied with once triggered.

The development pursuant to the Permission was lawfully commenced. The outline had a number of pre-commencement conditions (or what would have been considered as such at that time). The ARM only had a 'materials' condition. All of these were duly discharged, with the development lawfully getting underway. However, the development did not get past rudimentary works for various reasons, but largely due to significant changes in market conditions and the realisation that the house types granted were not as conducive to more modern living arrangements.

The extant position of the Permission has been officially confirmed more recently, as a Lawful Development Certificate ('LDC') reference: 2019/CL/90344/W, was submitted and duly granted in 2019.

A Non-Material Amendment ('NMA') allocated with LPA reference: 2020/90779 was applied for in order to add a list of drawings into to the ARM. This was duly granted in May 2020.

The landowner would like to continue with the development but would like to alter the house types for commercial reasons, but also to achieve better design than envisaged in the Permission presently, which means mainly internal rather than external adjustments.

Following dialogue with Mr. Walker of Kirklees Council, the landowner hereby submits a further NMA to change the house types.

2. Effect of a NMA

Importantly, a NMA does not grant a new planning permission. Instead, it sits alongside and even within the original planning permission, which in this case is the Permission.

Under Section 96A Town and Country Planning Act 1990, as amended, a LPA can make changes to a planning permission where it is satisfied that the extent of the change is not material. In assessing and determining whether a change is material or not, the LPA must have regard to the effect of the change, together with any previous change through a previous NMA (i.e. there can be more than one NMA utilised; which addresses a myth that only one NMA can be utilised). The power under Section 96A(3) also includes a legal power for the LPA to impose new conditions or to remove or alter existing conditions on the Permission.

NMA (2020/90779) was a sensible 'paper exercise' in simply adding a schedule of plans for certainty. The effect of the previous NMA is therefore of no further effect.

For the avoidance of any doubt, the applicant for this current NMA is the landowner of the Site.

3. The Site and the Development

The site is known as the former Royds Edge Dyeworks, which lies to the south of the town of Meltham. The site lies immediately to the south of residential properties in an area known as Calmlands, with open areas to the west, east, and south. The site also lies in close proximity to the boundary of the Peak District National Park.

Further to Section 1 above, a condition was added to the original permission by virtue of a NMA (2020/90779). This is added as Condition 7 -

“7. The development shall be carried out in accordance with the plans and specifications schedule listed within this decision letter, except as may be specified in the conditions attached to reserved matters permission 2009/92557, which shall in all cases take precedence”.

The decision letter setting out this condition, which also includes the Plans Schedule referred to under this condition, is attached as Appendix 1.

It should be noted that the red line boundary of the application site has not changed by virtue of this condition.

4. This application for a NMA ('NMA Application')

To decide and establish whether a change is material or not for the purpose of a NMA application, many LPAs in the country, including Kirklees Council, apply four general tests:

- I. Is the proposed change inconsequential in terms of its scale in relation to the original approval?
- II. Would the proposed change result in a detrimental impact either visually or in terms of living conditions?
- III. Would the interests of a third party or body who participated in or were informed of the original decision be disadvantaged in any way?
- IV. Would the amendment be contrary to any policy of the Council?

The following shall proportionally comment in relation to each of these headings with respect to this NMA Application.

I. Is the proposed change inconsequential in terms of its scale in relation to the original approval?

The answer is yes.

It is common to utilise a NMA to change house type. The Site is entirely within the red line as submitted with the applications resulting in the Permission.

The scale and layout is substantially the same as the Permission in this case. The 'foot-print' of the development is within the same as the Permission.

It is accepted that because of the change of house type, reflecting better design and being conducive to more modern and desirable living requirements, the appearance is slightly different, but still well within the parameters of being capable of being authorised through a NMA approval.

The changes on the Site are therefore inconsequential in terms of scale, magnitude, and degree in relation to the wider site and the area overall.

II. Would the proposed change result in a detrimental impact either visually or in terms of living conditions?

The answer is no.

As identified at I., above, the scale and layout is substantially the same, with the development being within the same footprint as the Permission. As can be seen from the submitted plans and 3D visuals submitted with this NMA Application, whilst appearance is slightly different owing to proposed changes of house type, this does not result in a detrimental impact visually; on the contrary this may be seen as an improvement. We can say that from the point of view of living conditions of neighbouring properties, this will be completely unaltered, but also future residents of the development will benefit rather than be the recipient of a detrimental impact.

III. Would the interests of a third party or body who participated in or were informed of the original decision be disadvantaged in any way?

The answer to this question is no. This could not possibly be the case with this NMA Application.

IV. Would the amendment be contrary to any policy of the Council?

The answer to this question is no.

The obvious changes from the original Permission are the introduction of the NPPF, with various iterations since February 2012, but more importantly the statutory development plan being the Kirklees Local Plan (February 2019).

However, the following will identify that the development still accords with the development plan. Moreover, there are no material considerations, including the NPPF, which would otherwise lead to a conclusion that the development would not be granted or more specifically here, that what is submitted in this NMA application could not be granted as such.

Where this NMA Application is granted, it sits alongside/within the original Permission as described, so for the avoidance of any doubt, the Section 106 Planning Obligation which is associated with the original Permission, remains unaffected.

The development plan policy that is directly relevant to this application is Policy LP24 Design of the Kirklees Local Plan and it is considered the proposed house types comply with the relevant parts of this policy in terms of design, layout, space about buildings etc.

With reference to the development plan, it is held that nothing has changed from the design policies contained with the superseded development plan (the Kirklees Unitary Development Plan) that would prevent the grant of the original planning permission.

SCHEDULE OF PLANS

Proposed site plan

Proposed site sections

Proposed site sections 1

House Type A - 5 bedroom

House Type B - 5 bedroom

House Type C - 5 bedroom

House Type D - 4 bedroom

House Type D1 - 4 bedroom

House Type E - 2 bedroom

House Type F - 3 bedroom

House Type F1 - 4 bedroom

Sketch perspective

Sketch perspective 1

FRA Addendum Rev1 Part 1

FRA Addendum Rev1 Part 2

FRA Addendum Rev1 Part 3