

FAO Nick Hirst
Kirklees Council
Planning Department
Civic Centre 3
Huddersfield
HD1 2TG

Date: 13 December 2022

Our ref: 64182/02/CD/CSm/26031010v1

Dear Nick

**Application under S.96A of the Town and Country Planning Act 1990
(As Amended) for a Non-Material Amendment to Planning Permission
2020/62/90725/W at Penistone Road, Fenay Bridge**

On behalf of our client, Newett Homes, please find enclosed an application for a non-material amendment ("NMA"/ "Section 96A") to planning permission 2020/62/90725/W.

Background

In March 2020, an application for full planning permission (ref. 2020/62/90725/W) was submitted by Farnley Estates (NO1) LLP, Engie Regeneration Ltd and Stonewater Ltd for the following development:

"Erection of 68 dwellings with associated access, parking and open space"

Planning permission was granted on 02 September 2021, subject to 36 planning conditions. Of relevance to this NMA application is Condition 2, which requires that the approved development is to be carried out in accordance with the 'approved plans'.

Our pre-application discussions with you in advance of this submission have confirmed that the proposed changes are non-material and are capable of being considered under the S96A process.

Non-Material Amendment Process

There is no statutory definition of 'non-material' in Section 96A of the 1990 Act or in the Planning Practice Guidance – the latter states that it is dependent on the context of the overall scheme. Taking this into consideration, the proposed revisions make no change to the core components of the approved scheme [Lichfields emphasis] in terms of housing numbers; affordable housing provision; drainage infrastructure; building heights or final building materials. Importantly, the revisions will not in any way materially affect the overall scheme or result in a development which is different in any significant degree from the approved scheme. For this reason, we consider that the changes to the approved plans can be dealt with under Section 96A of the Town and Country Planning Act 1990.

Proposed Amendments

This non-material amendment application seeks to swap the approved 2 & 3 bed house types for Plots 1 – 16 with that of Newett Homes' 2 & 3 bed house types. All other elements of the scheme remain unchanged.

The changes to the house types can be summarised as follows:

- The two-bed properties will be increased in size from 68.8sqm to 70/70.7sqm (i.e. +1.9sqm). There will also be a number of very minor tweaks to the design of the windows and doors.
- The three-bed properties will be reduced in size from 88.7sqm to 84.2sqm (i.e. -4.6sqm). There will also be a number of very minor tweaks to the design of the windows and doors.

Amended Plans

Table 1 below sets out the replacement drawings and their reference numbers.

In summary, this application seeks to make the following changes to the drawing schedule referenced in condition 2 of the permission:

- 1 To replace the approved site layout plan (i.e. Proposed Site Layout Tenure) with that of the enclosed site layout plan (i.e. Proposed Overall Site Layout);
- 2 To add the enclosed house type plans to the drawing schedule; and
- 3 To remove the 1A House Type drawings from the drawing schedule.

The enclosed Comparison Plan (drawing no. 1047-EA-A-P003 Rev A) shows the proposed changes in the context of the previously approved site layout and illustrates just how minimal these changes are. It also confirms that the proposed non-material amendments are isolated to the northern section of the site, with all other areas of the site remaining unchanged.

As discussed during our telephone conversation of 17 November 2022 and again on 7 December 2022, there is a minor discrepancy between the location of the affordable housing units on the engrossed Section 106 Agreement plan (drawing no. 3EN2-MHA-FS-XX-DR-A-01040 Rev P8) and those shown on the approved 'Proposed Site Layout Tenure' plan listed on the decision notice (drawing no. 3EN2-MHA-FS-XX-DR-A-01040 Rev P7). As agreed, we have repeated the affordable housing units as they appear on the later Section 106 plan rather than how they appear on the approved layout plan. For all other design related matters, we have followed the approved layout plan.

Table 1 Updated Drawings (to update Condition 2)

Planning Permission 2020/62/90725/W – Approved Drawing (Superseded Reference)		Replacement Drawing (November 2022)	
Drawing Name	Drawing Reference	Drawing Name	Drawing Reference
Proposed Site Layout Tenure	3EN2-MHA-FS-XX-DR-A-01040 Rev P7	Proposed Overall Site Layout	1047-EA-A-P004 Rev A
Planning Permission 2020/62/90725/W – House Type Drawings to be added to Condition 2			
Elm (drawing no. NH.201.03)			
Elm (drawing no. NH.201.05)			

Pine (drawing no. NH.202.03)
Pine (drawing no. NH.202.5)
A3 (drawing no. NH.A3.03)
A3 (drawing no. NH.A3.05)
Planning Permission 2020/62/90725/W – House Type Drawings to be deleted from Condition 2
Housetype 01A G.A. Elevations (drawing no. 3EN2-MHA-XX-1A-DR-A-00002 Rev P4)
Housetype 01A – GA Floor Plans (drawing no. 3EN2-MHA-XX-1A-DR-A-00001 Rev P6)

Application Submission

The application has been submitted via the Planning Portal (ref. PP-11705855) and comprises this covering letter as well as the following information:

- 1 Completed application form;
- 2 Replacement and additional application drawings, as outlined in Table 1 above.
- 3 Drawings submitted for information purposes only:
 - a Proposed Site Layout Comparison Plan (drawing no. 1047-EA-A-P003 Rev A)

The requisite application fee has been paid online via the Planning Portal.

Summary

As shown on the enclosed drawings, the design changes are minimal and do not materially alter the approved scheme in terms of housing mix, external building materials, building heights or affordable housing contributions and continues to achieve a high-quality streetscene to Penistone Road and Whitegates Grove. It is for these reasons we consider that the changes outlined above constitute a ‘non-material amendment’ to planning permission 2020/62/90725/W.

We trust that sufficient information has been provided for the application to be validated and progressed. If you have any queries or require further clarification, please do not hesitate to contact me.

Yours sincerely

Aisling Kelly
Associate Director