

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 96A**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR  
NON-MATERIAL AMENDMENTS**

Reference No: **2023/NM/91615/E**

Site Address: land off, Fieldhead Lane, Birstall, Batley

Description: Non material amendment to previous permission 2022/92675 for variation condition 2 (internal road specification) on previous permission 2020/93254 for variation conditions 1 (Plans and Specification), 10 (Waste Collection), 11 (Electric Vehicle Charging Point) on previous reserved matters approval 2019/92710 pursuant to outline permission 2017/93347 for erection of 32 dwellings

Recommending Officer: Nick Hirst

**DECISION – Non Material Amendment – Approved**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

**David Wordsworth**

***AUTHORISED OFFICER***

**Date: 25-Jul-2023**

**Application:** 2023/NMA/91615/E

**Site:** land off, Fieldhead Lane, Birstall, Batley

**Proposal:** Non material amendment to previous permission 2022/92675 for variation condition 2 (internal road specification) on previous permission 2020/93254 for variation conditions 1 (Plans and Specification), 10 (Waste Collection), 11 (Electric Vehicle Charging Point) on previous reserved matters approval 2019/92710 pursuant to outline permission 2017/93347 for erection of 32 dwellings

## **Overview**

The change(s) sought are all corrections to condition 7 and 10 of 2022/92675, as follows (denoted by red and unlined):

### Condition 7

From:

*7. Notwithstanding the submitted information, prior to the occupation of the hereby approved dwellings, details for the provision of a pedestrian route and cycle track across the site from Field Head Lane to the boundary with Oakwell Hall Park, as indicatively shown on plan [ref. '3001.09.102 Rev. E'](#) shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include details of signage to bring the route to the attention of users of the route via the application site. This approved pedestrian/ cycleway route shall be provided prior to the occupation of the site, or in accordance with a timeframe agreed with the Local Planning Authority and permanently retained thereafter*

**Reason:** *To enhance pedestrian and cycle facilities, in the interest of public health and highway safety, to comply with Policy LP21 of the Kirklees Local Plan*

To:

*7. Notwithstanding the submitted information, prior to the occupation of the hereby approved dwellings, details for the provision of a pedestrian route and cycle track across the site from Field Head Lane to the boundary with Oakwell Hall Park, as indicatively shown on plan [ref. "3001.09.603 Rev. D"](#) shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include details of signage to bring the route to the attention of users of the route via the application site. This approved pedestrian/ cycleway route shall be provided prior to the occupation of the site, or in accordance with a timeframe agreed with the Local Planning Authority and permanently retained thereafter*

**Reason:** *To enhance pedestrian and cycle facilities, in the interest of public health and highway safety, to comply with Policy LP21 of the Kirklees Local Plan*

## Condition 10

From:

*10. Prior to the occupation of each of the hereby approved dwellings, the dwelling shall have its respective bin presentation point shall be hard paved and provided on site, as shown on plan [ref. '3001.09.103 Rev. A'](#). Thereafter each bin presentation point shall be retained.*

**Reason:** *To ensure adequate waste collection arrangements are in place, in the interest of the safe and efficient operation of the highway as per Policy LP21 of the Kirklees Local Plan.*

To:

*10. Prior to the occupation of each of the hereby approved dwellings, the dwelling shall have its respective bin presentation point shall be hard paved and provided on site, as shown on plan [ref. '3001.09.603 Rev. D'](#). Thereafter each bin presentation point shall be retained.*

**Reason:** *To ensure adequate waste collection arrangements are in place, in the interest of the safe and efficient operation of the highway as per Policy LP21 of the Kirklees Local Plan.*

This application will be assessed having regard to S96A of the Town & Country Planning Act 1990: 'In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted'. To assist with this assessment, the LPA has published its 'Protocol for dealing with non-material amendments'.

### **Assessment**

The reason for the desired amendment is to correct an error in the decision notice. The main application, ref. 2022/92675, is a S73 application to a previous S73 application ref. 2020/93254. The original application is 2017/93347.

The plans referenced in 2022/92675's conditions 7 and 10 are those approved via 2017/93347, and not those subsequently updated and approved via 2020/93254. This was due to officers incorrectly basing draft updated conditions on the older 2017/93347 and not the most up to date version 2020/93254, which was missed by both parties on review.

The change would simply ensure that the decision notice of 2022/92675 is correct and consistent with the planning history. As noted, the plans sought to be included have been previously approved as part of 2020/93254.

The variation would not affect the original red-line plan and would not conflict with the description of development. The change is limited in impact and would not prejudice either 3<sup>rd</sup> parties or consultees.

## Conclusion

The desired amendments (/ corrections) are not considered to affect other material planning considerations. No new conditions are considered necessary to make the proposed amendment acceptable. The proposed variation would not materially conflict with any of the conditions attached to the parent permission, bar those they would update. It is considered that the proposed amendment would comply with the policies of the LPA and should have been included in the original decision notice.

On the basis of the above, while considering the Council's Protocol for dealing with non-material amendments, giving weight to the purpose of NMA applications the proposed change would be acceptable under the nonmaterial amendment procedure.

**Recommendation:** Grant NMA

**Report Dated:** 17.07.2023

## Proposed Letter Text

The application has been assessed against the Council's Protocol for dealing with nonmaterial amendments, giving weight to the purpose of applications seeking non-material amendments. Taking all this into account the alteration to the wording of conditions 5, 6 and 10, as set out below, may be considered as non-material amendments to the original conditions.

The conditions are hereby amended to the following;

*7. Notwithstanding the submitted information, prior to the occupation of the hereby approved dwellings, details for the provision of a pedestrian route and cycle track across the site from Field Head Lane to the boundary with Oakwell Hall Park, as indicatively shown on plan ref. '3001.09.603 Rev. D' shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include details of signage to bring the route to the attention of users of the route via the application site. This approved pedestrian/ cycleway route shall be provided prior to the occupation of the site, or in accordance with a timeframe agreed with the Local Planning Authority and permanently retained thereafter*  
**Reason:** To enhance pedestrian and cycle facilities, in the interest of public health and highway safety, to comply with Policy LP21 of the Kirklees Local Plan

10. Prior to the occupation of each of the hereby approved dwellings, the dwelling shall have its respective bin presentation point shall be hard paved and provided on site, as shown on plan ref. '3001.09.603 Rev. D'. Thereafter each bin presentation point shall be retained.  
**Reason:** To ensure adequate waste collection arrangements are in place, in the interest of the safe and efficient operation of the highway as per Policy LP21 of the Kirklees Local Plan.

