

**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/91821/E**

Site Address: Land Off, Soothill Lane, Batley, WF17 6EY

Description: Non material amendment to previous reserved matters approval 2021/91731 (layout, scale, appearance and landscaping) for erection of 319 dwellings pursuant to previous permission 2020/94202 (Section 73) for variation of conditions 1, 9, 19 and 28 of previous outline permission 2018/94189 for residential development of up to 366 dwellings - amendments to plots 1 to 231 and 318

Recommending Officer: Farzana Tabasum

**DECISION – Non-Material Amendment – Approve**

**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.**

*Victor Grayson*

**AUTHORISED OFFICER**

**Date: 03-Aug-2023**

## Officer Report

### Site Description

The application relates to the site at Soothill Lane Batley which was granted permission for residential development for up to 366 dwellings. See relevant planning history below.

### Description of Proposal

Non-Material Amendments (NMA) are sought as a consequence of amendments to Part L of Building Regulations.

The applicant's covering letter advises that the changes came into effect in June 2022 and as a result, has required the 2018 house type range to be amended to a new 2022 house type range. It is confirmed that whilst the house types have received a new name the internal layout has not changed. However, the new range will provide for lower minimum U values, 31% CO2 emission reduction, PV to all plots and a lower maximum airtightness target through revised specifications as per the new Building Regulations.

The amendments affect the plots on which work commenced on site after June 2023. These are stated to be plot numbers 1-231, 318 and 319. Previously-approved drawings are relevant to the plots where work commenced pre June 2023 and as such no drawings are proposed to be superseded for those units.

The list below refers to the plots to which would be constructed in accordance with the revised Buildings Regulations:

- Adlington - Y045-KNK-Adlington\_End\_As\_PH2\_ST01-DR-A-5230-Rev1 – **Plot Numbers 318, 319, 35, 57, 58, 61, 62, 63, 64, 157, 158, 180, 181, 200, 203, 204, 205, 206 and 207.**
- Dartmouth - Y045-KNK-Dartmouth\_End\_As\_PH2\_ST02-DR-A-5070-Rev1 – **Plot Numbers 186, 187, 192, 193, 222 and 223.**
- Drayton - Y045-KNK-Drayton\_End\_As\_PH2\_ST01-DR-A-5330-Rev1 – **Plot Numbers 18, 19, 22, 33, 34, 48, 77, 78, 79, 80, 83, 84, 91, 141, 142, 143, 144, 159, 184, 185, 188, 189, 190, 191, 196, 208, 209, 215, 218, 219, 220, 221, 224, 227, 230 and 231.**
- Embleton - Y045-KNK-Embleton\_Det\_Op\_PH2\_ST01-DR-A-5130-Rev1 – **Plot Numbers 152 and 213.**
- Foxhill - Y045-KNK-Foxhill\_Det\_As\_PH2\_ST01-DR-A-5140-Rev1 – **Plot Numbers 1, 12, 24, 56, 60, 81, 86, 98, 102, 103, 155, 156, 166, 170, 177 and 178.**

- Henbury - Y045-KNK-Henbury\_End\_As\_PH2\_ST01-DR-A-5050-Rev1 – **Plot Numbers 42, 43, 46, 87, 88, 106, 107, 115, 116, 153, 154, 167, 168, 201 and 202.**
- Lambeth - Y045-KNK-Lambeth\_End\_As\_PH2\_ST01-DR-A-5180-Rev1 – **Plot Numbers 6, 7, 15, 27, 28, 49, 50, 53, 54, 148 and 149.**
- Milford - Y045-KNK-Milford\_Det\_As\_PH2\_ST01-DR-A-5190-Rev1 – **Plot numbers 5, 8, 93, 94, 105, 112 and 147.**
- Newton - Y045-KNK-Newton\_Det\_As\_PH2\_ST02-DR-A-5200-Rev1 – **Plot Numbers 40, 41 and 47.**
- Oakwood - Y045-KNK-Oakwood\_End\_As\_PH2\_ST01-DR-A-5210-Rev1 – **Plot Numbers 11, 23, 70, 71, 74, 92, 160, 165, 197, 198, 214, 225 and 226.**
- Preston - Y045-KNK-Preston\_End\_As\_PH2\_ST02-DR-A-5170-Rev1 – **Plot Numbers 3, 4, 25, 26, 29, 30, 44, 45, 210, 211, 228 and 229.**
- Ruston - Y045-KNK-Ruston\_End\_As\_PH2\_ST01-DR-A-TBC-Rev1 – **Plot Numbers 14, 16, 17, 36, 37, 38, 39, 68, 69, 89, 90, 99, 100, 113, 114, 145, 146, 162, 163, 164, 182 and 183.**
- Sowerby - Y045-KNK-Sowerby\_End\_As\_PH2\_ST01-DR-A-5250-Rev1 – **Plot Numbers 65, 66, 67, 137, 138, 139, 140, 171, 172, 173, 174, 175 and 176.**
- Stratford - Y045-KNK-Stratford\_End\_As\_PH2\_ST02-DR-A-5060-Rev1 – **Plot Numbers 20, 21, 31, 32, 51, 52, 75, 76, 95, 96, 108, 109, 110, 111, 194, 195, 216 and 217.**
- Welford - Y045-KNK-Welford\_End\_As\_PH2\_ST01-DR-A-5110-Rev1 – **Plot Numbers 2, 9, 10, 13, 55, 59, 82, 85, 97, 101, 104, 117, 118, 150, 151, 169, 179, 199 and 212.**

The non-material application is also accompanied by a copy of a Building Regulations document relevant to this development.

### **Relevant Planning History**

2018/94189 – Outline application for residential development of up to 366 dwellings with details of access points only – granted 22/11/2019.

2020/94202 – Variation conditions 1, 9, 19, 28 on previous permission 2018/94189 for outline application for residential development of up to 366 dwellings with details of access points only to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – granted 29/03/2021.

2021/91731 – Reserved Matters application (layout, scale, appearance and landscaping) for the erection of 319 dwellings pursuant to previous permission 2020/94202 (Section 73) for Variation of Conditions 1, 9, 19, 28 on previous outline permission 2018/94189 for residential development of up to 366 dwellings with details of access points only to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – granted 03/09/2021.

2023/90312 – Non-material amendment to previous permission 2021/91731 for Reserved Matters application.....for the relocation of plot 24 to the area of green space opposite the spine road, swapping the location of the electrical substation and alterations to the location of the drop kerb crossing and desire line footpaths to suit the new locations of plot 24 and the substation – granted 03/03/2023.

### **Pre-application advice**

None given.

### **Assessment**

This application must be assessed having regard to Section 96A of the Town and Country Planning Act 1990 which states “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”, and the council’s adopted protocol for dealing with Non-Material Amendments. This protocol states that the four tests as to the acceptability of a change to an approved scheme under the Non-Material Amendment procedure are:

- 1) Are the proposed changes inconsequential in terms of scale (magnitude, degree etc) in relation to the original approval? **YES.**

If so, the **three** further tests need to be applied as follows:

- 1) In the council’s view would the proposed changes result in a detrimental impact either visually or in terms of living conditions? **NO. The amendments proposed would improve the development in relation to climate change and sustainability, and are required in accordance with the Building Regulations. There would be no detrimental impact either visually or in terms of living conditions. The proposed PV would be visible, but not visually harmful.**
- 2) In the council’s view would the interests of a third party or body who participated in or were informed of the decision be disadvantaged in any way? **NO.**
- 3) In the council’s view would the amendment be contrary to any policy of the council? **NO.**

In considering the above, the following factors are relevant:

- The proposed changes to the permitted scheme must not result in the development falling outside the description of the development as set out on the decision notice – **The description of development would be the same.**
- The proposed changes must not contravene any condition attached to the original permission – **No condition would be contravened.**
- The proposed changes should not require a further restriction to make them acceptable – **No further restrictions would be required.**
- The proposed change would not result in any material increase in height, scale, width or depth of a building – **The proposed changes would not noticeably or significantly increase the height, scale, width or depth of buildings.**
- The proposed changes would have likely have been approved had it formed part of the original application – **Yes, it is likely that the changes would have been approved.**

As such, it is not considered that the proposed amendments would have a detrimental impact on visual amenity or living conditions, nor would they be detrimental to a third party, and they are therefore in accordance with protocol. It is therefore recommended that the Non-Material Amendments be approved.

**Recommendation:** Approve

**Decision Authorisation:** Delegated Powers

**Application Number:** 2023/91821

**Report dated:** 31/07/2023