

**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/92838/E**

Site Address: Land adj, Inkerman Court, Barnsley Road, Denby Dale, Huddersfield, HD8 8XA

Description: Non-material amendment to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings

Recommending Officer: Victor Grayson

DECISION – Non-Material Amendment- Granted

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: 01-Nov-2023

Officer Report

Site Description

The application site is 1.02 hectares in size and is located on the north side of Barnsley Road, Denby Dale. It is allocated for residential development in the Local Plan (site allocation: HS141).

Description of Proposal

Non-material amendment (NMA) to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings.

The proposed amendments are described in the applicant's submission as follows:

The proposed changes encompass the substitution of four detached dwellings and the introduction of a new sub-station, necessary to provide electrical power to the development. Plot 9 and associated detached double garage are replaced by the sub-station and a 2-storey 3-bedroom C type house. Plots 10, 11 and 12 currently approved as 2.5-storey, "room in roof" house types are replaced by 2-storey detached type. Plot 12 features the double fronted P type, approved elsewhere on the wider development, which will face the street in place of the side-on L type.

Comparison between the previously-approved site layout plan (1903-SI-01 rev P, approved under NMA 2023/92772) and the proposed site layout plan submitted under this latest NMA application (1903-RP-01 rev B) confirms that the following changes to house types are proposed:

- Unit 9: was type N (4-bed detached), becomes type C (3-bed detached)
- Unit 10: was type T (5/6-bed detached), becomes type S (4-bed detached)
- Unit 11: was type T (5/6-bed detached), becomes type S (4-bed detached)
- Unit 12: was type L1 (4-bed detached), becomes type P (4-bed detached)

Other house types in the development would remain unchanged, as follows:

- Units 1-8: type A
- Unit 13: type S
- Units 14-16: type C2
- Unit 17: type R
- Unit 18: type C3
- Unit 19: type R
- Unit 20: type G

- Unit 21: type C1
- Units 22-25: type B1
- Unit 26: type S
- Unit 27: type T
- Unit 28: type P
- Unit 29: type T
- Unit 30: type S
- Units 31-33: type B
- Unit 34: type C

Although drawing 1903-RP-01 rev B doesn't show all of the amendments recently approved under NMA 2023/92772 (and shown in drawing 1903-SI-01 rev P), this is not considered to be problematic, as long as the two drawings are considered together (and with relevant drawings approved under other permissions) and approval dates are noted.

Locations of meters, burglar alarm boxes, vents and external light fittings are also shown on the submitted drawings.

The proposed amendments are illustrated and explained in the following drawings / documents:

- Site Layout – Replan of Plots 9-12 (drawing 1903-RP-01 rev B)
- Plot 9 Comparison Elevations (drawing 1903-CE-01 rev A)
- Plot 10 Comparison Elevations (drawing 1903-CE-02 rev A)
- Plot 11 Comparison Elevations (drawing 1903-CE-03 rev A)
- Plot 12 Comparison Elevations (drawing 1903-CE-04)
- Street Scene – Replan of Plots 9-12 (drawing 1903-SS-10)
- Street Scene – Plots 9-12 and 34 (drawing 1903-SS-11 rev A)
- Sub Station (plans and elevations) (drawing 1903-SU-01 rev A)
- Denby Dale House Type Booklet Replan Plots 9-12 (1903-HT-04 rev A, August 2023)
- Document titled “Barnsley Road, Denby Dale – Short statement regarding the proposals for the Non-material amendment to previous permission 2019/91836 for erection of 34 dwellings – replacement of detached garage with electricity substation and re-plan of plots 9 to 12”

Relevant Planning History

2019/91836 – Planning permission granted 06/10/2021 for erection of 34 dwellings.

2022/90955 – Non-Material Amendment approved 11/05/2022 to house types etc.

2023/90066 – Variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings approved 25/05/2023 – variations to allow deletion of right-turn pocket and footway build-out.

2023/92772 – Non-Material amendment approved 30/10/2023 to house types etc.

Various other Discharge of Conditions applications are under consideration, or have been determined.

Pre-application advice

Between July and September 2023, various emails were exchanged between the applicant team and case officer in relation to the amendments now proposed at this site.

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**
- 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 to house types would result in different footprint dimensions (to**

those previously proposed), however the changes are proposed away from existing residential properties, and would not have a material effect in terms of visual or neighbour amenity

- The proposed changes would have likely to have been approved had it formed part of the original application – **it is likely that the changes would have been approved**

The proposed changes would not result in a shortfall in parking spaces provided for the permitted dwellings. In accordance with guidance set out in the council's Highway Design Guide SPD, the 3-bedroom unit 9 would be provided with two parking spaces, and the 4-bedroom units 10, 11 and 12 would each be provided with a minimum of three parking spaces.

The proposed amendments would result in different street scenes and arrangements of massing (to what was previously approved), however the changes do not raise significant design concerns. The internal street scene would remain sufficiently varied and of interest (the applicant addressed pre-application concerns regarding regimented and repetitive layout by proposing varied elevations and staggered front building lines). The street scene as viewed from Barnsley Road would be acceptable in design terms.

The C, S and P house types proposed for units 9-12 have already been approved elsewhere on the site.

The proposed electricity substation is considered acceptable in design terms. Its materials would match those of the development's dwellings (and the relevant condition regarding materials would apply to this recently-proposed building). A pitched roof is proposed (as shown in drawing 1903-SU-01 rev A, although a different roof design is shown in the site layout plan, and a clarifying informative is therefore recommended). A detached garage was previously approved in this location.

The proposed amendments would result in a change to the development's unit size mix. Although the council would welcome changes that would make the development compliant with the unit size mix (for the Kirklees Rural East area) set out in Table 1 of the council's Affordable Housing and Housing Mix SPD, given that a non-compliant mix was previously granted at this site (of note, permission 2019/91836 was granted before the SPD was adopted), such changes could not have been insisted on under this NMA application.

Of the development's 27 private (market) units, the following mix is proposed:

Unit size	Number proposed	% proposed	% expected in Kirklees Rural East
1- and 2-bedroom	4	15%	30-60%
3-bedroom	12	44%	25-45%
4-bedroom or larger	11	41%	5-25%

The proposed amendments do not affect the development's affordable housing.

The proposed amendments raise no concerns regarding the Government's Nationally Described Space Standards (March 2015, updated 2016).

Submitting details of meters, burglar alarm boxes, vents and external light fittings does not obviate the need to submit them pursuant to condition 25 of permission 2019/91836 (or the later equivalent condition 25 of the Section 73 approval 2023/90066), however there is no reason why these cannot additionally be submitted under this NMA application. The proposed features are considered acceptable.

In relation to drainage, the applicant has stated that only "minor adjustments to reflect the redesigned hardstanding arrangements and new house design" are proposed.

Given the above assessment, 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. This assessment additionally takes into account the amendments already approved under NMA applications 2022/90955 and 2023/92772 and the cumulative impacts of the amendments proposed under the three NMA applications. The amendments are considered to be in accordance with protocol, and it is therefore recommended that the Non-Material Amendments be approved.

Recommendation: Approve (subject to an informative regarding the substation roof design)

Decision Authorisation: **Delegated Powers**

Application Number: **2023/92838**

Report Dated:

31/10/2023
