

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: 2024/NM/90809/E

Site Address: Land Off, Sixth Avenue, Hightown, Liversedge, WF15 8LQ

Description: Non material amendment to previous permission 2019/93661 for erection of 10 bungalows

Recommending Officer: William Simcock

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.

Nick Hirst

AUTHORISED OFFICER

Date: 17-Aug-2026

Application no: 2024/90809

Application site: Land Off, Sixth Avenue, Hightown, Liversedge, WF15 8LQ

Proposal: Erection of 10 bungalows

Overview

The application seeks a non-material amendment to previous permission 2019/93661 for the erection of 10 no. bungalows.

The development is now externally complete, including the estate road, so it should be considered as a retrospective application.

The changes sought are indicated on the following plans:

Original plans:

- SIXTAV-WBA-NB-S1-ZZ-DR A PL104 (submitted with original application)
- R-2331-1B Landscape Masterplan (submitted with discharge of condition application 2022/93601)
- R-2331-2A Landscape Details (submitted with discharge of condition application 2022/93601)

New plans:

- SIXTAV-WBA-SI-ZZ-DR-A-20_1011-C5 - Site Plan
- R-2331-1D Landscape Masterplan 500@A1
- R-2331-2C Landscape Details 200@A1

The application form states that the reason for seeking the amendments is at the request of the Section 38 (Highways Adoption) team.

The version of the layout for which a NMA is being sought shows a footway extending along the eastern edge of the estate road as far as the beginning of the turning head, and the addition of two visitor parking bays. Both of these features were absent from the plans approved for planning purposes, which only showed a footway around the radius of the junction with the existing adopted highway.

It is noted that no landscaping scheme was submitted with the original application. Any changes to the details of the landscaping scheme (such as species mix and the number and locations of new trees planted) are outside the scope of this application since a Non-Material Amendment to a planning permission does not legally confer amendments to matters that have been subsequently approved under a discharge of condition application. The proposed Landscape Masterplan and Landscape Details will therefore be treated as indicative only and will not be assessed as part of this application.

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”

In addition, regard is given to 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?

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?
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?
3. In the Council's view would the amendment be contrary to any policy of the Council?

The NMA protocol also identifies that, in considering these tests, the following factors will be 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 e.g. by seeking to add a pitched roof to an extension described on the Notice as a 'flat roof' extension.
- The proposed change must not contravene any condition attached to the original permission.
- The proposed change should not require a further restriction to make it acceptable (e.g. an amendment seeking to introduce a window which would only be acceptable if it is kept obscurely glazed.)
- The proposed change would not result in any material increase in height, scale, width or depth of a building.
- The proposed change would have been likely to have been approved had it formed part of the original application.

Assessment

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

The proposed footway and parking bays are considered to represent improvements to road safety and it is accepted that these amendments were necessary to achieve approval for Section 38 purposes. A Provisional Certificate of Completion has been provided dated 03/10/2025 confirming that the road has been completed in a satisfactory manner and that it will be adopted 12 months from the date shown on the certificate. The proposed changes have no effect upon the scale, design or layout of buildings within the development.

It is therefore considered that the proposed changes are inconsequential in terms of scale.

In the Authority's view would the proposed change result in a detrimental impact either visually or in terms of living conditions?

It is considered that the changes to road layout would not compromise the potential for tree planting within the estate. The new footway and parking bays inevitably mean a small reduction in the amount of roadside landscaping that can be provided at the eastern margin of the estate road. This change is not considered to be material in its impact on visual amenity, either from the viewpoint of future residents or in its wider public impact, nor would it have any material impact upon the living conditions of future residents or any existing residential properties.

In the Authority's view would the interests of a third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Eight representations (all objections) were made on the original application. The matters raised as concerns can be summarised thus:

- Opposition to the principle of development (owing to the inadequacy of the existing highway network, loss of existing public open space, possible increased antisocial behaviour and vulnerability of the site to flooding);
- Concerns about loss of light, outlook and privacy;
- Concerns about the adequacy of the highway report;
- Lack of pre-application consultation.

It is considered that the changes shown do not raise any further issues that would lead to the interests of third parties being disadvantaged, particularly in view of the fact that the changes are being sought to satisfy highway safety requirements for adoption.

The proposed change would not result in any material increase in height, scale, width or depth of a building.

The plan shows no changes to plot sizes, curtilage boundaries, house types, or the position or orientation of any dwelling within its own plot.

In the Authority's view would the amendment be contrary to any policy of the Council?

It is considered that the changes would not be contrary to any policy of the Council.

It is therefore recommended that the changes shown on the submitted plans can be allowed as a minor non-material amendment.

Conclusion

It is considered that the proposed amendments would have been approved had they formed part of the original planning application. Officers do not consider the alterations to be material in nature and are satisfied that they do not alter the form, scale, character or environmental impacts of the permitted development. In accordance with Section 96A of the Town and Country Planning Act 1990 and the Council's adopted protocol for dealing with Non-Material Amendments, the proposed changes are considered to be non-material in scale and effect. They do not prejudice the interests of third parties, do not conflict with adopted planning policy, and do not require the imposition of additional planning conditions. On this basis, officers conclude that the proposed amendments are acceptable under the Non-Material Amendment procedure.

Recommendation: Approve NMA

Report dated: 17/08/2026

Recommended Decision Notice Text

This non material amendment applications seeks are amendments to the internal road design, following feedback from the council's S38 department.

The amendments are shown on drawings:

- SIXTAV-WBA-SI-ZZ-DR-A-20_1011-C5 - Site Plan
- R-2331-1D Landscape Masterplan 500@A1
- R-2331-2C Landscape Details 200@A1

I confirm that the alterations are acceptable and may be considered as a non-material amendment to the approved drawings.

It should be noted that this letter relates only to the non-material amendment sought and it is not a re-issue of the original planning permission. The two documents should be read together and as such, all conditions imposed on the original granting of planning permission apply to the proposal as now amended. A copy of this letter and the amended plans will be retained on the public record of approved documents.