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/91868/E**
Site Address:	Land off, Gernhill Avenue, Fixby, Huddersfield, HD2 2HR
Description:	Non-material amendment to previous permission 2018/92055 for erection of 252 dwellings and formation of vehicular access (as amended by variation permissions 2020/94397 and 2022/90964, and non-material amendments 2022/90287 and 2022/93969) to add solar panels to 63 plots
Recommending Officer:	Victor Grayson

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 15-Oct-2024

Officer Report

Site Description

The application relates to a development currently under way at allocated site HS12 (land bounded by Gernhill Avenue, public footpaths BRI/107/20 and BRI/119/10, Clough Lane and Lightridge Road). Work is well progressed at the site.

The application relates to 15 plots within phase 1 (the eastern part of the site) and 48 plots within phase 2 (the western part of the site).

Description of Proposal

Non-material amendment (NMA) to previous permission 2018/92055 for erection of 252 dwellings and formation of vehicular access (as amended by variation permissions 2020/94397 and 2022/90964, and non-material amendments 2022/90287 and 2022/93969) to add solar panels to 63 plots.

The affected plots are:

- Phase 1: plots 109, 113, 114, 115, 116, 117, 118, 119, 120, 121, 230, 231, 232, 233 and 234.
- Phase 2: plots 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 175, 176, 177, 178, 179 180 and 186.

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

- Proposed Solar Panel Layout (drawing 011) – phase 1 plots
- Proposed Solar Panel Layout (drawing 012) – phase 2 plots
- Aiko Neostar 2P Mono-Glass Module product sheet / specification
- Photograph of solar panels (received 14/10/2024)

The applicant also submitted 47 elevational drawings, showing solar panels to the roofs of the development's various house types. These drawings did not need to be submitted, and on 11/10/2024 the applicant confirmed that they could be disregarded.

Relevant Planning History

2018/92055 – Planning permission granted 15/07/2019 for erection of 252 dwellings and formation of vehicular access.

2020/94397 – Variation of conditions 2 and 3 granted 13/12/2023. Include changes to layout of phase 1.

2022/90964 – Variation of conditions 2 and 3 granted 21/04/2023. Included changes to layout of phase 2.

2022/90287 and 2022/93969 – Non-material amendments approved 29/07/2022 and 24/04/2023.

Discharge of conditions applications have been determined or are currently under consideration.

Consultation

No consultation is necessary in relation to NMA proposals.

Pre-application advice

No pre-application advice was sought or given specifically 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 remain 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 **– no such changes are proposed (other than a minor change to the profiles of the roof slopes to which solar panels would be installed, as the panels would stand proud of the roof slopes)**
- 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 addition of solar panels to the roofs of 63 of the development's dwellings is not considered problematic in aesthetic terms. Such installations are not unusual (including in Fixby).

Also of relevance, the installation of solar panels is (at many locations) permitted development (under Part 14 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015). Given this consideration, and the general support for renewable energy installations under current planning guidance, policies and legislation, the council is likely to have approved the proposed solar panels, had they been proposed under the original application.

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, 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: **2024/91868**

Report Dated: 14/10/2024