

**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/92939/E**

Site Address: Land at, Blue Hills Farm, Whitehall Road West,
Birkenshaw, BD11 2DU

Description: Non material amendment to previous Reserved
Matters approval 2022/91047 for development of 91
dwellings, pursuant to outline permission 2019/90527
(for erection of up to 127 dwellings, with details of
access)

Recommending Officer: Victor Grayson

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: 31-Jan-2025

Officer Report

Site Description

The application site is located on the northwest side of Whitehall Road West (the A58). It is allocated for residential development in the Local Plan (site allocation: HS93). Planning permission for residential development at the site has been granted, and works are under way.

Description of Proposal

Non-material amendment (NMA) to previous Reserved Matters approval 2022/91047 for development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access).

The proposed amendment is described on the submitted application form as: "Relocation of the electrical substation adjacent to plot 12". The reason for the amendment is given as "To satisfy asset owner easement standards".

Comparison between the previously-approved Site Layout (drawing 4035.20.105 rev Y, approved at Reserved Matters stage under application 2022/91047) and the Site Layout (drawing 4035.20.105 rev Z) submitted under this NMA application confirms that the electricity substation would be moved slightly eastwards, away from the curtilage of plot 12. It would still be accessed from the north. A boundary treatment would surround the substation.

No other electrical substations are proposed as part of phase 1 of the development.

Of note, only the amendments described in the submitted application form are to be considered under this application. Officers have not compared everything shown on the submitted drawing with what was previously approved to ascertain whether any other amendments (not listed above) have been illustrated. If there are indeed any such additional amendments, these would not be approved under this application, and a further amending application may need to be submitted in relation to them.

Relevant Planning History

2019/90527 – Outline permission granted 09/12/2019 for erection of up to 127 dwellings, with details of access.

2022/91047 – Reserved Matters approved 30/06/2023 for a development of 91 dwellings.

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

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 electricity substation would be moved, however its dimensions would not change**
- 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 result in a small increase in hard-surfaced area immediately to the north of the electricity substation, however this is considered to be so minor that there would not be a material adverse impact upon visual amenity and the street scene. Furthermore, the associated loss of soft landscaped surface would be so minor that compensatory planting or open space need not be secured elsewhere within the site.

The proposed moving of the substation enclosure would mean it would no longer be neatly located against the curtilage of plot 12, and an additional length of boundary treatment would be erected on the west side of the

substation. The visual impacts of these changes, however, are considered to be minor.

The proposed moving of the substation and its enclosure would not encroach into the forward visibility area shown in drawing 4035.20.104 rev H (approved under Discharge of Conditions application 2023/92089).

Given the above assessment, it is not considered that the proposed amendment would have a detrimental impact on visual amenity or living conditions, nor would it be detrimental to a third party. The amendment is considered to be in accordance with protocol, and it is therefore recommended that the Non-Material Amendment be approved.

Recommendation: Approve

Decision Authorisation: Delegated Powers

Application Number: 2024/92939

Report Dated: 31/01/2025

Decision Notice Text

The proposed amendment is described on the submitted application form as:

“Relocation of the electrical substation adjacent to plot 12”.

The reason for the amendment is given as:

“To satisfy asset owner easement standards”.

The Site Layout (drawing 4035.20.105 rev Z) submitted under this NMA application confirms that the electricity substation would be moved eastwards, away from the curtilage of plot 12. It would still be accessed from the north. A boundary treatment would surround the substation. No other electrical substations are proposed as part phase 1 of the development.

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.

Please also note that only the amendment described in the submitted application form has been considered under this application. If any other amendments (not listed above) have been illustrated in the submitted drawing, these are not hereby approved, and a further amending application may need to be submitted in relation to them.