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:	2025/NM/92574/E
Site Address:	Land Off, Westgate, Cleckheaton, BD19 5DR
Description:	Non material amendment to previous permission 2021/93567 for demolition of existing commercial buildings and erection of 180 dwellings with associated works
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.

Nick Hirst

AUTHORISED OFFICER

Date: 25-Nov-2025

Application: 2025/NMA/92574

Site: Land off, Westgate, Cleckheaton, BD19 5DR

Proposal: Non material amendment to previous permission 2021/93567 for demolition of existing commercial buildings and erection of 180 dwellings with associated works

Overview

The applicant proposes a number of minor amendments to the approved scheme. These include:

- a modest reduction to the rear garden of Plot 152 following minor boundary realignment,
- the splitting of a short row of terraces to create two smaller blocks, improving spacing and visual relief within this part of the layout,
- the enlargement of rear gardens to Plots 58 and 69, enhancing private amenity space,
- A revised house-type variant is introduced on selected plots, remaining fully within the approved scale and massing parameters,
- The refuse collection points serving Plots 28–32 are repositioned closer to the road to improve operational access for waste services while maintaining appropriate screening, and in addition,
- 27 dwellings will be delivered to the Part M4(2) accessible and adaptable standard, increasing the overall accessibility of the development.

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. Is the proposed change inconsequential in terms of its scale (magnitude, degree… etc) in relation to the original approval? If so, then three further tests need to be applied as follows:
2. In the Authority’s view would the proposed change result in a detrimental impact either visually or in terms of living conditions?
3. 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?

4. In the Authority'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.

These tests are considered, as follows:

<u>1. Is the proposed change inconsequential in terms of its scale (magnitude, degree... etc.) in relation to the original approval?</u>

YES, officers are satisfied that the proposed changes, both individual and cumulative (including cumulative with other NMAs approved previously) would be inconsequential, in terms of scale, to the original approval.

The proposed changes would not cause the development to fall outside the scope of the approved description of development.

No dwelling would be materially increased in size / scale. Plot 58 and 59'ss gardens would be increased in size, however, the increase in inconsequential, with the land in question being an odd leftover thin finger, the incorporation of which is a logical betterment.

<u>2. In the council's view would the proposed changes result in a detrimental impact either visually or in terms of living conditions?</u>

NO, The amendments proposed would improve the development in using land within the site more efficiently, where relevant and altering the house types to be more sustainable and accord with Building Regulations. There would be no detrimental impact either visually or in terms of living conditions.

In regards to the changes to the retaining wall of Plot 52, it is acknowledged by officers that concerns (submitted separate to this NMA application) have been raised in regards to this retaining wall, both in terms of its visual impacts and perceived impact on the amenity of nearby residents. Nevertheless, the

proposed change is a direct reduction, taking the ‘corner’ of the wall away from Quarry Road. This will shift the retaining wall to running 90degrees from Quarry Road, reducing both the amount of wall fronting onto Quarry Road and the maximum height of the wall (with the lowest corner having been the highest point, as approved). A retaining wall was proposed on the south boundary, adjacent the commercial business; the result of this change is that the wall will still be there, but set back from the original layout.

The remainder of the retaining wall along Quarry Road would be unaffected by the proposal, i.e., its height and design would not change. Given this, while the wider concern of this wall is noted, officers consider this change would be a neutral, potentially viewable as a betterment, compared to that approved. Therefore, the change would not materially prejudice those who have expressed concerns.

The splitting of the terrace row plots 159-162 to two semidetached blocks raises no concerns. The plots are away from the site boundary, not affecting third parties, nor would the layout alteration materially affect the relationship between the plots and those adjacent to them. Visually the difference would be minimal, while having access benefits for future occupiers.

The change to gardens of plots 58 and 59 would have no materially different implications on any material planning consideration.

The plot substitution of the three Strata bungalows (MYA-205) to Thirteen Group’s bungalow (HT2A) is stated to “*provide the same number of bedrooms and differs only slightly in floor area to the Strata Type previously approved so the footprint is the same”* as such will not result in any material increase in height, scale width or depth of any dwelling, and the visual differences are non-material to the scope of the original proposal.

Various amendments are sought which would change plots 23-25, 27, 29-30, 32-34, 41-42, 47-53, 59-61, 68, 72-73, 80, 82-84, 89-90, 100, 114, 127- 128, 173-174 (27 total units) to be delivered as Part M4(2) dwelling. Internal layout changes to these dwellings raise no concerns. External works are:

- The bin collection point serving Plots 28 – 32 has been moved closer to the adoptable road in order to accommodate the 3.3m wide parking bay serving Plot 28. The pathway serving Plot 28 has been realigned to accommodate this.
- Plots 49 and 50 have been moved north by 0.5m to allow for the 3.3m wide parking bay serving Plot 50.
- The rear shared pathway serving Plots 60 and 61 has been increased to 1.2m in width. In order to accommodate this, Plots 62 and 63 have shifted west by 0.3m.

None of the above changes would have material implications for visual amenity or residential amenity (inc. existing and future residents), nor prejudice any of the comments or assessments made at application stage.

3. 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. Please see the above comments regarding the retaining wall on Quarry Road.

Officers consider that none of the other changes would materially prejudice or disadvantage any previously interested party, either consultee or representative.

4. In the council's view would the amendment be contrary to any policy of the council?

No, officers consider that the amendments would not be contrary to any policy of the council. Furthermore, no new and/or amended conditions are considered necessary to make the development, as proposed, to be acceptable or comply with any given policy. A note reminding the application that all conditions imposed on the original proposal is recommended on the decision notice, if minded to approve.

It would result in the:

- previously approved drawing, site layout drawing ref: BY00099-STH-B01-XX-DR-A SL001 Rev: O, being replaced by the proposed plan: Site Layout ref: BY00099-STH-B01-XX-DR-A SL001 Rev: T,
- approved house type MY A-205 (Dwg: 100) being replaced by the proposed plan titled: HT2A – Planning Drawing (Dwg: BY00099-P1-01-A2),

the applicant has also clarified the following:

"Westgate Cleckheaton External Works Sheet 1 (Dwg: QD1776-04-01 Rev: I) is an additional plan.

- *External works were not listed as an approved plan as part of the Full Planning Application (ref: 2021/62/93567/E). The external works were submitted as part of a discharge of condition application for condition 14 via ref: 2024/91942. This application was approved in October 2024 and approved the plan titled 'Westgate Cleckheaton External Works Sheet 1 (Dwg: QD1776-04-01 Rev: G).*
- *This application therefore provides the external works as an additional plan.*

Westgate Cleckheaton External Works Sheet 2 (Dwg: QD1776-04-02 Rev: J) is an additional plan.

- *Similar to the above, condition 14 approved the external works plan titled: Westgate Cleckheaton External Works Sheet 2 (Dwg: QD1776-04-01 Rev: F).*
- *This application therefore provides the external works as an additional plan."*

Conclusion

It is likely that the proposed changes would have been approved had they formed part of the original application. Officers do not consider the proposed alterations to be material in nature. The desired amendments are not considered to affect other material planning considerations. No new conditions are considered necessary to make the proposed amendment acceptable, nor would any consultee or representative involved in the initial applicant be unduly prejudiced by the change.

The development has been subject to previous non material amendments under application reference 2024/93247 and 2025/91252. There are no concerns regarding cumulative impact from the amendments as a whole, which are considered insignificant. Having regard to the previous changes made under this section, on the planning permission as originally granted, together with the now proposed non material amendment, collectively these amendments do not alter the form, character or impacts of the permitted scheme and are considered acceptable as non-material amendments.

On the basis of the above, while considering the council's Protocol for dealing with non-material amendments, giving weight to the purpose of NMA applications, the proposed changes would be acceptable under the non-material amendment procedure.

Recommendation: Approve NMA

Report Dated: 14/11/2025

Proposed Letter Text

The non material amendment seeks the following alterations:

- Alteration to rear garden and retaining wall of Plot 152 following minor boundary realignment,
- the splitting of the terrace row of plots 159-162, to create two semi-detached pairs
- the enlargement of rear gardens to Plots 58 and 69, enhancing private amenity space,
- A revised house-type variant is introduced on selected plots, remaining fully within the approved scale and massing parameters,

- The refuse collection points serving Plots 28–32 are repositioned closer to the road to improve operational access for waste services while maintaining appropriate screening, and in addition,
- 27 dwellings will be delivered to the Part M4(2) accessible and adaptable standard, increasing the overall accessibility of the development.

The amendments are shown on drawings:

- Site Layout ref: BY00099-STH-B01-XX-DR-A SL001 Rev: T,
- HT2A – Planning Drawing ref: BY00099-P1-01-A2

Additional drawings:

- *Westgate Cleckheaton External Works Sheet 1- ref: QD1776-04-01 Rev: I*
- *Westgate Cleckheaton External Works Sheet 2- ref: QD1776-04-02 Rev: J*

You are reminded that this Non-Material Amendment decision notice sits alongside and should be read with the original application's decision notice. The new details are subject to the originally imposed conditions.