

Planning and Development Service

Kirklees Council

PO Box 1720

Huddersfield

HD1 9EL

FAO Elenya Jackson

22/10/25

OBJECTION to application 2025/NMA/92783/E

Dear Ms Jackson,

Further to the above application, the matters referred to **are not non-material amendments** to previous permission 2024/93227 for variation condition 2 (plans) on previous permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings.

I OBJECT to application 2025/NMA/92783/E on the following grounds:

1. FUNDAMENTAL FAILURE OF SECTION 96A TEST

The proposed amendments are MATERIAL not non-material and fail the statutory test under Section 96A of the Town and Country Planning Act 1990. The Local Planning Authority cannot lawfully approve these changes under the non-material amendment procedure.

2. REMOVAL OF CHIMNEYS IS MATERIAL

- Chimneys were explicitly specified as design features in the approved Design & Access Statement: "***A chimney to add visual detail to the roofscape***"
- Represents a material change to external appearance and roofscape
- Highly significant in conservation area context adjacent to Grade II listed War Memorial. All properties in the vicinity of this proposed development have chimneys.
- The Heritage Assessment identified chimneys as "***important features of the skyline and roofscape***" and stated that "***original chimneys and pots add symmetry to and emphasis the roofline***"
- Removal is contrary to the heritage-led design approach specifically approved by the Planning Inspector

3. REMOVAL OF SEPARATION DISTANCES SHOWN ON APPROVED PLANS IS HIGHLY MATERIAL AND AFFECTS ME DIRECTLY

- Planning Inspector's decision (paragraph 18) specifically relied on separation distances to protect neighbour amenity, stating: ***"Having regard to the separation distances... the proposal would not have a materially harmful effect on the living conditions of nearby residents"***
- The Inspector explicitly referenced Kirklees SPD standards and concluded NO HARM because of the approved distances
- Removing required distances, or worse if these distances were to be reduced would **DIRECTLY AFFECT MY RESIDENTIAL AMENITY** through:
 - Increased overlooking and loss of privacy to my property
 - Reduced outlook from my windows
 - Potential overbearing impact and loss of light
- Contrary to Kirklees SPD minimum standards (21m between habitable rooms / 12m habitable to non-habitable)
- Contrary to Policy LP24 requirement for ***"appropriate distances between buildings"*** and ***"minimise impact on residential amenity"***

4. THIRD PARTY IMPACT DISQUALIFIES NON-MATERIAL STATUS

Kirklees Council and Planning Portal guidance clearly state:

"Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way? If YES then the matter cannot qualify as a non-material amendment."

- I participated in the original decision process as neighbouring objector
- I am directly harmed by the potential for reduced separation distances
- Material changes affecting neighbours require proper consultation via Section 73, not the discretionary Section 96A process
- This alone disqualifies the application as non-material

5. BREACH OF CONDITION 2

Condition 2 requires compliance with approved Plans including elevations, sections and drainage layout.

Condition 2 states:

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan - 19.157.101; Proposed Site Layout - 19.157.104B; North and West Facing Elevations - 19.157.105; South and East Facing Elevations - 19.157.106; Ground and First Floor Plans - 19.157.107; Front and Rear Elevations - 19.157.108; Section A - 19.157.109; Section B - 19.157.110; House Type B Floor Plan - 19.157.111; House Type B Elevations - 19.157.112; House Type B Elevations - 19.157.113; Sections - H20017-260 P4; Drainage Layout H20017-200 P4.

- The approved plan showed chimneys and specific separation distances
- Removing these features breaches Condition 2
- Variations to conditions requiring plan compliance are **MATERIAL** changes

6. UNDERMINES THE PLANNING INSPECTOR'S DECISION

- The Inspector allowed the appeal based on design quality (including chimneys) and separation distances
- Removing these features negates the factual basis for the approval
- Creates a development the Inspector may not have approved
- Circumvents the proper planning process to avoid consultation and potential refusal

7. CUMULATIVE EFFECT IS MATERIAL

- Section 96A(2) requires consideration of cumulative changes
- Multiple changes (chimneys + separation distances + any others) are cumulatively MATERIAL
- Creates a development fundamentally different from the approved scheme

8. FAILS ALL NON-MATERIAL AMENDMENT TESTS

Planning Portal and LPA guidance state changes are NOT non-material if they:

- ✗ Materially alter external appearance - YES (removal of chimneys affects roofscape)
- ✗ Locate development closer to neighbour - YES (reduced separation distances)
- ✗ Increase overlooking - YES (to my property)
- ✗ Greater visual intrusion to neighbours - YES
- ✗ Third party disadvantaged - YES (me, directly)
- ✗ Affect objections to original proposal - YES (amenity and heritage concerns)
- ✗ Contrary to planning policy - YES (Policy LP24, Kirklees SPD, conservation principles)

The application fails EVERY test for non-material status.

CONCLUSION

These changes are MATERIAL and require a Section 73 application with:

- Proper neighbour consultation (including me)
- Full policy assessment against development plan
- Consideration of amenity harm to me as affected neighbour

I REQUEST that Kirklees Council:

1. REFUSE this non-material amendment application on grounds that the proposed changes are MATERIAL and cannot lawfully be approved under Section 96A
2. REQUIRE the developer to:
 - Submit a Section 73 application for proper assessment with neighbour consultation, OR
 - Restore the development to comply with the Inspector-approved plans (Condition 2), OR
 - Submit a retrospective full planning application
3. CONSIDER ENFORCEMENT ACTION if the developer goes ahead with proposed changes and development built contrary to approved plans

The proposed changes directly harm my protected residential amenity interests as recognised by the Planning Inspector at paragraph 18 of the appeal decision. They cannot lawfully be approved under the Section 96A non-material amendment procedure and must be refused.

In addition, in the attached document I highlight other matter of concern with this application.

Yours Faithfully

Encls. Supporting Documents to Reference below

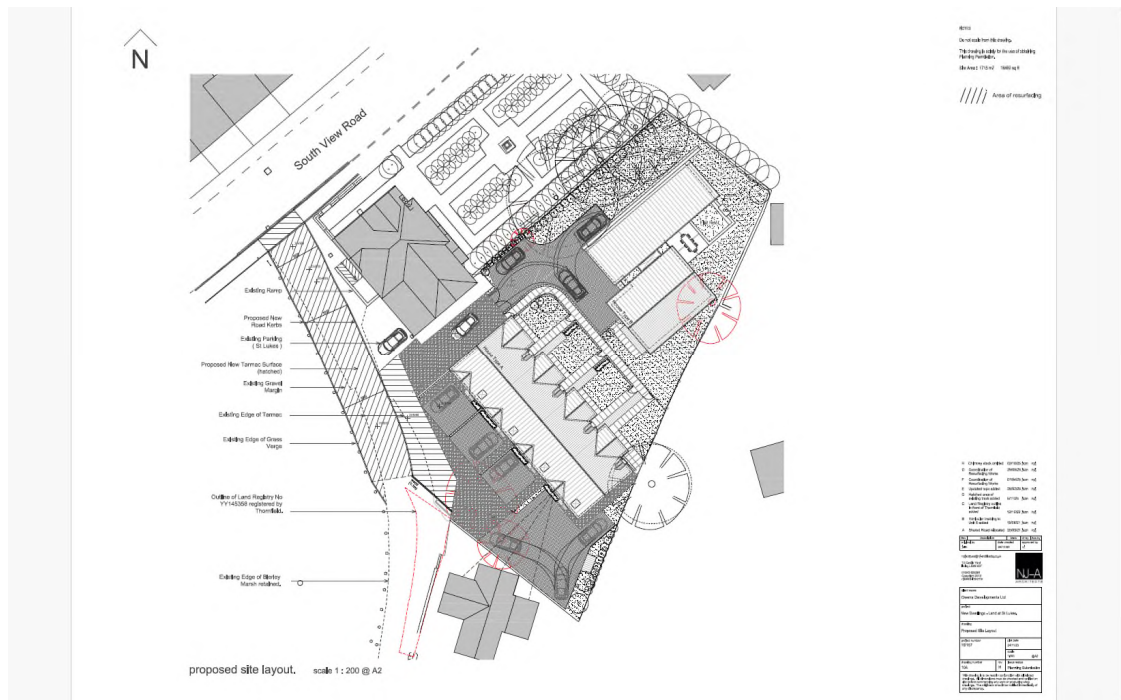
Supporting Documents to Reference:

When submitting your objection, reference these key documents:

1. Planning Inspector's Appeal Decision (APP/Z4718/W/21/3289729 dated 20 July 2022)
 - Paragraph 18 (separation distances)
 - Condition 2 (approved plans requirement)
2. Approved Plans
 - Plan 19.157.104B (Proposed Site Layout showing separation distances)
 - Elevation plans showing chimneys
3. Design & Access Statement (2020/94345)
 - Statement about chimneys as design features
4. Heritage Assessment (2020/94345)
 - References to chimneys' importance in conservation area
5. Kirklees House Extensions & Alterations SPD
 - Pages 11-12 (separation distance standards: 21m / 12m)
6. Kirklees Local Plan Policy LP24
 - Requirements for appropriate distances and amenity protection

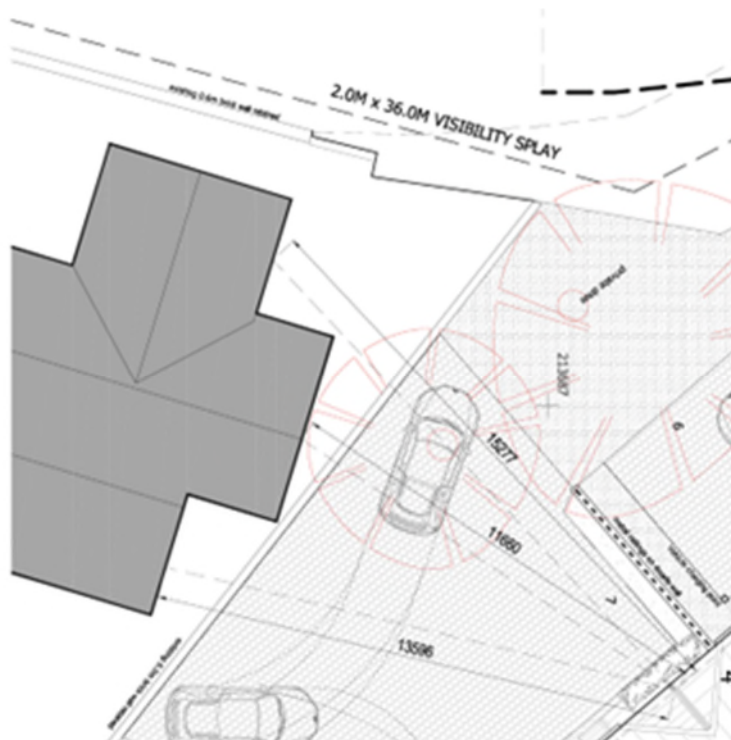
These documents prove that the changes are material and that the Inspector specifically relied on the features in making his decision.

Below are further comments relating to lack of and incorrect detail on the developers revised plan, below, submitted with application 2025/92783, which needs addressing before this application can be approved:



Above Plan - Errors and Omissions:

Plan does not show separation distances:



The plan refers to a 1.1m wood fence, - if this is my existing fence (now [repeatedly] vandalised) it is shown in the wrong position. The fence extends from the line of my boundary, continuing from existing wall – **correction required**

Plans do not show a 600mm hardstanding to the proposed road on the south/western side of the proposed access road. This requirement is stipulated in Kirklees Highways Design Guide SPD, along with other requirements, incl. drainage shown on approved plans:

Extracts from Kirklees Highways Design Guide SPD:

Table 1: Summary of Residential Street Types

Title	Residential Connector Street (Type A)	Local Residential Street (Type B)	Shared Surface Street (Type C)
Potential number of dwellings	300 - 700	200 - 300	An amount generating no more than 100 VPH
Alignment	Curvilinear	Curvilinear/angular	Angular with alignment shifts
Design speed	25 mph	20 mph	15 mph
Speed restraint feature separation (Maximum)	100m	60m	40m
Forward visibilities	33m	25m	23m
Centreline radius (Minimum)	35m	20m	Based on vehicle tracking
Typical Cross-section	2m footway - verge - carriageway - verge - 2m footway	2m footway - carriageway - 2m footway	hard margin - carriageway - hard margin
Carriageway width	6.75 metres	5.5m	5.5m
Crossfall	Balanced either side of centreline	Uniform fall across carriageway	Uniform fall across carriageway
Pedestrian provision	Segregated (typical kerb check 100mm)	Segregated (typical kerb check 30mm - 100mm)	Shared surface (inc. semi-shared with 30mm kerb check footway)
Verges	1.2m grassed verge between footway and carriageway on both sides	Desirable	0.6m wide hard margin on both sides (except where a footway is provided)
On-street parking	On-street parking to be provided by laybys and/or localised carriageway widening	On-street parking to be provided by laybys and/or localised carriageway widening	On-street parking to be provided by laybys and/or localised carriageway widening

3.14 Street Type C (Shared Surface Streets):

This street type has shared surfaces (for pedestrians and motor vehicles) and is designed to accommodate slower speeds, which should be self-enforcing through good design. Pedestrians can safely share the whole street with vehicles; however, designated pedestrian routes may still be required for more vulnerable users within the context and nature of the development, for example older people, people with disabilities and those with children. It is more appropriate if shared surfaces have different surfacing to Type A and B streets (e.g. block paving) and incorporate different surface materials to delineate the different functions of the highway at different points. Street tree planting can also be incorporated within shared surfaces to break up large swathes of hard surfacing. Care should be taken to coordinate street lighting and street tree planting locations to ensure

KIRKLEES
HIGHWAY DESIGN GUIDE

Adopted on 04/11/19

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STREETS

that shared surfaces are adequately lit and that trees do not conflict with on-street car parking provision as they grow.

3.15 Private 'Non-Adopted' Streets or Shared Driveways:

New development serving more than five dwellings (or any existing private road which will serve more than five dwellings after completion of new development) should be laid out to an adoptable standard and be able to be offered for adoption. The council does not normally adopt developments of five dwellings or fewer.

3.16 Developments (in excess of five dwellings) with appropriate layouts may be considered acceptable to be served by private driveways under certain conditions. These are outlined below:

- The developer agrees (with the council) the principle of the roads remaining private.
- The developer agrees the long-term maintenance programme for the highway infrastructure.
- The developer agrees how the entrance to the private development is to be defined on site.
- The highway infrastructure is designed and constructed to an appropriate standard, commensurate with the guidance provided for an adoptable standard.

3.17 Whilst private streets and drives can often deliver a higher standard of materials than may be achievable with an adopted street, the following potential implications should still be taken into account:

- future maintenance liabilities
- public liabilities

- street cleansing
- access for refuse collection vehicles, communal bin stores, individual bin presentation points
- grit bin provision
- drainage
- lighting
- the council has no powers under the Highways Act
- the police has no powers to remove obstructions.

3.18 **6** **KEY DESIGN DRIVER**

To ensure that residents can access their properties, a private drive serving five dwellings or fewer should be a minimum of 4.5m wide (5.0m wide if there are structures along its initial length for example walls) for the first 5.0m of its length. This will allow vehicles to turn in and turn out. Carriageway widths after that point should be designed to respond to built form and operational requirements.

3.19 The horizontal alignment and need for passing places should be based upon practical requirements and vehicle tracking where necessary. It should be noted that a refuse vehicle needs to be able to get within 25m of all drive-ends or communal storage locations and a fire tender needs to be able to get within 45m of all rear dwelling entrances. If these distances cannot be achieved, on-site turning facilities may be needed if other mitigation measures are not in place.

Industrial and Commercial Developments:

3.20 To be acceptable for adoption by the council, industrial and commercial estate roads should be designed to comply with the following range of requirements or provide justification on not being able to meet the guidelines as set out in Table 2:

Drainage detailing as Approved Plans:



Further Concerns Built Up Ground Levels and Boundary Treatment

It would appear (TBC) that the developer has increased the ground levels, compared with the original, as survey, possibly to assist with site drainage (*). As well as increasing loading on my 90yr+ old retaining wall on my northern boundary, this will increase overlooking and loss of privacy on my back garden. Also, vehicle movement so close to my wall and rear lounge will cause Harm and Nuisance, noise, air pollution, lights.

As the requirement of condition 33 Kirklees and the developer were supposed to agree appropriate Boundary Treatment, which appear not to have been done. Conditions state:

33. In the interests of living conditions of neighbouring residents as well as the character and appearance of the area, details of the boundary treatments and bin collection point are necessary.

14) No above ground construction work shall be undertaken until details of the boundary treatment of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority.

18.....The appearance and location of the boundary treatment could be finalised as part of a condition to ensure that it would not have a dominating effect on outlook from adjoining properties.

(*) I have asked for details of site drainage, due to issues with surrounding gardens flooding and possible further impact the development may have, but none have been forthcoming.