

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/92784/W

Site Address: Penistone Road/, Rowley Lane, Fenay Bridge,
Huddersfield, HD8 0JS

Description: Non material amendment to previous permission 2024/90058 for reserved matters application, including the considerations of appearance, scale, layout, and landscaping, for the erection of 67 dwellings, pursuant to outline permission 2020/92307 for the erection of residential development (up to 75 units) and the discharge of outline conditions 7 (archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment)

Recommending Officer: Katie Chew

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: 16-Oct-2025

Application: 2025/92784

Application Site: Penistone Road/Rowley Lane, Fenay Bridge, Huddersfield, HD8 0JS

Description of Proposal

The application seeks a non-material amendment to previous permission 2024/90058 for reserved matters application, including the considerations of appearance, scale, layout, and landscaping, for the erection of 67 dwellings, pursuant to outline permission 2020/92307 for the erection of residential development (up to 75 units) and the discharge of outline conditions 7 (archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (Arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment).

The proposed amendments are as follows:

- Updated house types (Avocado and 2B3P), which include a larger window on the ground floor front elevation and revised internal layout.

The proposed amendments are illustrated in the following drawings/documents:

- Covering Letter, received 07/10/2025.
- Planning Layout, Drawing No. 102, Rev M, received 07/10/2025.
- The Avocado End – Semi Elevations, M4(2), Rev V2, received 07/10/2025.
- The Avocado End – Single Elevations, M4(2), Rev V2, received 07/10/2025.
- The Avocado End (Floor Plans), M4 (2), received 15/10/2025.
- 2b3p End – Semi Elevations, M4(2), Rev V2, received 07/10/2025.
- 2b3p End – Single Elevations, M4(2), Rev V2, received 07/10/2025.
- 2b3p Mid - Terrace Elevations, M4(2), Rev V2, received 07/10/2025.
- 2b3p End (Floor Plans), M4 (2), received 15/10/2025.

Relevant Planning History

Application Site

2020/92307: Outline application, including the consideration of access, for erection of residential development (up to 75 units) – Approved 15/12/2023.

2024/90058 – Reserved Matters application, including the considerations of appearance, scale, layout, and landscaping, for the erection of 67 dwellings, pursuant to outline permission 2020/92307 for the erection of residential development (up to 75 units) and the discharge of outline conditions 7

(archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment). Approved 12/06/2025.

2024/90272 – Discharge conditions 17 and 18 (Geo-environmental Ground Investigation, phase 1 and 2) on previous permission 2020/92307 for outline application, including the consideration of access, for erection of residential development (up to 75 units). Approved 01/07/2025.

2024/90750: Discharge conditions 27 (Rowley Lane junction arrangements), 28 (Rowley Lane footway), 29 (Rowley Lane/Penistone Road junction improvements) on previous permission 2020/92307 for outline application, including the consideration of access, for erection of residential development (up to 75 units). Pending consideration.

2025/90610 - Discharge of details reserved by conditions 22 (CEMP), 30 (internal estate roads) on previous permission 2020/92307 for outline application, including the consideration of access, for erection of residential development (up to 75 units). Split Decision 17/09/2025.

2025/90689 - Discharge of details reserved by conditions 16 (temp drainage), 25 (retaining walls), 26 (surface water attenuation pipes), 31 (road network) on previous permission 2020/92307 for outline application, including the consideration of access, for erection of residential development (up to 75 units). Split Decision 01/10/2025.

2025/91757 – Discharge of details reserved by condition 8 (materials (dwellings)) and condition 9 (retaining wall materials) on previous permission 2024/90058 for reserved matters application, including considerations of appearance, scale, layout, and landscaping, for erection of 67 dwellings, pursuant to outline permission 2020/92307 for erection of residential development (up to 75 units) and discharge of outline conditions 7 (archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment). Approved 07/10/2025.

2025/91845 – Discharge of details reserved by conditions 5 (floor levels and ground levels details), 6 (retaining wall scheme) and 10 (western retaining wall) on previous permission 2024/90058 for reserved matters application, including considerations of appearance, scale, layout, and landscaping, for erection of 67 dwellings, pursuant to outline permission 2020/92307 for erection of residential development (up to 75 units) and discharge of outline conditions 7 (archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment). Split Decision 23/09/2025.

2025/91911 – Non material amendment to previous permission 2024/90058 for reserved matters application, including considerations of appearance, scale, layout and landscaping, for erection of 67 dwellings, pursuant to outline permission 2020/92307 for erection of residential development (up to 75 units) and discharge of outline conditions 7 (archeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (Arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment). Approved 24/07/2025.

2025/92125 – Variation of condition 8 (materials (dwellings)) on previous permission 2024/90058 for Reserved Matters application, including the considerations of appearance, scale, layout and landscaping, for the erection of 67 dwellings, pursuant to outline permission 2020/92307 for the erection of residential development (up to 75 units) and the discharge of outline conditions 7 (archaeology), 8 (foul and surface water drainage strategy), 9 (flood routing), 10 (mitigatory tree planting), 11 (cycle parking), 12 (Arboricultural assessment), 13 (Ecological Design Strategy), 14 (Ecological Impact Assessment) and 15 (noise impact assessment). Pending consideration.

2025/92464 – Discharge of details reserved by condition 33 (travel plan) and 36 (waste collection) on previous permission 2020/92307 for outline application, including the consideration of access, for erection of residential development (up to 75 units). Pending consideration.

Surrounding Area

Land at Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW (Housing Allocation HS1)

2020/90725: Erection of 68 dwellings with associated access, parking and open space (revised plans) – Full permission granted.

2022/93154: Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) – Approved 02/07/2024.

2022/94050 – Non material amendment to previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans) – Approved 10/05/2023.

2025/91468 – Non material amendment to previous permission 2022/93154 for erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) – Approved 30/05/2025.

Land off Hermitage Park, Lepton, Huddersfield, HD8 0JU (Housing Allocation HS2)

2022/91735: Outline application for erection of 80 dwellings and associated work, including the considerations of access, layout, and landscaping – Granted.

2025/90105: Variation of conditions 6 (PROW), 9 (boundary treatment), 38 (bin collection), 40 (car parking) and 41 (access) of previous outline permission 2022/91735 (with access and layout) for the erection of 80 dwellings and associated work – Approved 29/08/2025.

2025/92242 – Reserved Matters application (including consideration of appearance, scale and landscaping) for the erection of 80 dwellings, pursuant to Section 73 approval 2025/90105 pursuant to previous outline permission 2022/91735, and the discharge of conditions 6, 7, 8 and 9. Pending consideration.

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. The location of the window will not change it will simply increase slightly in size in accordance with the revised house type.**

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. The revised window size is considered to be located sympathetically within the dwelling to ensure it would not detrimentally impact on visual or residential amenity. It would not result in new instances, or intensify, the potential for overlooking. The internal layout is also similar to what was previously approved.

1. 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. The windows within the front elevations of house types of Avocado and 2B3P were not of specific interest to any third party

involved during the course of the original application. Whilst it is acknowledged that Reliance Gear Ltd did raise concerns over potential noise amenity concerns given the nature of their business, this is considered to be covered by the discharge of Condition 7 of application ref: 2024/90058 which is still awaiting discharge. Therefore, the newly proposed house types and their windows would need to be assessed and suitable mitigation be secured under that discharge of condition application, when submitted. The increase in size of the window would not prohibit suitable details coming forward as part of a DOC for condition 7 (this has been informally verified via K.C. Environmental Health, who confirm that the larger window size would not prohibit this).

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

NO. The proposal is deemed to adhere to all relevant policies.

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, the proposal would not contravene any planning conditions attached to the original decision.**
- 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 changes are proposed to the overall height, scale, width or depth of any of the buildings.**
- The proposed changes would have likely been approved had it formed part of the original application – **It is likely that that proposed changes would have been approved had they formed part of the original application.**

The proposed changes are considered to be minor amendments which raise no significant concerns in relation to planning matters (including residential amenity and design/streetscape considerations). The change in size of the ground floor front elevation window and reorientation of the internal layout within house types Avocado and 2B3P are not considered to significantly alter the core characteristics of the previously approved design and would be of a similar appearance to the originally approved windows within the front elevation of these dwellings. Overall, the character and aesthetic design, of the originally approved scheme is considered to be retained.

Conclusion

Given the above assessment, it is not considered that the proposed amendments would have a detrimental impact on visual amenity, nor would they be detrimental to a third party. The amendments are considered to be in accordance with protocol, and it is therefore recommended that the non-material amendment be approved.

Recommendation: Approve NMA

Decision Authorisation: Delegated Decision

Application Number: 2025/92784

Report Dated: 15/10/2025

Decision Letter Text

The proposed amendments are identified as follows:

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I can confirm that the proposed alterations, as outlined above, 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.