

**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/93370/W

Site Address: adjacent, Britannia Road, Golcar, Huddersfield, HD3
4QB

Description: Non material amendment to previous permission
2021/92062 for erection of 9 dwellings and associated
works

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: 04-Feb-2026

Application: 2025/93370

Application Site: Adjacent, Britannia Road, Golcar, Huddersfield, HD3 4QB.

Description of Proposal

The application seeks a non-material amendment to previous permission 2021/92062 for erection of 9 dwellings and associated works.

The proposed amendments are as follows:

- Modifications to the previously approved retaining and boundary walls to accurately reflect the correct site levels.
- Revision of boundary walling agreed under AIP approval.

Amendments have been sought to replace the majority of originally approved retaining walls with batters in the rear gardens of plots. A retaining wall is shown to be provided to the south of the main batter which runs along the northern boundary of the site.

Plans have also been submitted which show details of boundary treatments. These details are required to be discharged under Condition 14 of previous planning permission 2021/92062.

The proposed amendments are illustrated in the following drawings:

- Proposed Site Plan & Boundary Elevations, Drawing No. 100, Rev B, received 08/12/2025.
- Proposed Site Sections, Drawing No. 101, Rev B, received 08/12/2025.
- Boundary Treatment Details, Drawing No. 102, Rev C, received 08/12/2025.
- Proposed Site Location Plan, Drawing No. 106, received 08/12/2025.

Relevant Planning History

2025/91452 – Discharge of details reserved by condition 10 (drainage) on previous permission 2021/92062 for erection of 9 dwellings and associated works. Approved 21/08/2025.

2024/90576 – Discharge of condition 13 (noise impact assessment) of previous permission 2021/92062 for erection of 9 dwellings and associated works. Approved 28/03/2024.

2024/90237 – Discharge of conditions 3 (construction environmental management plan), 4 (public right of way), 5 (retaining walls), 6 (Phase II Report), 7 (Remediation Strategy), 9 (Remediation Validation Report) and 18 (Japanese Knotweed) of previous permission 2021/92062 for erection of 9 dwellings and associated works. Split decision 21/11/2025.

2024/90236 – Discharge of conditions 11 (ecology design strategy), 12 (external facing materials) and 14 (boundary treatments) of previous permission 2021/92062 for erection of 9 dwellings and associated works. Split decision 26/11/2025.

2024/90235 – Discharge of condition 10 (drainage) of previous permission 2021/92062 for erection of 9 dwellings and associated works. Refused 19/09/2024.

2021/92062 – Erection of 9 dwellings and associated works. Approved 11/05/2023.

2018/91018 – Outline application for erection of residential development. Refused 26/06/2018. Appeal upheld 04/04/2019.

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 proposed amendments to the boundary treatments and layout and levels of rear gardens of plots are not considered to detrimentally change the scale of development in terms of magnitude or degree, when compared to the original approval.

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. Whilst the proposed changes would result in lesser grassed areas for future occupiers of the dwellings, the level of amenity space provided to the rear of the plots is still considered to be reasonable given the size of the dwellings. In addition to this, the provision of a stone wall boundary to the east, is considered to be preferable to the originally suggested close boarded timber fencing, from a visual perspective. Also, due to the large separation distances between adjacent properties, and given the sloped nature of the garden towards the northern boundary, making this area of land less user friendly, this

may result in an improvement to residential amenity, when compared to the arrangement 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. Changes to the levelling of the gardens to the rear of plots would not result in any increased overlooking/overbearing impacts, it would simply replace some of the retaining boundary treatments with batters. The boundary treatments proposed to the front and rear are also similar to those approved under the original application. Changes proposed to the side boundary treatments would not impact on any neighbouring properties amenity and would result in a more sturdy and less dominating boundary treatment along the eastern boundary of the site.

Given the changes reflect amended designs that have been reached in conjunction with K.C. Highways via the AIP process, there are no concerns that the changes to means of retention would prejudice them.

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

This application seeks modifications to the previously approved retaining and boundary walls to accurately reflect the correct site levels, and a revision of boundary walling which has now been agreed under AIP approval. These changes would require Condition 14 of the original approval to be discharged. Given that the details submitted within this NMA application are deemed to directly comply with the requirements of condition 14 and those details are considered acceptable, it is deemed reasonable that the wording of Condition 14 be amended to a compliance condition, outlined below:

- 14. Boundary treatment and treatment of retaining walls (i.e. facing materials) throughout the site shall be undertaken in accordance with hereby approved drawing nos. 100, Rev B, 101, Rev B and 102 Rev C,*

received 08/12/2025. The front boundary wall, adjacent to Britannia Road, shall not exceed 1.0m in height. The dwellings shall not be occupied until the works comprising the approved scheme have been completed and thereafter retained for the lifetime of the development.

***Reason:** In the interests of visual and residential amenity, in the interest of preserving the heritage value of adjacent heritage assets, and in the interest of ensuring appropriate vehicle sightlines, in accordance with Policies LP21, LP24, and LP35 of the Kirklees Local Plan.*

The Council's Protocol for dealing with non-material amendments references changes to conditions as being unlikely to be non-material. However, the Protocol makes it clear that it is guidance only, not formal rules. Each NMA application must be assessed against its own merits and all relevant circumstances considered. Section 96A of the Town and Country Planning Act 1990, which confers the power to make non-material changes to planning permissions, includes the following:

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions

Therefore, subject to the change in condition not being material, in principle it is possible to change a condition via an NMA application.

In this instance, Officers do not consider amending the wording of a condition to a compliance condition, given the suitable details provided, to result in a material change in the condition. It is not considered that such a change would result in any negative impacts on residential or visual amenity, and no third parties would be disadvantaged by such a change.

The above amended wording of the condition has been agreed with the applicant.

- The proposed changes should not require a further restriction to make them acceptable

The proposed changes would not require a further restriction to make them acceptable.

- The proposed change would not result in any material increase in height, scale, width or depth of a building

No, the plans show there will be no material increase to the height, size or scale of the dwellings proposed.

- The proposed changes would have likely been approved had it formed part of the original application

It is likely that the proposed changes would have been approved had they formed part of the original application.

The proposed changes are minor amendments which raise no significant concerns in relation to planning matters (including residential amenity and design/streetscape considerations). The changes to rear garden levels and boundary treatments are to assist in the viability of the project to reflect the actual levels at the site. Overall, the character and aesthetic design, of the originally approved scheme is 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 in accordance with the protocol, and it is therefore recommended that the non-material amendment be approved.

Recommendation: Approve NMA

Decision Authorisation: Delegated Decision

Report Dated: 23/01/2026.

Recommended Decision Letter Text

The proposed amendments are identified as follows:

- Modifications to the previously approved retaining and boundary walls to accurately reflect the correct site levels.
- Revision of boundary walling agreed under AIP approval.

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

- Proposed Site Plan & Boundary Elevations, Drawing No. 100, Rev B, received 08/12/2025.
- Proposed Site Sections, Drawing No. 101, Rev B, received 08/12/2025.
- Boundary Treatment Details, Drawing No. 102, Rev C, received 08/12/2025.
- Proposed Site Location Plan, Drawing No. 106, received 08/12/2025.

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. As a result of these changes, condition 14 is hereby modified to:

14. Boundary treatment and treatment of retaining walls (i.e. facing materials) throughout the site shall be undertaken in accordance with hereby approved drawing nos. 100, Rev B, 101, Rev B and 102 Rev C, received 08/12/2025. The front boundary wall, adjacent to Britannia Road, shall not exceed 1.0m in height. The dwellings shall not be occupied until the works comprising the approved scheme have been completed and thereafter retained for the lifetime of the development.

Reason: *In the interests of visual and residential amenity, in the interest of preserving the heritage value of adjacent heritage assets, and in the interest of ensuring appropriate vehicle sightlines, in accordance with Policies LP21, LP24, and LP35 of the Kirklees Local Plan.*

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.