

**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/93465/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: 03-Feb-2026**

**Application:** 2025/93465

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

**Proposal:** Non-material amendment to planning permission 2021/62/93567/E – demolition of existing commercial buildings and erection of 180 dwellings with associated works

## **Overview**

This application seeks approval for the fourth non-material amendments to the approved residential development.

The proposal comprises:

- House type modifications. The applicant details these as:
  - Canopy: Additional brick detailing has been incorporated around the front door, with the addition of a Glass Reinforced Plastic canopy.
  - Windows: A header brick detail has been introduced between the ground floor and first floor windows, enhancing the architectural character of the dwellings.
  - Brick Detailing: A distinctive brick course detailing has been incorporated along the façades of the dwellings to provide visual interest on all elevations and improve the overall streetscape of the development.
- amendment to the timing trigger of Condition 12 relating to watercourse works and associated maintenance arrangements.
  - The applicant proposes that the approved condition wording be changed from:

*'Prior to development commencing, an assessment of the condition of open channel and piped watercourse sections through the site, including but not limited to Blackup Beck, shall be carried out. From this assessment a scheme detailing the repair and/or renewal requirements for watercourses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include trash screen and safety screen requirements, and a detailed maintenance and management regime for the piped and open sections of the watercourse (and ancillary screens) in the form of risk assessment and method statement, culminating in an itinerary and schedule of tasks. No part of the development shall be brought into use until the watercourse works comprising the approved scheme*

*have been completed. The maintenance and management regimes shall be implemented thereafter.'*

To:

*Prior to development commencing, an assessment of the condition of open channel and piped watercourse sections through the site, including but not limited to Blackup Beck, shall be carried out. From this assessment a scheme detailing the repair and/or renewal requirements for watercourses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include trash screen and safety screen requirements, and a detailed maintenance and management regime for the piped and open sections of the watercourse (and ancillary screens) in the form of risk assessment and method statement, culminating in an itinerary and schedule of tasks. Prior to the public open space at the south of the development being brought into use, the watercourse works comprising of the approved scheme shall have been completed. The maintenance and management regimes shall be implemented thereafter.'*

The development has commenced on site.

### **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"*

In addition, regard is given to 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.

It is noted that the Protocol for dealing with non-material amendments references changes to conditions as unlikely to be non-material. Conversely the Protocol makes it clear that the list in which the above is included is guidance only, not formal rules. Each NMA application must be assessed against its own merits and all relevant circumstances considered. S96A of the Town and Country Planning Act 1990, which confers the power to make nonmaterial 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.

Considering the above, the application is assessed as follows:

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

YES. Officers are satisfied the proposed amendments are inconsequential in scale.

The proposed facade amendments are limited to architectural detailing only and do not alter:

- building footprints,
- ridge heights or storey heights,
- plot locations, or
- the approved site layout.

The description of development remains unchanged.

The proposed amendment to Condition 12 relates solely to the timing of implementation and does not alter the scope or content of the approved drainage and watercourse mitigation scheme.

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

NO. There would be no detrimental impact.

The proposed facade detailing is considered by officers to be visually attractive and would result in an improved architectural appearance, therefore providing greater visual interest within the street scene. The amendments remain consistent with the approved character and design approach.

There would be no adverse impacts on residential amenity, including privacy, outlook or daylight, as no changes are proposed to building massing or positioning, or the location or size of windows.

Subject to the amended trigger wording recommended for Condition 12, the revised timing of watercourse works would not undermine site safety, flood risk mitigation or public amenity.

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. Officers are satisfied that no third party or consultee interests, who participated or were consulted as part of the original application would be materially disadvantaged.

The proposed changes do not affect neighbouring land ownership, boundary relationships or access arrangements.

The changes to the approved house types are nominal cosmetic alterations and are considered an enhancement.

Condition 12 was originally imposed on the advice of the Lead Local Flood Authority, who have confirmed that the amended wording is acceptable.

The revised condition wording continues to secure delivery of the approved watercourse works and long-term management regime and therefore the revised timeframe does not prejudice any consultee interests.

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.

The design refinements remain consistent with Local Plan design quality objectives and the approved masterplan framework.

Please see the section titled 'CONDITION 12 — REVISED WORDING' below for further details. In summary, the amended Condition 12 continues to secure flood risk management, drainage control and environmental protection in accordance with relevant planning policies.

No additional planning conditions are required to ensure policy compliance.

Condition 12 — Revised Wording

The originally approved wording of Condition 12 required a condition assessment to be undertaken, with appropriate repair / renewal provisions to be detailed. Thereafter, all watercourse works are required to be completed prior to any part of the development being brought into use.

The development has commenced and the detailed watercourse scheme, the initial requirement of the condition, has already been approved under discharge of condition application reference 2024/91942.

Due to ecological concerns and protected species works that can only be carried out at specific times of the year, the pre occupation trigger needs to be re considered to ensure the delivery of the housing and allow the phased occupation of the development.

Officers have therefore concluded that a revised timing trigger can be supported without undermining the original purpose of the condition. It is acknowledged that the primary planning objectives of Condition 12 are to secure the delivery of the approved watercourse mitigation works, manage flood risk, protect public safety, and ensure long-term maintenance of the watercourse infrastructure.

While officers do not support unrestricted phased occupation prior to completion of the works, it is considered reasonable and proportionate to allow limited occupation subject to the retention of a clear and enforceable implementation backstop. Given the understandable issue the applicant is facing regarding delivery, a modest provision will allow the applicant to progress the development and promote the delivery of required housing,

without materially prejudicing the purpose of the condition nor the LPA's enforceable position.

Linking completion of the works to both the first use of the southern public open space and a defined occupation threshold ensures that the watercourse works are delivered at an early and controlled stage of the development, while allowing practical flexibility in the construction programme.

Recommended Trigger: 50 Dwellings. This is considered appropriate because:

- It represents early phase delivery (approximately 25–30% of initial build-out on a 180-unit scheme),
- Prevents deferral of critical drainage infrastructure to later development phases,
- Maintains leverage for enforcement,
- Is proportionate for an NMA (not overly restrictive, but robust), and
- Aligns with typical Kirklees LLFA expectations on staged infrastructure delivery.

The amended wording is therefore considered to preserve the intent of the original condition, maintain effective planning control, and avoid any material change to the environmental safeguards secured by the permission. Therefore, officers do not accept the exact wording suggested by the applicant, but recommend:

12. An assessment of the condition of the open channel and piped watercourse sections through the site, including but not limited to Blackup Beck, shall be carried out. From this assessment, a scheme detailing the repair and/or renewal requirements for the watercourses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include trash screen and safety screen requirements, together with a detailed maintenance and management regime for the piped and open sections of the watercourse (and any ancillary screens), in the form of a risk assessment and method statement, culminating in an itinerary and schedule of tasks.

The approved watercourse works shall be fully implemented prior to the first use of the public open space at the south of the development and, in any event, prior to the occupation of more than 50 dwellings.

Upon completion of the watercourse works, the approved maintenance and management regimes shall be implemented in full and shall thereafter be retained and operated for the lifetime of the development.

**Reason:** In the interest of ensuring an appropriate surface water system and mitigation of flood risk, in accordance with Policies LP27 and LP28 of the Kirklees Local Plan.

The above recommended wording has been agreed with the applicant.

## Cumulative Impact Assessment

The development has previously been subject to approved Non-Material Amendments under application references:

- 2024/93247
- 2025/91252
- 2025/92574

Officers have considered the cumulative impact of those approvals alongside the current proposal.

Collectively, the amendments:

- do not increase development quantum or density,
- do not materially alter the approved layout or spatial structure,
- do not introduce new environmental impacts, and
- do not change the approved development envelope.

Having regard to the effect of the current proposal together with previous NMAs on the original permission, officers are satisfied that the cumulative impacts of the several NMAs approved, combined with that sought, remain non material.

### **Conclusion**

It is considered that the proposed amendments would have been approved had they formed part of the original planning application. Officers do not consider the alterations to be material in nature and are satisfied that they do not alter the form, scale, character or environmental impacts of the permitted development.

The proposed façade enhancements represent qualitative design improvements and do not result in any increase in built form, changes to the approved layout, or adverse impacts on residential amenity or visual appearance. The amendments remain fully consistent with the approved design principles and Local Plan policy objectives.

In respect of Condition 12, officers are satisfied that the amended wording maintains the original purpose of the condition, continues to secure delivery of the approved watercourse works and long-term management regime, and ensures that flood risk mitigation and public safety measures remain robust and enforceable, whilst allowing pragmatic phased occupation of the development.

The development has previously been subject to approved non-material amendments under application references 2024/93247, 2025/91252 and 2025/92574. Having regard to the cumulative effect of those amendments together with the current proposal, officers are satisfied that the collective changes do not materially alter the nature of the approved scheme. The

amendments remain within the scope and impact envelope assessed under the original planning permission and do not give rise to new or materially different planning considerations.

In accordance with Section 96A of the Town and Country Planning Act 1990 and the Council's adopted protocol for dealing with Non-Material Amendments, the proposed changes are considered to be non-material in scale and effect. They do not prejudice the interests of third parties, do not conflict with adopted planning policy, and do not require the imposition of additional planning conditions beyond the non-material amendment to the wording of Condition 12.

On this basis, officers conclude that the proposed amendments are acceptable under the Non-Material Amendment procedure.

### **Approved Plans – Non-Material Amendment 2025/93465**

This Non-Material Amendment approves the following replacement drawings which shall be read in conjunction with planning permission 2021/93567 and subsequent Non-Material Amendments. Where listed below, these drawings supersede previously approved plans.

<b>Previously Approved House Type / Drawing</b>	<b>Original Approval Source</b>	<b>Superseded By (New Drawing)</b>	<b>New Drawing Reference</b>
MY A-451 (Stone)	Full Planning Permission 2021/62/93567/E	MY AL-451 Planning Stone	Dwg: 101
MY A-451 (Brick)	Full Planning Permission 2021/62/93567/E	MY AL-451 Planning Brick	Dwg: 100
MY A-352 (Stone)	Full Planning Permission 2021/62/93567/E	M3-301 Stone As End Planning Drawing	Dwg: 01
MY A-352 (Brick – Red)	Full Planning Permission 2021/62/93567/E	M3-301 Brick As End Planning Drawing	Dwg: 01 Rev B
MY A-352 (Brick – Buff)	Full Planning Permission 2021/62/93567/E	M3-301 Brick As End Planning Drawing	Dwg: 01 Rev B
MY A-251 (Stone)	Full Planning Permission 2021/62/93567/E	MY AL-251 Planning Stone	Dwg: 101
MY A-251 (Brick – Red)	Full Planning Permission 2021/62/93567/E	MY AL-251 Planning Brickwork	Dwg: 100
MY A-251 (Brick – Buff)	Full Planning Permission 2021/62/93567/E	MY AL-251 Planning Brickwork	Dwg: 100

MY A-251 (Heads and Sills – Plots 1–4 and 179–180)	Full Planning Permission 2021/62/93567/E	MY AL-251 Planning Stone	Dwg: 101
M3-601	Full Planning Permission 2021/62/93567/E	M3-604 Stone Westgate, Cleckheaton Planning Drawing	Dwg: 01
HT2A – Planning Drawing	NMA 2025/92574	HT2A – Updated Planning Drawing	Dwg: BY00099- P1-01-A3

All replacement drawings incorporate facade enhancements only, including entrance canopies, decorative brick coursing and window header detailing. No changes are proposed to the previously approved internal layout of the dwellings, footprints, heights, site layout, or development quantum.

All other approved plans and drawings associated with planning permission 2021/93567 and subsequent Non-Material Amendments remain unchanged.

**Recommendation:** Approve NMA

**Report Dated:** 20/01/2026

### **Proposed Letter Text**

The non material amendment seeks the following alterations:

Façade detailing enhancements to approved house types, comprising:

- Canopy: Additional brick detailing has been incorporated around the front door, with the addition of a Glass Reinforced Plastic canopy.
- Windows: A header brick detail has been introduced between the ground floor and first floor windows, enhancing the architectural character of the dwellings.
- Brick Detailing: A distinctive brick course detailing has been incorporated along the façades of the dwellings to provide visual interest on all elevations and improve the overall streetscape of the development.

These amendments are shown on drawings:

- MY AL – 451 Planning Stone (Dwg: 101) replacing MY A-451 (Stone),
- MY AL – 451 Planning Brick (Dwg: 100) replacing MY A-451 (Brick),
- M3-301 Stone As End Planning Drawing (Dwg: 01) replacing MY A-352 (Stone),
- M3-301 Brick As End Planning Drawing (Dwg: 01 Rev B) replacing MY A-352 (Brick – Red and Buff),
- MY AL – 251 Planning Stone (Dwg: 101) replacing MY A-251 (Stone) and MY A-251 (Heads and Sills – Plots 1–4 and 179–180),

- MY AL – 251 Planning Brickwork (Dwg: 100) replacing MY A-251 (Brick – Red and Buff),
- M3-604 Stone Westgate, Cleckheaton Planning Drawing (Dwg: 01) replacing M3-601,
- HT2A – Planning Drawing (Dwg: BY00099-P1-01-A3) replacing HT2A – Planning Drawing approved under Non Material Amendment reference 2025/92574.

Furthermore, an amendment is sought to Condition 12 to allow phased occupation of the development subject to completion of the approved watercourse works prior to use of the southern public open space and before occupation exceeds the approved dwelling threshold.

I can confirm that the proposed non-material amendments identified above are acceptable and are hereby approved.

Condition 12 of planning permission 2021/62/93567/E is hereby amended as follows:

12. An assessment of the condition of the open channel and piped watercourse sections through the site, including but not limited to Blackup Beck, shall be carried out. From this assessment a scheme detailing the repair and/or renewal requirements for watercourses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include trash screen and safety screen requirements, and a detailed maintenance and management regime for the piped and open sections of the watercourse (and ancillary screens) in the form of risk assessment and method statement, culminating in an itinerary and schedule of tasks.

The approved watercourse works shall be fully implemented prior to the first use of the public open space at the south of the development and, in any event, prior to the occupation of more than 50 dwellings.

The approved maintenance and management regimes shall be implemented thereafter and retained for the lifetime of the development.

**Reason:** In the interest of ensuring an appropriate surface water system and mitigation of flood risk, in accordance with Policies LP27 and LP28 of the Kirklees Local Plan.

You are reminded that this Non Material Amendment decision notice sits alongside and should be read with the original application's decision notice and all subsequent Non Material Amendments. The new details are subject to the originally imposed conditions except where expressly varied by this decision.