

**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**

<b>Reference No:</b>	2026/NM/91085/E
<b>Site Address:</b>	Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT
<b>Description:</b>	Non material amendment to previous permission 2024/91591 for variation of conditions 2-6, 15 and 29 on previous permission 2021/92528 for erection of retail development, associated parking, servicing areas and landscaping
<b>Recommending Officer:</b>	William Simcock

**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: 24-Apr-2026**

**Application no:** 2026/91085

**Application Site:** Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

**Proposal:** Non material amendment to previous permission 2024/91591 for variation of conditions 2-6, 15 and 29 on previous permission 2021/92528 for erection of retail development, associated parking, servicing areas and landscaping

### **Description of proposed amendment**

Planning permission (2021/62/92528/E) was granted on 21st November 2023 for the following development:

“Erection of retail development, associated parking, servicing areas and landscaping.”

This permission was subsequently modified by Section 73 variation of condition planning permission ref. 2024/70/91591/E, granted 19/05/2025.

This Minor Non-Material Amendment application seeks to modify the approved elevations and floor plans for the Home Bargains retail unit as listed in the plans and specifications schedule of the decision notice.

The following drawings have been submitted:

- Location Plan, reference 7404-SMR-00-ZZ-DR-A-2001-A3-C5
- GA Ground Floor Plan, Retail Unit, reference 8061-SMR-00-00-DR-A-3100-S2-P10
- Proposed Elevations, Retail Unit, reference 8061-SMR-00-XX-DR-A-4100-S2-P8

The amendments, as summarised in the applicant’s covering letter, are:

1. Introduction of additional glazing to the store frontage (eastern elevation);
1. An additional door to the rear of the store (southern elevation);
2. A slight extension of the darker wall cladding on the western elevation.

The glazed area would be the same height but extended in length to 21m, forming four bays divided by solid pillars faced in anthracite grey cladding. The anthracite clad part of the eastern elevation would be extended upwards above the first two window bays to within 300mm of the roof. Originally the glazed area plus anthracite-clad surround was to have been 7.5m wide and 7.2m high. The area of dark cladding on the western elevation would be increased in length from 6.3m to 16m. The footprint and layout of the building is unchanged.

### **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.

Under the protocol, the four key 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?

YES. While the area of glazing on the front elevation would be enlarged, it would remain a secondary feature of the elevation, being contained to the ground floor and not dominating the front elevation. The proposed change does not result in any increase in the height or footprint of the building and is therefore considered inconsequential in terms of scale.

Three further tests need to be applied as follows:

1. In the Authority’s view would the proposed change result in a detrimental impact either visually or in terms of living conditions?

It is considered that the change would not result in a detrimental impact; indeed, the partial substitution of materials and finishes and increased glazing to the eastern (front) elevation would add visual interest and is considered to result in an improved design overall. It is considered that it would not result in any impact on residential amenity since the area is a commercial one and no residential properties would be close enough to be affected.

2. 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?

No representations were made on application 2024/91591 because of statutory publicity although three representations were received to the original application, 2021/92528. However, these did not relate to the design or appearance of the building. In terms of consultee responses (to both previous applications), none are considered directly relevant to the amendment sought. It is therefore considered that no third party would be disadvantaged by the changes proposed.

3. In the Authority’s view would the amendment be contrary to any policy of the Council?

It is considered that the change would accord with all relevant Local Plan Policies.

Further to the above, the protocol identifies various additional factors to consider. These are considered below:

- 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 proposals do not result in the development falling outside the description of development.

- The proposed change must not contravene any condition attached to the original permission.

In this instance, it is considered that the proposed amendments to the floorplans and elevations, since they would be non-material in their scale and impact, would not contradict any of the conditions attached to the original permission.

- The proposed change should not require a further restriction to make it acceptable.

No further restrictions (i.e., planning conditions) would be required.

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

As previously noted, there would be no changes to any external dimension of the building.

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

In officers' view the changes shown would have been approved if applied for as part of the original application.

## **Conclusion**

In conclusion, it is considered that the proposed change does not fail any of these tests.

It is therefore recommended that the changes can be allowed as a minor non-material amendment.

**Recommendation:** Approve NMA

**Decision Authorisation:** Delegated Decision

**Report Dated:** 24/04/2026

### **Recommended Decision Letter Text**

You have sought the following changes as part of this Non-Material Amendment application:

- Introduction of additional glazing to the store frontage (eastern elevation);
- An additional door to the rear of the store (southern elevation); and
- A slight extension of the darker wall cladding on the western elevation.

The amendments sought are to the approved elevations and floorplans and are shown on the following drawings:

- GA Ground Floor Plan, Retail Unit, reference 8061-SMR-00-00-DR-A-3100-S2-P10
- Proposed Elevations, Retail Unit, reference 8061-SMR-00-XX-DR-A-4100-S2-P8

I can confirm that the proposed alterations, as outlined above and shown on the submitted plans, 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.