

**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: **2026/NM/91176/E**

Site Address: land at, St Luke's, Bierley Marsh, East Bierley, BD4
6PL

Description: Non material amendment 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

Recommending Officer: Elenya Jackson

DECISION – Non-Material Amendment - Refused

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kirsty Nicholls

AUTHORISED OFFICER

Date: 26-May-2026

Application: 2026/NMA/91176/E

Application Site: Land at, St Luke's, Bierley Marsh, East Bierley, BD4 6PL

Description of Proposal

The application seeks a non-material amendment 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

The proposed amendments are as follows:

- Addition of solar panels on the roofs of the dwellings

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

- House type B south and west elevations (DWG: 113 REV:A)
- House type B North and East (DWG: 112 Rev:A)
- House type A Terrace North and West elevations (DWG: 105 REV:B)

Relevant Planning History

2020/94345: Erection of 5 dwellings. Granted Via Appeal
APP/Z4718/W/21/3289729

2024/93226: Discharge of details reserved by conditions 3 (Ecological Design Strategy), 4 (Condition Survey of Bierley Marsh), 6 (Construction Management Plan), 7,9 (Intrusive Investigation Phase2 SI), 14,15 (Boundary Treatment, Hard and Soft Landscape) on previous permission 2024/93227 (APP/Z4718/W/21/3289729) for erection of 5 dwellings. Split Decision

2024/93227: Variation condition 2 (plans) on previous permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings. Granted

2025/91001: Discharge of details reserved by condition 5 (access re-surface) on previous permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings. Not yet determined.

2025/92075: Discharge of details reserved by condition 10 (Remediation Strategy) on previous permission 2024/93227 for variation condition 2 (plans) on previous permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings. Approved.

2025/92895: Discharge of details reserved by condition 13 (materials) on previous permission 2024/93227 for variation condition 2 (plans) on previous

permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings. Approved

2025/92783: Non material amendment 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. Approved.

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?

Officers consider that solar panels would not be significant in terms of scale.

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?

Insufficient details have been provided at this stage in relation to the design and projection of the proposed solar panels. It is acknowledged by officers that solar panels could be added to the properties as permitted development; however, officers consider the General Permitted Development Order has parameters to control the visual impact of solar panels which the details provided do not demonstrate. As such, a more detailed assessment would be required to determine any impact.

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?

Visually, the addition of solar panels would be different to the original planning permission and as discussed above, the details provided do not provide sufficient information for officers to understand and assess the extent of the solar panels and any subsequent impact. An appropriate and thorough assessment beyond the scope of this application is therefore required

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

Officers are unable to assess if the development would accord with LP24 or LP35 of the Kirklees Local Plan. Therefore, a further planning application would be required in order to assess and determine any harm.

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 – **Officers would need to restrict the projection of the solar panels beyond the roof plane.**
- The proposed change would not result in any material increase in height, scale, width or depth of a building – **Officers consider this to be unlikely to be the case.**
- The proposed changes would have likely been approved had it formed part of the original application – **Officers would not have approved the details as submitted. Further information would have been required in terms of the details of the solar panels and their affixing in order to assess the impact of any harm to the character of the properties and the surrounding area.**

The proposed changes are not considered to be minor amendments which raise no concerns in relation to planning matters (including residential amenity and design/streetscape considerations). The addition of solar panels to the properties would impact the appearance of the originally approved dwellings and due to the limited details provided, officers are unable to decipher the proposals impact on the wider area.

It is noted that comments from a neighbouring property have been submitted during the course of this application objecting to the proposal. Officers have reviewed the comments provided and note the issues raised. However, as the application is for a non-material amendment and not a planning application, these comments cannot be taken into consideration however they have been lodged against the application and are noted.

Conclusion

Given the above assessment, it is not considered that sufficient details have been provided and that due to the nature of the development, a full assessment would be required to ensure the proposal would not have a detrimental impact on visual amenity, nor that they would be detrimental to a third party. The amendments are not considered to be in accordance with protocol, and it is therefore recommended that the non-material amendment be refused.

Recommendation: Refuse NMA

Decision Authorisation: Delegated Decision

Application Number: 2026/NMA/91176/E

Report Dated: 19/05/2026

Decision Letter Text

The proposed amendments are as follows:

- Addition of solar panels to the roof planes of dwellings

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

- House type B south and west elevations (DWG: 113 REV:A)
- House type B North and East (DWG: 112 Rev:A)
- House type A Terrace North and West elevations (DWG: 105 REV:B)

Given the above assessment, it is not considered that sufficient details have been provided and that due to the nature of the development, a full assessment would be required to ensure the proposal would not have a detrimental impact on visual amenity, nor that they would be detrimental to a third party. The amendments are not considered to be in accordance with protocol, and it is therefore recommended that the non-material amendment be refused.

