

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/92032/W**

Site Address: Land at, Occupation Lane, Off Birkby Road,
Huddersfield, HD2 2ES

Description: Non material amendment to previous permission
2024/92647 for erection of detached dwelling with
detached garage

Recommending Officer: Ellen Gilbert

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.**

John Holmes

AUTHORISED OFFICER

Date: 21-Aug-2026

Application no: 2026/92032

THE SITE

Land at Occupation Lane, off Birkby Road, Huddersfield, HD2 2ES.

The site relates to a narrow parcel of land to the north of Birkby Road, and the rear of residential properties of Prince's View and Harefield Park (to the west), as well as residential properties on Birchroyd Close (to the east). The plot of land narrowly tapers close to the highway with a bend and then gently widens towards the north.

The site comprises private unsurfaced access land off Birkby Road (Prince's View) at the western side, which runs to the residential property of Wood View Farm, and a soft landscaped area to the eastern side. The site and surrounding land slopes downwards from south-west to northeast.

The site is within an area characterised by residential development, mostly comprising of detached dwellings of significant width set within spacious plots, properties to the west are more tightly spaced together with varying gaps between dwellings. To the east and south, there are more generously proportioned properties in relation to their large plots with significantly larger gaps between dwellings.

The site is not located within a Conservation Area or located near any Listed Building.

THE PROPOSAL

The application is seeking a non-material amendment to permission 2024/62/92647/W which granted planning permission for the erection of a detached dwelling with detached garage.

The proposed amendments would see the following:

- Alteration to the dwelling size to allow for construction of building entirely within the applicant's legal boundary line
- Relocation of garage to increase garden space and associated additional hardstanding
- Increase in size of garage to allow for additional parking and private amenity use

Re-submitted plans include the following:

- (AL)100a- Site Plan as Proposed
- (AL)101a- Bungalow Floor and Roof Plans as Proposed
- (AL)102b Bungalow Elevations as Proposed
- (AL)03c0 Garage Floor Plan and Elevations as Proposed

PLANNING HISTORY

The most relevant planning history relates to the following planning application:

2024/62/92647/W- Erection of detached dwelling with detached garage- Conditional Full Permission Granted on 26/11/2024

Where relevant the consideration and conclusions of the [case officer report](#) of application 2024/62/92628 are relevant, which is referred to within the consideration of this application seeking non-material amendment.

The scheme approved on the 26th of November 2024 is referred to within this report as the approved development.

REPRESENTATIONS

The original approved application (2024/62/92647/W) underwent two rounds of public consultations between October and November 2024. Around 12 objections were received and comments addressed by the case officer. The application, the subject of this report, received 4 neighbour objections which were assessed and have been considered in the below report.

It is noted representations have been received, which raise the following summarised comments:

- Comparison documents relating to the nature of the amendments should be submitted
- Not clear the extent of the amendments, increasing and alteration by more than a metre should be refused
- Ongoing issues relating to boundaries / ownership.
- If the process under section 96A is not appropriate an application under section 73 of the Town and Country Planning Act 1990 (as amended) should be submitted.
- The garage is increasing by 31% which is not minor
- Emergency and service-vehicle access would be affected by the proposal
- The alterations affect driveway / legal access, the boundary wall and stability of land beside the excavation; underground services and drainage and potential of construction being on third party land.
- Privacy and residential amenity would be impacted including the future use and development of neighbouring properties
- Complaints have been raised with the Council's Enforcement and Building Control Teams and escalated with the ombudsman
- A fresh planning application or other appropriate procedure requiring publicity is required.
- Impact of drainage infrastructure installed within the driveway, with its subsequent impact upon access, ground stability, services, surface water and maintenance not set out within the previous or this application.
- Planning Enforcement and Building Control inspection of the drainage to ensure it is in compliance with that which has been so approved is sought.
- Boundary treatments have also changed.

The content of the above representations are noted. The consideration of this application is whether the proposed amendments constitutes those which can be considered as a non material amendment. An assessment of this is undertaken in the 'Assessment' section of this report.

CONSULTATIONS

The original application was also examined by the following Council Teams and comments factored into the case officer's assessment:

KC Highways Development Management

KC Trees

ASSESSMENT

The application will be assessed having regard to S96A of the Town & Country Planning Act 1990: "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 Protocol for dealing with non-material amendments.

Regarding the protocol for non-materials amendments, paragraph 2.3 sets out four key tests for assessing the acceptability of proposed changes to the approved scheme. These are as follows:

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

The associated increase in the rear garden area and the increase in the floor space of the approved detached garage to accommodate additional vehicles and provide private amenity space, would alter the scale and extent of the development as originally approved, as the proposed would see the movement of the proposed garage into an area originally designated for planting. In addition the proposal would see the dwellings size altered. Taken together, these changes are not considered to be inconsequential and would result in a development that differs materially from that granted planning permission. As such, the proposed amendments fall outside the scope of Section 96A of the Town and Country Planning Act 1990 and cannot be approved as a non-material amendment.

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

The proposed amendments would result in a greater built form and a different impact when compared to the approved scheme. The changes would

therefore go beyond a minor or inconsequential alteration and would need to be subject to assessment via an appropriate application process.

When taken together, the amendments are not considered to constitute a non-material amendment and would need to be subject to a full assessment to allow a full consideration to be afforded to the visual impacts of the altered scheme.

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?

It is noted that the original application received 12 objections over two consultation periods, which were considered as part of the approved scheme. The application seeking a Non Material Amendment has received 4 representations raising concerns which are summarised earlier in this report.

The proposed seeks approval for an increase in the floorspace of the detached garage for additional parking and amenity use and lengthening the garden. Alterations to the dwellings size would require small alterations in relation to its siting. Access arrangements for the garage would be slightly altered. The proposed changes would alter the size and form of the approved building and have the potential to affect matters relating to the relationship with neighbouring properties, including the effectiveness of boundary treatments, privacy and the wider impacts previously assessed in the original application.

Having regard to the nature of the proposed changes, it is considered that the amendment would materially alter the approved scheme and therefore falls outside the scope of a Non-Material Amendment under Section 96A of the Town and Country Planning Act 1990.

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

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 e.g. by seeking to add a pitched roof to an extension described on the Notice as a 'flat roof' extension.

Comment: The description of development would not be altered.

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

Comment: The proposed changes would not contravene any condition attached to the 2024/92628.

- The proposed changes would require a further restriction to make it acceptable.

Comment: The proposed changes would require a further restriction to make it acceptable. Potentially use of / additional conditions may be required in relation to openings proposed

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

Comment: The proposed change would result in a 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.

Comment: It is considered the scheme the subject of this application is required to be subject to a planning application or S73 application seeking to vary the plans list to allow for its full consideration.

CONCLUSION

The amendments shown on drawing No's. (AL)100a, (AL)101a, (AL)102b and (AL)03c0 are not considered appropriate to be regarded as a non-material amendment to the previous planning approval 2024/92647

Recommendation REFUSE

Decision Authorisation – Delegated Powers

Application Number: 2026/92032

Officer Recommendation: Refuse

Refusal Reason:

The amendments sought and as shown on drawing No's. (AL)100a, (AL)101a, (AL)102b and (AL)03c0 as received by the Local Planning Authority on 21.07.2026, are not considered appropriate to be regarded as a non-material amendment to the previous planning approval 2024/92647.

Report Dated: 18.08.26

