

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/92058/E

Site Address: Land off, Bankfield Drive, Holmbridge, Holmfirth, HD9 2PH

Description: Non material amendment to previous permission 2023/91212 for erection of 21 dwellings with access from Laithe Avenue

Recommending Officer: Louise Bearcroft

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: 19-Aug-2026

Application: 2026/NMA/92058/E

Application Site; Land off, Bankfield Drive, Holmbridge, Holmfirth, HD9 2PH

Proposal Non material amendment to previous permission 2023/91212 for erection of 21 dwellings with access from Laithe Avenue

Overview

The application seeks a non-material amendment to amend the trigger point of condition 17 (retaining walls) on previous permission 2023/91212 for the erection of 21 dwellings with access from Laithe Avenue.

In the covering letter it states that condition 17 relates solely to the retaining wall works at Dobb Top Road, a position which has been previously agreed by Council Officers. The proposed amendments are to change the trigger for the condition from “prior to commencement” to “prior to the commencement of any development on plots 20 and 21”, as well as amendments to confirm the condition relates to structures specifically adjacent to Dobb Top Road. It also seeks to allow the plots, other than 20 and 21, to be occupied ahead of the structure/s being delivered.

In the covering letter it states Dobb Top Road is located to the north of the site, and the development does not incorporate any vehicular access from this road. Vehicular access is from Laithe Avenue to the south, and the build programme is from the south of the site to the north, such that the construction of retaining walls at Dobb Top Road have no impact on early phases of construction, and the requirement of condition 17 is only triggered as development commences on the northern most plots, plots 21 and 22 as shown on the approved Proposed Site Layout.

The existing wording of condition 17 is:

17. Prior to the commencement of development, the design and construction details of any new retaining walls, building retaining walls and attenuation tanks adjacent to the proposed adoptable highway or existing highway (including any proposed modifications to the existing highway retaining wall adjacent to Dobb Top Road) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, cross sections, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works (including in relation to the existing highway retaining wall adjacent to Dobb Top Road in light of the proposed attenuation tank location) and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings of the development

hereby approved are first occupied and shall be retained during the life of the development.

Reason: *To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure that details relating to highways are submitted and agreed at an appropriate stage of the development process.*

The proposed amendments to the wording of condition 17 is below. Note that this is amended from the version detailed in the application's cover letter submitted with this application. The below is as agreed with the application in the applicant in the email dated 13th August 2026, following advise from K.C. Structures:

Prior to the commencement of any development on Plots 20 and 21, as shown on Proposed Site Layout (drawing no. 2021.01.003 Rev X), the design and construction details of any new retaining walls, building retaining walls and attenuation tanks adjacent to Dobb Top Road shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the submission of an AIP for the design of all new retaining walls adjacent to Dobb Top Road together with the relevant plan and cross-sectional details to the existing highway retaining wall adjacent to Dobb Top Road in light of the proposed attenuation tank location) and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The design and construction details of any new retaining walls, building retaining walls and attenuation tanks adjacent to Dobb Top Road shall be completed in accordance with the approved details before Plots 20 and 21 of the development hereby approved are first occupied and shall be retained during the life of the development.

Reason: *To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.*

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. Are the proposed changes inconsequential in terms of scale (magnitude, degree etc) in relation 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?
2. 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?
3. In the Council'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.

Assessment

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

The proposal to amend the trigger point to secure the relevant details at a different stage of construction, and then to allow occupation of the plots other than 20 and 21 before works are completed in accordance with approved details is inconsequential in terms of scale in relation to the original approval.

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

The proposal to amend the trigger points to secure the relevant details at a different stage of construction and occupation of the dwellings would have no impact upon visual or residential amenity.

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?

158 representations were made on the original application for planning permission (2023/91212). The proposal to amend the trigger point to secure the relevant details at a different stage of construction does not change the requirement to provide the necessary details. K.C. Structures have confirmed the amended timeframe would not prejudice the safe delivery of the works, nor prejudice the safety of the highway.

It is therefore considered that the interests of third parties would not be disadvantaged in any way by the proposed amendments to the condition wording.

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

No buildings forming part of the development would be altered in any way.

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

It is considered that the proposed changes would not contravene any policy of the Council. Whilst the trigger points would be amended, the details required would remain as per the previous condition, albeit the condition will be slightly amended to confirm it relates to structures specifically adjacent to Dobb Top Road and to reflect the fact that the retaining wall has already been constructed. No additional condition would be required to make the change acceptable.

Other Issues

K.C Structures were informally consulted for their comments on the wording of the condition and confirmed the retaining wall adjacent to Dobb Top Road has already been constructed. In light of this, some of the standard information which would normally be required for a proposed structure that has yet to be constructed would not be relevant nor required in this instance. Therefore, they recommended some amendments to the wording as detailed below.

*The details shall include **the submission of an AIP for the design of all new retaining walls adjacent to Dobb Top Road together with the relevant plan and X-sectional details** ~~design statement, cross sections, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works (including specifically in relation to the existing highway retaining wall adjacent to Dobb Top Road in light of the proposed attenuation tank location) and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas~~*

*~~of public access.~~ The **completed** development shall be ~~completed~~ in accordance with the approved details before any of the dwellings of the development hereby approved are first occupied and shall be retained during the life of the development.*

The applicant was initially asked to agree to the amendments, however in their reply they suggested further amendments (email dated 31.07.2026) which went beyond the details in the covering letter and in addition removed the requirement for:

- securing details of attenuation tank structures adjacent to Dobb Top Lane
- the works to be completed before occupation of any dwelling
- the works to be retained as approved

Officers are unable to accept the removal of the tailpiece of the condition as this would not provide an enforceable position for when the works need to be completed, and to retain them as approved. The application subsequently provided a second iteration of the covering letter which reverts back to including the attenuation features, however it amended the trigger for occupation so that units other than 20 and 21 can be occupied ahead of the works being delivered. Officers can accept this position being that it would be works to plots 20 and 21 which have the potential to undermine the integrity of structures at Dobb Top Road. A final iteration of the wording was proposed in the applicants email dated 13th August 2026, and this is considered to be acceptable.

Conclusion

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

Officers concur with the comments and changes made above and, on this basis, officers conclude that the proposed amendments are acceptable under the Non-Material Amendment procedure.

Recommendation: Approve NMA

Report Dated: 18/08/2026

Decision Authorisation: Delegated Decision

Recommended Decision Letter Text

The proposed amendment seeks to amend condition 17, with the pertinent changes summarised as follows:

- To change the trigger for the condition from “prior to commencement” to “prior to the commencement of any development on plots 20 and 21
- Amendments to the wording to confirm condition 17 relates solely to the structural works affecting Dobb Top Road.
- To change the trigger for completion from “*before any of the dwellings of the development hereby approved are first occupied*” to “*before Plots 20 and 21 of the development hereby approved are first occupied*”

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. Accordingly, condition 17 is hereby amended to:

17. Prior to the commencement of any development on Plots 20 and 21, as shown on Proposed Site Layout (drawing no. 2021.01.003 Rev X), the design and construction details of any new retaining walls, building retaining walls and attenuation tanks adjacent to Dobb Top Road shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the submission of an AIP for the design of all new retaining walls adjacent to Dobb Top Road together with the relevant plan and cross-sectional details to the existing highway retaining wall adjacent to Dobb Top Road in light of the proposed attenuation tank location) and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The design and construction details of any new retaining walls, building retaining walls and attenuation tanks adjacent to Dobb Top Road shall be completed in accordance with the approved details before Plots 20 and 21 of the development hereby approved are first occupied and shall be retained during the life of the development.

Reason: *To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 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.