

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/92299/E

Site Address: Greenside Mills, Saville Road, Skelmanthorpe,
Huddersfield, HD8 9EE

Description: Non material amendment to previous permission
2021/94622 for Reserved Matters application pursuant
to outline permission 2018/60/91787/E for demolition
of existing buildings and structures and erection of
residential development

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: 09-Sep-2026

Application: 2026/NMA/92299/E

Application Site: Greenside Mills, Saville Road, Skelmanthorpe, Huddersfield, HD8 9EE

Proposal: Non material amendment to previous permission 2021/94622 for Reserved Matters application pursuant to outline permission 2018/91787/E for demolition of existing buildings and structures and erection of residential development

Overview

The application seeks a non-material amendment to amend the construction specification for sixteen retaining walls within this approved development of 46 dwellings.

By way of background the retaining walls for the development are the subject of conditions 7 and 15 of the Reserved Matters application (2021/94622) which read:

7. Prior to development commencing, a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls / building retaining walls adjacent to the existing / proposed highways shall be submitted to, and approved by, the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development. The development shall be undertaken in accordance with the approved details, which shall thereafter be retained.

Reason: *To ensure the stability of retaining structures on site, for the safe and efficient operation of the highway and to comply with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure the necessary design has been secured prior to relevant works being undertaken.*

15. The hereby approved dwellings and retaining walls shall be externally faced in 'Cromwell Weathered Pitch Face' artificial stone, unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interest of visual amenity, in accordance with LP21 of the Kirklees Local Plan.*

Condition 7 has been previously discharged pursuant to application ref 2025/44/90418/E.

The proposal is to amend the construction of the identified retaining walls from walls faced in Cromwell weathered pitch face artificial stone, to either a 'Tobermore' interlocking concrete construction, in colour 'Bracken' as shown on the Tobermore Secura Grand webpage (and confirmed via email correspondence from the applicant), or to face concrete walls in the tobermore modules. This applies to sixteen of the retaining walls identified on

drawing titled "Tobermore Secura Grant Retaining Wall Location Plan" ref TSE-03083-B, Rev B within the submitted Feasibility Proposal document.

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.

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.

Section 96A of the Town and Country Planning Act 1990, which confers the power to make non-material 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.

Representation / Consultation

In accordance with the covering legislation, Non-Material Amendment application is not subject to statutory advertisement or consultation. Nonetheless, the local parish council has noted the following on the application:

Denby Dale Parish Council: No comment.

Assessment

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

The proposed change to amend the construction specification of some of the retaining walls from a Cromwell artificial stone faced wall to either a tobermore (modular interlocking) construction or facing concrete walls in the tobermore modules is inconsequential in terms of its scale in relation to the original approval for 46 dwellings. Additionally, the proposal to amend the construction type of the identified retaining walls does not include a proposal to change either their location or scale, as established via the reserved matters application.

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 construction specification including from a faced wall to an interlocking system would not have a detrimental impact on residential amenity, as the location and scale of the retaining walls remains as

previously approved (pursuant to application ref 2025/44/90418/E) and this is not proposed to be amended as part of this application.

In terms of the impact on visual amenity, the colour of the interlocking panels has been confirmed to be colour 'Bracken' as shown on the Tobermore Secura Grand webpage and confirmed via email correspondence from the applicant. The applicant has constructed a sample panel on site, and a photograph of the sample panel have been submitted via email during the course of the application. The photograph provides a sufficiently clear image for officers to make an informed view, and when assessed against the approved artificial stone facing material of the dwelling (as visible in the background of the image), officers consider the proposal would be acceptable. The sample panel also includes a lighter colour "Dune" which would have been the preferred choice for officers. However, the applicant has confirmed that this colour is only available for the interlocking system and not for facing the proposed concrete walls, and therefore to ensure both types of retaining walls are constructed in the same colour the darker Bracken colour is proposed. On balance, this darker colour is considered to be acceptable to ensure a consistent approach and there would not be a detrimental impact on visual amenity arising from the proposed change.

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?

The proposal to amend the construction type/material of the retaining walls would not prejudice the interests of third parties in any way, again having regard to the fact that the location and scale of the retaining walls are remaining as previously approved, with the change sought purely relating to the facing material.

The provisions of condition 7 remain, and would be unaffected (i.e., does not require re-wording) by this sought amendment. The applicant would be required to continue to adhere to the requirement(s) of condition 7 including, if necessary, seeking to re-discharge the condition if the change in materials represents a material change in circumstances that would depart from the approval of condition 7 previously issued (DOC ref. 2025/90418).

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, as the requirements of condition 7 remain, and it is the applicant's responsibility to ensure that they adhere to the requirements other pertinent conditions and secure all relevant necessary consents including

where required an Approval in Principle. No additional condition would be required to make the change 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 construction type of the identified retaining walls from a faced wall to an interlocking system 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 conclude that the proposed amendments are acceptable under the Non-Material Amendment procedure.

Accordingly, it is recommended that condition 15 be amended to:

15. The hereby approved dwellings shall be externally faced in 'Cromwell Weathered Pitch Face' artificial stone. In accordance with plan drawing reference 2156.66 Rev A the retaining walls identified by a blue line shall be faced in 'Cromwell Weathered Pitch Face' artificial stone. All other retaining walls shown on plan drawing reference 2156.66 Rev A shall be faced in Tobermore concrete walling: colour 'Bracken' as shown on Tobermore Secura Grand webpage unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interest of visual amenity, in accordance with LP21 of the Kirklees Local Plan*

Recommendation: Approve NMA

Report Dated: 09/09/2026

Decision Authorisation: Delegated Decision

Recommended Decision Letter Text

The proposed amendment seeks to amend the construction specification of some of the retaining walls of the development, with the pertinent changes summarised as follows:

- To amend the construction of the identified retaining walls from walls faced in Cromwell weathered pitch face artificial stone to either a 'Tobermore' interlocking concrete construction, in colour 'Bracken' as shown on the Tobermore Secura Grand webpage (and confirmed via email correspondence from the applicant), or facing concrete walls in the Bracken modules.

The details are shown on the following plans and documents:

- Feasibility Proposal ref TSE-03083 - Rev B
- Planning Layout
- Retaining Wall Plan drawing ref 2156.66 Rev A
- Photograph of the Tobermore sample panels

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. This is subject to the walls being constructed in Bracken colour. As such, condition 15 is hereby amended to read:

15. The hereby approved dwellings shall be externally faced in 'Cromwell Weathered Pitch Face' artificial stone. In accordance with plan drawing reference 2156.66 Rev A the retaining walls identified by a blue line shall be faced in 'Cromwell Weathered Pitch Face' artificial stone. All other retaining walls shown on plan drawing reference 2156.66 Rev A shall be faced in Tobermore concrete walling: colour 'Bracken' as shown on Tobermore Secura Grand webpage unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interest of visual amenity, in accordance with LP21 of the Kirklees Local Plan*

For the avoidance of doubt the requirements of condition 7 remain and it is the applicant's responsibility to ensure that they secure all relevant necessary consents including, where required, an Approval in Principle.

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.