

**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/92817/W
Site Address:	Land Adj, 67, Chapelgate, Scholes, Holmfirth, HD9 1SX
Description:	Non material amendment to previous permission 2022/92406 for erection of 10 affordable dwellings with access from Chapelgate and associated works, including resident play zone
Recommending Officer:	Ellie Thornhill

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.

Nick Hirst

AUTHORISED OFFICER

Date: 14-Oct-2026

Application: 2026/92817

Application Site: Land Adj, 67, Chapelgate, Scholes, Holmfirth, HD9 1SX

Proposal: Non material amendment to previous permission 2022/92406 for erection of 10 affordable dwellings with access from Chapelgate and associated works, including resident play zone

Overview

The application seeks a non-material amendment to revise the internal road layout, including minor alterations to its location at the sites access. As a result of these highway-related changes, further amendments are proposed to the site layout, including revisions to the parking arrangements, bin and cycle storage provision, drainage strategy, retaining walls, and the landscaping scheme.

Furthermore, the proposal would necessitate amendments to the wording of a number of planning conditions, which currently refer specifically to the site layout plan approved under application reference 2022/92406. This includes conditions 25, 30, 31, 32, 33 and 34.

The proposed amendments are illustrated in the following:

- Individual Bike Storage & Communal Tool Shed -Units 1-5 (ref: 2112-GWP-01-01-D-A-(00)-0031 rev A02)
- Individual Bike Storage & Communal Tool Shed -Units 6-10 (ref: 2 112-GWP-01-01-D-A-(00)-0032 rev A02)
- Proposed Site Plan (ref: 2112-GWP-01-01-D-A-(00)-0003 rev A03)
- Waste Management Strategy (ref: 2112-GWP-01-01-D-A-(90)-0005 rev A02)
- Bin Store – Plan and Elevation (ref: 2112-GWP-01-01-D-A-(00)-0033 rev A02)
- Proposed Site Sections 1 of 2 (ref: 2112-GWP-01-01-D-A-(90)-0015 rev A02)
- Proposed Site Sections 2 of 2 (ref: 2112-GWP-01-01-D-A-(90)-0016 rev A02)
- Boundary Treatment Types/ Details (ref: 2112-GWP-01-01-D-A-(90)-0011 rev A02)
- Site Location (ref: (462)-GWP-01-01-D-A-(PA)-0001 rev P02)
- Landscape (ref: 2112-GWP-01-01-D-A-(90)-0020 rev A02)
- External Lighting Layout (ref: C8140 TLP 00 XXDR E 801 rev T5)
- Drainage Strategy and Calculations (ref: 22055-DCE-XX-XX-T-C-001-C04)

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”

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

NO, not inconsequential. The proposed change to the internal road layout would impact on a number of internal features including the parking arrangement, bin and cycle storage provision, drainage, retaining walls, and landscaping scheme. These changes are set out in more detail below:

- The turning head within the site, is to be relocated more towards the centre of the site, in between plots A and B as opposed to being directly adjacent to plots 8 and 9 within block B.
- As a result of this new road alignment, some of the on-site parking is proposed to be relocated closer to the sites access and directly adjacent to plot 1.
- The rotation of the bin store, however, it is to remain in the same location.
- To combine the cycle parking into one location adjacent to the turning head, rather than having two separate cycle parking stores for Blocks A and B.
- Slight changes to the landscaping, as a result of the alteration to the road realignment
- These changes likewise affect the approved retaining works, which was considered at length during the original application, and drainage strategy.

Given the changes proposed above, and their degree of impact, the changes sought are considered to cumulatively be consequential in degree. A detailed assessment would be required by officers on the impacts and implications of these changes, while a number of internal consultees such as Highways, LLFA, Landscape, Waste Strategy and Crime Prevention would need to be consulted.

These changes are also considered to represent a material change in terms of visual amenity, the merits of which would need to be considered and are therefore outside the scope of this NMA application.

Whilst the proposals do fail the above test, and therefore cannot be accepted as a non-material change, for completeness the three further tests have also been used to assess the proposals and are discussed 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?

NO. The changes sought are contained to within the site, set away from the nearest 3rd party dwellings, mitigating chances for detrimental impacts. They are also considered to be of minimal impact in terms of visual impact, being contained within the site and of limited prominence from the wider environment. Notwithstanding this, whilst the proposed amendments are anticipated to not give rise to any *detrimental* visual or residential amenity impacts, given the degree of amendments sought, they would require a thorough assessment, particularly in relation to the revised parking arrangement, which proposes a number of parking spaces to be relocated closer to the sites access. This would need to be considered in the context of the site itself and the surrounding area to fully understand the implications of the proposed changes.

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?

YES. Given the sensitivity of the original planning application, the nature of comments received at that time, and the substantial number of representations received, it is considered that the proposed amendments could give rise to concerns from local residents. In particular, part of the on-site parking provision is proposed to be relocated closer to the site access and, as a consequence, would be situated nearer to the neighbouring property at No. 67 Chapelgate. As such, it would be necessary to undertake a detailed assessment of the potential impacts arising from this revised arrangement, and that third parties are notified of the changes proposed.

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

UNCLEAR. The proposed changes affect technical aspects of the proposal, with input from technical consultees not sought as part of this NMA. Without a full assessment being undertaken within a S73 application, Officers cannot confirm whether the proposals would be contrary to any policy of the Council at this time.

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 change must not contravene any condition attached to the original permission.**

The proposal would require that specific conditions would need to be revised to substitute any that referred to the original, approved site layout plan. While this is feasible within an NMA, given the concerns raised, it is not considered appropriate in this case.

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

Without a full assessment being undertaken within a S73 application, Officers cannot confirm whether any further restrictions would be required to make the proposals acceptable.

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

No *material* changes are proposed to the overall height, scale, width or depth of any of the buildings on site.

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

Without a full assessment being undertaken within a S73 application, Officers cannot confirm whether the proposed changes would likely have been approved had they formed part of the original application.

Conclusion

On the basis of the above, given the nature of the development, a full assessment would be required to ensure that the proposal would not have a detrimental impact on highway safety, visual and residential amenity. The proposed changes are also deemed to be not inconsequential in relation to the original approval and would affect the magnitude and degree of the original proposal. The proposed change would therefore not be acceptable under the non-material amendment procedure and as such is recommended for refusal.

These works fall outside the reasonable scope of a NMA application. The applicant would be required to submit a S73 application to enable this type of assessment to be undertaken.

For the above reasons, the proposal is not considered to comply with the Council's protocol and therefore would not be considered a non-material amendment, thus refusal is recommended.

Recommendation: Refuse NMA

Report Dated: 14/10/26

Decision Authorisation: Delegated Decision

Recommended Decision Letter Text

The proposed amendments are identified as follows:

To revise the internal road layout, including minor alterations to its location at the sites access. As a result of these highway-related changes, further amendments are proposed to the site layout, including revisions to the parking arrangements, bin and cycle storage provision, and the landscaping scheme.

The proposed amendments are illustrated in the following:

- Individual Bike Storage & Communal Tool Shed -Units 1-5 (ref: 2112-GWP-01-01-D-A-(00)-0031 rev A02)
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I can confirm that the proposed alterations as outlined above *cannot* be accepted to form a non-material amendment to the original proposal.

The level of changes proposed to the permitted scheme are considered to be material in nature and therefore, officers consider that due to the changes proposed, third parties, planning officers and consultees should be formally given the opportunity to consider these changes further.

The application for a non-material amendment is hereby refused.