

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

OTH/2026/0039

CASE OFFICER

Michael Atkinson-Smith

DETERMINATION DATE 12.02.2026 **EXT OF TIME** 26/03/2026**Address:** Land Off Greenhill Road / Smethurst Street, Middleton, M24 2BB

Proposal: Application for a non-material amendment to alter the wording of Condition 3 (Affordable Housing Scheme) in relation to planning permission 23/01162/FUL to accommodate a revised affordable housing scheme and to incorporate the exemptions and releases set out therein

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	GRANT
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CHECKED AND SIGNED OFF BY: RK

DATE: 26/03/2026

SITE

The application relates to a parcel of land to the south of Greenhill Road in Middleton, bounded by Nos. 66-86 Greenhill Road to the north, Smethurst Street to the east, the JW Lees brewery to the south and Nos. 2-16 Church Road to the west.

Formerly the site formed part of a transportation depot associated with the JW Lees brewery. Recently, the portion of the site accessed from Smethurst Street housed a building materials storage yard. At present there are two access points to the site; one from Greenhill Road to the north and one from Smethurst Street to the southeast.

The sites rises from Greenhill Road to the South West boundary by approximately 1.4 Metres. The site further falls from the North West boundary across the full length of the site to the South East by approximately 4.5 metres.

During the course of the previous application for full planning permission, the previous buildings and structures on site were removed.

With the exception of the adjacent brewery, the character of the area is predominantly residential, with a range of building typologies and styles including traditional terraced dwellings, post-war housing and more contemporary developments. The dominant materials in the locality with regards to residential stock are red facing brickwork and slate/concrete tile.

There are no specific policy designations in relation to this site.

PROPOSAL

The application seeks a non-material amendment to Planning Permission 23/01162/FUL which granted planning permission for the erection of 24 dwellings accessed from Greenhill Road and a pedestrian connection to Smethurst Street, along with the provision of a shared parking court and landscaping.

The applicant is seeking to replace the previously approved Affordable Housing Scheme required by virtue of Condition 3, which reads as follows:

3 *Affordable Housing*

No development shall take place until such time as a scheme for the provision of affordable housing on the site, in line with the definition contained in Annex 2 of the National Planning Policy Framework, has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall subsequently be provided in accordance with the approved scheme and retained as such thereafter.

For the avoidance of doubt, the scheme shall include the following:

- a) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;*
- b) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing, including the proposed mechanism for the recycling of subsidy to deliver additional affordable housing in the future;*

c) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced;

This condition shall cease to apply (and shall be of no further effect) to any dwelling in respect of which the full equity has been acquired by the individual owner/purchaser and/or their mortgagee OR any dwelling in respect of which a statutory or voluntary right to buy or acquire has been exercised.

Reason: For the avoidance of doubt and to ensure the delivery of a 100% fully affordable residential development.

Reason for pre-commencement condition: It needs to be confirmed prior to commencement that the development will be delivered as a 100% affordable housing scheme, as it is currently not subject to any planning obligations on the understanding that it will be developed for transfer to a registered social housing provider.

The condition was previously discharged on 22nd April 2025, with the Decision having read as follows:

Decision: The 100% affordable tenure development is to be delivered for management by First Choice Homes Oldham, which is a strategic partner of Rochdale Borough Council. The LPA is therefore satisfied that the mix of Rent to Buy and Affordable Rent properties, with rents set at not more than 80% of Market Rent, is acceptable. A further application would be required should this arrangement change prior to delivery. The development shall not be carried out otherwise than with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Previous application ref. 25/00791/ANM (approved) sought to change the wording of Condition 3 on the original planning permission to:

'The dwellings hereby approved shall be retained for the provision of Affordable Housing (as defined in Annex 2 (Glossary) of the National Planning Policy Framework) save as set out in (A) or (B) below:

(A) This Condition 3 shall not apply to a dwelling if any one of the following events has occurred at any time in respect of the dwelling:

- a person has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any other statutory provision for the time being in force (including a preserved right to buy) or any equivalent contractual right in respect of a particular dwelling; or*
- a person has exercised any statutory right to buy, purchase or acquire or any equivalent contractual right in respect of a particular dwelling including without limitation via a rent to buy arrangement*

(B) This Condition 3 shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the dwellings

or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the dwellings to a registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- if such disposal has not completed within the three-month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the dwellings free from the provisions of this condition 3 which shall cease to apply to such dwellings and shall determine absolutely'

The current application seeks to change the wording of Condition 3 on the original planning permission to:

Condition 3: The dwellings hereby approved shall be provided in accordance with the Affordable Housing Statement dated 23 July 2025 prepared by First Choice Homes Oldham (or any amended or replacement affordable housing statement submitted to and approved by the Council from time to time) and shall be retained as such in perpetuity subject to the exemptions and releases set out in the said Affordable Housing Statement.

The reasons for the requested change are:

- that the details previously discharged in connection with condition 3 (decision notice reference 24/01223/DOC) are superseded by the Affordable Housing Statement dated 23 July 2025 prepared by First Choice Homes Oldham; and
- to secure the provision of affordable housing subject to the exemptions and releases set out in the Affordable Housing Statement

RELEVANT LEGISLATION AND PLANNING POLICY

Legislation

Town and Country Planning Act 1990 – Part III Section 96A

Local Planning Authorities are enabled to make changes to planning permission; 1990 Planning Act (as amended), section 96A provides:

96A Power to make non-material changes to planning permission

(1)A local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material. have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3)The power conferred by subsection (1) includes power—

- (a)to impose new conditions;
- (b)to remove or alter existing conditions.

It is clear that provided they are satisfied that the change is not material, the LPA can grant a change to the original permission.

RELEVANT SITE HISTORY

23/01162/FUL	Residential development for the erection of 24 dwellings following demolition of existing outbuildings. Granted STC September
24/01223/DOC	Submission of details to comply with conditions 3 (affordable housing), 4 (nesting season), 5 (tree protection), 6 (Japanese knotweed), 7 (CEMP), 8 (land contamination), 10 (drainage), 11 (levels), 12 (materials), 13 (pv panels), 14 (windows and doors), 15 (meter boxes) and 17 (biodiversity enhancement) on planning permission 23/01162/FUL. Request completed April 2025
25/00791/ANM	Application for a non-material amendment to alter the wording of Condition 3 (Affordable Housing Scheme) in relation to securing subsidy recycling pursuant to planning permission 23/01162/FUL. Granted STC

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, the application was not publicised. Given the application relates to one made under S.96a of the 1990 Act, in granting consent the Council is of the view that the amendments would not result in a materially different impact on the surrounding environment.

ANALYSIS

Paragraph 002 to section 17a of the National Planning Practice Guidance (NPPG) states that:

'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990'.

Therefore, the purpose of the application is to seek the Council's determination as to whether the changes to the previously approved plans are sufficiently material in their nature and in the context of the approved development so as to require a fresh planning permission or not. Non-material amendment applications are not an application for planning permission, do not result in the issuing of a new planning permission and relate only to the amendments sought.

Paragraph 008 to section 17a of the NPPG states that in making decisions on non-material amendment applications, the local planning authority should take into account:

'the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.'

Paragraph 011 to section 17a of the NPPG states that the issuing of an approval for a non-material amendment application:

‘...only relates to the non-material amendments sought and the notice of the decision should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together.’

Section 96A of the Town and Country Planning Act 1990 also allows for new conditions to be imposed, or existing conditions to be removed or altered in the issuing of a decision for a non-material amendment application.

Assessment

The application seeks to replace the previously approved Affordable Housing Scheme as outlined above with a revised version setting out the exemptions and releases set out therein. As this is a procedural matter, there would be no material change in respect of the original planning permission.

The revised AHS also continues to refer to properties for social rent. As such a tenure type already falls within the definition of Affordable Housing as referred to in Annex 2: Glossary of the NPPF, there would be no material change in respect of the original planning permission.

Therefore, the proposals are considered to sit comfortably within the scope of an application under s.96A.

RECOMMENDATION

GRANT subject to the following amended condition of planning permission 23/01162/FUL:

- 3** The dwellings hereby approved shall be provided in accordance with the Affordable Housing Statement dated 23 July 2025 prepared by First Choice Homes Oldham (or any amended or replacement affordable housing statement submitted to and approved by the Council from time to time) and shall be retained as such in perpetuity subject to the exemptions and releases set out in the said Affordable Housing Statement.

Reason: For the avoidance of doubt and to ensure the delivery of a 100% fully affordable residential development.

Notes for Applicant:

This decision notice is to be read alongside that issued with planning permission 23/01162/FUL and all conditions that were imposed on all previous applications and amendments, with the exception of those conditions which are explicitly varied in accordance with the provisions of this decision or which have been explicitly varied by way of other S96A non-material amendments.