KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

DELEGATED DECISION TO DETERMINE APPLICATIONS FOR CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION

Reference No:	**2024/44/91343/E**
Site Address:	35, Moat Hill, Birstall, Batley, WF17 0DX
Description:	Discharge condition 1 (Time) and 4 (Noise Survey) on previous permission 2023/91487 for change of use from garden building to private day nursery and formation of vehicular access
Recommending Officer:	Elenya Jackson

DECISION – DISCHARGE OF CONDITION APPROVED

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 12-Jul-2024

Officer Report

35, Moat Hill, Birstall, Batley, WF17 0DX

Discharge condition 1 (Time) and 4 (Noise Survey) on previous permission 2023/91487 for change of use from garden building to private day nursery and formation of vehicular access.

Condition 1

The use hereby permitted shall commence no later than 18th April 2024, and the Local Planning Authority shall be informed in writing within three weeks of the commencement of the use. Thereafter, the permission hereby approved shall expire 12 months from the date of commencement. On expiry of this period, the use hereby approved shall cease unless otherwise agreed in writing with the Local Planning Authority following a formal written application. Reason: The lead in time would enable the applicant to complete Ofsted registration and undertake the necessary works; and the temporary permission would enable the assessment of the impact of the proposed use on the residential amenity of nearby residential properties, by reason of noise or disturbance, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Condition 4:

Before the development is brought into use, details of an acoustic barrier (as recommended in the Baseline Noise Survey and Impact Assessment authored by Paul Horsley Acoustics dated 06 March 2023 Ref J3175 Rev-0) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include: • A plan showing the location of the barrier • The minimum height of the barrier relative to the adjacent ground level • The construction specification of the barrier including the barrier support structure, the barrier material, the minimum barrier thickness, the minimum density of the barrier material and the details where the barrier meets the ground. The use hereby approved, shall not commence until the construction of the acoustic barrier has been completed and the barrier shall be retained and maintained thereafter. Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework

Assessment Condition 1

The following has been submitted.

- Email Confirmation

The applicant had not originally requested the discharge of condition 1 on the application; however, as it was required for the LPA to be informed of the commencement of the application, its addition was confirmed with the applicant.

Officers requested clarification regarding when the approved use became operational. It was confirmed that the use commenced on 7th November 2023.

It is acknowledged by officers that confirmation was not received within three weeks; however, it is considered that the use commenced within the required timeframe and would be acceptable in this instance.
As the proposal received a temporary permission for a period of one year, this permission would therefore lapse on 6th November 2024.
The applicant would need to receive further planning permission to operate beyond this date.

Assessment Condition 4:

The following details have been submitted:

- Supporting word document

The details provided have been reviewed by KC Environmental Health, the details provided are considered acceptable for the purposes of condition 4.

<u>Decision notice text</u>

Condition 1

The following has been submitted:

- Email confirmation.

As the proposal received a temporary permission for a period of one year, this permission would therefore lapse on 6th November 2024. The applicant would need to receive further planning permission to operate beyond this date.

Condition 4

The following details have been submitted:

- Supporting word document

The details provided have been reviewed by KC Environmental Health, the details provided are considered acceptable for the purposes of condition 4.