

**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:	<b>2024/44/91923/E</b>
Site Address:	adj, 9a, High Street, Birstall, Batley, WF17 9ES
Description:	Discharge conditions 3-7, 9, 11, 12 on previous permission 2023/90918 for erection of detached dwelling (within a Conservation Area)
Recommending Officer:	Nina Sayers

**DECISION – Discharge of Conditions – Split Decision**

**I hereby authorise the split decision 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: 07-Oct-2024**

## Officer Report

### Site Description

**Site address** – adj, 9a, High Street, Birstall, Batley, WF17 9ES

**Proposal** – Discharge conditions 3-7, 9, 11, 12 on previous permission 2023/90918 for erection of detached dwelling (within a Conservation Area)

### Assessment

#### Condition 3 – Materials

Condition 3 reads as follows:

*3. The external walls of the dwelling hereby approved shall be finished in coursed natural stone. Prior to construction of dwelling hereby approved, details of all the external facing and roofing materials of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such. Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policies LP24 and LP35 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 16 of the National Planning Policy Framework. This is a pre-commencement condition as it is likely to impact on the construction methods.*

The applicant has submitted a Proposed Site Plan '(PL)002' in support of the discharge of condition 3. The submitted plan includes detail and photographs of the proposed materials which are as follows:

- Walling – 140mm tumbled stone, regular coursing
- Roofing – concrete interlocking (photograph shows black)

The proposed details are considered to be in keeping with the existing development within the area and as such are appropriate for the purposes of discharging condition 3. The development shall be carried out in accordance with the approved details and retained as such.

#### Condition 4 – surfacing

Condition 4 reads as follows:

*4. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas are laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any*

*Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter. Reason: In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.*

This is a compliance condition and does not need to be discharged.

#### Condition 5 – Electric Vehicle Charging Point

Condition 5 reads as follows:

*5. Prior to occupation of the dwelling, one electric vehicle recharging point shall be installed. The scheme shall meet at least the following minimum standard for numbers and power output:*

- A Standard Electric Vehicle Charging point providing a continuous supply of at least 16A (3.5kW) for each residential unit that has a dedicated parking space*

*Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.*

*Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.*

This is a compliance condition and does not need to be discharged.

#### Condition 6 – Bird box

Condition 6 reads as follows:

*6. A bird box shall be incorporated into the dwelling during the construction phase; the box shall be long-lasting Schwegler 'woodcrete' type or similar and shall be located away from sources of light and be sited at least 4 metres above ground level. The bird box shall be provided prior to first occupation of the dwelling and thereafter be retained. Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders SPD and Chapter 15 of the National Planning Policy Framework.*

This is a compliance condition and does not need to be discharged.

#### Condition 7 – Bin Storage and Collection

Condition 7 reads as follows:

*7. Before development commences, details of suitable storage, bin presentation points and access for collection of wastes from the dwellings*

*hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter. Reason: In the interest of highway safety and waste management and to accord with Policy LP24 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.*

The applicant has provided a site plan ref: (PL)002A Rev.A which shows the location of bin storage adjacent to the proposed dwelling and this is considered an appropriate location. The plan also shows a bin collection point adjacent to High Street. Whilst it is noted that the bin store would be on the pavement, it relates to a wider section of pavement and it is noted that anywhere along the access road to the proposed dwelling would likely interfere with access. Therefore, the proposed collection point is considered acceptable and KC Waste Strategy raised no objections. The proposed bin collection was initially proposed adjacent to no.7 High Street however officers requested this was changed as it would block the access to no.7.

The detail submitted on site plan ref: (PL)002A Rev.A is therefore considered acceptable for the purposes of discharging condition 7. The approved details shall be provided before first occupation and shall be retained thereafter.

#### Condition 9 – Noise

Condition 9 reads as follows:

*9. Before construction work commences, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including road traffic/commercial/licensed premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:*

- a) Determine the existing noise climate*
- b) Predict the noise climate in living rooms and gardens (daytime), bedrooms (nighttime) and other habitable rooms of the development*
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).*

*The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.*

*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. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.*

The applicant has submitted a Residential Noise Assessment ref: 'NP-011179' in support of the discharge of condition 9. It considers the neighbouring uses

and the potential for this impacting upon the development site. This has been reviewed by KC Environmental Health.

A background noise survey was conducted between the 24th and the 27th of May 2024 (which was a Bank Holiday period when activities within the beer garden or any internal events are likely at higher capacity), from 2 measurement positions (MPs). Comment is made that distant traffic and commercial noise is present but not significantly dominant in the environment, hence the background noise level is consistent and low in level throughout the monitoring period. Consideration has also been given to the entertainment noise in para 2.5 stating live music may be slightly audible but that this can be adequately controlled by the façade sound insulation of the proposed development.

In order to meet with the internal requirements of BS8233, glazing and ventilation is specified. Typical construction would provide the required level of sound insulation but it is advised to double board the ceilings to prevent the transfer of low frequency noise via the roof. Comment is made about the possibility of overheating and whilst this is outside of the remit of Environmental Health, it is imperative that any fixed mechanical system installed does not exceed the internal noise levels as per BS8233. The external amenity area meets with the external requirements of BS8233 and no mitigation measures are required.

Officers accept the report's findings and this is considered acceptable for the purposes of discharging condition 9. The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

#### Condition 11 – Boundary Treatment

Condition 11 reads as follows:

*11. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained. Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policies LP24 and LP35 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 16 of the National Planning Policy Framework.*

The applicant has submitted a Proposed Site Plan '(PL)002 Rev.A' in support of the discharge of condition 11. It details a vertical timber fencing panel along the southern and eastern boundary of the site which would be 1.8m in height. This would be in keeping with the existing fencing at no.9 and is considered acceptable for the purposes of discharging condition 11. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

### Condition 12 – Land Levels

Condition 12 reads as follows:

*12. No development shall commence until a plan demonstrating full details of existing and proposed land levels in relation to an identifiable datum has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the details so approved and the dwelling hereby approved shall not be occupied until the works relating to that property have been completed. These shall be so retained thereafter. Reason: This is a pre-commencement condition to ensure measures are incorporated at an appropriate time, in the interests of visual and residential amenity and to avoid overdevelopment in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.*

The applicant has submitted an Existing Site Plan Topographical Survey ref: '(00) 002' in support of the discharge of condition 12. This shows the land levels of the existing site including the land levels of adjacent buildings eaves and roof levels. The agent has confirmed that the land levels will not change following development and therefore the details submitted are sufficient for the purposes of discharging condition 12. The development shall be carried out only in accordance with the details so approved and the dwelling hereby approved shall not be occupied until the works relating to that property have been completed. These shall be so retained thereafter.

### **Decision Notice**

Conditions 3, 7, 9, 11 and 12 can be discharged at this time.

Conditions 4, 5 and 6 are compliance conditions and do not require discharging.

### Condition 3 – Materials

The applicant has submitted a Proposed Site Plan '(PL)002' in support of the discharge of condition 3. The submitted plan includes detail and photographs of the proposed materials which are as follows:

- Walling – 140mm tumbled stone, regular coursing
- Roofing – concrete interlocking (photograph shows black)

The proposed details are considered to be in keeping with the existing development in the area and as such are appropriate for the purposes of discharging condition 3. The development shall be carried out in accordance with the approved details and retained as such.

### Condition 4 – surfacing

Condition 4 is a compliance condition and does not need to be discharged.

### Condition 5 – Electric Vehicle Charging Point

Condition 5 is a compliance condition and does not need to be discharged.

#### Condition 6 – Bird box

Condition 6 is a compliance condition and does not need to be discharged.

#### Condition 7 – Bin Storage and Collection

The applicant has submitted a site plan ref: (PL)002A Rev.A to support the discharge of condition 7. The plan shows the location of bin storage adjacent to the proposed dwelling and this is considered an appropriate location. The plan also shows a bin collection point adjacent to High Street. This is considered acceptable for the purposes of discharging condition 7. The approved details shall be provided before first occupation and shall be retained thereafter.

#### Condition 9 – Noise

The applicant has submitted a Residential Noise Assessment ref: 'NP-011179' in support of the discharge of condition 9. Officers accept the report's findings and this is considered acceptable for the purposes of discharging condition 9. The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

#### Condition 11 – Boundary Treatment

The applicant has submitted a Proposed Site Plan '(PL)002A Rev.A' in support of the discharge of condition 11. It details a vertical timber fencing panel along the southern and eastern boundary of the site which would be 1.8m in height. This would be in keeping with the existing fencing at no.9 and is considered acceptable for the purposes of discharging condition 11. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

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