KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)
Article 27 - Town and Country Planning (Development Management Procedure) Order 2015

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	**2025/45/90796/E**
Site Address:	Church Lane, Birstall, Batley, WF17 9NX
Description:	Confirmation of compliance of conditions on previous permission 2016/93681 for erection of two dwellings (within a Conservation Area)
Recommending Officer:	Kerri Simpson

DECISION – Compliance of Conditions - 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: 22-Apr-2025

Compliance Conditions

The Local Planning Authority can confirm that:

- Condition 1 (Time Limit)
- Condition 2 (Approved Plans)
- Condition 6 (Obscure Glazed Windows and Permitted Development Restriction) *****
- Condition 7 (Permitted Development Restriction to windows and doors on north and east elevations) *****
- Condition 8 (Permitted Development Restriction Classes A, B, C, D and E) *****
- Condition 9 (Parking Surfaces Laid Prior to Occupation)

Of application reference number 2016/93681 are compliance conditions and therefore are not required to be formally discharged.

***Permitted Development Restriction** refers to the removal of permitted development rights for development under The Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)).*

Dischargeable Conditions

The following conditions of application 2016/93681 were required to be discharged and have been assessed accordingly below.

Condition 3 – Materials

"Notwithstanding the submitted details, the proposed external walling material for the approved dwellings as specified on drawing numbers 11 rev A and 12 rev A is not approved and revised details of natural stone shall be submitted to (or left on site for inspection) and approved in writing by the Local Planning Authority before works to construct the superstructure of either of the dwellings commences. The development shall be constructed of the approved material and thereafter retained as such.

Reason: To ensure that the development harmonises with the character of the Birstall Conservation Area and the surrounding area in the interests of visual amenity and conservation of a heritage asset. This is to accord with Policies BE1, BE2 and BE5 of the Kirklees Unitary Development Plan and guidance given in the National Planning Policy Framework."

Officer Assessment

This condition was discharged in full on 23rd November 2018 under application reference 2018/92924.

Condition 4 – Boundary Treatment

Notwithstanding the submitted details, details of the boundary treatment for each of the houses hereby approved shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of either of the dwellings commences. The boundaries shall be constructed in accordance with the approved details and thereafter retained.

Reason: In the interests of residential amenity and to accord with Policies BE12 and D2 of the Kirklees Unitary Development Plan and guidance given in the National Planning Policy Framework.

Officer Assessment

This condition was considered under application reference 2018/92924, where it was noted that this condition was imposed to ensure effective screening between the habitable room windows on no's 54 & 56 and the patio window on plot 1 and that a 1.8m high "hit & miss" fence does not adequately screen this view and should be replaced by a 2m high close boarded fence to the rear to plots 1 and 2.

Notwithstanding these comments, the decision issued for the application clearly states that the condition was discharged in full, with no partial discharge or requirement for further details. In planning law, it is the formal decision that hold legal weight, not the narrative content of the officer's report. While the justification provided in the report carries material weight in understanding the planning judgement, it is not determinative. The discharged of conditions process does not allow for retrospective revision once a condition has been discharged, unless that decision is legally challenged within the relevant timeframe. No such challenge was made, and the Council has issued a formal discharge notice. Accordingly, the condition must be treated as discharged in full, with no further requirement for alternative boundary treatment. There is no legal basis to compel additional works under the discharged condition.

This condition was discharged in full on 23rd November 2018 under application reference 2018/92924.

Condition 5 – Boundary Treatment

Notwithstanding the submitted details, a landscaping scheme, including screen planting in the northern gardens of the approved dwellings, shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of either of the dwellings commences. The approved landscaping scheme shall be implemented within the first available planning season and maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of residential and visual amenity and conservation of heritage asset, and to accord with Policies D2, BE1, BE2, BE5 and BE12 of the Kirklees Unitary Development Plan as well as the aims of the National Planning Policy Framework.

Officer Assessment
This condition was considered under application reference 2018/92924, where it was noted that the submitted details would be acceptable subject to tree planting being confined to rowan and birch. Officers noted that the species suggested in the covering letter would not be suitable due to the confined space.

As with Condition 4, while the officers report referenced a preference for specific tree species to be used, the decision notice confirms that the condition was discharged in full. As such, there is no further requirement for compliance beyond the approved details.

This condition was discharged in full on 23rd November 2018 under application reference 2018/92924.

Condition 10 – Bat and Bird Boxes
Notwithstanding the submitted plans and information, a single bat roost box (Schwegler 2FR bat tube, or similar) or a nest box suitable for house sparrows (Schwegler 1SP sparrow terrace or similar) shall be installed integrally to the east elevation of each house at a height of at least 3 meters and not directly above doors or windows before the dwelling to which the bat or bird box relates is first occupied. The bat and bird boxes so installed shall thereafter be retained. Upon completion of the construction photographic evidence of the installation shall be submitted to the Local Planning Authority.
Reason: To provide ecological enhancements and to accord with the aims of chapter 11 of the National Planning Policy Framework.

Officer Assessment
This condition was considered under application reference 2018/92924, where it was noted that the bat and bird boxes were already installed at the time of the application and were acceptable for the purposes of condition 10.
This condition was discharged in full on 23rd November 2018 under application reference 2018/92924.

Summary
This application seeks to confirm that all conditions have been discharged in full. The Local Planning Authority can confirm that Conditions 1, 2, 6, 7, 8 and 9 of application reference number 2016/93681 are compliance conditions and therefore are not required to be formally discharged. Conditions 3, 4, 5 and 10 were discharged in full under on 23rd November 2018 under application reference 2018/92924 as set out in detail above.

There are no outstanding conditions that are required to be discharged.