

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:	2025/44/91051/E
Site Address:	Shawcross 170, Churwell Vale, Shawcross Business Park, Dewsbury, WF12 7RD
Description:	Discharge of details reserved by conditions 4 (Acoustic Barrier), 5 (Noise Mitigation Scheme), 6 (Noise Control) on previous permission 2023/93486 for reconfiguration of building, re-orientation of car parking and service yard, erection of a noise barrier and external alterations
Recommending Officer:	Nina Sayers

DECISION – Discharge of Condition – Refuse

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: 02-Jun-2025

Officer Report

Reference – 2025/91052

Site address – Shawcross 170, Churwell Vale, Shawcross Business Park, Dewsbury, WF12 7RD

Proposal – Discharge of details reserved by conditions 4 (Acoustic Barrier), 5 (Noise Mitigation Scheme), 6 (Noise Control) on previous permission 2023/93486 for reconfiguration of building, re-orientation of car parking and service yard, erection of a noise barrier and external alterations

Assessment

Condition 4 – Acoustic Barrier

“4. Before the development is brought into use, an acoustic barrier, as recommended and shown in figure 6 of the Noise Impact Assessment authored by Ramboll dated November 2023 Ref RAM-XX-XX-RP-AC-00001, and as specified in the drawing from Edward Architecture dated November 2023 Ref P011, shall be erected and retained thereafter.”

In support of the discharge of condition 4, the applicant has submitted a document titled:

- ‘Condition 4 – Photographic Evidence of Acoustic Barrier’.

The document shows details of a 3m high timber fence which appears to be located in the same location as specified in figure 6 of the Noise Impact Assessment identified within the condition. The document also provides photographs showing that this has been installed. However, the details are not definitive to confirm the fence has been installed in the correct plan, nor to the required standard.

While the above is acknowledged, it should be noted that condition 6 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.

Given the above condition 4 remains and cannot be discharged.

Condition 5 – Noise Mitigation Scheme

“5. Before the development is brought into use, a Noise Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the noise mitigation measures that will be used at the proposed development to control noise from the site, and it shall demonstrate that the noise will not cause a loss of amenity at nearby noise sensitive premises. The approved scheme shall be implemented before the development is

brought into use and retained thereafter. Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.”

In support of the discharge of condition 5, the applicant has stated within their cover letter:

“We recognise that to discharge Condition 5 a Noise Mitigation Scheme is provided to the local planning authority for approval. We can confirm that Ramboll have been instructed to produce a Noise Mitigation Scheme which will cover details of the noise mitigation measures that will be used at the proposed development to control noise from the site, and will demonstrate that the noise will not cause a loss of amenity at nearby noise sensitive premises. This document will follow on in due course for consideration.”

At the time of assessment, no Noise Mitigation Scheme has been submitted. Therefore condition 5 cannot be discharged and must therefore remain.

Condition 6 – noise control

“6. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. “Rating level” and “background sound level” are as defined in BS 4142:2014+A1:2019.”

In regards to condition 6, the applicant has stated:

Table 5 in the Noise Impact Assessment (document reference: RAM-XX-XX-RP-AC-00001), details the noise limits which apply to noise from fixed mechanical services and external plant and/or equipment.

In order to discharge condition 6, we can confirm the combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time.

A confirmation statement prepared by Ramboll will confirm that the fixed mechanical services and external plant and equipment does not exceed the background sound level at any time. This statement will follow on for consideration.

At the time of writing, the above referenced ‘confirmation statement’ has not been submitted.

Regardless, condition 6 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.

Recommendation: Refused

Report Dated: 22/05/2025

Proposed Letter Text

Condition 4 – Acoustic Barrier

In support of the discharge of condition 4, the applicant has submitted a document titled:

- ‘Condition 4 – Photographic Evidence of Acoustic Barrier’.

The document shows details of a 3m high timber fence which appears to be located in the same location as specified in figure 6 of the Noise Impact Assessment and provides photographs showing that this has been installed.

While the above is acknowledged, the information provided is not considered definitive to confirm whether the fence is fully in the correct location, nor to the correct specification, as required by condition.

Notwithstanding the above, it should be noted that condition 6 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.

Given the above condition 4 remains, as a prescriptive, ongoing requirement, and cannot be discharged.

Condition 5 – Noise Mitigation Scheme

At the time of assessment, no Noise Mitigation Scheme has been submitted. On this basis, condition 5 cannot be discharged and must therefore remain.

Condition 6 – noise control

You have provided the following statement pursuant to condition 6:

In order to discharge condition 6, we can confirm the combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time.

A confirmation statement prepared by Ramboll will confirm that the fixed mechanical services and external plant and equipment does not exceed the background sound level at any time. This statement will follow on for consideration.

At the time of assessment, the aforementioned confirmation statement has not been submitted.

Whilst the above is acknowledged, it should be noted that condition 6 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.