

Development Management  
Investment and Regeneration Service  
PO Box B93  
Market Street  
HUDDERSFIELD  
HD1 2JR

Our ref:

21<sup>st</sup> November 2018

Dear

**RE: Land at Walkley Terrace and Brunswick Street - planning application 2018/91661**

I am instructed by \_\_\_\_\_ in  
on behalf of \_\_\_\_\_  
relation to their objection to planning application 2018/91661.

I have been passed a copy of your officers report which is to be presented to planning committee on Thursday 22<sup>nd</sup> November 2018.

I have read the report and I believe that there are numerous errors in law and these errors would be challengeable through the courts. I therefore write to invite the Council to defer consideration of this application until these errors are addressed or if this is not done I write to place the Council on notice that we will challenge any approval of planning consent through the courts.

I set out below the most obvious errors. However, there may be more and we reserve the right to challenge any grant of planning permission on these grounds and any additional grounds which are identified by our Counsel.

**Highways**

There is a misrepresentation of K.C. Highways comments. You state that they have no objections subject to conditions. These conditions appear to have been taken from an email sent by \_\_\_\_\_ on 23<sup>rd</sup> July 2018. However, the most up to date highway response was uploaded on to the planning portal on 22<sup>nd</sup> October 2018 and states:

*“This application provides insufficient information to allow proper highway assessment”*

K.C. Highways therefore have not confirmed that they have no objections to the application. If they have confirmed this then there is nothing on the planning portal to confirm this?

Highways is critical to the determination of this application and this misleads the members of the planning committee and undermines your assessment of the application.

Furthermore, we note that a Road Safety Audit was uploaded on to the Portal on 2<sup>nd</sup> November 2018 and Queue Length Analysis was uploaded on 16<sup>th</sup> November 2018. This was after the committee report was written. How can you possibly have had regard to this new information when making your recommendation? K.C. Highways have not provided any response to this additional information and the application cannot be determined until this assessment has been undertaken.

### **Drainage**

Drainage is also another key issue for this application and drainage confirmed in their response which was uploaded to the portal on 14<sup>th</sup> November 2018, again after your report was written which confirms that:

“Kirklees Flood Management and Drainage **OBJECTS** to the application requiring FURTHER INFORMATION AND DISCUSSION prior to finalising comments on this application.”

Your report states that flood risk and drainage will be dealt with after the committee have made their decision. This is unacceptable. Drainage is key to the consideration of this application and this goes to the question of planning balance and determination of the application.

This information should be available for all to see prior to any recommendation being made to the planning committee.

An update to planning committee is not sufficient when things go to the heart of the application. Please see **R(oao John Matthews and Mary Urmstone) v. City of York Council [2018] EWHC 2102 (Admin)**

### **Statutory context for determining planning applications**

The report does not fully address all outstanding statutory objections nor does it fully address the Development Plan policies. There are numerous policies which this proposal does not comply with and your report fails to engage with these policies. It is quite acceptable for you as decision maker to consider the policy and attach little weight etc. However, it is erroneous to ignore these policies all together particularly where you have outstanding objections which are supported by these policies. The errors in relation to the statutory context and how applications are determined are significant.

### **Affordable Housing and other contributions**

You suggest at paragraph 10.13 that you will be looking to secure affordable housing, public open space and education contributions but way of condition. This is a very dangerous

strategy and no doubt if you do this you will have a section 73 application from the Developer claiming that the condition does not meet the tests for conditions and should be removed. It is then too late at reserved matters stage to ask for a condition or s106 agreement dealing with these issues. These should be secured by way of s106 agreement now using formulas to deal with the fact that you do not currently have exact numbers. Please refer to the NPPG regarding the use of conditions to ask for financial contributions.

In light of the above I would urge the Council to defer this item to allow for these issues to be properly addressed. If a deferral is not agreed then we will seek to challenge the decision through the courts.

Yours sincerely

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