KIRKLEES DISTRICT COUNCIL

FAO Katie Chew

Our Ref: AB/HEA306
Your Ref:
Date: 26/07/2023
Email:
Direct:

By email katie.chew@kirklees.gov.uk

Dear Ms. Chew,

P**lanning application number 2023/90956 by P O'Kane relating to the site at the rear of Sparks Road for the erection of 5, 3 bed dwellings.**

We are instructed by Heathcote Transport Limited. Please accept this letter as representations on their behalf in respect of planning application number 2023/90956 (the 'Application') by P O'Kane (the 'Applicant') relating to the site at the Rear of Sparks Road (the 'Site'), for the erection of 5, 3 bed dwellings (the 'Development').

Heathcote Transport Limited is the family business of the family and operates from a site which is immediately adjacent to the eastern boundary of the Site and which is registered under the ownership of

1 **Failure to notify.**

1.1 The Site includes land which is neither owned nor controlled by the applicant. Part of the Site is within the title registered to Mr. and part is within a title registered to as joint owners (together referred to as the 'Third- Party Land'). The application form states that notice of the application was given to all the owners. This is not correct. Notice has not been given to all the Owners.

2 **Insufficient rights to allow implementation of the proposed access.**

2.1 The access to the Development is proposed to be across land not in the ownership or control of the Applicant.

2.2 Plan 22216.01 Rev B Nov 22, submitted with the Application, shows access details. This includes a location plan and existing site plan both showing '*hatched area denotes right of access over adjacent property'* The plan also shows the proposed width of the proposed access as 6,000mm with a 920mm path on either side.

2.3 The Design and Access statement submitted with the application states '… *the access is shared with the haulage yard adjacent and is not considered a good access for normal cars as it hasn't been resurfaced for many years…..The proposed entrance to the development will be located as existing, off New Hey Road and a new access road with markings, footpath, tactile paving etc will be constructed, as shown on the proposed site plans, all in accordance with highways legislation. This access is a shared access with the Haulage Yard who own the land, but there has always been a right of access across it. The owners have agreed to the proposed development and works to form the new access road to the site.'*

2.4 Whilst the Applicant does have a right of way across the Third-Party Land, its width is defined on the registered title plans and it is not wide enough to accommodate the proposed access. The Applicant does not therefore have sufficient legal rights to implement the access as proposed.

2.5 All of the Owners of the Third-Party Land have not consented to the access as proposed. The Design and Access statement is therefore incorrect.

2.6 It would not be appropriate to grant planning permission for the Development with an access that cannot be implemented. The use of a Grampian condition (preventing development until the access has legitimately been provided) would be inappropriate as there is currently nothing to show that the necessary rights to implement the access are likely to be granted.

3 **Insufficient rights to allow implementation of the proposed Junction with New Hey Road**

3.1 The Development proposes an improved junction with New Hey Road. Plan 22216.01 Rev B Nov 22 shows 'proposed *widening of existing opening to form two-way*

junction'. A proposed width of the entrance at the junction with New Hey Road of 6000m with 2000mm either side is proposed and a note on the plan states '*Tactile paving in accordance with Highway Design Guide 1,200 mm. Deep minimum with dropped kerb both sides of access.*

3.2 To widen and improve the junction as proposed would require land included in the title registered to Mr and no consent has been given or legal rights granted to allow this to happen. The Applicant cannot therefore widen the junction as proposed and for the same reasons given at 2.6 above planning permission should not be granted for this development when the Applicant does not have the right to construct the proposed junction.

4 **Insufficient rights to provide the parking as proposed.**

4.1 The Design and Access statement states '….*parking is also possible and occurs to the parcel of land directly adjacent number 1a sparks road and between the access into the haulage yard. This space will be resurfaced and allocated as parking for visitors of the development and the haulage yard.'* Plan 22216.01 Rev B Nov 22 shows the notation '*Macadam Area* 'in this location*.*

4.2 The area referred to in 4.1 above is on the Third-Party Land. The Owners have not consented to the proposal and no legal rights exist for the resurfacing of this area and its allocation for parking.

5 **Private access**

5.1 The applicant proposes that the access to the Development will be a private access.

5.2 Paragraph 3.15 of the Kirklees adopted Highway Design Guide states that private roads serving more than 5 dwellings should be laid out to an adoptable standard and offered for adoption.

5.3 The development proposes that the access would serve 7 dwellings (5 new plus two existing) however, as stated above the applicant does not have sufficient legal rights to lay the road out to adoptable standard nor to offer it for adoption.

6 **Shared access**

6.1 If developed as proposed the access would serve not just 7 dwellings but also the adjacent industrial estate including the road haulage business. An unacceptable level

of potential conflict between the commercial vehicles and the private cars of residents would result. The existing business would be likely to receive complaints from future residents and the development would have a significant adverse effect on the operation of the business contrary to para187 of the NPPF.

For all of the above reasons we request that the application is refused.

ours sincerely