

PLANNING STATEMENT
In support of
Application 2024/90616 for 2^{No.} dwellings
At Bradshaw Road and
Honey Head Lane, Honley,
Holmfirth HD9 6EE.

1.0 INTRODUCTION

1.1 This statement with its 3No. Appendices seeks to address issues raised by the Council and thereby allow the application to be validated and moved forward to a decision.

1.2 On 8 March 2024 an email was received by Orange Design Studio, the agent for the application, advising that, in advance of the subject application being validated and considered, a separate application should be made to vary the S106 agreement to which the site is subject.

1.3 It is considered that such a two-stage approach is unnecessary and inappropriate being based on a misinterpretation of the site history and relevant facts.

1.4 On that basis it is considered that there is no good reason why validation should be held up.

2.0 RELEVANT HISTORY AND ASSESSMENT

2.1 The following is based on the plans and documentation available on the Council's planning website, specifically with reference to planning application 99/93218.

2.2 Planning permission was granted on 15 August 2000 for the erection of 34No. dwellings with garages off Bradshaw Road/Long Lane, Honley under the above reference.

2.3 The only red line denoting the application site is shown on the location plan id1037525 denoted as Amended location Plan 27/3/2000.

2.4 The current application site 2024/90616 is within the red line of that application site which shows within it the location of the 34No. plots.

2.5 No development is shown within the site of the current application 2024/90616 apart from an access linking Bradshaw Road and what is now Honey Head Lane between Plots 23 and 24/25 within the approved layout and existing properties Nos. 75 and 79 Bradshaw Road.

2.6 Relating to that access is notation 'Lockable bollards to allow plant access'.

2.7 An area of land edged green and annotated 'Public open space' is shown on the approved location plan between proposed Plots 8 and 9. The plan is at Appendix 1 of this statement.

2.8 There is no public open space annotation on that location plan within the area the subject of the current application 2024/90616.

2.9 A note on the decision notice states that 'This decision should be read in conjunction with the associated S106 obligation relating to the provision of Public Open Space and Affordable Housing.

2.10 The Principle(sic) S106 Agreement is at id 327742 and dated 7 August 2000.

2.11 A supplemental agreement was entered into on 11 August 2011 which includes at Section 1 reference to the location of the site at Long Lane and Bradshaw Road, Honley... 'more particularly shown edged red on the plan annexed to the Principal Agreement'.

2.12 It includes that '2- The Principal Agreement is in all other respects (other than clause 3 re a change to plots 17 and 18 under 2011/91401) hereby confirmed and shall remain in full force and effect'.

2.13 Further Supplemental Agreements were entered into re changes to house types in conjunction with respective planning permissions. The agreements refer to the site as '...shown edged red on the plan attached to the Principal Agreement ("the site").

2.14 It has thus been established that the Principal S106 Agreement is the key document in relation to the planning permission 99/93218 and that supplemental agreements relating to the house type changes within the overall site in no way deviated from its essential provisions.

2.15 The Principal Agreement includes that 'whereas – 4. The carrying out of the Development will generate a requirement for recreational open space ... the builder has agreed with the Council that planning obligations should be entered into as at the date of this Agreement in respect of the site'.

2.16 In respect of the provision of public open space the Obligation includes various provisions.

2.17 Of particular note it is witnessed at 4(iii) that the owner and builder covenant 'To provide within the site an area of land shown edged green on the plan annexed hereto as open space ("the Open Space") in accordance with the details shown on Drawing No. 1537.01 annexed hereto ("the Approved Scheme")...'

2.18 There are a total of 4No. plans which are shown to be part of the Obligation.

2.19 One shows an area of designated as Public Open Space between proposed plots 8 and 9 attached to this Statement at Appendix 2.

2.20 The other, attached at Appendix 3 shows a detailed planting schedule for the same area.

2.21 Neither plan shows the area edged green nor is either drawing referenced 1537.01 as referenced in the obligation (see paragraph 2.17 above)

2.22 However there can be no doubt that the area involved is the same as that edged green on the location plan for which planning permission was granted (99/93218).

3.0 KEY CONCLUSIONS

3.1 By virtue of: -

- only one area of the site (between Plots 8 and 9) being identified as public open space on the location plan for which planning permission was granted (attached at Appendix 1,
- only that same area being shown as public open space on plans included within S106 obligation; (Appendices 2 and 3); and
- the provision noted at paragraph 2.17 above 'that the Owner and Builder covenant to provide within the site AN AREA (my emphasis) of land shown edged green on the plan annexed hereto as open space...' it is clear that the planning permission and S106 require only one area of public open and that is clearly not the area of my client's current application.

3.2 As such, there is no constraint under the terms of the planning permission 99/93218 or the related S106 obligation on the development of the current application. It is not required for public open space and never has been.

3.3 As stated in the letter of 16 January 2024 to you from Jake Hinchliffe, Director of Orange Design Studios Ltd, the (current) application site acted as a temporary emergency access whilst larger developments were under construction and until a point where the highway network was adopted.

3.4 At that point the temporary access was no longer needed and has not been so used since 2007.

3.5 The site is now private land with no public right of way or access.

3.6 Accordingly, the current application 2024/90616 should be validated and a decision reached without consideration of any constraint imposed either by the approval and conditions attached on application 99/93218 or by any provision of the related S106 Agreement.

3.7 On the assumption that such unfettered consideration will lead to the conclusion that planning permission should be granted, it is anticipated that some sort of supplemental agreement to the S106 will be required before the approval notice is issued.

3.8 My client has no objection to entering into any such agreement.

Malcolm Sizer

Malcolm Sizer Planning Ltd.

June 2024.