

From:

Sent: 17 June 2024 22:57

To: Victor Grayson <Victor.Grayson@kirklees.gov.uk>; Mathias Franklin <Mathias.Franklin@kirklees.gov.uk>

Subject: Formal Objection to Application Number 2024/91260 (Change of Conditions) Against Case Reference 2021/92801 From: 31 Kilroyd Drive, Hunsworth Cleckheaton BD19 4EA

Dear Mr Grayson please can this objection statement be included on the case file against Merchant Fields 2024/91260 (Main Reference 2021/92801) along with my two preceding statements shown below of 21/05/24 and 30/05/24.

Following our exchange of correspondence two of my neighbours have seen fit to communicate with you concerning their discussions with Harron Homes and the Smith family. One of them has sent you his authorised property plan from H.M. Land Registry showing correct boundary and the other has notified you of his agreement with Harron Homes that their site plan was incorrect; in fact both of them had agreed with the Land Agent for Harron Homes that their site plan encroached on resident's gardens, and that the Harron Homes site plans were incorrect.

As far as this statement to you is concerned therefore, I am writing to formally request rejection of 2024/91260 and invalidation of approval against case reference 2021/92801. Naturally if one or both of these cases have to go back to the planning committee for formal rejection or in the case of 2021/92801 formal invalidation, other residents will wish to speak, and I would request that you advise when the committee will hear, preferably with as much notice as possible, in order for people to make arrangements to attend; that includes me of course. Unless of course rejection / invalidation are formalities with a pre-determined conclusion, as in my view they now should be, in which case there will no need for any residents to attend.

I will now give full amplification to this case presentation.

As I advised you in my first statement of 21st May 2024, the Local Authority are not being asked to adjudicate in a civil dispute but to ensure strict and scrupulous adherence to regulations and the law, in respect of the two planning applications already referred to above pertaining to this site.

In light of further information provided to you and me by _____ at Merchant Fields this is no longer an open question. I'll quote from his statement of the 8th June 2024 which we have both seen, regarding his agreement with _____ the Land Manager for Harron Homes on the 16th March 2021, what he said was this:

'At the meeting it was agreed that the boundary of my property was where I had marked it and that their plan had encroached on my land'.

It is therefore inexcusable that in their 'Ownership Certificate and Agricultural Land Declaration' against 2021/92801 by Harron Homes made on the 9th July 2021 their declaration said this:

'I have/the applicant has given the requisite notice to everyone else (as listed below) who on the 21 days before the date of this application was the owner and/or agricultural tenant of any part of the land or building to which this application relates'; the relevant box is marked to signify this, but no-one else is listed.

This is demonstrably a false statement by or on behalf of Harron Homes made with the full knowledge of what had transpired on the 16th March 2021 and is a clear breach of the law.

For any part of the site that the applicant does not own, the developers - in this case Harron Homes - would have had to serve notice on those owners. This has not happened. If they do not serve notice or the owners object then planning should be refused or declared invalid. As you're also fully aware it is an offence to either knowingly or recklessly make a false statement. In this case we have no notice being served and a false declaration.

For purposes of clarity I'll quote fully the relevant sections of the 1990 Town and Country Planning Act and the 2006 Fraud Act.

Section 65 of the TCPA 1990 Paragraphs 5 and 6 say this:

Paragraph (5) A local planning authority shall not entertain an application for planning permission (or permission in principle) unless any requirements imposed by virtue of this section have been satisfied.

Paragraph (6) if any person -

1. Issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
2. Recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

He Shall be Guilty of an Offence.

The Fraud Act 2006 says this: Section 2 **Fraud by false representation.**

1. A person is in breach of this section if he-
2. (a) Dishonestly makes a false representation , and

1. (b) Intends, by making the representation -

(i) to make a gain for himself or another or,

(ii) to cause loss to another or to expose another to a risk of loss.

(2) A representation is false if-

1. It is untrue or misleading, and

(b) The person making it knows that it is, or might be, untrue or misleading.

Both Acts of Parliament quoted put matters succinctly in respect of the case references in question.

However I will now move to case reference 2024/91260. Although the principles quoted above apply in this case as well I will quote the relevant 'Ownership Certificates and Agricultural Land Declaration'. To provide the necessary detail and prove the case.

The relevant statements say this: 'Is the applicant the sole owner of the all the land to which this application relates; and has the applicant been the sole owner for more than 21 days. The relevant box is marked **yes**. This of course is a false statement the declaration was made on the 24th April 2024.

The application continues: 'Certificate of Ownership Certificate 'A':

I certify / The applicant certifies that on this day 21 days before the date of this application nobody except myself / the applicant was the owner.

The declaration date of this statement was 24th April 2024. This statement too in light of my preceding comments is false.

The position of the local planning authority, as demanded by the 1990 Town and Country Planning Act as quoted above is clear and unambiguous. The application for 2024/91260 should be rejected and 2021/92801 should be invalidated.

No public body can be seen to uphold or perpetuate clear breach of the law as demonstrated in the preceding statement. It is not simply a case of modifying the site plan, in light of the false declarations made the current application for change of conditions should be rejected and the 'approved application' must be invalidated as both involve false declarations which involve serious breach of the law.

The maximum penalty under the 2006 Fraud Act, quoted above, for example is ten years imprisonment. Adherence to the law is not some kind of 'pick and mix'. I have made a serious and coherent presentation, and, stemming from that the position of the Local Planning Authority is prescribed by law, both of the case references quoted above should be declared null and void. I can't make it any plainer.

Naturally in light of my comments I would not only request that my statements go on the case file for 2024 / 91260, but would request further advices of the steps taken in view of this presentation, for invalidation and rejection. I look forward to hearing.

Kindest regards

From:

Sent: 30 May 2024 21:02

To: Victor Grayson <Victor.Grayson@kirklees.gov.uk>; Mathias Franklin <Mathias.Franklin@kirklees.gov.uk>

Subject: Re: Boundary Dispute at Merchant Fields Farm Case Reference 2021/92801 From Hunsworth Cleckheaton BD19 4EA

Dear Mr Grayson, thank you for your response. I am very surprised that this is the first time you have heard of this, so it's just as well that I've written to you.

We are agreed that you are not being asked to intervene in a boundary dispute as such; a point that I specifically made in my previous statement to you when I said: 'The Local Planning Authority are not being asked to adjudicate in a civil dispute or even to take sides by aiding one party in such a dispute, but are being asked to ensure strict and scrupulous adherence to regulations and the law even to the point of invalidating current site approval'.

It is highly unlikely that either Harron Homes, their agents, or the family would want your involvement, even if you assumed that they would keep you advised, as they would wish to avoid complications. In light of the representation now made by me that's understandable, wrong but understandable.

Lets start at the beginning with the application for Case Reference 2021/92801.

The Ownership Certificate and Agricultural Land Declaration say this :

'I have /the applicant has given the requisite notice to everyone else (as listed below) who on the 21 days before the date of this application was the owner and/or agricultural

tenant of any part of the land or building to which this application relates'. No-one else is listed This declaration was made on the 9th July 2021.

Neither yourself or any other resident including me can be held responsible for their presentation. If there was no coherent search of the land registry to ensure scrupulous adherence to property boundaries, which there should have been, then in light of the emerging situation, which I have communicated to you; the statement above could be declared a false declaration. It's as simple as that. As I said in my main statement to you:

'For any part of the site or land that the applicant does not own, the developers - in this case Harron Homes - would have had to serve notice on those owners. This has not happened. If they do not serve notice or the owners object then planning should be refused or declared invalid'. I should further advise that it is an offence to either knowingly or recklessly make a false statement. I should also add that throughout this saga since July 2019 Harron Homes have tried to put it about that they were the landowners, when in fact they weren't.

The land ownership issue came to a head with the [redacted] family trying to sell the site to Harron Homes . The affected properties at Merchant Fields Farm complex are 'The Bungalow' and numbers 50 and 52 (All are Kilroyd Drive with the postcode BD19 4EA). Obviously the [redacted] family couldn't sell what wasn't theirs, even though they thought it was, and even worse due to incompetent, reckless, or even deliberate mis-handling of the application, the planning permission now extends within the private boundaries of the addresses given above. Perhaps the agents for Harron Homes relied too heavily on information from elsewhere rather than obtaining authentic verification. This on it's own would be inexcusable.

[redacted] who has been in discussion with the [redacted] family and their agent has agreed a boundary line which is now marked out in the adjacent field as to what is actually his and what is theirs. This is why I invited you to arrange a meeting and come out and see for yourself, on the ground. [redacted] also did an overlay on his computer which showed that the encroachment would cut off vehicular access to number 52 as well. This is why I firmly believe that that there has been mis-representation of the official record by Harron Homes, which as I have illustrated would be an offence.

There is also a deed of covenant on this site covering issues such as access which only applies to residents if none of them have agreed to it being compromised, then who has decided that it shouldn't apply.

Clearly no residents were party to the discussions between Harron Homes and the [redacted] family, indeed I'm not even sure if the sale has proceeded at this stage.

[redacted] are away at the present time so I can't speak to them. However I would request that you speak to the [redacted] family or their agent.

[redacted] and additionally speak to Harron Homes as well. The issue in question being whose land is the planning permission actually on, how was this situation arrived at, and why the necessary legal

compliance wasn't adhered to. Either under Section 65 Paragraphs 5 and 6 of the 1990 Town and Country Planning Act or even worse Section 3 of the 2006 Fraud Act, as I have stated.

One or both of these parties should have contacted you as a matter of course, but clearly didn't, as this is the first time that you are aware of the situation. But now that you do know and that your professional and statutory role is clearly within the remit of the planning issue, then you have perfect latitude to make your own enquiries and take action as you see fit. Naturally I will obtain any further information that I can, and won't be reticent about communicating it as you well know; Of course as a matter of courtesy I would expect the same.

The one situation that should be avoided is where other residents are forced to engage in expensive litigation either due to illegal conduct by one party, or official indifference and inaction by the Local Planning Authority.

Now let me turn briefly to the new application for change of conditions Case Reference 2024/91260. I only became aware of it last weekend, and the majority of residents seemed not to be aware so I've no idea how it was communicated. However I must formally request an extension of the public consultation period to say the end of the last week in July in the interests of fairness and equality bearing in mind that the public consultation started on the 9th May but no-one seemed aware of it. Additionally for the developers or their agents it will give them the opportunity to serve notice on other owners and either issue revised certification as to ownership thus giving the affected residents time to object. Or a revised application anyway, with a completely new consultation period. Please can you advise me further.

Turning to Case Reference 2024/91260 let me quote the Ownership Certificates and Agricultural Land Declaration which says:

'Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days'. The answer given to this question is YES but we now know that's an open question. I have no idea whether the sale of the site as a whole by the Smith family to Harron Homes had been completed at least 21 days before the application date which was 24th April 2024, or whether Harron Homes had full ownership on or before the 3rd April 2024; but the issue of Planning permission on private land adjacent to Merchant Fields, requires formal determination. Therefore because it's an open question the YES statement can be seen as a breach of the requirements of Section 65 Paragraph 6 of the Town and Country Planning Act 1990. In my view this alone invalidates the application.

Additionally Certificate of Ownership Certificate 'A' states:

I certify/the applicant certifies that on the day 21 days before the date of this application nobody except myself /the applicant was the owner. The declaration date was 24th April 2024, but in referring to my comments above we now know that is an

open question - although I have very little doubt at all - and declares the certification statement invalid.

Nonetheless Mr Grayson I appreciate your courteous, prompt and serious response, and will look forward to hearing further.

Kindest Regards

From:

Sent: Tuesday, May 21, 2024 9:49 PM

To: Victor Grayson <Victor.Grayson@kirklees.gov.uk>; Mathias Franklin <Mathias.Franklin@kirklees.gov.uk>

Subject: Boundary Dispute at Merchant Fields Farm Case Reference 2021/92801 From:
31 Kilroyd Drive, Hunsworth Cleckheaton BD19 4EA

Dear Mr Grayson, there is a boundary dispute between some of my neighbours at Merchant Fields Farm and the family who own the rest of the site.

Why is this a problem? because the family - as you're probably aware - have been engaged in negotiations with Harron Homes over the sale of the site. What has brought matters to a head, is that Harron Homes it would seem, now have planning permission on land that belongs to neither them or the family, hence the dispute.

Clearly the family cannot sell land that doesn't belong to them, and as you're fully aware this gives rise to a very serious situation. From the information I have been given it would seem that the land area in question is about 6400 square feet involving the frontages of residents at the Merchant Fields Farm residential complex, who as far as I know are all owner occupiers.

So, following discussions with _____ I am now writing to you due to the seriousness of the situation, which can best be described in the following terms: An application for planning permission is not valid unless it is accompanied by a certificate which applicants must complete, that provides certain details about the ownership of the application site, and confirms that an appropriate notice has been served on any other owners. It is an offence to complete a false or misleading certificate, either knowingly or recklessly.

I'll give further amplification to my comments above. For any part of the site or land that the applicant does not own, the developers - in this case Harron Homes - would have had to serve notice on those owners. This has not happened. If they do not serve notice or the owners object then planning should be refused or declared invalid.

I should add that anyone who does make a false or misleading statement in connection with a planning application, knowing that it may be untrue or misleading, with the intent to make a gain for himself may be prosecuted under Section 3 of the Fraud Act 2006.

I must ask that my comments are viewed in all seriousness. Under the planning regulations anyone who is not the legal owner of the land in question must submit a letter of consent from the owner along with the planning application. Failure to provide this consent may result in the application being invalidated.

Clearly the matter must be subject to further serious investigation as no letters of consent have been obtained. In light of this it is essential to ensure that any proposed development adheres to property boundaries and does not infringe upon adjacent land. I need hardly add that this should have been determined long before now.

I would respectfully request that you arrange a meeting with some of us and come out here with a tape measure and detailed specifications accurate to the nearest thousandth of an inch to investigate further, as clearly there must be further serious investigation.

To put matters succinctly my comments above aren't just covered under the 2006 Fraud Act, but by Section 65 of the Town and Country Planning Act 1990 Paragraphs 5 and 6, I will quote them in full.

Paragraph (5): A local planning authority shall not entertain an application for planning permission (or permission in principle) unless any requirements imposed by virtue of this section have been satisfied.

Paragraph (6) If any person -

1. issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
2. recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

He Shall be Guilty of an Offence.

From the information I have, I firmly believe that there is a legal compliance issue that needs to be investigated and resolved fully in compliance with the law, as stated, hence my communication to you. I fully realise that in the normal course of events this would be a civil dispute between conflicting parties; but in this case there is a much bigger dimension.

The Local Planning Authority are not being asked to adjudicate in a civil dispute or even to take sides by aiding one party in such a dispute, but are being asked to ensure strict and scrupulous adherence to regulations and the law even to the point of invalidating current site approval. From the written and verbal communications I have had with it is clear that there is encroachment, and matters must be robustly addressed. It is fully within the remit of the Local Planning Authority to do so.

The recent withdrawal of the Section 73 application (TCPA s73) Case Reference 2022/93305, makes absolutely no difference to the scenario described - as far as I'm aware - unless you know something we don't, in which case please advise further.

With this in mind there is one further matter I would seek your advices on. As you may recall last August I wrote to you asking if you were aware of any moves to purchase adjacent land by Harron Homes for the purposes of building a reservoir. I can now readily acknowledge that at the time I was not in possession of full and correct information. The location given was incorrect, and given as on the far side of Mazebrook from Merchant Fields.

In fact the location is at Merchant Fields. The site in question is the same as that for the dog training centre applied for under application 2022/91137 this application was withdrawn on 24th March 2023. Leaving aside for the moment the reservoir question, which would come under the heading of 'Environmental Impact Issues' and is outside the scope of this statement, do you have any further information on that.

As far as I'm aware this is very much a live issue. If matters start to come to fruition would that mean yet another Section 73 application or a new planning application entirely. In either case the immediate question by residents would be, what's going on? I don't know whether you're aware of any of this, but any advices would be appreciated. You could for example have been approached for pre-application advice. However the sooner such an issue is in the public domain the better.

Nonetheless, taking my preceding comments into account, I look forward to hearing from you, and as you can well appreciate would welcome an early response.

Regards