

Robert Halstead

Chartered Surveyors & Town Planners

Planning Development

By Email Only

30th October 2024

Kirklees Council
Planning and Development Service
Growth & Regeneration
PO Box 1720
Huddersfield
HD1 9EL

FAO: Victor Grayson

RE: OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT OF 13 DWELLINGS

AT: LAND SOUTH OF, LEAK HALL BARN, OFF LEAK HALL LANE, DENBY DALE, HUDDERSFIELD, HD8 8QU

LPA REF: 2024/92168

Dear Sir,

Following the publicity period in connection with the above planning application, we have reviewed the representations received and would respond to the key material planning matters as follows. Issues capable of being dealt with through appropriate planning conditions are not addressed (for example comments regarding construction traffic).

Coal legacy

Comment: Coal issues underground on this site as per the planning findings from another application adjacent.

Applicant response: Both Kirklees Environmental Services and the Coal Authority have expressed satisfaction with the Phase I Environmental Desk Study and Coal Mining Risk Assessment, submitted as part of the planning application. This is subject to standard conditions being imposed on any outline planning permission in connection with intrusive investigations and, if necessary, remediation and validation reports.

It is also noted that officers did not recommend the adjacent residential development site be refused on such grounds.

Archaeology

Comment: Possibility of this site being a medieval settlement which needs investigating.

Applicant response: The recent planning application on the adjacent site contained a detailed archaeological investigation which concluded:

“Some possible earthworks associated with this reference were reported in the 1970’s and 1980’s, some of which were located within the northern part of the site. However, a further survey in 2012 and a current site visit failed to record these earthworks. An extract from the UK Lidar map also shows no significant earthworks visible on the site (Figure 9).”

The West Yorkshire Archaeological Service has raised no objections to the granting of planning permission subject to a condition to secure a programme of archaeological recording.

Footpaths

Comment: Footpath moved from within the site to permissive path site to east.

Applicant response: The permissive path along the eastern boundary was created in agreement with the Council’ Highways Dept and Countryside & Recreations officer. This was prompted by local residents starting to use the land as an informal cut-through. The permissive path was agreed with the Council and a little later, a Parish Councillor became involved in organising surfacing for the path.

Drainage

Comment: Drainage infrastructure inadequate.

Applicant response: A drainage scheme has been put forward as part of the application and we note that both Yorkshire water and the Local Lead Flood Authority raise no objections subject to conditions being imposed on any outline planning permission (in order to flesh out a more detailed scheme). Surface water will be restricted to a discharge rate of 3.5l/s into existing drainage network, in order to help mitigate against surface water flash floods.

Land Ownership

Comment: Land within unadopted road allegedly not owned by applicant. Potential for proposed visibility splays to be unachievable as a result.

Applicant response: The registered land owned by the applicant is contained within the attached land registry plan. The unadopted track to the north of the application site boundary is unregistered according to Land Registry records, and having analysed all surrounding land registry titles there are no identified third party rights of ownership, covenants etc. As such, the legal position is that land ownership carries with it the ownership of adjacent unadopted roadways, up to the middle line. This is known as the “ad medium filum” presumption. As a result of this, the proposed visibility splays either (a) fall within land within the control of the applicant, or (b) fall on land that is part of the adopted highway (the area to the east at the top of the made part of Leak Hall Lane).

Miscellaneous

Comment: Removal of small building / pinfold of possible historical interest. Pinfold allegedly common land.

Applicant response: It is understood this small building used to be part of the adjacent Leak Hall Farm and formed part of a piggery some time ago. The building has not been used for “folding” sheep in living memory, and it is doubtful it was ever in common usage (rather than as part of Leak Hall Farm as we are asserting). There has been no access to this small building for anyone other than the current landowner stretching back 70 years.

As per the attached Land Registry document, there can be no doubt that the small building falls within the ownership of the applicant, contrary to that implied by one or two of the representations.

Comment: Partially implemented planning permission for a side extension with habitable rooms facing the application site at 6B Leak Hall Crescent, therefore fails Space about Buildings standards.

Applicant response: Within the officer’s report to the relevant planning permission (2022/92668), it was stated:

“The proposed opening within the side elevation of the extension would be at first floor level and a secondary window to bedroom 4. It would look directly onto footpath at the side and across to open land that is allocated for housing in the Local Plan. Whilst the case officer sought to replace this with a high sill or obscurely glazed window, on reflection, as there is a close boarded fence approximately 2.0m high along the boundary with the footpath and the open land is a considerable size so that it would not prejudice the future development of that land, it is considered un-necessary to change the proposed side window, or the raised balcony for the same reasons.”

This means that the impact on the allocated land was in fact taken into account because the side window was classed as a secondary, as opposed to a primary, habitable room window. As such, the relevant proposed plot (if confirmed in this position at the reserved matters stage) would not be required to be moved in order to comply with Space about Building standards.

In summary, we hope the above helps in clarifying the key material planning issues together with other matters raised through the representations received.

Yours Faithfully,

Robert Halstead Chartered Surveyors & Town Planners