

DC Admin

From:
Sent: 01 October 2025 08:23
To:
Cc:
Subject: Re: Objection to Planning Application 2024/70/93277/E

Categories:

Dear David,

I appreciate your comments but as you will see I have little confidence on how Kirklees are dealing with these applications and I feel that you personally need to be aware of a number of matters which could (TBC) amount to maladministration.

I wish to express my serious concerns, grounded in planning law and statutory practice, regarding the applications in question.

It is my understanding, supported by the Town and Country Planning Act 1990 and relevant case law, that a planning permission cannot be lawfully implemented until all pre-commencement conditions are discharged. Information pertaining to the discharge of Condition 10 was apparently not accepted until 23 July 2025, three days after the date by which development was required to lawfully commence. At present, not all necessary consents appear to have been discharged. Furthermore, no documented consents have been provided for works proposed over common land, (a stated requirement, by the Planning Officer, before development) nor would it appear (TBC) has the developer demonstrated valid vehicular access rights over Public Footpath SPE/20/30. As such, any works currently ongoing at the site may raise significant questions regarding their lawfulness under the relevant statutory framework. These applications appear no longer extant.

Of particular concern is the apparent absence of enforcement action by Kirklees Council in relation to these matters. Given the statutory duties placed upon the Local Planning Authority to uphold planning law, including through enforcement where breaches are identified, clarity is required as to how the current situation has arisen and what active oversight or audit is in place over officer decisions to ensure compliance with legal obligations.

Further points for consideration:

Section 73 Variation or Substantive Change

The recent Section 73 variation, approved by Kirklees officers, appears to have permitted amendments seen by many residents as fundamental alterations to the permitted scheme.

Notably, these appear to contradict the spirit and intent of the Planning Inspector's Appeal Decision, which stipulates adherence to plans approved for legal certainty. Also the developer stressed, and supported by the planning officer at the time, and later at appeal that these works would not impact common land.

Common Land Safeguards

There is established precedent, both locally and nationally, for replacement land provision under Section 16 of the Commons Act 2006 when common land is affected by development. It is not clear what legal or policy rationale underpins Kirklees Council's approach of expecting solely the developer to secure such rights or consents, particularly when the Council is the proprietor of the affected land. All common land that can be has been appropriated.

Alleged Unauthorised Works

The appeal decision letter specified several conditions as pre-commencement requirements. Reports of excavation and concreting works prior to such discharges suggest a potential breach of planning control. Also as of 30th Sept. 25 block laying as well. I must request clarification on what enforcement assessments have been carried out and what rationale supports the absence of action.

Unresolved Access Rights

There is, to date, no clear evidence of established private vehicular rights over the public footpath in question. The lack of such rights could have implications both for the lawfulness of development and for the registration of any future titles or mortgages.

Application of Planning Policy

Residents raised significant concerns regarding the impact on parking and access, which, despite requests, were not cited as reasons for refusal under policies LP21 and LP22. The absence of reference to these core objections in the Planning Inspector's considerations is noted, and explanation is respectfully sought.

Condition Compliance and Public Records

It is troubling that the Kirklees Planning Portal continues to list these applications as extant despite outstanding pre-commencement conditions and deadlines set by the Inspector. I request clarification of the Council's view as to whether a lawful commencement has occurred.

I have stated previously that proposals will cause me Harm and cause Nuisance, (light, fumes, noise) given the closeness of access and turning to my property. Whilst the Planning Inspector stated conditions to limit impact, as condition 33 *"in the interests of living conditions of neighbouring residents as well as the character of the area, details of boundary treatments....."*, it is clear that in discharging conditions Officers have done little to ensure this impact is limited.

Section 106/278 Agreements

The decision not to seek Section 106 or Section 278 agreements raises important questions about how wider community and infrastructure impacts are being mitigated, particularly in light of statutory and policy precedents on similar sites. Given that this development impacts common land and a public footpath, for transparency, the legal and policy justification for this decision must be set out in detail.

Accordingly, and to ensure robust public confidence in Kirklees' statutory duties as Planning Authority, I have requested the following under the Freedom of Information Act:

- The specific legal and policy reasoning underpinning the decision not to seek Section 106 or 278 obligations;
 - Any viability assessments or legal counsel received in support of this determination;
 - The Council's plan to manage and mitigate impacts in the absence of such instruments.
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Given the implications for public trust in local governance and the protection of valuable community assets, I respectfully request your detailed and personal response on each of these substantive matters.

Regards
