

From: [Haywood, Ben](#)
To: [Planning Comments \(HPBC\)](#)
Subject: FW: HPK/2022/0353
Date: 08 February 2023 18:26:40

Dear Mr Haywood

Thank you for your prompt response.

I wholly agree planning application HPK/2022/0353 is contentious, in reality two applications, one previous for demolition and one current for new development on the same site, and both red lined boundary site plans differentiate, but submitted from **the same applicant**, Mellor Homes.

The same planning officer Mr Stannard has been appointed for both applications, and who failed to pick up on such conflicting information.

The previous demolition application [DET/2021/0019](#) (permitted development) included the entire width of Adderley Rd/PROW50 in the red lined site plan.

The additional development application HPK/2022/0353 excluded Adderley Rd/PROW50 in the red lined site plan. It also excluded the area where they previously removed the tree line in the rough ground area of the site at pre-application stage, then built a hard standing and access way from Adderley Rd (forward of the original building line), and without any planning consent (still not subject to planning enforcement action despite previously being brought to your attention).

The Title plan (DY451343) is the only accurate mapping I can rely on and is clearly red lined at its boundary curtilage as official ownership of the site in accord with certificate A issued. It includes the previous tree line and excludes the whole of Adderley Rd/PROW50.

For the record, and as previously advised, when application [DET/2021/0019](#) was transferred to Mellor Homes (effectively a new application) no public notification or consultation process was undertaken by the LPA.

In respect of application HPK/2022/0353 the applicant has absolutely no rights to construct upon, and obstruct Adderley Rd/PROW50 as proposed, and only retains legal pertinent rights to cross over it, and access M&E, water, and drainage over and above it.

They have no legal rights to construct two access routes to the new development site and construct three separate pavement sections as detailed in HPK/2022/0353. In addition, no formal agreement has been obtained from DCC PROW Dept who are resistant to such proposal.

All vehicular access to the site is restricted via **adopted** highway only (Simmondley Lane).

The above is confirmed in the conveyance dated 6th August 1927 and cross referenced in the applicants transferred land title and plan DY451343, but not registered with HMLR.

You are advised that all existing domestic dwellings, a charity commission registered public building, a stand-alone garage, and land parcels of property owners adjacent to Adderley Rd have legal prescriptive rights to the **free and uninhibited access** to their properties of all descriptions via this roadway. Such rights in the case of one landowner are protected by

conveyance dated 16th July 1926 which precedes the above.

A copy of the above document is available from your asset management department from whom the land was purchased. Owners of additional properties detailed above enjoy the same legal prescriptive rights by easement contained in their title deeds and plans.

Accordingly, **and purely in planning terms**, the applicant should have served certificate B or C on the above, 20 days in advance of planning application HPK/2022/0353 being submitted but failed in both respects.

On receipt of the application detailing self-certification of certificate A, the appointed case officer should have visited site for familiarisation purposes, when the above would have become evident, and preventing validation of the application on 27/9/22. Regrettably, Mr Stannard failed to do so, and validated it anyway. Written submissions to your department since the above date and in respect of the above have been totally ignored and your case officer continues to press on toward determination process.

This matter was further confirmed and reiterated at our meeting of 12/1/23 when supporting verbal statements and evidential documents were placed before you.

As such, the parties concerned consider the application contrary to statute and unlawful.

I will now direct my attention to recent additional supporting documents submitted by the applicant.

Transport Statement Rev 1 of 1/12/22, dated June 2022, doc ref 50413.

Page 5 states - The current PROW Glossop FP 50 will be maintained and enhanced by use of cobbled footway on the far side of the revised access way through Adderley Place. This use of cobbles was requested through discussions with the Derbyshire PROW team.

It is accepted that the applicant may have had such discussions with Derbyshire PROW team, however, no such formal agreement has been entered into, and flies in the face of the comments contained in consultation document from DCC PROW Dept which states – The footpath must remain open, unobstructed and on its legal alignment. For your information, **the rights will exist across the full width of the unadopted road**. There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. End Insufficient parking facilities on the proposed development site contrary to specification and requirements contained within the current adopted development plan, clearly indicate overspill parking to Adderley Road and further obstruction of PROW 50 and adjacent property.

In addition to the above, the applicant has submitted plan 10547 Site Visibility Splays dated 1/12/22.

The plan completely fails in considering existing obstructions to sight lines including the proposed site boundary wall, uninhibited parking without restrictions, street furniture and features, and a bus stop and set down zone in close proximity to the proposed site entrance (which will be challenged under civil law) but are also **material planning considerations**.

Swept Path Analysis document dated 1/12/22, plan 10547 of April 2022 is a revision considering the actual refuse freighters currently in operation by HPBC.

The swept path for such vehicles –

DB32 Refuse Vehicle Overall Length 11.600m Overall Width 2.400m Overall Body Height 3.183m

Min Body Ground Clearance 0.388m Max Track Width 2.400m Lock to lock time 6.00s Kerb to Kerb Turning Radius 9.625m, clearly demonstrates that manoeuvres undertaken by such commercial vehicles would involve mounting the very pavements the applicant intends to build on Adderley Road.

This not only indicates a short lifespan for such constructed new items, but more importantly, a significant danger to end users of PROW 50.

In addition, the revised plan indicates the vehicles mounting the pavements in both directions on the easterly side of Simmondley Lane when exiting Adderley Road.

Accordingly, vehicular access (private and commercial) to the application site should only be considered in accord with the applicant's conveyance from an adopted highway and is not included in the current application.

In conclusion, I firmly believe the application should be invalidated, not determined and returned to the applicant as unlawful.

However, should the LPA continue to proceed to determination stage with consent (which may also be legally challenged) the above issues should be taken into consideration in advance, in addition to those previously submitted to the LPA as grounds for refusal of application.

Please ensure this objection letter and formal notice is published into the public domain on your planning webpage without further contravention of GDPR regulation.

Kind regards

Mr L C Wilcox

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