STATEMENT OF APPEAL

Plot adjacent to 46 The Fairway, Fixby HD2 2HU

Kirklees Metropolitan Council's (KMC) refusal of change of use for this plot to domestic curtilage cites in 10.6 that it would cause harm to an existing green corridor (W1), but fails to state that the whole of the rest of this green corridor (W1 in TPO 877) is already designated as domestic curtilage.

In permissions granted since 1977 W1 has been incorporated into the domestic curtilage of properties built adjacent to it, even to the extent that in 2001 construction was allowed completely within W1. This is documented in planning permissions numbers 81/62/7189/B2, 81/61/00519/B2, 82/61/00519/B2, 88/62/986/B2, 91/60/01744/B2, 94/60/92743/W2, 96/62/92724/W2, 2001/62/93805/W2. Between 1977 and 1980, when the majority of the properties were built, there are no contemporaneous plans and details as KMC has lost the file. However, subsequent KMC maps clearly show these properties with gardens incorporating W1.

Thus KMC, for the last 41 years, has accepted the compatibility between domestic use and woodland continuance. However it seems that KMC has conceded the imperatives of domestic curtilage over woodland insofar as the Tree Preservation Register includes:

- 81 applications to fell, with only 68 directions to re-plant
- many approvals for tree pruning for domestic convenience
- no prosecutions

Whereas the overall tree loss is low (assuming most re-plantings were successful) this shows a relaxed attitude to the incorporation of W1 into the adjacent gardens. The “green corridor” (W1) that would have existed in 1977 still exists with all but the small plot adjacent to 46, The Fairway incorporated into domestic curtilage.

Visually the plot subject to refusal should be viewed alongside the group of trees (G2 in 8/77), within the domestic curtilage of 39 The Fairway, which is not part of W1 but helps define the woodland frontage on Jilly Royd. The inclusion of G2 within domestic curtilage has done nothing to detract from this and based on local history this applies to the whole of W1. Mr Anwar's application seeks only to regularise the status of his isolated plot in line with all the other properties within and around W1.