



DATE: 03.10.25

BY EMAIL ONLY: DC.Admin@kirklees.gov.uk

Ref: 2020/60/92331/E- Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury

Ref: 2020/60/92350/E-Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury

We note that applications 2020/60/92331/E (Chidswell) and 2020/60/92350/E (Heybeck) are closely linked and cover the same site allocation/masterplan site and as such, share many of their ecological reports. As such please take the below comments as applying to both applications due to the significant potential in combination effects and closely linked design.

Yorkshire Wildlife Trust (YWT) have previously objected to both applications on numerous grounds relating to the quality of biodiversity reporting and concerns over the BNG calculations; as well as the location of the development in relation to the adjacent areas of ancient woodland, Dogloitch and Dum Woods.

In addition to our previous comments we would like to draw the Applicant's attention to the following provision from the National Planning Policy Framework (NPPF):

"development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"

(Paragraph 193, NPPF)

As YWT do not view the reasons behind the development as being wholly exceptional, or that a suitable compensation strategy, has been proposed by the Applicant, we do not view it acceptable that either of these schemes should be approved in the first instance.

We note a Judicial Review (JD) on 04/09/2025, ruled against the outline approval of application ref: 2020/60/92350/E (Heybeck) due to Kirklees Council approving it in 2022, without prior publication of the S106 Agreements (amongst other grounds). The basis for this decision from Hon Mr Justice Kerr, included comments relating to Kirklees Council having failed to provide consultees such as Yorkshire Wildlife Trust (YWT) the opportunity to comment on the S106 Agreement and its contents.





Other comments included:

"The Committee might well have asked for updated biodiversity work to be done before deciding whether to proceed".

(Chidswell Action Group, R (On the Application Of) v Kirklees Council [2025] EWHC 2256 (Admin) (04 September 2025))

Relating to the shortcomings in the biodiversity reporting included within the original applications. We would advise that the LPA refers to our previous comments for further detail.

Post JD, two Supplementary Planning Obligations (SPO) were drawn up by the Applicant to correct the failings addressed by Hon Mr Justice Kerr and on the 25/09/2025, the S106 Agreements for both applications 2020/60/92331/E and 2020/60/92350/E, were published to the planning portal. YWT were referenced in the JD, as being consultees who should be given opportunity to comment on this application, as we have had longstanding involvement with both applications, and would welcome such consultation. After reviewing the biodiversity chapters of the S106 Agreements for both applications, we would like to take the opportunity to raise the below concerns:

Schedule 5 Biodiversity within the S106 Agreement for Heybeck, states that prior to any commencement of enabling works on site and prior to any reserved matters application, the applicant must submit:

"the Biodiversity Assessment to the Council"
(pg. 57, Schedule 5-2.1)

"BEMP and (if applicable) an Offsite BEMP (together to satisfy the Biodiversity Net Gain Requirement) have each been submitted to the Council by the Owner and approved in writing by the Council."
(pg. 57, Schedule 5-3.1)

"the relevant Offsite BEMP only to comply with the requirements of the Offsite BEMP (or any amended Offsite BEMP submitted by the owner of the relevant Offsite BNG Land from time to time to the Council and approved by the Council) for a period of 30 years."
(pg. 57, Schedule 5-5.2)

Within the S106 for Chidswell, the larger residential scheme, the following clause states that the Applicant is conditioned to:





“include very high level proposals for the anticipated creation of new habitat and enhancement of existing habitat within each Phase and within the Offsite BNG Land and which may be updated pursuant to paragraph 4.1.2 having regard to the proposed BEMP and Offsite BEMP (if applicable) for the relevant Phase (having regard to the mitigation hierarchy...”
(pg. 71, Schedule 5)

Given the prescriptions of the S106 agreements in relation to the off-site enhancement areas proposed within these ancient woodland sites, we have the following comments, based on our reviews of the biodiversity reporting supporting both applications. Based on the level of information provided by the Applicant to date, we have serious concerns over the adequacy of measures to protect Dogloitch and Dum Woods from negative impacts from the construction of these residential developments, in addition to the recreational impacts that they will have upon completion.

BNG

We have concerns over off-site compensation areas proposed on the two sites of ancient woodland, Dogloitch and Dum Woods. Areas of priority habitat (such as ancient woodland) can be used for off-site BNG, however, an important consideration is that the proposed uplifts must be a quantitative gain upon the existing baseline condition of the habitat. We note that throughout the documentation supporting both applications, there is reference to both Dogloitch and Dum Woods, being excluded from the BNG Assessments:

“Dum Wood & Dogloitch Wood have not been considered within this assessment but ultimately will be managed to increase their condition score and minimize the impacts of increased recreational pressure.”

(Heybeck, BNG assessment, 10.10.2020)

In the first instance, without the baseline conditions assessed, there is inadequate information presented indicating how the 10% BNG uplift will be achieved on these ancient woodland sites.

These enhancements must also be in addition to the compensatory measures that must be delivered as a result of the funding from S106 Agreements for impacts separate to BNG. For both applications, this funding is being awarded through S106 Agreements due to likely recreational impacts of the development, on the ancient woodland sites. As such, it is recommended that the Applicant should publish revised BNG calculations and condition assessments of these sites, for review prior to a planning decision. Any proposed plan for achieving BNG uplifts on these sites, prior to the delivery of enhancements as compensation for likely negative impacts from development, must be based on an accurate baseline for transparency and accuracy (in line with BNG Best Practice Principles (Pg 84. *Biodiversity Net Gain: Good practice principles for development*. CIEEM, 2020)).





Ancient Woodland Management Plan

We have concerns over the lack of an Ancient Woodland Management Plan for the two sites of ancient woodland, Dogloitch and Dum Woods. The High-Level Biodiversity Net Gain Assessment supporting the original application, included the following statement:

“Dum Wood & Dogloitch Wood have not been considered within this assessment but ultimately will be managed to increase their condition score and minimize the impacts of increased recreational pressure. This will likely generate additional units.”

(pg. 4. High-Level Biodiversity Net Gain Assessment, 10/10/2022)

In response in their review, Kirklees Council (KC) Ecology commented on the lack of Woodland Management Plan supporting this proposal, addressing the likely impacts of the development on ancient woodland:

“No woodland management plan is mentioned, which is required to alleviate impacts on the two ancient woodland and local wildlife sites adjacent to the Site”

(Kirklees Council Ecology, 2021)

It is unclear as to whether this has been rectified by the Applicant since these comments were made, as no emergent Woodland Management Plan has been included in the supporting documents for review.

Given the advanced stage of these applications and that post JD, the Planning Officer has advised *“the council considers that there is nothing in the High Court’s ruling, or otherwise, that necessitates bringing the application back to Strategic Planning Committee”*, we are concerned that the Management Plan, when produced, will not fully address the impacts to these ancient woodland Sites due to the limited level of information presented to date.

Brookes Ecology responded to both YWT and KC Ecology in 2021, regarding both consultation responses expressing concern over the lack of Woodland Management Plan published:

“two off-site woodlands (Dum Wood & Dogloitch Wood) and enhancement of the woodlands themselves, which would be outlined in a separate Woodland Management Plan; the primary aim of which would be to address indirect impacts from increased recreational use from new residents.”

(Brookes Ecology, 2021)





Although indirect impacts from residents are a valid concern and should be addressed in the management plan, the management plan should consider impact from **all phases of development**, from enabling works to post completion. It is our view that this management plan should be available for consultation from stakeholders prior to approval, to ensure that the full extent of risks to the ancient woodland sites have been addressed.

Insufficient Mitigation Designed into the Schemes

We would also like to comment on the reference to the mitigation hierarchy included in the S106 Agreement, the full excerpt can be seen on page 1, of this response:

“the proposed BEMP and Offsite BEMP (if applicable) for the relevant Phase (having regard to the mitigation hierarchy...”
(pg. 71, Schedule 5)

We do not think that the mitigation hierarchy is being followed in the first instance, due to the likely negative effects on Dogloitch and Dum Woods. Earlier in our response, we included the excerpt from paragraph 193 of the NPPF, *“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused.”* In combination with our concerns regarding the adherence to the mitigation hierarchy these proposals have demonstrated, we do not feel the provisions within the S106 Agreements for each development, go far enough to ensure harm is avoided. In addition to the lack of evidence reported, and lack of Ancient Woodland Management Plan; we do not view the design for either residential scheme to adequately mitigate the ancient woodland from harm.

To support this statement, throughout the designs 20m planted buffer zone have been proposed, between the development and the ancient woodland, which are insufficient. We must bring the applicants attentions to the guidance from The Woodland Trust:

“As a precautionary principle, a minimum 50 metre buffer should be maintained between a development and the ancient woodland, including through the construction phase, unless the applicant can demonstrate very clearly how a smaller buffer would suffice.”
(pg. 20. Planners' Manual for Ancient Woodland and Veteran Trees. July 2019)

The Woodland Trust also objected to both applications on these grounds, stating that all buffer zones to the ancient woodland sites from the proposed developments should be increased to 50m. YWT do not consider that this 20m buffer included in the design has been justified in any of the biodiversity reporting. This has contributed to our concerns regarding the content of any Ancient





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Woodland Management Plan to be produced, as appropriate mitigation does not appear to have been considered in the design from the outset.

Summary

We believe there are important material considerations that the Committee should be able use to form its view on whether the emergent Ancient Woodland Management Plan is acceptable, before the LPA approves either of these applications. We would also welcome opportunity to be consulted on the Management Plan and subsequent revisions of S106 Agreements, in advance of these applications being considered for approval so that our comments can be taken into account. Currently, we do not feel there is sufficient information provided by the Applicant justifying that the mitigation and compensatory strategies for either application are adequate, when the harm to the irreplaceable habitats at the Dogloitch and Dum Wood Sites of ancient woodland are considered.

Kind regards,

The Planning Team
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