Objection to Planning Applications at Heybeck & Chidswell in Kirklees,
November 2022

OBJECTION AND REASONS FOR OBJECTION

To Kirklees Planning Applications 2020/60/92350/E Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury and 2020/60/92331/E Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury

November 2022

SUMMARY

- Ancient Dum Wood and Ancient Dogloitch Wood are on the Ancient Woodland register, designated Local Wildlife Sites, form part of the Kirklees Wildlife Habitat Network, covered by Tree Preservation Orders, and are irreplaceable.
- The water is diverted away from the Ancient Woodlands by these proposals.
- Impacts on the woods and, their hydrology, depend on local topography and geology. The Ancient Woods rely upon water feed from the surface and subsurface from the surrounding catchment as well as rainfall.
- This would cause the slow death of these Ancient Woodlands by drying. Drying leads to dieback of trees, loss of sensitive woodland ground flora, loss of streams and streamside vegetation, soil creep, loss of associated flora and fauna and increased flood risk downstream.
- The proposed buffers will not protect the Ancient Woodlands from the proposed pressures nor help the hydrology.
- The streams and waterways are in good condition.
- Priority habitat loss including that of the Ancient Woodlands would result; this is a material consideration. The ancient woodlands have historic, arboricultural and ecological interest. This would be a significant negative impact.
- Reduced climate resilience will result from the Ancient Woodlands being less resilient over time in turn reducing their role as natural capital combatting climate change. Older trees have far greater impacts on mitigating flood risk, climate proofing, biodiversity and carbon sequestration.
- The hydrology feeds the Ancient Woodlands, Woodland Edge, hedgerows, trees, springs and streams that form a mosaic of habitats supporting breeding populations of Red Listed, Amber Listed, Schedule 1 and Species of Principal Importance. These species rely on these habitats. These are habitats of Principal Importance and a material consideration. Fauna rely on the water for drinking, bathing, nest building and feeding. Water is an intrinsic part of the ecology. It is essential to support lifeforms within all of the food-chain from micro-organisms at the bottom of the food chain in the soil to the Red Kite at the top of the food-chain. Species of Priority Habitats and Species of Principal important are material considerations.
- The function of soakaways is limited in this geology and are stated to be unlikely. Surface retention ponds and swales would not get into the groundwater.
- This is a rich and biodiverse historic landscape with associated ecosystems, and natural heritage in abundance.
- Soil classifications are not given. It takes 500 years to form 2cm of soil.

- The two Ancient Woodlands, hedgerows and watercourses are an important link in the Kirklees Wildlife Habitat Network important at Landscape scale.
- The current positive assets of the site appear to be continually minimised or overlooked.
- Skylark plots will not work.
- Biodiversity Net Gain Calculations are flawed.
- Similarly, compensation or offset actions are unevidenced and far too over-optimistic.
- Much of the case presented by the developer and the landowner is merely assertion and is not evidence-based.
- The countryside as it is has a major impact on the health and wellbeing of the local community of current residents. All of this is compromised in the short-term or removed in the longer-term by the proposed development.
- The current site assessments are inadequate, out of date and the compensation mechanisms proposed fail to address our core concerns in the context of national, regional, and local planning policies.
- Outline Planning Permission cannot be granted.

In addition to my earlier representations: Chidswell in Kirklees: An Assessment of some key strategic issues relating to the proposed development site & to why the current proposals are unsatisfactory, January 2016; and, Specific Comments on the impact assessments & proposals, September 2020, I add the points below.

Habitat Loss

Ancient Woodlands are a Material Consideration and receive protection within the National Planning Policy Framework (NPPF) (1), Chapter 15 para 180c that states 'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland, ancient or veteran trees) should be refused unless there are wholly exceptional reasons (for example infrastructure projects including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills where public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists.

Ancient Dum Wood and Ancient Dogloitch Wood are on the Ancient Woodland Register, designated Local Wildlife Sites, form part of the Kirklees Wildlife Habitat Network, are covered by Tree Preservation Orders and are irreplaceable. Records dated 1309-1310 confirm the status of these woodlands (Savile Estates Archive, Nottingham, reference DD/SR/26/37).

Dum Wood and Dogloitch Wood are on the Ancient Woodland Inventory.

Relevant Kirklees Policies (2):

- PLP28 Drainage
- PLP30 Biodiversity & Geodiversity

- PLP31 Strategic Green Infrastructure Network
- PLP33 Trees
- PLP52 Protection and Improvement of Environmental Quality
- PLP34 Conserving and Enhancing the Water Environment

Outline PIanning Permission cannot be granted for the following reasons.

20 Metre Buffer

This buffer would not protect the woodlands.

- This will take years to grow.
- The planted trees will require sufficient clean water and nutrients for growth.
- The buffer will not help the hydrology.

What are the proposals for protection of these habitats during construction from soil removal, vegetation strip, excavation, and ground works? This scheme as outlined would be a total change to the land, water, and nutrient supply to the woodland, trees and other vegetation.

Even when grown after years, a buffer zone and management plan does not mitigate impact from:

- Lighting
- Vibration
- Invasive species – from nearby gardens and dumping of garden waste
- Predation & disturbance from domestic pets such as cats and dogs
- Impact from increased domestic animal waste
- Increased human recreational use and footfall such as disturbance, soil erosion, littering
- Tipping and toxic weep
- Toxic chemicals such as weedkiller and cleaning products

No lighting scheme has been produced.

These impacts would result in reduced functionality of the Ancient Woods.

Older trees have far greater impacts on:

- mitigating flood-risk
- climate-proofing
- biodiversity
- carbon sequestration

Climate Resilience

The pressures proposed will put tremendous stress on the ancient woodlands and other habitats like hedges and streams reducing their resilience.

This will have a double impact in that:

- the woodlands will themselves will be less resilient and die over time – in part due to desiccation
- their function as natural capital to provide ecosystem services and climate resilience will be impacted

NPPF (1) Strategic Policy 20(d) pg 9 states that policy should make provision for conservation and enhancement of the natural, built, and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

These proposals have not demonstrated compliance with this Policy.

The Environmental Impact Assessment (3) states in 'residual impacts' para 14.150 pg. 309 these factors cannot be mitigated:

'With a development site of this scale, some impacts remain significant, and are very hard to mitigate, especially in the case of disturbance from factors such as noise, lighting and increased human presence. Regardless of what measures are put in place, some of the most sensitive species/species groups are likely to be displaced from the site either temporarily or long term'.

The Environmental Impact Assessment 14.117 pg 305 states that without mitigation these impacts would be negative and significant at district level. Impacts could be felt within both woodland blocks and continue for the lifetime of the development, and thus would be frequent and long-term. Impacts on the diverse ground layer would be irreversible if lost, with the magnitude of effects covering the entire woodland area. The likely significance of this impact would be major with the sensitivity to change being high.

As outlined above, the proposals do not protect these irreplaceable priority habitats.

PLP52 states 'such developments which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted.'

The Natural Environment and Rural Communities Act 2000 Sections 40-41 requires planning authorities to 'have regard to' conserving biodiversity.

Surface Water Redirection

Water Flow

Impacts on the woods and their hydrology depend on local topography and geology.

To the north, the land falls from the West and North downward to the East and South. So, the water is permeating from the West and North downward towards Dum Wood, absorbed by the wood and then continues away from the wood to the East and South. Dogloitch Wood sits to the East and South of Dum Wood. From the southern boundary water drains from the South and West to the North and East towards Dogloitch Wood. All water ultimately flows to Heybeck and Bushy Beck to the East.

The proposals are on the land adjacent to both woods from which they receive their water supply.

Drying

Whilst it is encouraging to see acknowledgement of this relevant and fundamental issue of water-table level in the Report of the Head of Planning and Development to the Strategic Planning Committee, 06 October 2022 (4) stating woodland will not being left perched at a higher level while land around it is lowered and hard surfaced, fundamental points of concern remain to be addressed.

Dum & Dogloitch Woods are fed by rainfall, water percolating through the ground, springs, and streams, such as the spring and stream on the northern edge of Dum Wood pictured below.

Spring appearing north of Dum Wood before disappearing then re-appearing to form the stream shown below.

A spring re-surfacing into a stream on the northern edge of Dum Wood revealing the sub-surface and surface water feeding Dum Wood.

Spring appearing North West of Dogloitch Wood before returning underground.

Clear spring North West of Dogloitch Wood.

Clear spring on higher ground South West of Dogloitch Wood.

These are not included in the biodiversity net gain metrics.

These proposals will undoubtedly be devastating for these ancient woodlands.

Particularly in areas of former coal-workings with complex hydrology, it is likely that over-development and urbanisation will lead to long-term drying of the woodland areas.

At Heybeck water that would have fallen on 7.16ha will potentially be diverted away from Dum Wood (5).

At Chidswell water that would have fallen on approximately 112ha will potentially be lost. According to the EIA Land East of Leeds Road, Chidswell Environmental Statement - Volume 2 – Chapter 11 April 2020 (6) pg. 14, para 5.1, 47.77 ha has been estimated to be hardstanding and drainage controlled.

Drying of the woods leads to:

- Dieback of trees
- Loss of sensitive woodland ground flora through desiccation
- Loss of streams and streamside vegetation
- Soil creep
- Increased flood risk downstream
- Slow death of the wood
- Loss of associated biodiversity including ancient woodland ground flora and associated fauna

By way of example, a large oak can take up to 50 or more gallons of water per day. Some trees use 15 gallons of water per hour on a hot day, and some can draw as much as 15-200 gallons of water on a hot day.

Flood Risk and Drainage Assessments

The Flood Risk Assessment and Drainage Strategy for Heybeck Lane, January 2019 (5) states in paragraph 5.4 soakaway testing as part of an intrusive site investigation would be required to confirm the possibility of infiltration.

The LLFA asks for SuDS to be considered even if infiltration proves difficult.

Discharge to the public sewer has been confirmed as unviable by Yorkshire Water so surface water would have to be discharged via soakaway or released into existing watercourses. (5)

Method 2, discharge to local watercourses is considered most likely (5) para 5.7. SuDS are unlikely.

At Heybeck viability is assessed by the applicant based on a discharge rate of 32.4l/s (5) para 5.12. The LLFA has said 32.4l/s is not acceptable and should be 5l/s/ha. Viability has not been proven.

At Chidswell, the LLFA has placed a restriction of 5l/s/ha. A full drainage plan, construction and pollution prevention plan should be agreed before outline permission is granted.

Water Diversion and Loss at Dum Wood resulting from the Heybeck Proposal

The Flood Risk Assessment (5) para 5.7 states Method 2, discharge to watercourses, will be the most appropriate option of surface water management.

The Flood Risk Assessment (5) suggests para 5.9 due to site levels three separate surface water connections may be a viable option, two to the north and one to the south. The watercourse to the south is outside the site boundary to the south - east corner. Any water fed to this watercourse is taking water away from Dum Wood and ultimately Dogloitch Wood.

Below ground storage tanks are proposed for areas 2 and 3 and a pond for area 1. Any water channelled to the ditch north of Dum Wood would flow east away from the wood. Therefore, water that currently flows overground and underground would be gathered and channelled away from Dum Wood.

The Flood Risk Assessment (5) para 5.13 suggests surface water from the impermeable areas of the development will be collected via gullies, linear drainage channels and guttering systems and transferred to underground oversized storage system before discharging to the watercourse. This watercourse runs to the west and south away from Dum Wood or to the east to Heybeck so taking away water from Dum Wood and ultimately Dogloitch Wood. Impermeable areas are estimated to be 65% (4.65ha) of the area, this is 65% of the area from which water would have fed Dum Wood.

The Flood Risk Assessment (5) paragraph 5.17 states all discharge rates and attenuation volumes are subject to detailed design and LLFA approval.

The LLFA has raised several concerns and included an advisory note including that a discharge rate of 32.4l/s, the rate used in the preliminary assessment, is not acceptable; they would allow the site 5l/s/ha for areas that naturally drain to the discharge location.

It is not possible to know how and if water supply to the woods can or will be viably achieved. Similarly, the safeguarding of the woods is still unclear and unproven.

Water Diversion and Loss at Dogloitch Wood resulting from the Chidswell Proposal

In the Flood Risk and Drainage report for Land East of Leeds Road, Chidswell (6) no information has been provided to protect the woodlands hydrology other than suggestion of SuDS and that a detailed drainage strategy is yet to be undertaken.

It states to achieve required run-off rates water will need to be temporarily stored and filtered appropriately.

However, In para 5.2 (6) it states 'Given the general low permeability of the underlying soils, the locally shallow ground water (1.0 – 4m bgl) and further corroborated by the presence of the unnamed watercourses serving the area, it can be concluded that soakaways are unlikely to be suitable for the discharge of surface water runoff.

In para 5.5 (6) it states 'In order to facilitate gravity drainage, attenuation features should be located at the lower eastern extents of the respective drainage Zones'. How is water-feed to Dogloitch Wood to be affected?

Soakaways are promoted as going to be used, however, in practical terms they are unlikely.

If SuDS were to be used, some aspects would be compromised by clay soils, essentially because the water cannot permeate into the lower layers and will simply run off.

Some water may be held back in surface retention ponds and swales but this would not get into the ground water.

All figures are stated as estimates due to the indicative nature of the masterplan.

Would all the required water management and implementation be carried out prior to any construction and building work to ensure no desiccation or pollution to either woodland?

No Drainage Strategy has been produced.

How will the ancient woodlands retain a clean and sufficient source of water and nutrients?

Drainage to the ancient woodlands is not a consideration in the assessments that have been provided.

Policy LP28: Drainage explains that there is a presumption that Sustainable Drainage Systems (SuDS) will be used and for proposals on greenfield sites, typical greenfield run-off rates should not be exceeded.

Initial investigations above show that SuDS are unlikely to be suitable, rendering the presumption in Policy LP28 unlikely to be met.

Water Quality

Neither ancient Dum Wood nor Ancient Dogloitch Wood have been considered in the Summary of Receptors that considers spillages and leaks of pollutants (6) pg 210 in the Flood Risk & Drainage report.

The Environmental Impact Assessment (3) 14.109 refers to wider groundworks with the potential release of pollutants into watercourses throughout the construction period. The construction period now extends to 2045 (4). How have such impacts been addressed in the context of pollution into

water due to wider groundworks and to the sensitive ancient woodlands throughout the lifetime of the project and in perpetuity?

Details of a Drainage Plan, Woodland Management Plan, Biodiversity Management Plan, Construction Environmental Management Plan, and Invasive Weed Management Plan have all yet to be provided.

The waterways are in good condition.

The watercourses are an important link in the Kirklees Wildlife Habitat Network which is important at Landscape Scale.

These ancient woods are an important link in the Kirklees Wildlife Habitat Network which is important at Landscape scale.

Ancient woodlands are protected in planning and as a Priority Habitat form a material consideration.

How is a clean and sufficient water supply to Dum and Dogloitch Woods to be achieved throughout construction and in perpetuity?

Maintenance of good water quality throughout the site and beyond has not been proven throughout construction nor in perpetuity.

How are threats to be negated?

How are the impacts to be managed and funded in perpetuity?

How can NPPF requirements be knowingly met?

This must be addressed and confirmed before outline planning permission is granted.

Red List Species, Species of Principal Importance and Schedule 1 Species

For Environmental Impact Assessment Purposes, it is essential that the Schedule 1, Species of Principal Importance which include Red Listed and Amber Listed species, are acknowledged and considered in all the plans. Without them the baseline Environmental Impact Assessments do not conform to CIEEM standards (11).

Protected species such as bats, species present and biodiversity have been downplayed or assumed as likely absent.

Skylark Plots

Skylark plots have been proposed as a mitigation to loss and likely permanent displacement of this Red Listed species, one of the birds for which these sites are categorised as being of district wide importance.

The skylarks at Heybeck and Chidswell are resident. Skylarks need large areas to feed, each requires enough space to support its requirements.

Skylark plots are areas in planted winter cereal crops that aid suitable access to nesting habitats throughout their breeding season.

Skylark plots are a way of increasing carrying capacity of existing skylark numbers in existing farmland and not to replace removed habitat.

Loss of habitat is a key problem and compensation does not apply unless there are large open spaces protected from human disturbance and predation such as by domestic cats. Dog-walking from local residences is a major problem which cannot be resolved effectively; mitigation will not work.

The skylark plots will not work.

Surveys are out of date.

A one-day walkover is not adequate for a site of this size and biodiversity.

CIEEM standards recommend for surveys that are more than 3 years they are unlikely to still be valid. Surveys were undertaking in 2018, making them 4 years old.

For example, the Schedule 1 species barn owl is present, a barn owl could easily have nested in one of the trees on the proposed site since the survey was completed.

For example, Schedule 1 Red Kite, Barn Owl and Kingfisher have not been scoped into the baseline assessments informing decision making and not included in the further surveys that are required to conform with CIEEM standards (11).

Habitats, species and ecosystems have to be identified to conform with CIEEM standards (12) and the impact upon them, which informs mitigation, compensation and enhancement and implications for decision making.

Up to date, accurate information is required to enable informed decision making.

Flawed Biodiversity Net Gain (BNG) Assessments

BNG has to achieve plus 10% from the existing baseline.

In a nature and climate emergency biodiversity net gain needs to be applied correctly, as per 'Biodiversity Net Gain: Good Practice principles for development published by ciria, CIEEM & IEMA which states 'their proper interpretation is critical'. (7)

Watercourses, a priority habitat and a material consideration, have been downplayed which in turn impacts the biodiversity net gain calculation (10) making the starting point for biodiversity lower and flawed. The headwater streams have been entered into the calculation as 'poor'; this is based on streams holding no water, choked and supporting invasive weeds. This assumption was made after a 1 day walkover in October after drought. Changing 'poor' to 'fairly poor' changes the BNG from 10.2% to 3.98%. These streams are in good condition, this will reduce the BNG further.

In the BNG calculation (10) to obtain the BNG calculation presented, the streams have been included as being in 'no local strategy', however, the stream onsite and stream to which this flows into are in the Kirklees Wildlife Habitat Network so should have been calculated as 'formally identified in local strategy'. This change alone takes the BNG from 10.2% to 7.76%.

LP31 (iv) requires development proposals ensure the protection and enhancement of biodiversity and ecological links, particularly within and connecting the Kirklees Wildlife Habitat Network.

NPPF 2021 pg. 50 states planning policies and decisions should contribute to and enhance the natural and local environment by, chapter 15d 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

BNG is an essential consideration in the Kirklees Council Planning Applications Climate Change Guidance (13).

It is imperative that species are acknowledged and considered and not downplayed or denied in accordance with good principles.

Biodiversity Net Gain cannot be applied to habitats which are deemed to be irreplaceable – such as ancient woodlands or hedgerows. Where offset is applied then it must be on land which is currently of little or minimal current biodiversity interest – and should be untaken locally to the site.

The BNG (10) calculation presented is fundamentally flawed. Outline Permission should not be granted based on this flawed calculation.

Water as a Resource

The water percolates over and through the land feeding the woodlands, hedgerows, trees, shrubs, supporting all plant life and for drinking, nestbuilding and bathing for wildlife.

The hydrology feeds the Ancient Woodlands, Woodland Edge, hedgerows, trees, springs and streams that form a mosaic of habitats supporting breeding populations of Red Listed, Schedule 1 and Species of Principal Importance. These species rely on these habitats. These are habitats of Principal Importance and a material consideration. Fauna rely on the water for drinking, bathing, nest building and feeding. Water is an intrinsic part of the ecology. It is essential to support lifeforms within all of the food-chain from micro-organisms in the soil to the Schedule 1 Red Kite at the top of the food-chain.

Freshwater plays a role in the carbon cycle and in combating climate change.

Water courses are a Priority Habitat and a material consideration.

On site stream feeding into the Kirklees Wildlife Habitat Network

Clean and free flowing

Clear, free-flowing Priority Habitat, part of the Kirklees Wildlife Habitat Network

Best and Most Versatile Agricultural Land

Point 2.11 of the Revised Planning Statement and Sequential Assessment states 'As per the Agricultural Land Classification Map for the Yorkshire and the Humber region (ref 10-111c), the Site is characterised as Grade 3 Agricultural Land. (8)

Use of this map does not comply with the requirements of Natural England who are a statutory consultee.

It is not possible to know if this application complies with the Kirklees Spatial Development Strategy in the Local Plan.

In the Spatial Development Strategy, Part 1, p 33 states

Promote Development that helps reduce, adapt, and mitigate climate change

- Allocating land for new development / in locations and ways which reduce greenhouse gas emissions particularly by identifying urban extensions which have the scale and capacity to benefit from low carbon and/or decentralised energy solutions
- Avoiding allocating land where possible in the areas at highest risk of flooding
- Avoiding the best and most versatile agricultural land where possible

NPPF 2021 Chapter 15 Para 174.a pg. 50 relates to protecting and enhancing valued landscapes, sites of biodiversity or geological value and SOILS (in a manner commensurate with their statutory status or identified quality in the development plan).

It takes 500 years for 2cm of soil to be created. (9) Soil is not a sustainable resource. (9)

These proposals would permanently remove 112ha of agricultural land. No mitigation is offered.

Land taken for the proposed industrial site alone, 35ha, using DEFRA figures of 1 hectare containing 5 tonnes of living organisms will remove 175 tonnes of living organisms. This does not include land taken for 1534 dwellings and infrastructure. These organisms form the baseline of the ecological food-chain supporting all the wildlife both resident and migratory.

Soil plays a role in the carbon cycle and impacts climate change resilience.

NPPF 174a pg. 50 relates to protecting and enhancing valued landscapes sites of biodiversity or geological value and soils.

Criteria to meet material considerations have not been met.

CONCLUSION

Much of the case presented by the developer and the landowner is merely assertion and is not evidence-based.

Furthermore, the current positive assets of the site appear to be continually minimised or overlooked.

Similarly, compensation or offset actions are unevidenced and far too over-optimistic.

This is a rich and biodiverse historic landscape with associated ecosystems, and natural heritage in abundance.

Furthermore, the countryside as it is, has a major impact on the health and wellbeing of the local community of current residents.

All of this is compromised in the short-term or removed in the longer-term by the proposed development.

The current site assessments are inadequate.

The compensation mechanisms proposed fail to address our core concerns in the context of national, regional, and local planning policies.

Once it's gone, it's gone.

References

(1) National Planning Policy Framework, Ministry of Housing Communities & Local Government, 20 July 2021
(2) Kirklees Local Plan, Kirklees Local Plan Strategy and Policies, Adopted 27 February 2019, Kirklees Council
(3) Environmental Impact Assessment Volume 1 Chapter 14 Document 822176
(4) Report of the Head of Planning and Development, Strategic Planning Committee, 06 October 2022, Originator: Victor Grayson
(5) Patrick Parsons, Flood Risk Assessment and Drainage Strategy, Heybeck Lane, Chidswell for CC Projects, H18110, January 2019, document 822193
(6) EIA Land East of Leeds Road, Chidswell Environmental Statement - Volume 2 – Chapter 11 April 2020, 822186
(7) Biodiversity Net Gain Good Practice principles for development, CIEEM, CIRIA, IEMA, 2016
(8) Deloitte Real Estate, Land East of Leeds Road, Chidswell, Planning Statement and Sequential Assessment, December 2020 – Revision A
(9) Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (publishing.service.gov.uk)
(10) High Level Biodiversity Net Gain Assessment, ER – 6441 – 01A, The Church Commissioners for England
(11) CIEEM (2017) Guidelines for Preliminary Ecological Appraisal, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester
(12) CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland, Terrestrial, Freshwater, Coastal and Marine, September 2018, Version 1.2 – Updated April 2022
(13) Kirklees Council Planning Applications Climate Change Guidance, June 2021