About the application

Application number: 2020/92350	
What is the application for?:	Outline application for residential development (Use Class C3) of up to 181 dwel
Address of the site or building:	Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury
Postcode:	

User comments

Type of comment: An objection	
Do you wish your comments to be published on the website anonymously?	Yes

OBJECTION TO RE-ISSUE OF OUTLINE PERMISSION

I strongly object to any attempt to re-issue this outline permission under delegated powers without referral back to the Strategic Planning Committee (SPC).

1. High Court Quashing – Serious Breach of Law and Transparency

The High Court (R (Chidswell Action Group) v Kirklees Council [2025] EWHC 2256 (Admin)) quashed the original permission for an “unexplained flagrant breach” of transparency – namely, the Council’s failure to publish the s.106 agreement. The Court found there was a “serious want of transparency” in the handling of this application.

It is unacceptable that, after being censured by the High Court, officers now propose to push through a re-grant without full member and public scrutiny.

2. New Material Considerations Since 2022 Resolution

• Consolidated Section 106 Agreement: The new s.106 (including SPO1 and SPO2) was never before members. It allows the 10% Biodiversity Net Gain (BNG) requirement to be met almost entirely offsite in Dum Wood, while also opening Dum Wood up for public access. These are fundamental changes members never debated.

• Statutory BNG Duty: Since November 2023, the Environment Act requires a mandatory 10% BNG. This was not in force when the SPC resolved to approve in 2022. Members must now test the scheme against the law as it stands.

• Outdated Ecological Baseline: The ecological surveys date from 2018–2020 with a limited 2022 walkover. The ecological baseline on site has changed after years of delay. Members need updated surveys before any lawful determination.

These are new material considerations within the meaning of *Kides v South Cambridgeshire DC* [2002] EWCA Civ 1370. Officers cannot lawfully rely on a stale

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3. Risk of Misleading Members in 2022

The High Court noted councillors were told ecological surveys could safely be deferred to Reserved Matters, without being told that "enabling works" could lawfully commence first. This undermines the validity of the original resolution. A decision based on such misdirection cannot be relied upon today.

4. Constitutional Requirements

The Council's Constitution requires major applications with significant objections to go to SPC. This application was originally referred for that reason and has since been quashed. It plainly falls within the same exception now. Officers cannot lawfully "short-circuit" democratic scrutiny.

5. Public Confidence and Fairness

This is one of the most controversial applications in Kirklees. The Council has already been found in serious breach of transparency duties. To allow officers and the developer to sign off a complex, controversial s.106 deal behind closed doors – after years of private negotiation – would destroy public confidence in the fairness of the planning process.

CONCLUSION

The law, the Council's constitution, and basic fairness all require that this application be returned to the Strategic Planning Committee for fresh determination.

Any attempt to re-issue permission under delegated powers would be unlawful, unfair, and vulnerable to further judicial review.

I therefore strongly object to the application being determined under delegated authority. It must go back to SPC.