

TOWN AND COUNTRY PLANNING ACT 1990

OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT AT LAND SOUTH OF HEY BECK LANE, CHIDSWELL, DEWSBURY

STATEMENT OF CASE ON BEHALF OF C.C. PROJECTS

1 INTRODUCTION

- 1.1 This Statement of Case relates to an appeal by C.C. Projects (**Appellant**) in respect of the decision of Kirklees Council (**LPA**) dated 27 January 2026 to refuse an outline planning application (2020/60/92350/E) (**Application**) for the development of land south of Hey Beck Lane, Chidswell, Shaw Cross, Dewsbury (**Site**).
- 1.2 The application sought permission for “*residential development (use class C3) of up to 181 dwellings, engineering and site works, demolition of existing property, landscaping, drainage and other associated infrastructure*” (**Proposed Development**).
- 1.3 This Statement comprises the Appellant's full Statement of Case and is submitted in accordance with paragraph 37(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2016 and Rule 6 of the Town and Country Planning (Hearings Procedure) (England) Rules 2000 (SI 2000/1626) on the basis that the appeal is determined by way of a hearing and the Planning Inspectorate's Procedural Guide: Planning appeals – England. For appeals relating to applications dated on or before 31 March 2026 (**Guidance**) and has regard to the requirements of the Guidance relating to statements of case (particularly section 12.2).
- 1.4 This Statement has been prepared with technical input from the following members of the Appellant's professional project team:
 - 1.4.1 Enjoy Design (Masterplanning)
 - 1.4.2 Brooks Ecological (Ecology & Arboriculture)
 - 1.4.3 SLR Consulting (Lighting)
 - 1.4.4 Logika Consultants (Hydrology, Air Quality & Noise) (Logika have replaced Lucion Delta-Simons who provided advice on the application until its refusal)
 - 1.4.5 Deloitte LLP (Planning)
- 1.5 It is anticipated that consultants specialising in disciplines where there is a material dispute will be available to assist at the hearing.
- 1.6 This Statement covers:
 - 1.6.1 A description of the Site and its surroundings.
 - 1.6.2 The background to the appeal, including the planning history.

- 1.6.3 A detailed description of the Proposed Development.
 - 1.6.4 An overview of the legislative and planning policy framework.
 - 1.6.5 The Appellant's case, directly addressing the LPA's reason for refusal.
 - 1.6.6 Discussion of housing land supply, third-party representations, and agreed conditions and obligations.
 - 1.6.7 Conclusions and the key topics for the hearing.
- 1.7 Each document submitted as part of the Appeal has been assigned an Appeal reference number (e.g. APP1) and a list of the Appeal documents is provided as document APP1. Document APP1 also contains a list of the core documents which are referred to in this Statement, in the Statement of Common Ground (**SoCG**) (**APP3**) or which are anticipated to be referred to at the hearing (e.g. CD1) and are provided alongside the Appeal for ease of reference. These references are used in this Statement.
- 1.8 This Statement should be read in conjunction with the draft SoCG (**APP3**) which accompanies the Appeal. References in this Statement to conditions are to the proposed form of conditions agreed between the LPA and Appellant, attached as an appendix to the SoCG. References in this Statement to the section 106 agreement are to the agreement to be entered into by the LPA and Appellant, the current proposed form of which is provided as **APP60**. The section 106 agreement will be completed after the hearing and submitted to the Planning Inspectorate.
- 2 DESCRIPTION OF THE APPEAL SITE & SURROUNDINGS**
- 2.1 The boundary of the Site is shown edged in red on the Site Location Plan (**APP4**). The Site, covering approximately 7.05 hectares, is located south of Hey Beck Lane, Chidswell, Kirklees. It is in longstandingⁱ use as farmland, comprising agricultural land divided by hedgerows and mature trees. The extensive farming across the Site means biodiversity is limited.
- 2.2 Access is proposed to be gained from Hey Beck Lane, achieved through the demolition of an existing house as part of the Proposed Development. A Demolition Plan (**APP8**) was submitted with the Application which shows the location of the property to be demolished. The property falls within the Site and is within the ownership of the Appellant. There are no other existing structures on the Site.
- 2.3 The Site sits between 105m and 95m AOD, roughly at mid-level within the surrounding topography. The Site is bound to the north and west by residential properties lining Hey Beck Lane and Leeds Road and sits within a wider context which is characterised by

ⁱ The same tenant farmers have been on-site for the duration of the Appellant's ownership. There are two separate agricultural tenancies across the Site, which commenced in 1964 and 1965 respectively.

suburban development and major roads. The properties comprise a mix of early and late 20th-century bungalows and largely semi-detached properties.

- 2.4 There are no statutory landscape or ecological designations relating to the Site. The Site is adjacent to Dum Wood which is also owned by the Appellant and which is identified as a Local Wildlife Siteⁱⁱ (due to the coverage of bluebell) and is part of the Wildlife Habitat Network.ⁱⁱⁱ Dum Wood is also designated as Ancient Replanted Woodland (which the National Planning Policy Framework (**NPPF**) defines as an area that has been wooded continuously since at least 1600 AD). The Local Plan Policy Map (**CD4**) identifies a small linear wildlife route on the wider Wildlife Habitat Network which extends into the Site, running parallel to Dum Wood and connecting it to Dogloitch Wood.
- 2.5 As shown on the Kirklees Tree Preservation Order Map (**CD28**) there is one tree block and five individual trees protected on the Site. There are further TPOs beyond the Site boundary and the entirety of Dum Wood is subject to a TPO. Dogloitch Wood, also an Ancient Replanted Woodland, is located further to the south-east.^{iv} No ancient, veteran or notable trees are present within the Site. Two veteran trees and two notable trees are present within Dum Wood.
- 2.6 A buffer zone is proposed between the Site boundary and Dum Wood (as shown by the hatched green area on the plan in Appendix 3 (**APP59.3**)).
- 2.7 A Public Right of Way cuts through part of the southern edge of the Site and then continues through the proposed buffer zone, connecting to a wider network of footpaths. The Appellant is aware from site visits that access to Dum Wood is currently being obtained informally by local residents off the Public Right of Way.
- 2.8 The Site lies within the Batley East ward, within the metropolitan district of Kirklees, and is in close proximity to the settlements of Woodkirk (circa 200 metres) and Shaw Cross (circa 1.25 km), which offer a range of services and facilities. The Site is located to the east of the A653 Leeds Road dual carriageway, a strategic corridor between Dewsbury and Leeds.
- 2.9 A planning application for residential and employment uses was submitted simultaneously in July 2020 with the Application by C.C. Projects for land adjacent to

ⁱⁱ Paragraph 13.13 of the Local Plan (**CD2**) defines Local Wildlife Sites as sites that have been designated for their significant local value, containing habitats or species of local importance. These are shown on the Policies Map (**CD4**) and have been designated by the West Yorkshire Local Sites Partnership in accordance with locally agreed selection criteria.

ⁱⁱⁱ Paragraph 13.14 of the Local Plan (**CD2**) states that West Yorkshire Ecology have identified the Kirklees Wildlife Habitat Network which connects designated sites of biodiversity and geological importance and notable habitat links within the district, such as woodlands, watercourses, natural and semi-natural areas. It goes on to state that development within the Wildlife Habitat Network will not necessarily be prevented but the LPA will ensure that development proposals maintain the integrity and continuity of the network.

^{iv} Dogloitch Wood is circa 800m south east of the Site and so is not relevant for this Appeal.

the Site (ref. 2020/92331) – known as the Leeds Road site. As of July 2026, the application remains undetermined.

3 BACKGROUND TO APPEAL

- 3.1 The Site is allocated for mixed-use development (reference. MXS7) within the Kirklees Local Plan (adopted February 2019) ("KLP19") **(CD2)**. The Appellant engaged extensively with the LPA to inform the evidence base supporting this site allocation in the then emerging Local Plan including attending the Local Plan Examination. Subsequently, the Appellant engaged extensively with the LPA including officers and Members leading up to the submission of the planning application on 22 July 2020.
- 3.2 Key milestones in the planning history of the Proposed Development are set out in the SoCG **(APP3)**, culminating in the grant of permission for the Proposed Development on 23 October 2024 **(APP55)**.
- 3.3 Prior to grant, the application had been referred to committee on a number of occasions. The first pre-application report to the Strategic Planning Committee was on 11 July 2019 **(CD14)**. Subsequently, position statements were considered by Strategic Planning Committee on 17 November 2020 **(CD15)** and 6 October 2022 **(CD16)** post submission of the planning application. Thereafter the Strategic Planning Committee determined to approve the application with authority delegated to officers to prepare conditions and a section 106 agreement on 8 December 2022 **(CD17)**. Members voted to accept the officers' recommendations, by four votes to three. Strategic Planning Committee therefore considered the Application on four occasions, resulting in a resolution to grant permission.
- 3.4 Permission was subsequently quashed on 4 September 2025 **(CD37)** following an application for judicial review. The quashing was due to the LPA's failure to publish the section 106 agreement until after the decision to grant planning permission, in breach of article 40(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The decision of the High Court judge to quash the permission was therefore grounded in the LPA's procedural failure, and did not relate to its substantive decision to grant planning permission.
- 3.5 The section 106 agreement was re-published and the application was re-presented to Members at a meeting of Strategic Planning Committee on 4 December 2025 **(CD19)** with a further recommendation for approval.^v Members voted to refuse the Application and after indicating the following ground for refusal, delegated the detailed wording to Officers:

"The proposed development, due to its size and proximity to Dum Wood, due to the hydrological impacts that would be caused, due the increased residential population that the development would introduce, and due to the insufficient depth of the proposed buffer, would result in changes to local hydrology,

^v There was no objection from either the LPA Tree Officer or Ecology Officer.

significant intensification in the use of Dum Wood, and resultant unacceptable harm to and deterioration of this ancient woodland and Local Wildlife Site, contrary to policies LP30 and LP33 of the Kirklees Local Plan, and chapter 15 of the National Planning Policy Framework.”

- 3.6 On 15 January 2026 (**CD21**), the reason for refusal was re-presented to the Planning Committee with changes recommended by Officers. The changes were agreed by Members. The final reason for refusal removed wording related to hydrology^{vi} as follows:

“The proposed development, due to its size and proximity to Dum Wood, and due to the increased residential population that the development would introduce nearby and the insufficient depth of the proposed buffer, together would result in significant intensification in the use of Dum Wood, and unacceptable harm to and deterioration of this ancient woodland and Local Wildlife Site, contrary to policies LP30 and LP33 of the Kirklees Local Plan, and chapter 15 of the National Planning Policy Framework.”

- 3.7 The Appeal against the refusal was submitted by the Appellant to the Planning Inspectorate in July 2026.

4 THE PROPOSED DEVELOPMENT

- 4.1 The Proposed Development seeks Outline Planning Permission for residential development (Use Class C3) of up to 181 dwellings, along with associated engineering and site works, demolition of an existing property, landscaping, drainage, and other infrastructure. All matters are reserved except access.
- 4.2 All but two matters are agreed between the Appellant and LPA and the parties’ joint position on those agreed matters is set out in the SoCG (**APP3**). The two matters not agreed between the Appellant and the LPA are the impact on the adjacent Ancient Replanted Woodland (Dum Wood) and the LPA’s 5 Year Housing Land Supply (**5YHLS**).
- 4.3 As noted above, a buffer zone is proposed between the Site boundary and Dum Wood (as shown by the hatched green area on the plan at Appendix 3 (**APP59.3**)). The buffer will help ensure that any impact of the Proposed Development on Dum Wood is avoided. Since the application was refused, the buffer (as proposed to be secured in the Section 106 Agreement (**APP60**)) has been extended to incorporate a field which sat between the original buffer zone and Dum Wood, to enable a comprehensive planting scheme to be provided. Further details are contained in paragraphs 6.24 and 6.25.

^{vi} The LPA has confirmed that the Woodland Trust clarified on 3 December 2025 that the Appellant’s technical responses addressed its concerns relating to hydrology.

- 4.4 The Proposed Development will deliver substantial public benefits. The benefits are set out in the SoCG (**APP3**).

5 LEGISLATIVE AND PLANNING POLICY FRAMEWORK

- 5.1 The statutory requirement under the Town and Country Planning Act 1990 (**1990 Act**) and Section 38(6) of the Planning and Compulsory Purchase Act 2004 is for the determination of planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

- 5.2 The Development Plan relevant to the Site comprises the following documents:

5.2.1 Kirklees Local Plan Strategy and Policies (27 February 2019) (**CD2**)

5.2.2 Kirklees Local Plan Allocations and Designations (27 February 2019) (**CD3**)

- 5.3 Key policies of the Local Plan (**CD2**) in the determination of this appeal having regard to the reason for refusal are summarised below:

5.3.1 Policy MXS7 (Site Allocation): The Appeal Site is allocated as part of a larger residential and employment-led mixed-use development. The indicative capacity for the wider site is identified as 1,535 homes and 122,550 sqm of employment space. Of relevance to this Appeal, the site specific considerations state “A buffer will be required to protect the ancient woodlands at Dum Wood and Dogloitch Wood.”^{vii} Dum Wood was therefore considered by the LPA when allocating the Site for the scale and type of development that is set out in Site Allocation MXS7. The full site allocation wording is included at Appendix 1 (**APP59.1**).

5.3.2 Policy LP1: Presumption in favour of sustainable development: States that proposals that accord with the policies in the KLP19 will be approved without delay, unless material considerations indicate otherwise.

5.3.3 Policy LP30: Biodiversity and Geodiversity: States that the LPA will seek to protect and enhance the biodiversity and geodiversity of Kirklees. Proposals having a direct or indirect adverse effect on a local wildlife site, ancient woodland, veteran tree or other important tree, will not be permitted unless the benefits of the development clearly outweigh the need to safeguard the local conservation value of the site or feature and there is no alternative means to deliver the proposal (full compensatory measures would be required). Development proposals will be required to result in no significant loss or harm to biodiversity through avoidance, adequate mitigation or, as a last resort, compensatory measures, safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network, establish additional

^{vii} Dogloitch Wood is circa 800m south east of the Site and so is not relevant for this Appeal.

ecological links to the Kirklees Wildlife Habitat Network where opportunities exist, and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

- 5.3.4 Policy LP33: Trees: Explains that the LPA will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

- 5.4 Other policies relevant to the Proposed Development are set out in more detail in the original Planning Statement (**APP38**).

Other Material Considerations

- 5.5 The following material considerations are relevant to this appeal having regard to the reason for refusal. Chapter 4 of the Planning Statement (**APP38**) sets out relevant material considerations to the Proposed Development.

National Planning Policy

- 5.6 The NPPF (February 2025) is a key material consideration. The following paragraphs are particularly relevant:

- 5.6.1 Paragraph 11: The presumption in favour of sustainable development. Important to this Appeal is part d which states (in summary) that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, LPAs should grant permission unless the application of policies in the NPPF that protect areas or assets of particular importance (as set out in footnote 7^{viii}) provides a strong reason for refusal or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Footnote 8 clarifies that for applications including housing, out-of-date includes situations where the LPA cannot demonstrate a five-year supply of deliverable housing sites. For clarity, it is the Appellant's case that footnote 7 does not apply to the Site (as while Dum Wood, as an Ancient Replanted Woodland, is classed as irrecoverable habitat for the purposes of the NPPF, the development does not lead to the loss or deterioration of that habitat and there is not a strong reason to refuse permission on this ground). The LPA does not have a demonstrable five year housing land supply – therefore part d of Paragraph 11 is engaged.

^{viii} Footnote 7 states: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.

- 5.6.2 Paragraph 48: Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.6.3 Paragraph 56: Requires local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
- 5.6.4 Paragraph 61: Identifies the importance of a sufficient amount and variety of land coming forward to support the Government's objective of significantly boosting the supply of homes.
- 5.6.5 Paragraph 72: Requires strategic policy-making authorities to have a clear understanding of the land available in their area and to use this to prepare planning policies that identify a sufficient supply and mix of sites.
- 5.6.6 Paragraph 77: Explains the supply of large numbers of new homes can often be best achieved through planning for larger scale development.
- 5.6.7 Paragraph 78 and 79: Sets out the consequences of the Housing Delivery Test, applying the presumption in favour of sustainable development where housing delivery has fallen below 75% of the requirement.
- 5.6.8 Paragraph 124: Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while making as much use as possible of previously-developed land.
- 5.6.9 Paragraph 187: Planning policies and decisions should contribute to and enhance the natural and local environment by protecting valued landscapes, recognising the character of the countryside, and minimising impacts on and providing net gains for biodiversity.
- 5.6.10 Paragraph 192: To protect and enhance biodiversity, plans should identify and safeguard wildlife-rich habitats and ecological networks, and pursue opportunities for securing measurable net gains.
- 5.6.11 Paragraph 193a: If significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for as a last resort, then planning permission should be refused.
- 5.6.12 Paragraph 193c: Development resulting in the loss or deterioration of irreplaceable habitats, such as ancient woodland, should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists.
- 5.7 The National Planning Practice Guidance is also a material consideration. Specifically, the Natural Environment Planning Practice Guidance (June 2025) (Paragraph 32) **(CD10)** states that local authorities are required to consider both direct and indirect impacts on ancient woodland and ancient or veteran trees and the scope for avoiding or mitigating adverse impacts. It also clarifies that it is not appropriate to consider

compensation measures until the existence of wholly exceptional circumstances has been established. The Appellant's position is any adverse impacts on Dum Wood will be avoided through the implementation of the relevant measures identified below and secured through the proposed conditions and the section 106 agreement. As harm will be avoided, no compensation is required, and therefore there is no requirement to demonstrate wholly exceptional circumstances.

- 5.8 Paragraph 33 goes on to state the existing condition of ancient woodland is not something that ought to affect the local planning authority's consideration of such proposals (and it should be borne in mind that woodland condition can usually be improved with good management).

Supplementary Planning Documents

- 5.9 The following Supplementary Planning Documents (**SPDs**) are relevant:

5.9.1 Highway Design Guide SPD (4 November 2019) (**CD7**)

5.9.2 Housebuilders Design Guide SPD (29 June 2021) (**CD5**)

5.9.3 Open Space SPD (29 June 2021) (**CD6**)

5.9.4 Affordable Housing and Housing Mix SPD (14 March 2023) (**CD8**)

Emerging national policy

- 5.10 In December 2025, the Ministry of Housing, Communities and Local Government (**MHCLG**) published proposed reforms to the NPPF. A consultation ran from December 2025 to March 2026. At the time this Statement was prepared, MHCLG were considering the consultation responses.

- 5.11 It is clear from the consultation introduction that tackling the country's housing crisis and unlocking additional housing supply go to the core of the objectives set out in the latest proposed changes to the NPPF and remains at the heart of the planning system. Chapter 6 'Delivering a sufficient supply of homes' states: *"The objectives of the policies in this chapter is to support the delivery of a substantial increase in the supply of homes and traveller sites, by ensuring that a sufficient amount and variety of land can come forward where needed."* The following proposed policies are relevant:

5.11.1 Policy H07: Meeting the need for homes states that: *"In applying the policies in the Framework, substantial weight should be given to the benefits of providing accommodation that will contribute towards meeting the evidenced needs of the local community, taking into account any up-to-date local housing need assessment and other relevant evidence (including the extent to which there is a five year supply of deliverable housing and traveller sites, and performance against the Housing Delivery Test)."*

5.11.2 Policy N6: Areas of particular importance for biodiversity identifies what should be considered an international, national and locally important sites for biodiversity. The Site does not fall into any of these categories, but the

adjacent Dum Wood is a Local Wildlife Site. Part c requires development proposals to only be supported if there would not be a significant adverse effect on the integrity of the site or the benefits of development in the location proposed clearly outweigh the likely impact on the features which make the site valuable for nature conservation.

- 5.11.3 Part 2 goes on to state *“Irrespective of a site’s status in nature conservation terms, development proposals which would entail the loss or deterioration of irreplaceable habitats (such as ancient woodlands and ancient and veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.”*
- 5.11.4 Policy S5: Principle of development outside settlements states only certain forms of development should be approved outside settlements. Relevant to the Site is part i which covers the development of land allocated for that purpose in the development plan (where this lies outside settlements).
- 5.11.5 Also relevant is part j, which refers to development which would address an evidenced unmet housing need, including where LPAs cannot demonstrate a five year supply of deliverable housing sites or scored below 75% on the most recent Housing Delivery Test. The LPA is unable to demonstrate a five year housing land supply and therefore the standard method housing requirement (1,840 homes per annum) applies instead of the figure identified in the Local Plan (1,730 homes per annum).

Emerging local policy

- 5.12 The emerging Local Plan is at an early stage in its development. The Local Development Scheme (**CD1**) published on 24 March 2026 identifies the following key milestones:
 - 5.12.1 Vision and Strategy consultation – October 2026 – May 2027
 - 5.12.2 Submission of Local Plan – March 2028
 - 5.12.3 Adoption – April 2029
- 5.13 There are no emerging local policy updates relevant to this Appeal.

Natural England and Forestry Commission: Standing Advice: Ancient woodland, ancient trees and veteran trees (January 2022)

- 5.14 The Standing Advice (**CD11**) of Natural England and the Forestry Commission is an important material consideration and provides advice to local planning authorities for making planning decisions when there is ancient woodland, ancient trees or veteran trees on or near a proposed development site.
- 5.15 It states that when making decisions on planning applications, the decision maker should assess the direct and indirect effects of development on ancient woodland and gives examples of direct and indirect effects.

- 5.16 The guidance recommends that authorities ask developers for a tree survey and ecological survey and include mitigation measures in their development proposals to avoid and reduce harm caused by development on ancient woodlands.
- 5.17 Mitigation measures will depend on the type of development and could include screening barriers to protect woodland from dust and pollution, measures to reduce noise and light, designing open space to protect ancient or veteran trees, rerouting footpaths and managing vegetation to deflect trampling pressure away from sensitive locations and creating buffer zones.
- 5.18 The guidance notes that buffer zones can both provide protection and provide valuable habitat for woodland wildlife, such as feeding bats and birds. The size and type should vary depending on the scale and type of development and its effect on ancient woodland and the character of the surrounding area. It goes on to state larger buffer zones are more likely to be needed if the area is less densely wooded, close to residential areas or steeply sloped.
- 5.19 The guidance states that for ancient woodlands, a buffer of at least 15 metres from the woodland boundary should be provided to avoid root damage (the root protection area). Where the assessment shows that other impacts (e.g. air pollution from traffic) are likely to extend beyond this distance, a larger buffer may be required.
- 5.20 Where possible the buffer zone should contribute to wider ecological networks and be part of the green infrastructure of the area. It should consist of semi-natural habitats such as woodland and a mix of scrub, grassland, heathland and wetland and include habitat with local and appropriate native species.
- 5.21 The guidance identifies that it should be considered whether access is appropriate. Access to buffer zones can be allowed if the habitat is not harmed by trampling. It also says (in relation to buffer zone recommendations) that sustainable drainage schemes should only be approved if they do not affect root protection areas and any change to the water table does not negatively affect ancient woodland or ancient or veteran trees.

Forestry Commission Practice Guidance – Managing Ancient and Native Woodland in England (2010)

- 5.22 The Forestry Commission Practice Guidance (**CD12**) promotes the management of ancient woodland around the country. It recognises that ancient woodland is irreplaceable, being one of England's oldest land uses and most diverse ecosystems, often developed over centuries. On Page 6 it explains that ancient woodlands are of importance due to "*the length of time it has taken to develop, the presence of species not found in more recent woodland and the inheritance of ecological and cultural features from historic and pre-historic times*". The guidance states that more active management of woodlands could help prevent their "*long-term decline*" and protect the environment (page 2).
- 5.23 The guidance identifies that many ancient and native woodlands are currently subject to a range of pressures (page 2). It notes these are often exacerbated by declining levels of active management.

- 5.24 The guidance recognises that ancient or native woodlands are a major component of the “*vitaly important resource*” all woodlands provide for outdoor recreation (page 44). Therefore, “*where there are limited opportunities in the locality for people to enjoy the wildlife or heritage of a native woodland, managers are encouraged to consider providing for some form of permissive public access or visits*” (page 45). The guidance recognises that “*most recreational activities are perfectly compatible*” with objectives such as “*conserving wildlife and protecting the heritage of the woodland*”, but acknowledges that some uses can “*cause disturbance or damage*” (page 44). The guidance states that measures to control this disturbance or damage could include ensuring that “*rights of way and other access routes are clear and well maintained*” (page 45).
- 5.25 The guidance also provides best practice guidance in relation to woodland margins, acknowledging the benefit of creating a ‘marginal habitat’ along the edge of the woodland to reduce impacts from adjacent land uses on the woodland. It promotes the introduction of “*wide, diffuse margins and gradual transitions*” (page 21).

Woodland Trust – Planning for Ancient Woodland – Planners’ Manual (2019)

- 5.26 The Planners’ Manual (**CD13**) provides information on how planners should consider ancient woodland and veteran trees. Due to the age of the guidance, it refers to outdated iterations of the NPPF as published in 2018 and 2019.
- 5.27 The document provides guidance on mitigation and compensation measures. It highlights that impacts on ancient woodland can be both direct and indirect, which must be considered in the design of development proposals. In this context, the provision of appropriate and proportionate mitigation measures, including the use of buffer zones^{ix} and management controls, is identified to avoid adverse effects.

Local Nature Recovery Strategy

- 5.28 The Local Nature Recovery Strategy (LNRS) for an area sets the area’s priorities for nature’s recovery, maps the most valuable existing areas for nature and maps proposals for creating or improving habitat for nature and wider environmental goals. Under the Government’s Natural Environment Planning Practice Guidance (**CD10**), the LNRS is an evidence base which contains information that may be a “material

^{ix} Page 20 of the Manual identifies a precautionary principle of a minimum 50 metre buffer between a development and the ancient woodland unless the application can demonstrate very clearly how a smaller buffer would suffice. It also notes that there is no ‘one size fits all’ with buffer design and each one should be designed to fulfil the specific requirements of its location and the type of proposed development. A previous version of the Natural England and Forestry Commission Standing Guidance published in November 2017 also referenced a 50m buffer. However, the reference to a 50m buffer in that Guidance was removed by updates in January 2018. Since the Manual was published (2019), the Natural England (the relevant Statutory Consultee for such matters) and Forestry Commission Standing Guidance (2022) has come into force and makes clear the minimum width of buffers should be 15 metres. For clarity, the 2022 Standing Guidance supersedes the 2017 version of the Standing Guidance (as amended in 2018). The 2022 Standing Guidance is therefore the most recently published and clearly stipulates the minimum width recommendation as 15 metres.

consideration” in the planning system, especially where development plan documents pre-date the publication of the LNRS. It is for the decision maker to determine what is a relevant material consideration based on the individual circumstances of the case.

- 5.29 The West Yorkshire Combined Authority has published the LNRS for their area (**CD38**), which includes the Site. An extract of the Local Habitat Map for the area and further details of the measures of relevance contained in the LNRS are set out in the Baseline Woodland Survey (APP59.5) at pages 7 and 8.

6 THE CASE FOR THE APPELLANT

Summary of the LPA and the Appellant’s position

- 6.1 As noted above, the Application was refused for the sole reason as follows:

“The proposed development, due to its size and proximity to Dum Wood, and due to the increased residential population that the development would introduce nearby and the insufficient depth of the proposed buffer, together would result in significant intensification in the use of Dum Wood, and unacceptable harm to and deterioration of this ancient woodland and Local Wildlife Site, contrary to policies LP30 and LP33 of the Kirklees Local Plan, and chapter 15 of the National Planning Policy Framework.”

- 6.2 The Appellant contends that the LPA’s reason for refusal is not justified and that the Proposed Development fully complies with policies LP30 and LP33 of the Kirklees Local Plan (**CD2**), and Chapter 15 of the NPPF.

- 6.3 The reason for refusal does not identify precisely what harm would be caused to Dum Wood or how it would deteriorate, beyond a general assertion of *“significant intensification in the use”* and *“unacceptable harm and deterioration”*.

- 6.4 In the SoCG (**APP3**), the LPA has now clarified that its concerns comprise:

- 6.4.1 increased access, activity and recreational use of Dum Wood;
- 6.4.2 trampling, compaction and erosion;
- 6.4.3 widening of paths and creation of new paths;
- 6.4.4 harm to woodland ground flora including ancient woodland flora, and fungi;
- 6.4.5 dumping;
- 6.4.6 harm caused by domestic cats and dogs; and
- 6.4.7 health and safety tree works.

- 6.5 The Appellant’s technical evidence demonstrates that the concerns of the LPA as set out in paragraph 6.4 were considered and addressed in the preparation of the Application and through the design of the proposed package of mitigation. They are not founded on any evidential basis.

- 6.6 The Appellant considers that the following mitigation will prevent unacceptable harm to or deterioration of Dum Wood arising:
- 6.6.1 The buffer zone proposed by the Appellant has a minimum width of 27.3 metres, in excess of the minimum 15-metre recommendation in Natural England Standing Advice^x, ranging up to a maximum width of 90 metres. The buffer is secured through the proposed section 106 agreement (**APP60**) – the relevant obligations relating to the Ancient Replanted Woodland bind the Ancient Woodland Land shown edged green (i.e. Dum Wood) and hatched green (the Ancient Woodlands Buffer for Dum Wood) on the plan in Appendix 5 of the proposed agreement and reproduced in Appendix 3 of this Statement (**APP59.3**).
- 6.6.2 The Appellant has also proposed an Ancient Woodland Management Plan (**AWMP**) for the Ancient Replanted Woodland. Again, this is secured by the proposed section 106 agreement. The AWMP will set out the details of measures to manage and control public access to Dum Wood, and to improve the condition of Dum Wood, which is currently unmanaged.^{xi} An Ancient Woodland Management Plan Principles Document (**AWMP-PD**) (**APP59.6**) is submitted as part of the Appeal to demonstrate the matters that the AWMP is expected to cover. The final AWMP will be approved by the LPA under the section 106 agreement.
- 6.6.3 A number of the proposed conditions (Appendix to APP3) contain measures to prevent impacts arising on Dum Wood. These include proposed condition 6 which secures approval by the LPA of and strict compliance with a Construction Environmental Management Plan (**CEMP**) including measures for the mitigation of noise and vibration arising from construction related activities. Condition 10 also secures approval of a detailed ancient woodland protection plan and strict compliance with the approved plan during construction.
- 6.7 The LPA has confirmed that it does not intend to present evidence regarding construction phase impacts, air quality, noise (other than that created by visitors to Dum

^x A plan showing the dimensions from the site boundary to Dum Wood and the building face of the Illustrative Masterplan to Dum Wood is included in Appendix 2 (APP59.2).

^{xi} As explained in the Baseline Woodland Survey (**APP59.5**), historically woodlands such as Dum Wood would have been subject to regular management, with canopy trees occasionally felled for timber and understorey species coppiced on rotation. This management would have emulated natural disturbance from large herbivores (wild boar, bison, beaver, elk) which would have had a beneficial effect on the woodland ground layer, creating temporary clearings, opening up the understorey and bringing light into the ground layer. At present, there is no active management of Dum Wood and little in the way of natural disturbance / processes. As a result, the canopy is dense and closed and over time this will suppress ground flora species such as bluebell which is the only ancient woodland indicator species in Dum Wood.

Wood), hydrological impacts or impacts caused by artificial lighting (although it reserves its position on the need to submit evidence should it prove necessary for example in response to the Appellant or interested parties). The Appellant's position on these issues is summarised at paragraph 6.38 below. However, in light of the fact that the LPA has expressly stated that it does not intend to raise/submit evidence in respect of these matters, the Appellant does not advance a detailed evidential case on those topics.

- 6.8 In summary, the Appellant does not consider that any unacceptable harm to or deterioration of Dum Wood will arise.

Context of Ancient Woodland and Public Access

- 6.9 The Woodland Trust estimates ancient woodland covers approximately 2.5% of UK land, comprising 609,990 hectares **(CD33)**. Proximity to development of ancient woodland is therefore not a rare occurrence – it is frequently found adjacent to or close to major conurbations. In terms of Kirklees, the Kirklees Council Environment Strategy **(CD9)** estimates that there is 3,934ha of forestry and woodland in Kirklees, of which 1,083ha is ancient woodland (circa 27.5%).
- 6.10 There is no general policy requiring the exclusion of people from ancient woodland. In contrast, public access to ancient woodlands (including those known for their bluebells) is actively promoted by many organisations, including the National Trust^{xii} and The Woodland Trust.^{xiii}

Dum Wood – Baseline Woodland Survey

- 6.11 As described in the Baseline Woodland Survey **(Appendix 5 - APP59.5)** Dum Wood encompasses a block of mature oak woodland, enclosed on all sides by intensive arable farmland. It is classed as an Ancient Replanted Woodland (an area that has been wooded continuously since at least 1600AD) which the NPPF defines as irreplaceable. As set out in the AWMP-PD, replanted in the context of ancient woodland means that at some point in the woodland's history (most likely during the First or Second World War) the woodland was felled, resulting in the wholesale loss of the canopy and understorey layer. As a result, ancient and veteran trees were lost, and replaced with aged trees (predominantly oak).
- 6.12 Only one ancient woodland indicator species^{xiv} is present within Dum Wood. This is native bluebell which is present within the ground layer. The extent of bluebell cover

^{xii} The National Trust 'Walking' webpage **(CD29)** promotes walking routes through ancient woodland. Specifically it states *"Find the best places to walk in England, Wales and Northern Ireland. From coastal paths to tracks through ancient woodland and accessible trails, there's something to suit everyone."*

^{xiii} The Woodland Trust 'Things to do in the woods' webpage **(CD30)** encourages people to explore the UK's woods, including through walking.

^{xiv} Ancient woodland indicators are generally slow spreading vascular plants, including flowering plants, ferns, and some trees / shrubs, which are associated with long-established woodlands.

within Dum Wood has been surveyed and mapped by Brooks Ecological in the Baseline Woodland Survey (**APP59.5**). Bluebell cover is not consistent across the woodland, with only a few relatively small areas where it is classed as dominant or abundant.

- 6.13 Ploughing extends right up to the base of the woodland edge, with no discernible buffer between the woodland and farmland (a drystone wall delineates the boundary in places). As set out in the AWMP-PD (**APP59.6**), the root protection area of woodland edge trees is currently subject to regular disturbance and damage from ploughing, while the woodland edge will be subject to harm from the application of chemical fertilisers, insecticides, herbicides and fungicides.
- 6.14 Figure 7 of the Baseline Woodland Survey (**APP9.5**) shows that no ancient trees are present within Dum Wood. Two veteran trees and two notable trees are present in Dum Wood.
- 6.15 The Baseline Woodland Survey (**APP59.5**) sets out a description of Dum Wood, which is summarised below. Referencing the UK Habitat Classification system the woodland would most readily conform with the 'Lowland mixed deciduous woodland' habitat type.
- 6.16 The canopy is dominated by English oak (c. 90% cover), which is of uniform age class, with replanting likely to have occurred at a single point (most likely during the First or Second World War). Silver birch, sycamore and wild cherry are also noted within the canopy layer, with these likely to have arisen naturally, after planting. Deadwood, both standing and fallen, is well represented within the woodland.
- 6.17 The understorey is generally sparse, and comprises rowan, holly, hawthorn, field rose, elder and raspberry. All of these species are noted along the woodland edge, most likely planted historically as a hedgerow around the woodland, with seed from this having populated the woodland understorey. Towards the southeastern edge, holly becomes frequent to locally abundant, casting high levels of shade.
- 6.18 The ground layer fluctuates between abundant to locally dominant pockets of bramble, creeping soft grass and bluebell, with bare unvegetated leaf litter in between. Bracken is frequent throughout and is likely to become a more dominant feature during summer, once it has fully opened and vernal species have died back. Other species noted include ivy, male fern, honeysuckle, cleavers, common nettle, lesser celandine and foxglove.
- 6.19 As noted above, there are no public rights of way through Dum Wood. A public footpath runs to the north of the Ancient Replanted Woodland (through part of the south of the Site and through the buffer). The Appellant is however aware of informal access to Dum Wood by the public for recreational purposes and a plan is included in Appendix 4 (**APP59.4**) of the routes that appear to have been used by the public. As no public rights of way run through Dum Wood and it is entirely within the ownership of the Appellant, it would be possible to restrict access to the woodland entirely. However, providing people with access in a responsible manner is a core principle of many nature conservation organisations as identified at paragraph 6.10 above. Prohibiting access in its entirety, while an option, is therefore not proposed.

Allocation & planning application

- 6.20 The existence of Dum Wood was considered at the Local Plan stage and the following site specific consideration was included in the site allocation (**Appendix 1 – APP59.1**) as recommended by the Inspector undertaking the Local Plan examination: *“A buffer will be required to protect the ancient woodlands at Dum Wood and Dogloitch Wood”*.^{xv} There are two other site allocations in the KLP19 that include references to ancient woodland in the net site area, constraints or site specific considerations (ref. HS19 and HS21).^{xvi}
- 6.21 It should be noted that the site allocation boundary as shown on the policies map (**CD4**) extends up to the edge of Dum Wood. The parameter plan purposely did not extend the development area up to this boundary, instead the extent of the application site was reduced to create a suitable buffer zone, informed by specialist ecological advice from Brooks Ecological, between the Proposed Development and Dum Wood.
- 6.22 The relationship between the Proposed Development and Dum Wood was considered acceptable by Officers, as set out in the Committee Report in December 2022 (**CD17**), and accepted by a majority of the Planning Committee, leading to the grant of planning permission.
- 6.23 When the matter was re-presented to the Planning Committee following Judicial Review,^{xvii} the December 2025 Committee Report (**CD19**) stated in paragraph 7.21: *“The width of the Ancient Woodlands Buffers was previously assessed and the council did not identify a need for these to be wider than the 20m proposed.”*
- 6.24 The originally proposed buffer zone (as shown on the Parameter Plan submitted with the application (**APP10**) therefore remained consistent from submission of the planning application until refusal in January 2026 and has twice, in December 2022 and December 2025 been found to be acceptable by Officers and in December 2022 was found acceptable by members.
- 6.25 For the purposes of the Appeal, the buffer zone has been extended to bring in an agricultural field which would otherwise sit between the buffer zone and Dum Wood (**Additional Buffer Area**) (as shown on Figure 2 of the AWMP-PD (**APP59.6**)). This has been added so that it is clear that a comprehensive planting scheme is proposed for the buffer and the Additional Buffer Area. Under proposed Condition 2, development

^{xv} Dogloitch Wood is circa 800m south east of the Site and so is not relevant for this Appeal.

^{xvi} A single application covering both site allocations was submitted on 30 October 2019 (ref. 2019/62/93550/W) (**CD34** comprises the officer report). A 15 metre buffer between the Proposed Development and Ancient Woodland was proposed and this was deemed acceptable by the LPA. Planning Permission was granted on 19 April 2021. A specific Ancient Woodland Management Plan was not considered necessary as it was concluded that the impact of the development on the adjacent Ancient Woodland was acceptable subject to a condition requiring a Landscape and Ecological Management Plan.

^{xvii} The only ground of judicial review challenge which was successful was the failure of the LPA to publish the section 106 agreement prior to granting planning permission.

within the site boundary must comply with the Parameter Plan. The Parameter Plan also shows the proposed buffer (for context only). For consistency, it is also proposed to update the Parameter Plan to refer to the revised buffer (**APP62**).

The Proposed Buffer

- 6.26 The proposed buffer zone has been designed as a measure to help ensure any potential impact to Dum Wood is avoided. The purpose of the buffer can be summarised as follows:
- 6.26.1 Root Protection: To protect the root systems of Dum Wood trees from direct physical disturbance and changes in soil conditions. The Site boundary does not include the buffer and no development will take place within the buffer. A qualified arboriculturist from Brooks Ecological has undertaken detailed surveys of the trees as set out in the Baseline Woodland Survey (**APP59.5**). The buffer provides a sufficient distance to accommodate the necessary root protection zones for all trees within Dum Wood.
 - 6.26.2 Ecological Corridor: To provide an ecological transition zone between Dum Wood and the Proposed Development, strengthening habitats along the parts of the existing Wildlife Habitat Network^{xviii} that run adjacent to Dum Wood. Qualified ecologists from Brooks Ecological have collected survey data over a period of several years (as summarised in the Ecology Technical Note (Appendix 9 – **APP59.9**)) to establish a robust baseline for the use of the Site and Dum Wood by local fauna. The proposed buffer zone will add to the existing woodland habitat and retained hedgerows / tree lines to strengthen habitats along the existing Wildlife Habitat Network in this area by providing a protected route for local bat and bird populations. The proposed buffer width is considered sufficient to facilitate passage by the species that have been identified in surveys as using this part of the existing Wildlife Habitat Network that runs adjacent to Dum Wood. The buffer will be planted with a range of native scrub species (many of which are thorn-bearing) and spaced sufficiently close together to ensure a dense thicket of scrub establishes, with occasional glades and small clearings internally. This dense planting will ensure birds and small mammals can move through the area without having to break cover and allows for bats to traverse above them. The planting will also discourage the movement of people through the area.
 - 6.26.3 Visual Screening: To provide a visual barrier, through the introduction of a no build area and through additional planting between Dum Wood and the

^{xviii} As referenced earlier in this Statement, the Wildlife Habitat Network in Kirklees is an existing designation in the Local Plan that connects designated sites of biodiversity and geological importance and notable habitat links within the district, such as woodlands, watercourses, natural and semi-natural areas. The area relevant to the Site is shown on Figure 6 in the Baseline Woodland Survey in Appendix 5 (**APP59.5**).

Proposed Development. This will filter/reduce views between the wood and development.

- 6.26.4 Recreational Access Management: To create a physical barrier and psychological separation (via signage and planting to direct people to the permissive route from the existing public right of way), with appropriate planting (including dead hedge and bramble) to discourage access other than along the defined permissive routes helping to manage access to the woodland interior, which is currently unmanaged.

6.27 In terms of the application drawings:

- 6.27.1 The Parameter Plan (**APP62**), which is submitted for approval, controls the maximum extent of development within the Site. The exact buffer width between the boundary of the proposed development area closest to Dum Wood as shown on the Parameter Plan (which follows the Site boundary in this location) and the boundary of Dum Wood varies from a maximum width of 90 metres to a minimum width of 27.3 metres as shown on the plan in Appendix 2 (**APP59.2**).

- 6.27.2 The Illustrative Site Layout Plan (**APP9**), which is not submitted for approval, shows one way in which the Proposed Development may come forward in compliance with the Parameter Plan. When considering the buffer between the building face of the illustrative scheme and Dum Wood, the buffer width has a minimum distance of 32.6 metres as a road runs along the boundary with the buffer zone and there is a 6 metre easement for an existing foul water sewer (shown on the Parameter Plan (**APP62**)).

- 6.28 The size of the buffer is therefore well in excess of the minimum recommended by Natural England Standing Guidance. It is acknowledged that every site should be considered on its merits but the Appellant draws attention to two recent and relevant appeals that have found a much smaller 15 metre buffer to be acceptable.^{xix} As noted in paragraph 5.19, the Natural England guidance suggests that the buffer may need to be wider than 15m where other impacts (such as air pollution^{xx}) are likely to extend beyond this distance. This does not arise in this case as further explained in paragraphs 6.37 – 6.54 below.

- 6.29 In terms of the treatment of the buffer zone, there will be no built development within the buffer zone, nor will there be any residential gardens or vehicle access. There will be planting in the buffer zone and some limited works (such as signage, fencing and dog waste bins). The detailed design of the planting and works (forming part of the Ancient Woodlands Permissive Works as defined in the section 106 agreement) are to

^{xix} Appeal refs. APP/P0119/W/24/3357956 (**CD31**) & APP/P0240/W/25/3372878 (**CD32**).

^{xx} As set out in the SoCG (**APP3**) the LPA has confirmed it does not intend to present evidence on construction-phase impacts, air quality impacts, hydrological impacts, noise (other than that created by visitors to Dum Wood) and impacts caused by artificial lighting.

be approved as part of the AWMP, as secured in the section 106 agreement. The AWMP-PD (**APP59.6**) identifies the types of plant species that could be planted, in naturalistic lines. Two schedules of planting are proposed, one for the buffer zone excluding the Additional Buffer Area (which will act primarily as dense thorny scrub planting, to prevent informal access into Dum Wood from the proposed development) and a second for the Additional Buffer Area (which will ultimately become part of the woodland, so a mix of canopy and understorey species have been selected by ecology specialists at Brooks Ecological).

- 6.30 The buffer zone and Dum Wood fall outside the Application boundary but are within the ownership of the Appellant. In addition to the above works, the section 106 agreement (**APP60**) secures the future management and maintenance of Dum Wood and the buffer zone for the lifetime of the development.

Ancient Woodland Management Plan (AWMP)

- 6.31 Dum Wood is not currently managed. The AWMP, which will cover both Dum Wood and the buffer zone, is proposed to ensure any impact on Dum Wood is avoided and to enhance its condition and biodiversity. The AWMP must be submitted to the LPA for approval before or alongside the first reserved matters application (Schedule 3 paragraph 6.2 of the proposed section 106 agreement (**APP60**)) and no development can be occupied until it has been approved by the LPA. The LPA will then inspect the works undertaken pursuant to the AWMP and can require remedial works to be undertaken if required (Schedule 3 paragraphs 6.3 to 6.5).
- 6.32 The AWMP will contain arrangements for works to and management, funding and maintenance of Dum Wood and the buffer zone, including the management of controlled public access to both. It will include (but not be limited to) the following:
- 6.32.1 Details of the Ancient Woodlands Permissive Works – in addition to the planting and other works within the buffer zone identified above, these comprise any works within Dum Wood by way of enhancement (including for biodiversity) and include the provision, surfacing and treatments of permissive routes through Dum Wood, any measures to prevent access to any parts of Dum Wood and associated signage, fencing, interpretation and dog waste bins;
 - 6.32.2 The ownership of and persons responsible for the management and maintenance of Dum Wood and the buffer zone and funding arrangements (the options for management include the Public Open Space Management Company set up to manage the Public Open Space within the Proposed Development under Schedule 3 paragraph 7.2 of the proposed section 106 agreement);
 - 6.32.3 Any areas where public access will and will not be permitted within Dum Wood and the buffer;

- 6.32.4 The means by which information relating to Dum Wood (and its protection) and the buffer would be disseminated to residents of the Proposed Development; and
 - 6.32.5 Arrangements for the monitoring of any impacts of public access and the Proposed Development upon Dum Wood, together with a mechanism for reporting to the LPA and agreeing and implementing remedial measures and other necessary works and measures and agreeing updates to the AWMP as required.
- 6.33 The AWMP-PD (**APP59.6**) sets out a framework of what the AWMP is intended to include when it is prepared as part of the requirements of the section 106. As noted above, the final version will be submitted to and approved by the LPA.
- 6.34 The proposed section 106 agreement also includes the following obligations at Schedule 3:
- 6.34.1 The Ancient Woodlands and the buffer must be managed in accordance with the approved AWMP for the lifetime of the Development (Schedule 3 paragraph 6.6).
 - 6.34.2 The LPA can enter onto the Ancient Woodlands and the buffer to monitor compliance with the AWMP and require remedial works to be undertaken if necessary (Schedule 3 paragraph 7.1).
 - 6.34.3 The owner of the Ancient Woodlands shall allow public access to the Ancient Woodlands and buffer, provided that such access must be subject to requirements and regulations approved by the LPA, having regard to overriding reasons of safety, security and prudent estate management including reasonable requirements to keep access to specified ways (Schedule 3 paragraph 8.1).
 - 6.34.4 Biodiversity improvements within the buffer may count towards the requirement for biodiversity net gain (this is a benefit secured by the section 106 agreement as the statutory requirement does not apply given the age of the application) (Schedule 5). Biodiversity improvements within the Ancient Woodland will not count towards the requirement – the Offsite BNG Land comprises only the Ancient Woodlands Buffer - and therefore the management of Dum Wood to promote biodiversity will be an additional benefit.
- 6.35 A previous appeal decision relating to a site adjacent to ancient woodland has found that securing similar measures proposed in the AWMP-PD (signage and maintenance works) via a section 106 agreement, is an effective method to secure controls that ensure impact on ancient woodland is avoided.^{xxi}

^{xxi} APP/P0119/W/24/3357956 (**CD31**).

Ancient Woodland Permissive Works

- 6.36 The Ancient Woodland Permissive Works (as explained above and covering both Dum Wood and the buffer zone) must be carried out before Occupation of the Proposed Development and the LPA will inspect the works and can require remedial works to be undertaken (Schedule 3 paragraphs 6.3 to 6.5). This will ensure harm is avoided to Dum Wood as the Permissive Works will have been completed and in place before any new residents move into the Proposed Development.

Assessment of potential impacts on Dum Wood

- 6.37 The impacts, including the potential for any intensification in the use of Dum Wood, have been comprehensively assessed. Given the LPA's position on relevant impacts, this section focuses on the potential for intensification of use, ecology (including fauna and flora) and other issues raised by the LPA.
- 6.38 The LPA has confirmed it will not put forward any evidence of impacts arising due to construction, air quality, hydrology, noise or artificial lighting (albeit it reserves the right to do so).
- 6.38.1 The Technical Note from Lucion (**APP51**) submitted to the LPA on 17 November 2025 confirms that no adverse impacts on Dum Wood will arise during construction or operation of the Proposed Development as a result of noise^{xxii}, air quality or hydrology. That work has been reviewed and independently verified by specialists from Logika who will be available to assist the Inspector at the hearing. These matters are not addressed further in this Statement.
- 6.38.2 It is also noted however that in the January 2026 Committee, Members voted to agree with Officers' recommendations that hydrology be removed from the reason for refusal due to: there being a lack of evidence; the proposals being less densely built-up than other developments recently approved in Kirklees; the permeable buffer zone; the Technical Note from Lucion which demonstrated that the development is unlikely to alter the current regime for groundwater recharge and groundwater flows; the Woodland Trust confirming this Technical Note addressed its concerns; and relevant Government and Woodland Trust guidance.
- 6.38.3 The Lighting Assessment Report (**APP59.7**) prepared by SLR Consulting considers the level of light spill into Dum Wood from the primary shared route based on the illustrative site layout plan. In the absence of any guidance or

^{xxii} The LPA notes in the SoCG (**APP3**) that it has concerns about noise created by visitors to Dum Wood, but has not put forward any detail of these concerns. The Appellant's position is that the closure of the informal routes through the middle of Dum Wood will mean there is less, rather than more, noise in the majority of Dum Wood. The measures to ensure that walkers and any dogs accompanying them stay on the permissive route will mean that the centre of Dum Wood is walked through by less people than in its current state.

justification from the LPA on lighting impacts, the Lighting Assessment Report adopts recognised best practice guidance from the Bat Conservation Trust and Institution of Lighting principles. It confirms that a sensitive lighting design can be prepared, the detail of which will be submitted to and approved by the LPA under a proposed condition (Condition 27). This design will ensure that the light spill into Dum Wood is negligible and well below the relevant standards to ensure there are no adverse impacts on the fauna within Dum Wood. The buffer width is therefore adequate to ensure no adverse light impacts arise.

Potential for intensification of use

- 6.39 There is currently unmanaged and informal public use of Dum Wood. The AWMP will ensure that future access would be carefully managed and monitored to preserve and improve the condition of the woodland. The design of the buffer, combined with strategic landscaping within Dum Wood and clear demarcation, will channel walkers away from the central part of Dum Wood. The AWMP-PD (**APP59.6**) describes how this could be achieved, by:
- 6.39.1 Making the permissive route (routes 1, 2, 3 and 5 (as shown on the plan at Appendix 4 (**APP59.4**)))^{xxiii} more attractive and easy to access, with signage from the existing public right of way and improved surfaces.
 - 6.39.2 Closing other informal routes through the centre of Dum Wood (route 4 (plan included at Appendix 4)) and discouraging access by:
 - a) Implementing a dead hedge or small informal woven fence within 0.5m of the footpath on one or both sides.
 - b) Leaving a 5m strip of bramble scrub and holly unmanaged on one or both sides of the footpath.
 - c) Adding a series of large log and brash piles along the closed informal routes.
- 6.40 In addition, the creation of new publicly accessible open space within the development (on land which is currently private) (secured by Schedule 3 of the proposed section 106 agreement (**APP60**)) and new pedestrian/cycle links through the Site and to the countryside beyond will provide alternative recreational opportunities for residents, thereby reducing pressure on Dum Wood from both new and existing residents.
- 6.41 The AWMP-PD (**APP59.6**) demonstrates how public awareness of the Ancient Replanted Woodland and how it can be protected could be disseminated – through interpretation boards at entrance points to help the public understand and appreciate the woodland and feel motivated to protect it. This would be bolstered by targeted

^{xxiii} The permissive route alignment has been specifically chosen by qualified Ecologists and Arboriculturists at Brooks Ecological to avoid any ecological impact following a baseline survey.

signage about dog fouling and provision of dog waste bins at all entrances to the woodland.

- 6.42 The AWMP-PD (**APP59.6**) also sets out a framework for how the AWMP will meet the section 106 obligation to confirm ownership and management of both Dum Wood and the buffer zone. It promotes the role of an Ecological Clerk of Works and how a 'Friends of' group could be established to facilitate local engagement on how the area is managed and maintained.
- 6.43 The use of Dum Wood will be actively monitored, as will the success of the AWMP (as set out on page 20 of AWMP-PD). Issues will be reportable to the managers of the woodland by users. If further measures are required to, for example, deter or prevent the public from using parts of Dum Wood, then they will be put forward for approval by the LPA and, if approved, installed and monitored.
- 6.44 With these control and management measures in place and the section 106 requirement for monitoring for impacts, undertaking remedial measures and updating the AWMP as necessary, any adverse impacts arising from the use of Dum Wood would be avoided. This would therefore ensure that there is no deterioration of Dum Wood and indeed betterment of Dum Wood can reasonably be expected through its active management and improvement including for biodiversity. This position is as compared to the current, unmanaged scenario, where there is uncontrolled public access into Dum Wood.
- 6.45 As set out in the AWMP-PD (**APP59.6**), the measures set out above are measures which have been found acceptable in previous appeals for the management of public use of ancient woodlands to ensure that no adverse impacts arise.^{xxiv}
- 6.46 In terms of the LPA's particular concerns:
- 6.46.1 Increased access, activity and recreational use of Dum Wood – this will be managed and monitored as above to ensure no adverse effects arise.
- 6.46.2 Widening of paths and creation of new paths – in fact, informal paths through the centre of Dum Wood will be removed and no new paths are proposed through Dum Wood. As required by the section 106 agreement (**APP60**), all works will be carefully designed and will be approved by the LPA before installation.

Impact on Ecology (Fauna and Flora)

- 6.47 Although Dum Wood is designated as a Local Wildlife Site for its percentage ground cover of native bluebell, and is an area of Ancient Replanted Woodland, the ground layer is relatively species-poor, with bluebell and bramble being the predominant ground cover species. The Baseline Woodland Survey (**APP59.5**) demonstrates the woodland is currently lacking the typical assemblage of ancient woodland ground flora

^{xxiv} APP/P0119/W/24/3357956 (**CD31**), APP/P0240/W/25/3372878 (**CD32**).

species and the woodlands floral diversity in this respect will be substantially enhanced through a combination of plug planting, seeding and scrub management achieved through the AWMP.

6.48 The AWMP-PD (**APP59.6**) identifies an objective to increase the floral diversity of the woodland ground layer and promote the development of a locally appropriate ancient woodland ground layer. This will be secured through the AWMP.

6.49 In terms of the LPA's particular concerns:

6.49.1 Trampling, compaction and erosion – the measures taken to control public access, the careful management and monitoring of that public access to Dum Wood as set out in paragraphs 6.39 – 6.46 above will ensure that no adverse impacts arise due to the trampling of flora, compaction of soils and erosion.

6.49.2 Harm to woodland ground flora including ancient woodland flora and fungi – again, the proposed control measures, the careful management and monitoring regime to be put in place will ensure no adverse impacts arise. In contrast, there will be betterment, due to the opportunities for new planting and improvement to floral diversity. The final AWMP will be underpinned by surveys of invertebrates and fungi which will inform the final measures.

6.50 In terms of fauna, the Ecology Technical Note at Appendix 9 (**APP59.9**) summarises the results of several years of extensive surveys of the Hey Beck Lane site and Dum Wood. This approach provides a robust baseline against which the potential impacts on the Site and Ancient Replanted Woodland can be considered. As part of the ongoing survey work, an updated survey pack has been appended to the Ecology Technical Note – no changes of note have been identified in these updated surveys. The results of the summer surveys are expected to be available at the hearing (subject to the scheduled date of the hearing).

6.51 The Ecology Technical Note explains how the proposed buffer width has been informed throughout the design stage by the ecology survey data and demonstrates that the width is sufficient to protect ecology in and around Dum Wood. In fact, the proposed buffer, strengthening of the Wildlife Habitat Network, additional planting and proposed management of Dum Wood would have a beneficial impact for ecology in the area including for local bat and bird populations.

Other issues raised by the LPA

6.52 In terms of the other issues raised by the LPA as set out in paragraph 6.4:

6.52.1 Dumping – It is anticipated that the LPA's concern is fly tipping. However, the LPA has not put forward any evidence to explain why it is a particular concern in this location. The potential for such dumping to cause adverse effects at Dum Wood will be very low. This is because (a) there are no gardens that will back on to Dum Wood, such that garden waste cannot simply be dumped over the back fence into the wood, (b) there is a considerable distance between the development and Dum Wood including the planted buffer, and

(c) there is no vehicular access to Dum Wood. Moreover, the AWMP-PD (**APP59.6**) includes a monitoring mechanism which will be a core responsibility of the approved management entity. Progress against the aims in the AWMP would be shared with the LPA at a regular interval, with the LPA retaining the ability to require remedial works. This mechanism will be effective to manage and curb any behaviours such as fly tipping from creating adverse impacts at Dum Wood.

- 6.52.2 Harm caused by domestic dogs – The AWMP-PD (**APP59.6**) acknowledges the possibility for dog fouling to occur due to the Proposed Development, and sets out measures to manage this possibility to prevent adverse effects from arising. This includes the installation of dog waste bins and erection of interpretation boards at the three main entrances to the woodland, with the purpose of the latter being to include information on the damaging effects of leaving dog waste behind. The waste bins will be serviced regularly. Additional signage signalling against this behaviour is proposed to be erected at all access points and along paths. This will be managed by the same monitoring mechanism set out above, with the LPA retaining the ability to compel remedial action such as installation of more signage or dog waste bins. If the monitoring identifies that dog waste is becoming an issue, schemes such as providing free compostable waste bags could be explored.
- 6.52.3 Harm caused by domestic cats – The AWMP-PD (**APP59.6**) acknowledges the possibility for an increase in the local domestic cat population, which could result in an increased presence of cats within Dum Wood. It goes on to acknowledge the main potential adverse impact of domestic cats is an increased risk of predation of small mammals (i.e. mice) and birds. However, Dum Wood is designated as a Local Wildlife Site on the grounds of its bluebell cover and therefore an increase in domestic cats would not impact on this feature. Further, during extensive surveying over a period of several years no ground nesting bird species, which would be at high risk of predation, were recorded within Dum Wood. An increase in the local domestic cat population would therefore not impact on the key features of the Local Wildlife Site or ancient replanted woodland categorisation, and is not expected to have an adverse impact on existing bird assemblages. The planting of dense thorny scrub within the ancient woodland buffer zone, would also act to discourage cats from accessing the woodland, and provide shelter for small mammals and bird.
- 6.52.4 Health and safety tree works – As noted above, the informal paths through Dum Wood will be removed, such that a central block of woodland will not be subject to public access. No such tree works will therefore be required in this area. Limited works are expected to be required to ensure the safety of users of the proposed permissive path and these will not affect the identified veteran or notable trees. As set out in the AWMP-PD, it is expected that some tree works will take place within the central area for ecological

enhancement for example, the creation of standing deadwood (ring-barking) and veteranisation.

- 6.53 No adverse impacts on Dum Wood are therefore expected to arise as a result of dumping, domestic cats or dogs or health and safety tree works.
- 6.54 This section of the Statement has discussed topics that could have potential impacts on Dum Wood. For each topic, the explanation and supporting technical notes demonstrate that adverse impacts on Dum Wood will be avoided. Therefore, no loss or deterioration of Dum Wood will occur.

Application of policy & material considerations

- 6.55 The Appellant maintains that the Proposed Development fully complies with all relevant planning policies and material considerations:

KLP19 Site Allocation MXS7

- 6.56 The Proposed Development is in full compliance with the site allocation policy, which explicitly requires a buffer to protect Dum Wood. The Appellant's scheme provides a buffer that is substantially in excess of the recommended minimum of 15 metres in Natural England Standing Guidance and there is no evidence of adverse impacts that mean that a wider buffer is required. The buffer is also well in excess of what was provided at another site in Kirklees with the same policy requirement for a buffer (ref. 2019/62/93550/W **(CD34)**) and this was previously deemed acceptable by the LPA.

KLP19 Policy LP30 (Biodiversity & Geodiversity)

- 6.57 The Proposed Development will have no direct or indirect adverse effect on the adjacent Local Wildlife Site, ancient woodland or the veteran and notable trees located within Dum Wood. Therefore, no compensatory measures are required.
- 6.58 The Proposed Development allows for the safeguarding and enhancement of the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale. Access to the southern portion of the Site will need to be gained through the Wildlife Habitat Network which will lead to the loss of some hedgerow. This will be sensitively addressed through detailed design at reserved matters stage, to retain the integrity and purpose of the network which will be strengthened as a whole by the buffer planting.
- 6.59 The comprehensive ecological assessments prepared by Brooks Ecological (**APP59.9**) demonstrate that the Proposed Development, with the buffer, and 10% Biodiversity Net Gain (excluding measures within Dum Wood), will result in no loss or harm to biodiversity and will secure a substantial biodiversity net gain. On the basis any potential impacts will be avoided, it is not necessary to consider whether the benefits of the development outweigh the need to safeguard the conservation value of Dum Wood. However, the Appellant submits that if any adverse effects were considered to arise, the benefits (as set out in the SoCG (**APP3**)) would substantially outweigh any potential harm. This is explained further in Section 10.

KLP33 Policy LP33 (Trees)

- 6.60 As the planning application is made in 'outline' and the detailed layout of the scheme has not been fixed, the precise number and location of trees required to be removed to facilitate development cannot at this stage be confirmed. This will be a matter to be dealt with at the Reserved Matters stage.
- 6.61 Based on the Illustrative Site Layout Plan (**APP9**), the Arboricultural Impact Assessment (**APP14**) identifies that nine trees (T24, T25, T26, T33, T34, T35, T37 and T38) and sections of three groups, G13, G14 & G15, may require removal. None of these trees are classified as ancient, veteran or notable and therefore should not be considered to be of significant amenity. The loss of these trees should therefore be considered acceptable in accordance with Policy LP33 and mitigation will come forward through new tree planting as part of the landscaping element of the Reserved Matters application, which will also include additional planting within the proposed woodland buffer. The Reserved Matters application will confirm details for any tree removal and proposed Condition 25 ensures that no trees will be removed during nesting season.
- 6.62 Within Dum Wood, which is outside of the red line boundary, there are two veteran trees and two notable trees, and no ancient trees. As set out in the assessment of potential impacts, the Proposed Development will not directly or indirectly threaten these trees in accordance with Policy LP33. The additional planting and removal of intensive farming in proximity to Dum Wood will ensure protection and enhancement of Dum Wood.

NPPF Chapter 15 (Conserving and enhancing the natural environment), particularly Paragraphs 187, 193a, and 193c

- 6.63 The Proposed Development protects and enhances the natural environment and provides net gains for biodiversity. As the Appellant has demonstrated there would be no loss or deterioration of ancient woodland, the "wholly exceptional reasons" test under Paragraph 193c is not applicable. The technical evidence demonstrates that any potential harm to Dum Wood is avoided, ensuring compliance with the NPPF's objectives for protecting irreplaceable habitats.

Natural England Standing Advice

- 6.64 The buffer exceeds the minimum 15-metre recommendation. The Appellant's technical reports provide the site-specific, evidence-based judgment required to demonstrate that this buffer is a measure that will mean both any direct and indirect impacts on Dum Wood are avoided and a larger buffer is not required.

LNRS

- 6.65 The proposals comply with the measures contained in the LNRS (**CD38**) relating to Dum Wood. The active management of Dum Wood will enhance the quality of the habitats in the existing LWS, supported by ongoing monitoring and maintenance (Measure Q2_M01) and improve the biodiversity and structure within an established ancient woodland and the habitats that connect them (Measure T1_M02). The AWMP

and the measures it contains will be underpinned by more detailed surveys, including of invertebrates and fungi (Measure T1_M02). With the buffer zone, a transitional area will be created, which supports Measure F2_M01.

7 HOUSING LAND SUPPLY

Relevant Local Planning Policies

7.1 The relevant local planning policies for housing are:

7.1.1 LP11 – sets out requirements for housing mix and affordable housing.

7.1.2 Site Allocation MXS7 – sets out the indicative quantum of development, including residential uses, that should be delivered on the Site.

The Proposed Development

7.2 The Proposed Development is in accordance with Policy LP11, with a policy compliant level of affordable housing and mix secured through the section 106 agreement. The Proposed Development is also in full accordance with the requirements of Site Allocation MXS7. The Proposed Development provides residential development at an appropriate density with the remainder of uses in Site Allocation MXS7 proposed under the adjacent Leeds Road Planning Application (ref. 2020/92331).

Authority Monitoring Report

7.3 In its 2024/25 Authority Monitoring Report **(CD26)** published in December 2025, the LPA states:

“In accordance with the NPPF, where strategic policies are more than five years old and have not been reviewed and found up to date, the five-year housing land supply must be assessed against local housing need calculated using the standard method.”

7.4 The strategic policies in the Kirklees Local Plan **(CD2)** are more than five years old and are therefore considered to be out of date.

7.5 For clarity, Paragraph 78 of the NPPF states: *“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old³⁹.”*

7.6 Footnote 39 states: *“Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance.”*

- 7.7 The local housing need figure is 1,840 dwellings per annum.^{xxv} The Housing Delivery Test “determined” Kirklees must include a 20% buffer. The LPA asserts in the Authority Monitoring Report 2024/2025 **(CD26)** that the resulting five-year housing land supply position is 4.18 years.
- 7.8 According to the LPA’s latest Authority Monitoring Report **(CD26)**, the LPA is therefore unable to demonstrate a 5YHLS and the presumption in favour of sustainable development, as set out in Paragraph 11(d) of the NPPF, is engaged.
- 7.9 The LPA has refused to publish or share the data behind the calculation. The Appellant challenges the LPA’s assertion of a 4.18-year housing land supply for the following reasons:
- 7.9.1 The LPA states the 5YHLS has increased from 3.96 years to 4.18 years between the 2022/23 AMR **(CD24)** and the 2024/25 AMR **(CD26)** despite several of the large site allocations in the Local Plan not delivering any homes in this period.^{xxvi}
- 7.9.2 The Appellant has carried out its own review of housing delivery within Kirklees and found no evidence to support the claims of either 3.96 years or 4.18 years.

Appellant’s 5 Year Housing Land Supply Calculation

- 7.10 As a result of the LPA refusing to publish or share with the Appellant the data behind its 5YHLS calculation, the Appellant has conducted its own 5YHLS using the methodology set out in Appendix 8 **(APP59.8)**.
- 7.11 The Appellant’s calculation finds a housing land supply position of 2.95 years, which is significantly lower than the figure asserted by the LPA. No evidence has been provided by the LPA despite several requests by the Appellant – there has therefore been no opportunity for the LPAs figure to be interrogated.
- 7.12 Should this appeal succeed and the Proposed Development is granted planning permission, the Site will be capable of delivering homes within a 5-year period and consequently would make a positive contribution to the Council’s housing land supply.

Housing Delivery Test

- 7.13 The latest Housing Delivery Test Results (December 2024) **(CD23)** show the LPA only delivered 54% of its required housing numbers, leading to the presumption in favour of development consequence.

Affordable Housing

^{xxv} This is higher than the need that was used in the adopted Local Plan, which was 1,730 homes per annum.

^{xxvi} The LPA failed to publish a 5YHLS position in the 2023/24 AMR **(CD25)**.

- 7.14 The 2016 Strategic Housing Market Assessment (**CD33**) prepared to support the adopted Local Plan identified a net imbalance of affordable housing of 1,049 affordable dwellings each year across Kirklees District from 2014/15 to 2018/19. This figure is the gross imbalance across Kirklees adjusted to take account of annual affordable supply (for instance through relets and resales of intermediate tenure dwellings).^{xxvii} This is an indicator of the significant level of need for affordable housing in Kirklees. The most recent AMR (**CD26**) identifies the average number of affordable homes completed between 2014/15 – 2024/25 as 148 per year. This is significantly below the level of need identified in the 2016 Strategic Housing Market Assessment.

Summary

- 7.15 The Proposed Development will deliver up to 181 new homes (including a policy compliant 20% affordable housing), making a valuable contribution to Kirklees' housing land supply. The Site is an allocated site (MXS7) within the KLP19, and its development is crucial for meeting the Local Plan's housing targets. The Appellant's technical note on housing land supply (Appendix 8 – **APP59.8**) demonstrates the importance of this scheme in working towards demonstrating a robust 5-year housing land supply, particularly given the context of the Housing Delivery Test result (NPPF Paragraphs 78 and 79) and the evidence that the 5 Year Housing Land Supply is significantly lower than that asserted by the LPA .

8 **THIRD PARTY REPRESENTATIONS**

- 8.1 The Appellant notes the concerns raised by third parties, including the Chidswell Action Group (**CAG**), particularly regarding ecological impacts. The technical surveys and reports submitted with the Application, and further updated since and as part of the appeal process (**APP59.9**), directly address these concerns. In line with industry standards, ecology surveys have continued to be undertaken by qualified ecologists at Brooks Ecological since the planning application was submitted.
- 8.2 Detailed surveys on protected species have consistently demonstrated that the Site is of a low value in terms of habitat. The surveys concluded that the Site had very limited value for bats, and there were no Great Crested Newts, Barn Owls, Badgers, Water Vole or reptiles on Site. For breeding birds, this is addressed in the form of alternative Skylark plots as secured in the section 106 agreement. Mitigation for Yellowhammer will be provided within the landscape proposals, with a significant area of suitable breeding habitat also proposed within the Ancient Woodland Buffer. Further responses to the points raised by CAG on protected species are contained in Appendix 9 (**APP59.9**).

^{xxvii} The Strategic Housing Market Assessment states: “*This is not a target for delivery but expresses the overall need from household survey evidence compared with the current supply of affordable housing. In reality, households in need who cannot access the market can pay proportionately more for their housing above suggested affordable thresholds, people can share dwellings to reduce housing costs, and the private rented sector can accommodate households in need.*”

- 8.3 The Appellant also notes CAG's previous comments regarding Best and Most Versatile Agricultural Land. 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. The Site forms part of adopted site allocation MXS7 and the value of the land for agricultural uses was considered as part of the process to allocate the Site. Therefore, the principle of developing the Site, with the consequent inevitable loss of farmland, has been established. The Appellant has subsequently commissioned an Agricultural Land Classification and Soil Resources Report (Appendix 10 – **APP59.10**) to support the Appeal. The results show there is no Best and Most Versatile Agricultural Land at the Site. The land is 36% moderate quality and 64% poor quality.

9 **PLANNING CONDITIONS AND OBLIGATIONS**

- 9.1 A full list of planning conditions are included in the SoCG (**APP3**) and have been agreed between the Appellant and LPA. The proposed conditions meet the tests of Paragraph 58 of the NPPF and ensure the quality of development will be enhanced and any adverse effects will be appropriately mitigated.
- 9.2 A full draft section 106 agreement (**APP60**) has been agreed between the Appellant and LPA. The Agreement includes a series of financial and non-financial obligations that will make the development acceptable. The obligations comply with the provisions of Regulation 122 of the CIL Regulations and Paragraph 57 of the NPPF.

10 **WEIGHING THE BALANCE**

- 10.1 The Appellant respectfully submits that the Proposed Development fully accords with the Development Plan, particularly KLP19, site allocation MXS7 and policies LP30 and LP33 (**CD2 & CD3**), and all other material considerations, including the NPPF and Natural England's Standing Advice (**CD11**). The LPA's single reason for refusal is demonstrably unfounded, as the Appellant has provided robust technical evidence demonstrating that the Proposed Development, with its integrated buffer, will not result in adverse impacts that could lead to the deterioration to Dum Wood.
- 10.2 Applying the statutory test under Section 38(6) of the Planning and Compulsory Purchase Act 2004, the determination should be made in accordance with the Development Plan, which the Proposed Development complies with. Furthermore, material considerations, including the substantial housing benefits and other benefits set out in paragraph 11d of the Framework, strongly support the granting of planning permission.
- 10.3 The Appellant contends that harm, both direct and indirect, will be avoided at Dum Wood. If, however, through the hearing the Inspector finds that harm could result from the Proposed Development, the Appellant contends that the substantial public benefits would outweigh any harm and justify the grant of planning permission. Those substantial public benefits include:
- 10.3.1 The delivery of up to 181 new homes, on a site allocated in the development plan, which will make an important contribution to the district's housing requirements. Such contribution must be viewed in the context of the LPA's

current inability to demonstrate a 5YHLS, and also its refusal to acknowledge the extent of the shortfall that exists. Even leaving aside this last issue, the fact of the contribution to housing numbers is one which must be accorded substantial weight in the planning balance.

- 10.3.2 The proposed development will deliver a policy compliant 20% affordable housing helping to meet an identified need within the Kirklees LPA boundary; again this is a matter which should attract substantial weight.
 - 10.3.3 New jobs will be created through construction and within the local supply chain.
 - 10.3.4 New pedestrian and cycle links are proposed.
 - 10.3.5 Removal of intensive farming up to the woodland edge, including the current application of chemical fertilisers, insecticides, herbicides, fungicides.
 - 10.3.6 The scheme will deliver at least a 10% net gain in biodiversity (with additional anticipated biodiversity enhancements in Dum Wood).
 - 10.3.7 The scheme will provide for the management and maintenance of Dum Wood (which is currently unmanaged) for the lifetime of the development.
 - 10.3.8 Provision of publicly accessible open space on previously private land.
- 10.4 Members previously found that the compliance of the Proposed Development with Site Allocation MXS7, the above benefits and proposed buffer to Dum Wood to be acceptable and resolved to grant planning permission. There have been no changes to the policy position and as set out in Section 7 the housing position has since worsened due to the housing need figure increasing since the Local Plan was adopted and the failure of several major sites allocated within the Local Plan to deliver any housing.^{xxviii} Therefore, if any harm is found, the Appellant contends it would be demonstrably outweighed by the substantial and wide-ranging benefits of the Proposed Development.

11 HEARING

- 11.1 The hearing will need to address the following areas:
 - 11.1.1 The interpretation and application of KLP19, Policies MXS7, LP30 and LP33, and NPPF Chapter 15, in relation to Dum Wood.
 - 11.1.2 The adequacy and effectiveness of the proposed buffer zone and other proposed mitigation measures including the AWMP in protecting Dum Wood from direct and indirect impacts, including recreational pressure.
 - 11.1.3 The LPA's 5 year housing land supply.

^{xxviii} Including site allocation ref. HS61 (allocated for 1,869 homes), HS9 (274 homes), HS83 (262 homes), HS22 (243 homes), HS160 (172 units).

11.1.4 The overall planning balance.

APPENDICES

Appendix 1 – Site Allocation MXS7

Appendix 2 – Plan showing the dimensions from the site boundary to Dum Wood and the building face of the Illustrative Masterplan to Dum Wood

Appendix 3 – Plan from Appendix 5 of the section 106 agreement, showing the expanded buffer zone

Appendix 4 – Plan showing existing informal and proposed routes through Dum Wood

Appendix 5 – Baseline Woodland Survey to inform Woodland Management Plan

Appendix 6 – Ancient Woodland Management Plan - Principles Document (AWMP-PD)

Appendix 7 – Lighting Assessment Report and appendices

Appendix 8 – Housing Land Supply Technical Note

Appendix 9 – Ecology Technical Note and Ecological Surveys Bundle (Breeding Birds 2023, Breeding Birds 2026, Badger 2023, Badger 2026, Bats 2023, Bats 2026, Ground Level Tree Assessment 2026; Barn Owl Scoping Assessment 2024)

Appendix 10 – Agricultural Land Classification and Soil Resources Report