

Appeal Reference 2024/60/90253/E

To whom it may concern,

This is a neighbour representation regarding the planning application for two dwelling house to the North of Cuckstool Rd and within the designated Urban Green Space 403/949.

I formally object to the application on a number of points:

- The site involved is currently within the boundary of the Urban Green Space numbered 403 on the Kirklees Local Plan Map (Rural SE) and listed as UGS403 in the Local Plan and subsequent technical papers as UGS949. The Kirklees Local Plan was reviewed in 2019 and found to be fit for purpose. In both 2015 and 2017 this UGS was asked to be removed (presumably by the landowners). In both cases the removal was dismissed as it was found to merit the designation as part of the wider greenspace which makes up UGS403/949. Indeed the Statement Vision for Kirklees in 2031 states that the 'natural, built and historic environment will be maintained and enhanced through protection and enhancement of green infrastructure, enhancements of distinctive and contrasting landscapes and tree and woodland protection'. In refusing the removal of this specific site from its UGS status it goes on to note that only in exceptional circumstances should this status be removed. As this UGS has 5 other areas designated for housing nearby in Denby Dale and a number of these sites are currently fulfilling the housing quota for the area, I would contend that this UGS is upheld in line with both the local plan and the NPPF. Indeed, HM Inspectorate found thus when dismissing the appeal of the last, very recent planning application refusal. With regard to the UGS status nothing has changed in my opinion since then. I know that yet again, the applicant is arguing that LP61 a) can be fulfilled without this part of the wider UGS area. The site was criminally damaged both before and after the site was fenced in breach of planning regulations; (removal of Hedgerows in nesting season) (tree felling over 5 cubic meters without a license, unlicensed tree felling, site work in Breach of HSE rules). The Town and Country Planning Act in section 56 states that the time of a development begins is when operations on site are initiated. This occurred on 15/04/2020 when illegal tree felling was started. On 18/04/2020 a 13 metre wide road entrance was sited along a stretch of public highway which is now under 3m due to the damage caused by this breach of planning and highway laws, it has also created a flooding problem for myself and other neighbours. These breaches were made relevant to the current application as there has been site fencing surrounding the planning application area since 2020. The site fence is currently blocking the road at the junction of Cuckstool Road and Hollins Lane. Please find attached the relevant photos that show the site had public access (for at least 40 years according to an elderly neighbour) along a permissive footpath that went through the site from the SE corner of UGS 403 to the SE corner of Denby Dale Cricket Club, indeed the cricket club up to 2020 used to man this entrance to their land in order to charge people entry on bonfire night as it was so widely used. The previous owners maintained this footpath and I believe Councillor Graham Turner is leading upon instating this footpath as Public with the Ordnance Survey. At the time of the tree felling the sub contractor told me personally, as did one of the landowners (in no uncertain terms), that their plan was to clear fell all trees to the junction of the woodland to Cuckstool Rd near the bridge in order put an access road along side the river in order to gain a larger site with better access. Both before and after the temporary TPO was put upon the woodland the landowners felled trees. This can be seen in the

relevant ariel photo from 2000 and the present as supplied by Geo2 and the clear discrepancy between the southern curved border outlined by the serving TPO officer on site (Kirklees TPO map) and the application border shown as a straight line. A clear breach of planning and TPOs and is a good indicator of the nature behind this application. The net Biodiversity loss for this site is around 55% using the applicant's own calculations!

- Whilst the Geo 2 survey is an extensive one the mine workings shown on the applicants' map are clearly wrong. The previous landowners had fenced two of the adits off from the public for obvious safety reasons as access to the woods and area had always been permitted, one of which can be seen to the West of the permissive footpath on the attached street map images. The other was towards the west of the middle of the 'paddock', meaning both unrecorded and currently unsurveyed adits come within the area of each of the houses foundations. The subcontractor that threatened me personally with a 1 ton excavating bucket whilst I was trying to protect the wildlife in the hedgerows conveniently bulldozed over both of these adits, despite being warned of the consequences of doing this. I do have photographic evidence of the exact location of one if needed but it is on a damaged computer so available to the LPA upon request. This adit destruction was also witnessed by other neighbours (and maybe Councillor G Turner). There is also evidence of open cast mining to the North of the site, about 15 meters away. This can clearly be seen from a comprehensive ground survey of the area. I am concerned that the ruined building at the NE corner of the site also has evidence of asbestos from its roof, most of which was broken up and bulldozed into the surrounding land. This I believe means that the evidence of Geo2 Remediation Ltd is unsupported and as such the matter should refer back to the Coal Authority's advice of August 2022 (as referenced by C MacArthur on 5/3/2024), which was to complete an intrusive survey, not just a ground and desk survey. I find it curious that I can't find anything about the very obvious large amount of material that has moved around the site by a n excavator that damaged the pavement on access with its weight. There is also no mention of the large amount of surface and subsurface material that was moved and removed to create an access point, without prior permission of Highways, on a blind bend, on the steepest part of a single track road. This also destroyed a retaining wall and partially destroyed the surface of Cuckstool Road, leading to further damage by erosion. Have the landowners been charged for this damage by KC?
- Finally I hope that I have conveyed the lengths that the applicant was and is prepared to go to in order to succeed in a planning application that surely cannot be passed under the Local Plan (LP61) and NPPF, considering all factors. I have read all the other comments and find it odd that suddenly there are anonymous supporters for this application, some of whom in my opinion, are outright lying (area used for tipping for years!) I have the evidence, as do you now, of the real history of this site and its many failed applications. I am sure that you know most, if not all these details but I feel it is my duty to the neighbours around me not to include as much as I can from a Cuckstool Road resident's perspective. Our visual and recreational amenity have suffered for long enough, our local, seemingly protected landscape has been changed irrevocably. I myself and many other residents, most of whom are elderly and vulnerable have been personally threatened and harassed. The feeling in the area now after 4 years is that if you have enough money and are aggressive for long enough, applications will be passed.

Regards A Bryant

I have a number of issues with a number of the documents submitted by the applicant and the statements within..

Firstly The Planning Inspectorate questionnaire submitted 10//02/2023

11. The site was stopped up and a public right of way was blocked and unsuccessfully diverted on the 16/04/2020 due to illegal works being carried out by the applicant, who was in attendance at the site to see these problems.

16. There is a current TPO on two trees on part of site. These two trees were attacked and severely notched by the landowner after he was informed by the council officer that they would be added to the TPO register.

19b. Barn Owls use the woods for hunting, have been known to nest in the woods and can be heard often during the Summer nights. They are a schedule 1 protected bird.

The Planning Application 16/02/2022

Breach of Planning Control.

The applicant clearly states that there have been no work carried out. Felling or carrying out work on trees that Have TPOs is a breach of Planning Control. The only two trees that are left on the were protected by a Kirklees Council Temporary TPO. Within minutes both trees were notched.

Removal of a retaining wall that boundaries a public highway.

It is also stated that the former use of the site was grassland scrub. A small part of the site was indeed grassland /scrub, however the largest area of the site was covered by lowland deciduous mixed woodland, itself a habitat formally adopted by the Biodiversity Action Plan. There were over 150m of mature mixed hedgerows on the site. Some of these can clearly be seen on Google Maps Streetview of the area in full bloom. Approximately 40m of hedgerow formed the boundary with Cuckstool Road. As Cuckstool is a word with its origin between the 13<sup>th</sup>- 16<sup>th</sup> centuries, it is reasonable to assume that the habitat was continuous form these dates. It was lost in 30 minutes to a digger who continued to work against HSE guidelines whilst I myself was sitting in the hedgerow trying to persuade the staff that there were many birds' nests evident.

Flooding Risk

UGS 403 is clearly marked as having a flood risk of 1 2 and 3, all within its boundary. There is a flood risk to the cricket pitch and Bowling Green as has been reported on may occasions. The site runs straight downhill to the cricket pitch so any loss of flood protection afforded to the pitch from the trees on the site is severely felt. Cuckstool Road is damaged by the access road and flooding from the access road has exacerbated this damage.

Preplanning advice was given as any residential development would unlikely to be supported due to the site being in urban greenspace. The applicant then tried to turn the whole site into urban brownspace in order to circumnavigate kirklees planning advice.

The applicant removed all surface evidence of old mine workings. I have evidence that shows the at least 1 adit is incorporated into the footings of the propped house most towards the east. There was other ground evidence of an adit right in the middle of the site, this has also been removed.

The Planning Appeal

Careful with those fallen walls on site.. No some of the retaining walls were removed prior to planning application.

The biodiversity Enhancements. Since the preplanning advice and works began there has been a catastrophic change in the biodiversity of the site. In order to provide a net gain the site would have to be returned to its original, highly valued state AND then trees planted in the area called the

paddock. Approximately 25% of the Paddock had mature low level deciduous mixed woodland on it. The area stated as a 'meadow'! had old coppices, hedgerows and mature trees up to 14m covering the ground. (old google map shows some of this)

The LPA is fit for purpose, it was reviewed in 2019 and the inspectorate found no justification to change the status of UGS 403. The Urban greenspace here is in constant use by the locals for its many amenities- sport, recreation, wildlife enjoyment and visual amenity. The applicant has already changed the visual amenity of UGS 403 negatively. This change can be seen on one of the three local and national trails that run through the area. The planning has been refused with reference to the Local Plan and nothing has changed since, apart from huge damage to the biodiversity of the area, some of it criminal. Huge Net loss