

**Consultation Response from KC,
Policy**

2024/90253 Land at, Cuckstool Road, Denby Dale, Huddersfield, HD8 8RB

Outline application for erection of residential development with associated biodiversity and open space enhancements

Date Responded: 07/03/2024

Responding Officer: HR

Responding Ref:

This application seeks the approval for the erection of 2 energy efficient residential dwellings on a site allocated as Urban Green Space in the Kirklees Local Plan (site ref UG403) and is also within the Strategic Green Infrastructure Network. Part of the application site boundary is also within the Kirklees Wildlife Habitat Network (WHN) as shown on the Local Plan. The proposed development seeks to provide additional benefits, including green space improvement and landscaping providing public access through the site to the adjoining woodland, additional tree planting and providing 46% Biodiversity Net Gain which is above the 10% requirement.

The Local Plan was adopted on 27 February 2019. The Local Plan Strategy and Policies should be fully considered; however, the following response relates to specific Local Plan policies which are of particular relevance to the proposal, other policies that are not mentioned here may also apply.

Urban Green Space

Local Plan policy LP61 (Urban Green Space) does not allow for development proposals that would result in the loss of urban green space unless specific exceptions can be met. The policy states that:

“Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.*

The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”

In relation to policy LP61(a), the assessment of this site undertaken as part of the Kirklees Open Space Study 2016 did not identify the site as no longer required but rather identified the woodland area (site ref OLS 442 Class ID 191), in which the application site is included, as having important value as open space that should be retained and does not identify the site as surplus to requirements. As the open space assessment of this site has clearly not shown the land to be surplus to requirements, the proposal would therefore be contrary to the first part of policy LP61 criteria a) and NPPF paragraph 103 criteria a).

The methodology for determining potential surplus open spaces is set out in the Kirklees Open Space Study 2016 (KOSS) at paragraphs 4.6.6 and 4.6.7 and relates to those sites assessed as having low value as open space. In this case, the application site forms part of larger site (UG403) allocated as UGS based on its high value as open space, having important qualities as a natural/semi-natural greenspace (woodland area) as identified in the Kirklees Open Space Study 2016 (KOSS) and value as sport facilities comprising a cricket pitch and bowling green (identified in the Kirklees Playing Pitch strategy 2016).

Furthermore, additional evidence relating to the importance of natural/semi-natural greenspaces sites was provided to the Local Plan Inspector during the Local Plan Examination in Public, which can be found in document EX42 of Section 9 of the Kirklees examination library. On justification of the whole of allocation UG403 as UGS, EX42 states;

“The site merits urban green space allocation based on its wildlife value and the visual benefits it provides to the cricket ground and the appearance and character of the area.”

The applicant’s Planning Policy Statement (para 2.22) states that there is an excess of natural and semi-natural greenspace in Denby Dale with the “target provision” being 2ha per 1000 population whilst the provision is 7.23ha/1000 population. On this basis, the applicant considers that there is a surplus of this type of greenspace and argues criteria ‘a’ is met.

However, the Local Plan quantity standards are not ‘targets’ as stated by the applicant. The quantity standards are used as a minimum benchmark against which to assess the current level of provision in a ward compared against the district wide standard, as stated in the Kirklees Urban Green Space and Local Green Space Background Technical Paper paragraph 4.2.3. They are also used to inform open space provision for new housing developments. The standards should not be interpreted as maximum levels of provision or the basis on which UGS sites could be considered to be surplus for open space purposes where provision is above the standard.

Furthermore, the total 119.12 hectares provision of natural/semi-natural greenspace in the Denby Dale ward includes two large woodlands, Deffer Wood at Clayton West (98.7 hectares) and Upper Dearne Valley Woods at Upper Cumberworth (14.02 hectares). Both these woodlands are within the Green Belt and therefore not within the built-up areas of the Denby Dale ward. Excluding these two sites the standard of NSNG provision available within the non-green built-up areas of the Denby Dale ward (Upper Cumberworth, Denby Dale, Lower Cumberworth, Clayton West, Scissett, Skelmanthorpe, and Emley) will be 0.06 ha per 1,000 population. Therefore, there is very modest NSNG provision within the built-up areas/villages within the Denby Dale ward that are not within the green belt.

LP61 criteria (a) also refers to the importance of sites in terms of visual amenity, landscape, and biodiversity value. In this respect, the application site itself forms an intrinsic part of the wider UGS, provides open visual amenity in the streetscene and functions as part the woodland landscape. The proposed development does not therefore meet the second part of LP61 (a).

This proposal does not seek to offer any replacement provision and is not for an alternative open space/recreation use as stated in LP61 criterion b and c respectively. The loss of urban green space would represent a departure from the development plan.

Recent Planning Appeal

The site has been subject to a number of applications for residential development, most recent 2022/90668 for 4 dwellings, which was dismissed at appeal. In the latest appeal statement (para 7), the inspector states that *“the appeal site makes a significant positive contribution to the feeling of spaciousness and in turn to the character and appearance of the area surrounding the site. It also forms part of the wider area of designated urban green space which includes a cricket club, a bowls club and the woodland which is immediately to the rear of the site. Collectively this area forms an important and attractive expanse of open land within the urban area.”*

Paragraph 8 of the appeal decision, the Inspector also states *“that by opening up the woodland to the rear of the site would also result in a quantitative loss of urban green space as part of this proposal”*. The Inspector also states that *“the area of open space on the appeal site would be of a limited size and the woodland has a steep topography that would be likely to impair its useability. It is unclear whether the cricket club would be receptive to allowing access onto their property from the woodland, but in any event such an access would only be of benefit to people wishing to access the club itself. Taking these considerations as a whole, I am not persuaded that the open space provision would be*

better in qualitative terms than at present. The proposal does not therefore satisfy criterion b) of Policy LP61.”

Priority Habitat

The adjoining deciduous woodland is identified as a priority habitat on DEFRA’s MAGIC website and includes the eastern part of the site shown within the red line boundary which is proposed for wild landscaping and tree planting. The impact the of the development and the proposed wild landscaping and tree planting on the woodland will need to be carefully considered in line with policy LP30. Comments should be sought from the council’s biodiversity officer to determine the impact of the proposed development on this priority habitat woodland.

Trees

The red line application site boundary includes some of the adjoining woodland area which forms part of the wider green space UG403 and forms part of the Kirklees Wildlife Habitat Network (WHN) and is protected by a Tree Preservation Order (TPO). The TPO and woodland which makes up the WHN are visible from Cuckstool Road, and these are seen to contribute to both the environment and public amenity. Careful consideration should be given to any direct or indirect impact the development may have on the protected trees in accordance with Local Plan policy LP33 as set out below and the Trees Officer should be consulted for their comments.

LP33 Trees states;

The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks.

Design

Careful consideration should be given to the design and visual impact of this proposal as set out in Local Plan policy LP24 (Design) and the council’s Housebuilders Design Guide Supplementary Planning Document.

Presumption in Favour of Sustainable Development

Paragraph 1.8 of the applicants planning statement states the council is unable to demonstrate a 5yr housing land supply The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of

policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Whilst this weighs in favour of housing development it must be balanced against any adverse impacts of granting the proposal. As acknowledged by the appeal inspector's decision relating to application 2022/90668, the site makes a significant positive contribution to the feeling of spaciousness and to the character and appearance of the wider area. The site therefore makes an important contribution to visual amenity, providing a function as an important attractive expanse of open land within the urban area. Whilst this proposal is for two dwellings as opposed to the previous proposed four dwellings and part of the site would remain as open space with enhancements, consideration needs to be given to the visual impact of this proposal on the site and wider area. The amount of NSNG within the urban area is limited and cannot be considered to be surplus to requirements and the proposal would result in the loss of UGS.

The council have been proactive in seeking to address the lack of a five-year housing land supply and have recently approved and published an Interim Housing Position Statement to Boost the Supply. This sets out principles for decision making in determining planning applications and the early release of safeguarded land sites for housing development where identified constraints can be overcome and includes actions the council is proactively undertaking to support housing delivery. In applying the planning balance careful consideration should be given the adverse effects of the loss of urban green space and harm to the appearance and character of the area when weighed against the very modest benefits of an additional two dwellings to the housing land supply, the limited economic benefits likely to arise from employment during the construction works and the social benefits from the proposed enhancements. This should also take into consideration the proactive approach the council are taking to boost housing supply and address under delivery.

Additionally, the appeal statement issued by the inspector states that *“even if it were to be the case that there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse effects arising from the loss of the urban green space and the harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits arising from the biodiversity improvements, the boost to the supply of housing and the economic and social benefits that have been identified. Therefore, the proposal does not benefit from the presumption in favour of sustainable development.”* Consideration should therefore be given to the loss of UGS and visual impact and the harm to the character and appearance of the area weighed against the proposed benefits to determine whether this proposal for two dwellings benefits from the presumption in favour of sustainable development.

Summary

The application site is part of a larger woodland area allocated as UGS on the basis of its qualitative characteristics having high value as open space for wildlife, visual amenity benefits and its contribution to the appearance and character of the area. It cannot be regarded as surplus to requirements in quantitative terms simply because the existing amount of natural/semi-natural greenspace in the ward is above the Local Plan minimum benchmark standard. The standards are not 'targets'.

The proposed development does not meet any of the exceptions for development set out in Local Plan policy LP61 and would therefore be contrary to this policy and represents a departure from the development plan. Careful consideration should also be given to the impact on the priority habitat, Wildlife Habitat Network (policy LP30), and the TPO trees (policy LP33).

Given the council's lack of a five-year housing land supply and failed Housing Delivery Test, the presumption in favour of sustainable development is engaged. The proposal would deliver additional houses to contribute towards the council's housing land supply, albeit a very modest contribution, and seeks to provide enhanced green space with additional tree planting with access to the adjoining woodland and proposes to deliver BNG beyond the 10% requirement providing habitat creation. However, these benefits need to be weighed against the adverse impacts of the proposal on visual amenity and the character of the area to determine if they would significantly and demonstrably outweigh the benefits.