RULE 6 STATEMENT OF CASE

Rule 6 statement by local resident group, Stocksmoor Vision

Appeal by Newett Homes
Erection of residential development with associated access, parking, public open space, landscaping and infrastructure
Site at land north east of Shepley Road, Stocksmoor, Huddersfield, HD4 6XW

Planning Reference: 2024/62/91242
Appeal Reference: APP/Z4718/W/25/3375000
Appeal Start Date: 24 November 2025

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Introduction

1. This Rule 6 Statement of Case is submitted by *Stocksmoor Vision*, a group formed to represent the 300 or so local residents who objected to the original planning application.

2. We welcome the Local Planning Authority's ('LPA') decision to refuse the application and agree that the additional traffic movements generated by the proposal would have resulted in unacceptable impacts on highway safety and on the amenity of pedestrians and cyclists, giving rise to sustainability concerns.

3. We nevertheless consider that, in overall terms, the stated reasons for refusal were framed too narrowly, and that the decision notice did not fully engage with material facts relating, for example, to irreplaceable habitats, amenities and ecological impacts. Such facts engage other key—and determinative—planning principles.

4. The principles in question—discussed below—are central to a correct application of the 'tilted balance'. They arise from the **National Planning Policy Framework (NPPF 2024)**, the **Kirklees Local Plan**, and **established guidance relating to ecology and flood risk**. Properly applied, they show the proposal to be fundamentally unacceptable in planning terms.

5. Our case set out in this Rule 6 Statement substantially reflects objections that Stocksmoor residents have already made to the original planning application. See, for example, the LPA planning file comments 1043905, 1047322, 1049062, 1050045, 1051041, 1051052, and 1051095.

6. **At its core,** our case rests on two principal strands. First, the development **would result in ongoing 'deterioration'** of **'irreplaceable habitat'** (comprising two areas of **Ancient Woodland,** *Shepley Mill Wood* and *Hartley Bank Wood*).

   Secondly, the proposal **is unsustainable on a number of grounds**, including travel, access to amenities, ecology, and environmental health. **In those circumstances, the presumption in favour of sustainable development does not apply**.

7. In our view, neither the LPA nor the developer has undertaken a sufficiently rigorous or comprehensive assessment of either of these two analytical strands.

Main issues

8. The principal issue for the Inquiry is whether the developer can properly rely on **the presumption in favour of sustainable development** in the NPPF [*see para. 11 NPPF 2024*].

   Various sub-issues inform this central question, as follows:

9. *Deterioration of irreplaceable habitat*
   - whether the development would result in the **deterioration** of **irreplaceable habitat**, namely the two **Ancient Woodlands**—Shepley Mill Wood and Hartley Bank Wood—such that paragraph 193(c) of the NPPF 2024 is engaged.

     For these purposes, **deterioration** would encompass both harm arising during the construction phase and cumulative, long-term deterioration over the lifetime of the development.

     It would also include harm caused not only by physical effects—such as dust, noise, artificial lighting, pets and shifts in bird populations—but also by pollution, including chemicals and pathogens, conveyed to the **Ancient Woodlands** (**and potentially to the small rear gardens of a row of houses in Thunderbridge**) via hydrological pathways.

     These pathways comprise the nearby interconnected waterways (dikes), the main combined sewer and the Thunderbridge No.2 combined sewer overflow (CSO).

10. *Flood risk assessment*
    - whether the development should be regarded as **susceptible to the risk of flooding from *'all sources'*, thereby requiring application of the 'sequential test'**. [*see paras.170 and 172 NPPF 2024*]

      In this case, the developer's late-submitted Flood Risk Assessment (FRA) cites **British Geological Survey data indicating a medium risk of groundwater flooding.**

      However, notwithstanding the known presence of springs and wells in the area, as well as a former reservoir immediately to the west of the site, the FRA appears not to have conducted any site-specific investigations, such as boreholes, soil tests or trial pits.

      Taken together, these matters call into question the reasonableness of the LPA's reliance on Flood Zone 1 as determinative of low flood risk.

      Separately, the development would—with its split drainage arrangement (see later)—introduce additional foul water flows into an already constrained combined sewer.

      As a result, during heavy rainfall events, **baseline sewer loading would increase above current levels, and discharges from both highway gratings and the Thunderbridge CSO would occur at higher volumes—and with increased pathogenic contamination—relative to the current position.**

      This would run counter to paragraph 181 of the NPPF 2024 which says that development should not increase flood risk elsewhere.

11. *Sustainability - travel* [NPPF 2024 paragraphs 8(c), 109, 110, 111(a), 115(a)-(d),116, 117]
    - whether the development should be regarded as **unsustainable given that, for the majority of residents, Stocksmoor is realistically accessible only by private car**. In particular, the most *relevant* exit route—towards Shepley—is single-track for much of its length, with no passing places along its longest and steepest section.

Additional traffic generated by the development would materially increase the frequency and severity of vehicle conflicts on this unlit stretch of road, exacerbating existing safety risks, particularly for pedestrians and cyclists (see below).

Members of our Stocksmoor Vision group have conducted mathematical analysis and empirical measurements which demonstrate that (a) Stone Wood Lane is near to capacity now and (b) that traffic conflicts increase non-linearly with raw vehicle count rates (i.e. numbers of conflicts increase much more rapidly than raw traffic volume increases).

However, neither the LPA nor the developer appears to have engaged with this traffic analysis beyond consideration of raw vehicle counts.

Topography (see later) is also a critical consideration. **The very steep gradients on all four exit routes effectively preclude walking and cycling for all but the fittest and most confident users**.

Although limited rail and bus services are available, these do not provide a realistic or cost-effective alternative for everyday time-critical journeys, such as taking children to school, and rail travel can, in particular, be prohibitively expensive.

12. *Sustainability – amenities* [NPPF 2024 paragraphs 8(a), 96, 98, 88]

- whether the development should be regarded as **unsustainable by reason of the near-complete absence of any amenities in Stocksmoor**.

  Our settlement has no shops, no GP surgery, no dentist, no other health facilities, no school, no playing fields, no garage, no employment, no place of worship, no cash machine and no post office (except, that is, for a children's playground (little-used), a pub (little-used) and a village hall).

  This aspect is closely linked to travel considerations (see paragraph 11 above), since to access any of the above amenities, residents inevitably have to travel out of Stocksmoor.

13. *Sustainability - environmental health* [NPPF 2024 paragraphs 110, 170, 181]

- whether the development should be regarded as **unsustainable** given **that during heavy rainfall events, baseline sewer loading would increase above current levels, and discharges from both highway gratings and the Thunderbridge CSO would occur at higher volumes—and with increased pathogenic contamination—relative to the present**.

  This contamination would carry a health risk to residents of Thunderbridge. (see paragraph 10 above and further below).

14. *Sustainability - ecology* [NPPF 2024 paragraphs 192, 193(a), 193(c), 195]

- whether the development should be regarded as **unsustainable** in terms of ecological impacts given serious methodological shortcomings in the developer's Ecological Impact Assessment (EIA).

  Most significantly, the two on-site surveys were carried out in mid-winter (in December 2022 and February 2024 respectively). As the report itself admits:

  > **Both of the field surveys were undertaken at a sub-optimal time of the year for botanical surveys and for many protected species, such as nesting birds and reptiles**

It is also unclear whether even a rudimentary attempt was made to analyse the railway cutting just the other side of the northern site boundary. This could have easily been done from the two railway platforms.

Topography and geology of Stocksmoor

15. The **extreme topography surrounding Stocksmoor, together with the area's geology and the proximity of nearby Ancient Woodlands, is highly material to the planning issues and lies at the heart of our concerns.** The two **Ancient Woodlands** are Shepley Mill Wood [*adjacent to Stocksmoor*] and Hartley Bank Wood [*adjacent to Thunderbridge*]. Both are designated as 'irreplaceable habitats'.

16. Stocksmoor sits on a sub-plateau at some 200 feet above the surrounding fluvial valleys. It has four exit roads, two of which are single-track. All have very steep sections descending into, and climbing out of, the valleys.

17. For very many people, these gradients—together with the narrow and twisting nature of the roads—mean that cycling and walking are not only unsafe but also physically very demanding. For many users, both would be difficult and tiring and, for some, effectively impossible. As discussed elsewhere, these realities are directly relevant to **sustainability** (**travel**).

18. Birks Lane is the two-lane exit road from Stocksmoor that leads to the closest settlement, Thunderbridge. It is particularly steep and accommodates the combined sewer serving Stocksmoor.

19. At times of very heavy rainfall, surface water and foul flows can quickly can rapidly accumulate at high pressure within this combined sewer, resulting in observed toxic discharges:

    (a) from the drain gratings towards the lower [*Thunderbridge*] end of Birks Lane

    (b) into Thunderbridge Dike [*as measured by monitor on the Thunderbridge No.2 CSO*] and

    (c) onto adjoining land owned by Garganey Trust.

    As discussed elsewhere, **these discharges have implications both for deterioration of Ancient Woodland** and for **sustainability** (**health**).

20. Stocksmoor lies approximately 500 feet from a substantial area of **Ancient Woodland** [*Shepley Mill Wood*]. The development would extend the settlement boundary to within 100 feet or so of that **Ancient Woodland**.

21. The eastern part of the 50-dwelling development would also be located close to the crest of a very steep slope overlooking the **Ancient Woodland**. The slope reaches gradients of up to 1-in-3 in places.

    The developer's *'Preliminary Geoenvironmental Report'* prepared by Lithos in 2022 ('the Lithos Report') describes part of the site's internal topography as follows:

    > **Given the existing topography (the slope in the east with gradients of up to 1 in 3), some site regrade may be required, with the need for underbuild and retaining walls.**

    The officer commenting on behalf of the Lead Local Flood Authority summarised the risks associated with allowing surface water simply to infiltrate into the ground as follows:

'The LLFA considers infiltration into the underlying soil as not being feasible due to the steeply sloping ground to the east of the development and the risk of re-mergence of flows that could destabilise the slope'

22. The appendices to the Lithos Report include a contour map of the immediate surrounding area. This further illustrates the pronounced and complex topography described above and elsewhere.

23. In geological terms, Grenoside Sandstone underlies most of the site at shallow depth (possibly as little as 1.5 metres), with Pennine Lower Coal Measures Formation present along the eastern fringe. The site's steep gradients, combined with this geological context, have important implications for ground stability (see above) and for the scale, nature and intensity of the civil engineering works likely to be required. As the Lithos Report explains:

    Given the likely presence of hard rock from shallow depth, excavation greater than around 2m might prove difficult across the site. It would therefore be prudent to allow for excavation of hard rock in any deep excavations such as those that may be required for drainage etc; a breaker, will be required and possibly even blasting. [*sic*]

    The proposal includes the construction of a large attenuation tank, to be located between the development and the closer **Ancient Woodland** [*Shepley Mill Wood*]. It is likely that this will necessitate extensive excavation of hard rock.

24. Noise and vibration are widely recognised as potentially harmful to **Ancient Woodland**, contributing to its **deterioration**. Activities involving breakers and blasting are likely to generate noise and vibration at the upper end of the impact scale and transmit this through the underlying hard rock.

    In this regard, while the developer seeks to rely on Government guidance—*'Ancient woodland, ancient trees and veteran trees; advice for making planning decisions'* [2022]—to support the adoption of a basic 15-metre **Ancient Woodland** buffer, that same guidance makes clear elsewhere that:

    Direct effects of development can cause the loss or deterioration of ancient woodland or ancient and veteran trees by...increasing levels of...noise and vibration [*and by*]…changing the water table or drainage…

The drainage arrangements

25. The application documents show that Yorkshire Water advised at an early stage that the local public sewer network lacks the capacity to accept surface water from the proposed development. As a result, separate drainage strategies have been adopted for foul water and surface water.

26. **Foul water** is proposed to be pumped from the site into the public sewer. **Surface water**, by contrast, is to be attenuated on site and then discharged by gravity into an unnamed watercourse located to the east of the site.

27. The Lead Local Flood Authority (LLFA) has confirmed that this unnamed watercourse is a tributary of Stone Wood Dike.

28. Stone Wood Dike travels through the first area of **Ancient Woodland** [*Shepley Mill Wood*], and subsequently—via the wider system of dikes—runs alongside the second area of **Ancient Woodland** [*Hartley Bank Wood*], in Thunderbridge. At that point it is known as Thunder Bridge Dike.

29. The application documents do not identify any filtration or treatment measures to remove pollutants—such as car-wash chemicals, hydrocarbons, or pesticides—from the attenuated surface water prior to discharge.

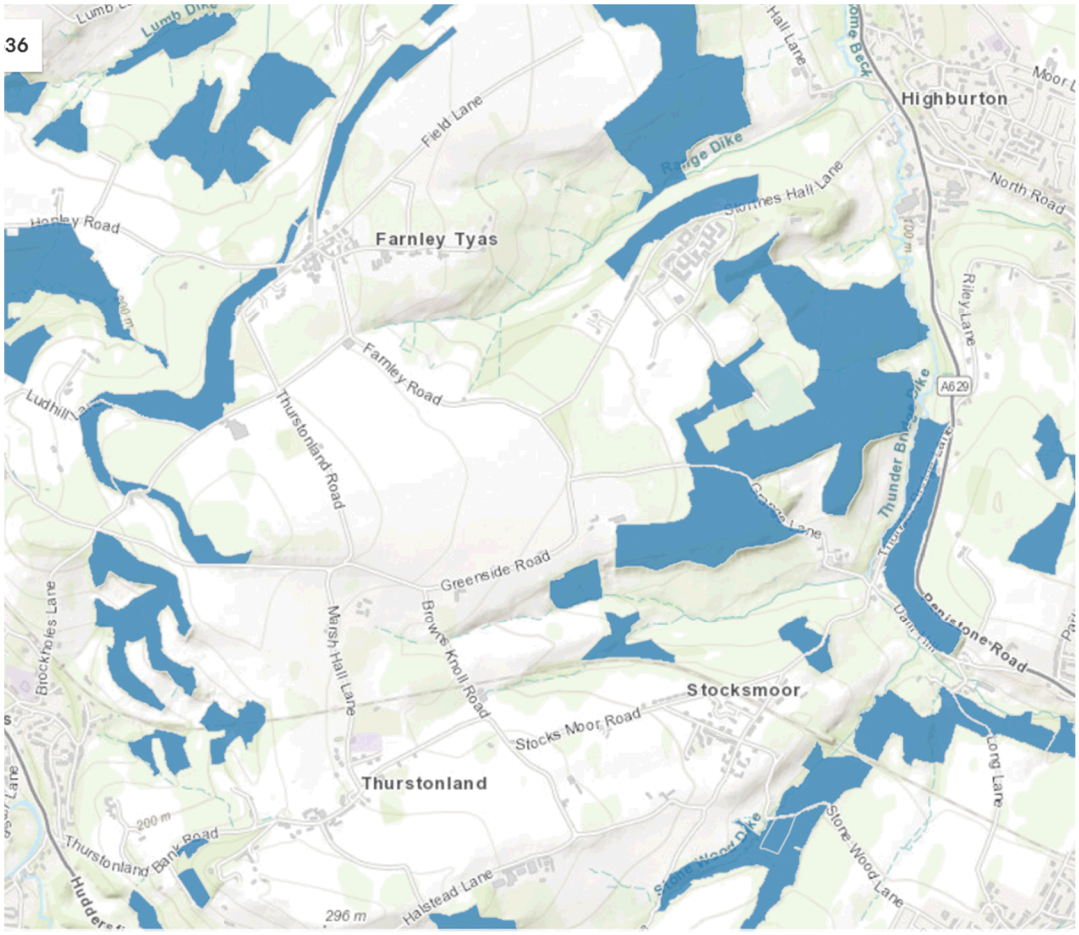
30. As a result, the identified hydrological pathway (the unnamed watercourse and the downstream dike network) would **convey surface-water-borne pollutants into both areas of Ancient Woodland** on an ongoing basis for the lifetime of the development.

31. In addition, these arrangements are likely to alter existing hydrological conditions, including the local water table. At present, surface water infiltrates across the site and migrates gradually downslope towards the woodland. The proposed interception, attenuation, and concentrated discharge of surface water therefore risks causing deterioration of the most proximate **Ancient Woodland** [*Shepley Mill Wood*], through changes to natural drainage and soil moisture regimes.

Ancient woodland and deterioration risk

32. The two **Ancient Woodlands** at risk of **deterioration** because of the proposed development are Shepley Mill Wood [*to the east: bottom right on the plan below*] and Hartley Bank Wood [*to the north east: top right on the plan below*]. Stocksmoor is shown at bottom left. The development site directly abuts Shepley Mill Wood:

33. These two **Ancient Woodlands** form part of a larger group of **Ancient Woodlands**[1] that encircle Farnley Tyas (to the north), Thurstonland (to the west) and Stocksmoor (to the East):



34. **Ancient Woodland** is '**irreplaceable habitat**'. See, for instance, this Natural England and Forestry Commission Guidance:

> **Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat. It is a valuable natural asset important for:**
>
> - **wildlife (which include rare and threatened species)…**
> - **soils**
> - **carbon capture and storage**
> - **contributing to the seed bank and genetic diversity**
> - **recreation, health and wellbeing**
> - **cultural, historical and landscape value**

[1] In blue on the map. The **Ancient Woodlands** are Wood End Wood, Shepley Mill Wood, Hartley Bank Wood, Birks Wood, Clough Wood, Browns Knoll Wood, North Spring Wood, Carr Wood, Farnley Bank and Stock Dove Woods, Royd House Wood, Mellor Wood, Arthur Wood, Roaf Wood, Hey Wood, West Wood, Great Plain Wood, Cliff Wood, Black Gutters Wood, Round Wood, Sinking Wood and Halstead Wood. Source for both maps: Natural England interactive mapping.

It's any area that's been wooded continuously since at least 1600 AD. It includes:

- **ancient semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration**
- **plantations on ancient woodland sites - replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi**

35. NPPF [2024] confers protection on **Ancient Woodland** in these terms:

> **193. When determining planning applications, local planning authorities should apply the following principles:**
> **…(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons [***footnote 70***] and a suitable compensation strategy exists [***our emphasis***]**

36. Footnote 70 makes clear that the development itself would not be a *'wholly exceptional reason'*. It reads:

> **For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.**

37. The deterioration effects arising from the proposed development would differ in character between the two areas of **Ancient Woodland**, although both would, in our view, suffer ongoing harm.

38. As previously described, both **Shepley Mill Wood** and **Hartley Bank Wood** would be subject to ongoing **contamination from surface-water-borne pollutants** originating from the development site and travelling via the network of dikes to the **Ancient Woodlands**. These pollutants would include hydrocarbons, car-wash residues, gardening chemicals, and other domestic contaminants conveyed via runoff and groundwater pathways over the lifetime of the development.

39. **Hartley Bank Wood** would be exposed to an additional and particularly serious source of ongoing deterioration through **contamination by pathogens** arising from the combined sewer overflow (CSO) at Thunderbridge.

40. This particular CSO is designated as *Thunderbridge No. 2* and **has been subject to electronic monitoring since 2021**. Published data shows that between 2021 and 2024, the CSO **discharged on 33 occasions**, **for a total duration of 65.5 hours** (Operational Summary 2021–2024).

41. Further evidence of the impacts of these ongoing effects is provided by an objection submitted to the Kirklees planning portal from the **Garganey Trust**, which owns nature reserve land in Thunderbridge adjacent to Thunder Bridge Dike. The Trust explains:

> **The Garganey Trust owns land in Thunder Bridge, on the west side of Thunder Bridge Dike. Our land is regularly subject to discharges from a number of manholes along the combined sewer that runs through our land. The frequency and severity of the discharges has increased markedly in recent years and we have had no substantive response to the complaints we have made to Yorkshire Water. The discharges are unsightly, unpleasant and are damaging to the wildlife and ecology of our land and especially Thunder Bridge Dike.**

The combined sewer overflow that causes the discharges on our land has insufficient capacity to accommodate both the sewage from properties connected to the system and the surface water runoff from the catchment it serves.

The Garganey Trust objects to this development proposal as it would add sewage from a further 50 properties to the CSO system and worsen the existing discharges and contamination of our land. As Yorkshire Water have understandably refused connection for surface water drainage, this could result in direct discharge to Stone Wood Dike, which eventually feeds into Thunder Bridge Dike, adding to the increasing storm peak flows.

As the proposed development site at Stocksmoor is not an allocation for the life of the current plan we object to this application and consider it essential that there is a comprehensive upgrading of the current local sewage and surface water drainage systems before any further development in the catchment is permitted.

42. Any development that results in the **discharge of untreated sewage into the environment**, or that exacerbates existing discharges, **gives rise to serious public health concerns**. The risk of such outcomes is directly relevant to the sustainability and acceptability of the proposed development.

43. **Shepley Mill Wood**, by contrast, would be subject to a different, but equally serious, set of impacts arising from its immediate proximity to the development site.

44. **Deterioration of this Ancient Woodland would occur through multiple, interrelated mechanisms**, including earthworks, chemical contamination, noise, blasting and vibration, dust generation, disturbance, habitat fragmentation, and the introduction of non-locally native plant species proposed by the developer.

45. **During the construction phase**, building operations would involve the displacement of substantial quantities of earth, dust, and rock, together with the introduction of chemical substances such as cement, mortar, fuels, and other pollutants.

46. **Given the steep topography of the site** (see earlier)**, even a single heavy rainfall event at a critical stage could mobilise these materials** downslope—both over and through the ground—into the **Ancient Woodland**. Such inputs could permanently alter the composition and functioning of the woodland's unique and irreplaceable soils.

47. The attenuation tank and nearby foul water pumping station would introduce additional long-term risk. Both require ongoing maintenance and carry the potential for blockage or failure. The consequences of such failures are well documented. In 2019, for example, Thames Water was fined £2 million after raw sewage polluted two Oxfordshire streams for up to 24 hours due to failures at a sewage pumping station. In the context of the **Ancient Woodlands**, the consequences of such an event would be irretrievable.

48. Damage and contamination would not cease once construction was complete.

    Once occupied, the development would introduce permanent pressures on the Ancient Woodland, including:

    - **light pollution** (on which the Police insist on the grounds of security), which can disturb and misdirect not only bats but also the insects on which they feed;
    - **domestic pets**, particularly cats, which are known to cause significant mortality among birds and other fauna in sensitive habitats;

- **in the case of birds, 'urban-adapter' populations** (i.e. fed by humans) can displace **'urban-avoider'** (i.e. truly wild) **species**;
- **even apparently positive measures, such as the proposed planting of 78 trees, may have adverse effects** if inappropriate species are introduced or if planting alters existing ecological balances
- **routine domestic pollutants**, including oil spillages, car-wash residues, and gardening chemicals, which can leach into groundwater and be conveyed downslope into the Ancient Woodland.
- **fragmentation**, where a development inhibits the ability of a species to move across a landscape

49. A research paper published by the **Woodland Trust**, *Impacts of nearby development on the ecology of ancient woodland* (2008), documents in detail the mechanisms by which nearby development leads to deterioration of Ancient Woodland. The findings reinforce the various concerns outlined above and demonstrate that such impacts are well-established and evidence-based.

50. By contrast, the developer's Ecological Impact Assessment, submitted only at a late stage, largely dismisses these risks. It gives limited consideration to the effects of the occupied development and relies heavily on basic mitigation measures, such as 'toolbox talks', to avoid what it terms 'significant' harm[2].

51. Such an approach is fundamentally flawed. Construction sites are inherently pressured and complex environments, where the overriding imperative is to deliver the project rather than to safeguard unseen soils, fungi, invertebrates, and hydrological systems. Many of the proposed mitigation measures would, in any event, be difficult to monitor or enforce given the constrained and enclosed nature of the site.

52. More fundamentally, the emphasis on avoiding 'significant' harm represents a misapplication of national policy. Paragraph 193(c) of the National Planning Policy Framework states:

> **Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused…**

53. **If a habitat is genuinely 'irreplaceable', then <u>any</u> deterioration—whether characterised as 'significant' or otherwise—must be unacceptable. The various impacts described above would be cumulative in nature and substantially more harmful than the developer's assessment would tend to suggest.**

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[2] *'Ecological Impact Assessment and Biodiversity Net Gain Assessment'*, SLR Consulting, supra, says:
'All staff operatives shall receive a toolbox talk on the importance of this LWS and ancient woodland site…'
'Once operational, no impacts are anticipated'…
'There is a risk of indirect effects on this woodland through air, light and noise pollution during construction. The Site fencing, installed to prevent access to the woodland, shall also include dust barriers to prevent dust reaching the woodland. To minimise light disturbance during construction, lighting shall be kept to a minimum. Any lighting required during construction shall avoid directly illuminating the retained boundary vegetation; use of hoods and cowls can be used to direct light away from bat habitat. Noise disturbance shall be minimised wherever possible, through timing of works and choice of equipment. Noise barriers shall be installed during noisy activities which should only be undertaken in daylight hours. A sensitive lighting scheme shall be adopted which ensures that light spill is minimised along the eastern boundary.'

54. **Finally, the developer seeks to rely on a buffer zone as mitigation**. While various minimum distances are often cited, the adequacy of buffers—and the size of buffer required—remains the subject of ongoing research and debate.

55. A 2012 report from the Woodland Trust[3] refers to Spanish data [*Palomino and Carrascal 2007*] which showed that for birds, the **buffer zones need to be as much as 400 metres** if their natural habitats (in this case, the **Ancient Woodland**) are not to be compromised:

> **Cumulative effects from roads and urban development include a combination of noise, light, increased mortality due to car collisions and barrier effects preventing normal movement of species. A study of Spanish bird communities (Palomino and Carrascal 2007) showed that the closer a bird community is to urban areas the more homogenised it becomes, and that this homogenisation can spread into adjacent habitats. In order to control this effect, and unlike many similar studies, they have quantified buffer distances for both roads and urban areas to reduce the impact of disturbance on woodland species (330m for roads, 400m for urban areas). [***our emphasis***]**

In this regard, it is worthy of note that there have been numerous recent sightings of barn owls hunting in the site field.

56. For all the above reasons, our firm view is that the development would inevitably cause both **Shepley Mill Wood and Hartley Bank Wood** to 'deteriorate', **thereby triggering paragraph 193(c) NPPF 2024**.

[3] *'Impacts of nearby development on the ecology of ancient woodland - addendum'*, Woodland Trust [2012]. This goes on to state:
Cumulative effects from housing development are not just limited to high density housing schemes, but are also seen in more rural low density developments. As has already been shown different species react differently to the same types of development. The construction and presence of housing is often associated with bird species considered to be urban adapters, which can tolerate disturbances associated with human residential development. However, there are other species known collectively as urban avoiders, which can tolerate only low levels or indeed no disturbance of this type. Work by Merenlender et al. (2009) in California showed that at even very low housing densities (1 house per 4 hectares) bird communities were dominated by species considered to be urban adapters. Ground nesters were particularly negatively impacted upon, probably as a result of the presence of domestic predators such as cats and dogs.

Flood risk, sewage flood risk and flood toxicity risk

57. We consider that the flood issues are somewhat more complex than outlined in the developer's late-submitted Flood Risk Assessment (FRA).

58. It is firstly clear that there is a medium groundwater flood risk and that a sequential test should have been applied under paragraph 172 NPPF 2024

59. Secondly - as we describe elsewhere - it is clear that the Thunderbridge CSO spills also constitute flooding. These are toxic, documented and have been electronically monitored since 2021.

60. The development would increase the volume of these spills (as well as their pathogenic toxicity) and they would fall within paragraph 181 NPPF 2024, requiring the LPA to:

…ensure that flood risk is not increased elsewhere…

61. The increased toxicity of the spills would also engage the sustainability provisions relating to health, such as paragraphs 8 (b) and 96 (c) NPPF 2024

Sustainability - travel

62. In transport terms, the development is unsustainable, since for the majority of residents Stocksmoor is only realistically accessible by private car.

63. This unsustainability arises from a combination of physical and locational constraints, including the very steep gradients on all four exit routes from the settlement and the single-track nature of two of those routes. Taken together, these characteristics effectively preclude walking and cycling for many users.

64. This position is further compounded by the near-total absence of local amenities within the settlement, including shops, GP services, dentists, and schools. As a result, routine daily activities—such as shopping, accessing healthcare, or taking children to school—can realistically only be undertaken by car.

65. As the Local Planning Authority acknowledged in its decision (which we welcome), the development would give rise to increased traffic conflict and associated safety risks on Stone Wood Lane (SWL), particularly for pedestrians and cyclists.

66. Mathematical analysis and empirical measurements undertaken by members of the Stocksmoor Vision group demonstrate that:
(a) Stone Wood Lane is already operating close to its practical capacity; and that
(b) traffic conflicts on a single-track road increase non-linearly with traffic volume. In other words, as vehicle numbers increase, the incidence of conflicts rises at a disproportionately faster rate.

67. By contrast, both the LPA and the developer appear to have based their assessments primarily on raw vehicle counts, an approach that is likely to underestimate the frequency and severity of traffic conflicts. Put slightly differently, the LPA case is even stronger than it]may appear.

68. It is self-evident that these conflict effects would be most acute on the approximately 110-metre single-track section of Stone Wood Lane that runs through the Ancient Woodland.

69. In summary, while vehicle counts indicate how busy a road may be, conflict-based analysis reveals how dangerous it is in practice. When considered on this basis, the additional traffic generated by the development would materially worsen safety conditions on Stone Wood Lane and reinforces the LPA conclusion that the proposal is unsustainable in transport terms.

Sustainability - amenities

70. the development would be **unsustainable by reason of the near-complete absence of any amenities in Stocksmoor**.

71. Our settlement has no shops, no GP surgery, no dentist, no other health facilities, no school, no playing fields, no garage, no employment, no place of worship, no cash machine and no post office (except, that is, for a children's playground (little-used), a pub (little-used) and a village hall).

72. This aspect is closely linked to travel considerations, since to access any of the above amenities, residents inevitably have to travel out of Stocksmoor.

Sustainability - environmental health

73. The development would be **unsustainable** given **that during heavy rainfall events, baseline sewer loading would increase above current levels, and discharges from both highway gratings and the Thunderbridge CSO would occur at higher volumes—and with increased pathogenic contamination—relative to the present**.

74. **This contamination would carry a health risk to residents of Thunderbridge**. (see paragraph 10 above and further below).

Sustainability - ecology

75. The developer's Ecological Impact Assessment was only placed on the Kirklees site on 25 or 26 June 2024[4], **giving residents a day or less to assess and comment**. There are questions as to why it was left so late, given its central importance to the application.

76. We have already commented above on various aspects of the EIA. Much of the EIA also discusses ways in which harm to the **Ancient Woodland** might be avoided (an analysis with which we disagree) without consideration of the limitations of such measures.

77. The EIA has various shortcomings:

- most of the work is desk research. The two on-site surveys were carried out in mid-winter (in December 2022 and February 2024) which **for most purposes is the wrong time of year** (and which the report itself concedes is 'sub-optimal' and identifies as a limitation).
- as we discuss earlier, much of the EIA analysis repeatedly focuses on the concept of *'significant effects'* rather than the more absolute concept of *'no deterioration'*, which is the correct way to assess a development's impact on **Ancient Woodland**.
- the EIA ruled out investigation of Brown's Knoll Meadows some 500m away on the basis that the railway line constituted a 'barrier'. In reality, railway cuttings of this type are more properly viewed as important wildlife corridors.

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78. Separately, there are questions about the state of the land itself and what the ecology consultants were actually looking at and assessing.

79. Inspections in 2022 describe it as *'a grassed field with evidence of recent pastoral farming use'* and it is likely that, as Grade 4 land, it would - at best - only ever be used for rough grazing. Yet a Google Earth view of the site dated 23.4.21 clearly shows the field as ploughed (see below).

80. We understand that if a field has not been ploughed for 15 years it is unlawful (under the Environmental Impact Regulations) to plough it without a screening decision from Natural England and it seems reasonable to ask whether such a decision was needed and if so, obtained, ahead of the 2021 ploughing.

[4] The statement on the Kirklees planning site that it was uploaded onto that site on 21 May is incorrect.

Summary of our case and conclusions

81. We consider that, in overall terms, the LPA's stated reasons for refusal were framed too narrowly, and that the decision notice did not fully engage with material facts relating, for example, to irreplaceable habitats, amenities and ecological impacts. Such facts engage other key—and determinative—planning principles.

82. **At its core,** our case rests on two principal strands. First, the development **would result in 'deterioration' (including ongoing deterioration)** of **'irreplaceable habitat'** (comprising two areas of **Ancient Woodland,** *Shepley Mill Wood* and *Hartley Bank Wood*).

83. In this regard, the NPPF 2024 says:

> **193. When determining planning applications, local planning authorities should apply the following principles:**
> **…(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists [***our emphasis***]**

84. Secondly, the proposal **is unsustainable on a number of grounds**, including travel, access to amenities, ecology, and environmental health. **In those circumstances, the presumption in favour of sustainable development does not apply**.

85. In our view, neither the LPA nor the developer has undertaken a sufficiently rigorous or comprehensive assessment of either of these two analytical strands.

List of documents/materials on which we intend to rely

'Ecological Impact Assessment and Biodiversity Net Gain Assessment', SLR Consulting Ltd for Newett Homes Ltd

'Flood risk assessment & drainage strategy', 2024 (including Lithos report *'Preliminary Geoenvironmental Report* 2022), Andrew Moseley Associates

Natural England Open Data Publication - Ancient Woodland maps [open portal]

Google Earth

Google maps

Contour map app

Yorkshire Water maps of drains and sewers in Stocksmoor-Thunderbridge

Floodmapper – operational summary of Thunderbridge no.2 CSO

Event Duration Monitoring (EDM) data for the Thunderbridge No. 2 CSO, Environment Agency data

Mathematical workings on traffic flows and conflicts by Stocksmoor Vision members

Various academic internet documents on traffic flows and conflicts

Woodland Trust - *Impacts of nearby development on ancient woodland - 2008*

Woodland Trust - *Impacts of nearby development on ancient woodland* – addendum, 2012

'Ancient woodland, ancient trees and veteran trees; advice for making planning decisions' [2022] Government Guidance. Authored by Natural England and the Forestry Commission

All objections filed on the Kirklees Planning Portal for the application

Garganey Trust materials including map of their site and various photographs