

Kirklees Council

Proof of Evidence of Jillian Rann, BA (Hons), MSc, MRTPI

Appeal reference: APP/Z4718/W/25/3375000

Application reference: 2024/91242

Site: Land north east of, Shepley Road, Stocksmoor, Huddersfield, HD4 6XW

Description of development: Erection of residential development (50 dwellings) with associated access, parking, public open space, landscaping and infrastructure

Appellant: Newett Homes

Date: 27th January 2026

CONTENTS	PAGE
1.0 INTRODUCTION	3
2.0 APPEAL SITE AND PROPOSAL	5
3.0 RELEVANT LOCAL AND NATIONAL POLICY	6
4.0 HOUSING LAND SUPPLY AND SAFEGUARDED LAND	7
5.0 HIGHWAYS AND TRANSPORT MATTERS	14
6.0 OTHER MATTERS	16
7.0 PLANNING BALANCE	22
8.0 CONCLUSION	29

1.0 INTRODUCTION

Qualifications and Experience

- 1.1 My name is Jillian Rann. I hold a BA (Hons) degree in Geography from the University of Nottingham and an MSc in Spatial Planning from Oxford Brookes University. I am a member of the Royal Town Planning Institute. I have over 20 years of experience working in Planning, including over 16 years of local government experience, primarily in Development Management, and just under 4 years as a Planning Inspector. I currently hold the post of Development Management Masterplanner in the Planning Service, within the Council's Place Directorate.
- 1.2 I was not the case officer for the application which forms the subject of this appeal. However, I am familiar with the appeal proposal and the appeal site. I have been onto the site itself, on 15th January 2026, and I also viewed the site from one of the platforms of Stocksmoor railway station on that date. I have also visited the wider area on two further occasions, on 4th December 2025, when I viewed the site from Shepley Road and drove the section of Shepley Road and Stone Wood Lane between the site and Shepley village, and on 16th December 2025, when I walked along the section of Stone Wood Lane closest to Shepley village and walked around parts of the wider village of Stocksmoor in the vicinity of the site.
- 1.3 The evidence I have prepared and provide for this appeal has been prepared, and is given, in accordance with the guidance of my professional institute. I confirm that the opinions expressed are my true and professional opinions.

Scope of evidence

- 1.4 My evidence sets out the appeal proposal, site description, relevant planning history and guidance, the background to the site's identification as safeguarded land in the Kirklees Local Plan, the Council's current housing land supply position, and matters relating to planning obligations.
- 1.5 My evidence also addresses the planning balance, including with reference to the benefits of the proposed development and the weight to be afforded to them, the development plan and weight to be afforded to relevant policies, and other

relevant material planning considerations, before concluding why the appeal proposal should be refused.

- 1.6 Mr Adam Darwin's evidence sets out matters relating to the highway impacts of the proposed development, in relation to Reason for Refusal 1.
- 1.7 As per the Planning Inspectorate's guidance, this proof does not repeat or duplicate information which is in the Officer Report (CD 3.1), the Local Planning Authority's (LPA's) Statement of Case (CDs 8.3 to 8.8 inclusive) or the Statement of Common Ground (SoCG) (draft agreed as at 7th January 2026) (CD 8.13). However, reference is made to those documents as necessary.

Procedural matters

- 1.8 The Council's second reason for refusal relates to the lack of a Section 106 agreement to secure various planning obligations. The required obligations are set out in the Council's Statement of Case (CD 8.3) and are therefore not repeated here. Some of the contributions referred to (Education and Open Space) have now been re-calculated to reflect up-to-date information and costs. All contribution amounts will be confirmed in a CIL Regulation 122 Compliance Statement, which will be provided by the Council separately.
- 1.9 With reference to Reason for Refusal 2, a draft Section 106 agreement is currently under discussion between the LPA and the Appellant. A suitable Section 106 agreement, securing all relevant planning obligations as identified in Reason for Refusal 2, would resolve Reason for Refusal 2. A CIL Regulation 122 Compliance Statement will be provided by the Council under separate cover.
- 1.10 As set out in the Council's Statement of Case, if a satisfactory Section 106 was not agreed before the inquiry, it is considered that these matters could be dealt with by round-table discussion at the inquiry.

Draft National Planning Policy Framework (NPPF) and Written Ministerial Statement (WMS) December 2025

- 1.11 The LPA has previously provided separate comments regarding the consultation draft NPPF and accompanying WMS, published 16th December 2025 (CD 8.10). Those comments are not repeated in detail here. However, it is reiterated that

the LPA considers that the draft NPPF should be given only limited weight at this stage, as it is in draft form and subject to consultation, and may therefore be subject to change following the outcome of that consultation.

Levels of weight

1.12 For clarity, the following terms are used throughout this proof to describe or explain the levels of weight attributed to relevant matters, including policies, harm and benefits (from greatest to least):

- Full weight (for policies only)
- Substantial weight
- Significant weight
- Moderate weight
- Limited weight
- No weight.

Other Matters

1.13 I have produced and written this evidence myself. Artificial Intelligence (AI) has not been used to produce (or otherwise amend) any content within this evidence. However, as Microsoft Copilot is embedded in Microsoft software used by Kirklees Council, it has been used to prepare this evidence, but only insofar as carrying out standard word processing-type functions available prior to the introduction of Copilot (e.g. spell-checking, formatting etc). Similarly, when obtaining information online (e.g. obtaining Core Documents), AI has been used, but only in the same manner as standard web functions, and not for content creation.

2.0 APPEAL SITE AND PROPOSAL

2.1 The appeal relates to an area of land to the north east of Shepley Road in the settlement of Stocksmoor. The site is identified as Safeguarded Land (Site Reference: SLS30) in the Kirklees Local Plan.

2.2 Details of the appeal site are set out in the Officer Report (CD 3.1) and the SoCG (version agreed as at 7th January 2026) (CD 8.13) and are not repeated here.

2.3 The proposed development comprises 50 dwellings, with a new vehicular access proposed from Shepley Road. The scheme includes areas of open space on site, including a Local Area of Play (LAP) and areas of amenity greenspace and natural and semi-natural greenspace. A foul water pumping station is proposed in the northern part of the site. An attenuation tank for the storage of surface water is proposed beneath an area of open space just to the east of the proposed houses. The houses are proposed in the western and central parts of the site, with open space separating them, and the proposed drainage infrastructure, from the ancient woodland to the south east of the site.

3.0 RELEVANT LOCAL AND NATIONAL POLICY

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

3.2 For the purposes of this application, the development plan is the Kirklees Local Plan (adopted February 2019) (the Local Plan), which comprises:

- The Strategy and Policies document;
- The Allocations and Designations document; and
- The policies map.

3.3 The Local Plan policies relevant to the consideration of the appeal proposal are set out on page 13 of the Officer Report (CD 3.1) and agreed in the Statement of Common Ground between the Council and the Appellant (the SoCG) (version agreed as at 7th January 2026) (CD 8.13) and are referred to in the relevant Proofs of Evidence provided by the Council as applicable.

3.4 A full list of relevant Supplementary Planning Documents and other relevant guidance documents is provided on page 14 of the Officer Report (CD 3.1) and agreed in the SoCG. In addition to the list in the Officer Report is the Kirklees Transport Strategy, published 2025 (CD 6.29), which is included in the agreed list in the SoCG.

3.5 In addition to relevant national policy in the NPPF, and the guidance in the Planning Practice Guidance (PPG), other relevant national guidance is set out on page 14 of the Officer Report (CD 3.1).

4.0 HOUSING LAND SUPPLY AND SAFEGUARDED LAND

Housing Land Supply

- 4.1 The Council's Authority Monitoring Report 2024/2025 (AMR) (CD 6.23), published December 2025, identifies that the current housing land supply position in Kirklees is 4.18 years. This covers the 5 year period commencing April 2025.
- 4.2 The Council is therefore currently unable to demonstrate a 5 year supply of deliverable housing sites.
- 4.3 The 2023 Housing Delivery Test (HDT) results, published December 2024 (CD 7.36), demonstrated that housing delivery in Kirklees for the previous three years (April 2020-March 2023) was 54% of the relevant housing requirement.
- 4.4 As the Council cannot demonstrate a five year supply of deliverable housing sites, and the HDT indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years, the relevant criteria in Footnote 8 of the NPPF apply. Consequently, as set out in Paragraph 11(d) of the NPPF, the policies which are most important for determining the application are out-of-date.
- 4.5 None of the policies listed in Footnote 7 of the NPPF are engaged in this case with reference to the LPA's reasons for refusal. Therefore, paragraph 11(d)(i) of the NPPF is not relevant to this appeal.
- 4.6 Accordingly, the presumption in favour of sustainable development, or 'tilted balance', in paragraph 11(d)(ii) of the NPPF applies, and requires that permission is granted unless:

“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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”.

4.7 Following the results of the 2022/2023 AMR (CD 6.24), which identified a 3.96 year supply of housing land, the LPA published the Kirklees Interim Housing Position Statement to Boost Supply ('the Interim Housing Statement') (CD 6.3) in February 2024. In that context, the Interim Housing Statement sets out, amongst other things, "*principles for decision making in determining planning applications and the release of land for housing*" and "*the actions the council is proactively undertaking to support housing delivery*" (Paragraph 1.4).

4.8 As set out in Paragraph 1.5 of the Interim Housing Statement, it forms a material consideration in the determination of planning applications and:

"will be reviewed annually following publication of the latest Authority Monitoring Report and five-year housing land supply position and will remain in place until this evidence indicates it is no longer required".

4.9 As the most recent AMR (2024/2025) (CD 6.23) still indicates that the Council does not have a five year supply of housing land, the Interim Housing Statement remains relevant as a material consideration in the determination of planning applications for residential development, including this appeal. As a statement setting out the Council's intended approach to addressing housing delivery, in the context of the Council not having a five year housing land supply, I consider that the Interim Housing Statement should be afforded substantial weight as a material consideration.

Safeguarded Land

4.10 The appeal site is identified as safeguarded land (Site Reference SLS30) in the Local Plan (CD 6.2). The site was assessed as a potential housing option at the time the Local Plan was prepared, and is safeguarded for housing in the Local Plan.

4.11 Local Plan Policy LP6 applies to safeguarded land, and states that:

"Areas identified as safeguarded land will be protected from development other than that which is necessary in relation to the operation of existing uses, change of use to alternative open land uses or temporary uses. All proposals must not prejudice the possibility of long term development on safeguarded land sites.

4.12 Policy LP6 goes on to state that *“The status of safeguarded land sites will only change through a review of the Local Plan.”* Paragraph 6.30 of the Local Plan further clarifies this, and states that:

“The consideration of the permanent development of safeguarded land, such as for housing or employment, will only occur through a change to the allocation through a review of the Local Plan. During a Local Plan review, the reassessment of safeguarded land will involve determining for each site whether in the prevailing circumstances there is a case for releasing some or all of the land for development, or whether it should be maintained as safeguarded land until the next review of the plan. This reassessment will need to consider the principles of sustainable development and specific constraints to development, such as impact on heritage assets”

4.13 Paragraph 4.5 of the Interim Housing Statement states that safeguarded land sites:

“are protected from development during the lifetime of the Local Plan but are intended to be reassessed in any future update to determine their suitability for housing or employment development”.

4.14 However, as stated in Paragraph 4.6 of the Interim Housing Statement, in the absence of a five year housing land supply the most relevant policies are deemed out of date and, as Local Plan Policy LP6 relates to the supply of land for development, including housing, that policy *“is considered to be out of date”*. In that context, Paragraph 4.6 states that safeguarded land sites:

“provide potential development opportunities that could be facilitated through their early release for housing where development constraints can be overcome” (emphasis added).

4.15 Principle 2 of the Interim Housing Statement sets out how applications for planning permission are to be assessed, and the criteria to be considered, in that context.

4.16 The current Local Plan was adopted before I commenced my current employment with Kirklees Council. Consequently, I was not involved in the Local Plan process. The following commentary regarding the appeal site’s

assessment, and its identification as safeguarded land, as part of the Local Plan process, is based on my understanding from discussions with colleagues in the Council's Policy team and from the relevant Local Plan background documents referred to below.

4.17 During the preparation of the current Local Plan all potential development options, including the appeal site, were assessed using the criteria in the Local Plan Statement Part 2: Site Allocation Methodology (Local Plan Background Paper BP23) (CD 6.13). The section from Paragraph 4.15 to Paragraph 4.63 explains how development site options were considered and the factors which were taken into account.

4.18 As set out in Paragraph 4.32, each element of the site assessment was *“assigned a rating (red/amber/green) to summarise the perceived level of constraint”*, and:

“this includes an assessment of transport, flood risk and drainage, environmental health, biodiversity, historic environment, open space, education, green belt, public health and other potential constraints”.

4.19 Paragraph 4.35 sets out how site options were assessed in terms of transport matters and the matters which were considered.

4.20 Following that assessment of sites using the methodology in the Local Plan Background Paper BP23, the appeal site was rejected as a potential housing allocation. The site is included in the Rejected Site Options Report July 2017 (Local Plan Local Evidence Document LE4.1) (CD 6.16) (page 348, Site Reference: H2563) which states, in the Conclusion for the site: *“There are no exceptional circumstances to use this green belt land for housing during the local plan period”.*

4.21 However, in accordance with relevant NPPF policy at the time, and as set out in Paragraph 6.10 of the Housing Technical Paper – April 2017 (Local Plan Submission Document SD23) (CD 6.17), the Local Plan also identified sites as safeguarded land ‘intended to meet longer-term development needs stretching well beyond the plan period’. Paragraph 6.10 goes on to state that:

“These are generally sites where constraints are such that the site would not be appropriate to accommodate development within the Local Plan period but

with a realistic prospect that these constraints can be overcome to accommodate development in the longer term.”

4.22 In identifying safeguarded land site as part of the Local Plan, rejected housing allocation options, including the appeal site, were re-assessed to consider whether there might be a reasonable prospect of such land coming forward beyond the plan period. This approach is set out in paragraph 5.1 of the Local Plan Statement Part 2: Site Allocation Methodology (Local Plan Background Paper BP23) (CD 6.13), which states:

“Where the assessment of sites has shown that sites are unlikely to deliver new homes within the Local Plan period, consideration has been given to whether there might be a reasonable prospect of such land coming forward beyond the plan period. This has taken into account relevant site constraints, relative sustainability of each option and the role and function of the green belt, where relevant. Site options rejected for development have therefore been re-assessed to determine whether the constraints may be overcome in the longer term. Where such constraints can be overcome, these sites may be identified on the Policies Map as safeguarded land to be considered for development beyond the end of the Local Plan period (i.e. land to accommodate development needs from 2031 onwards).”

4.23 The appeal site was subsequently included in the Publication Draft Local Plan as safeguarded land. The site is included in the Accepted Site Options – Technical Appraisal Report July 2017 (Local Plan Background Paper BP29.1) (CD 6.15) (page 166, Site Reference SL3358) which states, in the Conclusion for the site:

“There are no exceptional circumstances to use this green belt land for housing during the local plan period however, to ensure longevity of green belt boundaries beyond the plan period to potentially meet longer term development needs, there are exceptional circumstances to justify the allocation of this land as safeguarded land.”

4.24 However, as set out in within Policy LP6 of the Local Plan and its supporting text, it was envisaged that such sites would be subject to further assessment as part of a future Local Plan review before they were brought forward for development.

4.25 The Local Plan Inspector sought further information regarding safeguarded land sites in an Initial Note from the Local Plan Inspector to the Council on 25 May 2017 (Local Plan document EX2) (CD 6.7) which asked, at Paragraph 21:

“Paragraph 5.1 in the Council’s Local Plan Methodology Statement Part 2 (BP23) indicates that safeguarded sites are those where the assessment has shown they are unlikely to deliver new homes within the Plan period. Is the Council able to point me to evidence which shows that constraints can be overcome and that sites which are not deliverable/developable are capable of coming forward beyond 2031?”

4.26 Matter 8g) of the Local Plan Inspector’s Matters, Issues and Questions (MIQs) (Local Plan document EH2) (CD 6.18) also sought further information regarding safeguarded land sites, and asked:

“What evidence is there to demonstrate that safeguarded sites which have been assessed as unsuitable or undeliverable for housing development over the Plan period will be capable of delivery for this use in the longer term?”.

4.27 In response, the Council produced a Schedule of safeguarded land sites showing their constraints/assessment of future delivery (‘Schedule of Safeguarded Land Sites’) (Local Plan document EX14) (CD 6.8), and refers to this in the Council Response on MIQs Matter 8 (Local Plan document M8.1) (CD 6.19), which states in paragraph 1.71 that the Schedule of Safeguarded Land sites:

“summarises each of the safeguarded land options and lists the key constraints facing each safeguarded land option meaning that they are not justified in evidence terms as housing allocations within the plan period, but also demonstrating that there is a reasonable prospect of them contributing towards housing delivery in the longer term, if required”.

4.28 With reference to the appeal site, the Schedule of Safeguarded Land Sites (CD 6.8) concludes, in the section titled ‘Conformity with NPPF’:

“There is insufficient evidence to demonstrate this site is deliverable and/or developable during the Local Plan period, however there is a reasonable prospect that site specific site constraints can be overcome and the site is

capable of coming forward for development post 2031. In this case third party land would need to be acquired which is not currently available and further consideration of the scale of development in relation to the local road network.”

4.29 The conclusion regarding the appeal site at that stage therefore made reference to further consideration of the local road network with reference to the site’s development.

4.30 Paragraph 1.72 of the Council Response on MIQs Matter 8 (CD 6.19) quotes paragraph 85 of the NPPF as it stood at that time (i.e. the 2012 NPPF (CD 7.37)), including that:

“when defining boundaries, local planning authorities should...make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development” (emphasis in CD 6.19).

4.31 Paragraph 1.73 of the Council Response on MIQs Matter 8 (CD 6.19) states that:

“The council considers that there is therefore flexibility in plan making terms regarding the need to identify safeguarded land and the amount, but also that it is important that such land is considered for development properly when the Local Plan is reviewed.”

4.32 Therefore, although sites which identified as safeguarded land were subject to assessment at the Local Plan stage, at a level proportionate to that plan-making stage and in accordance with the site allocation methodology in Local Plan Background Paper BP23 (CD 6.13), it was nonetheless intended that such sites, including the appeal site, would be fully reconsidered as part of a Local Plan review, prior to their being developed for housing or any other purpose.

4.33 Furthermore, with reference to matters of transport impact, any application for major residential development, including on allocated sites, would be subject to a requirement for a detailed Transport Statement or Transport Assessment, in accordance with Local Plan Policy LP21, to allow the detailed highways and transport implications of any specific development proposal to be fully understood and considered.

4.34 Accordingly, the identification of the appeal site as safeguarded land in the Local Plan does not imply or guarantee that highway impacts of developing the site would necessarily be considered acceptable, since such impacts were always intended to be subject to re-assessment as part of a future Local Plan Review, and the specific impacts of any proposed development would be subject to detailed assessment and consideration through the form of a Transport Assessment.

4.35 In this case, as set out in Mr Darwin's evidence, based on the submitted Transport Assessments and the mitigation proposed, it is considered that the constraints to the development of the site would not be satisfactorily overcome with regard to highway safety.

5.0 HIGHWAYS AND TRANSPORT MATTERS

5.1 Stone Wood Lane, between the site and the village of Shepley, provides access to facilities within Shepley village, including shops, medical facilities and other amenities. It provides access for active travel users, including pedestrians and cyclists, as well as vehicular access, and is part of National Cycle Network (NCN) route 627 and the Trans Pennine Trail.

5.2 Stone Wood Lane has a number of existing constraints which raise highway safety concerns for all users, including with regard to its limited width along some sections, sections with limited forward visibility, and steep gradients in places. Passing places are limited in number, and have limitations in their layout and the levels of intervisibility between them. Furthermore, Stone Wood Lane has no footways, and the areas of verge for pedestrians or other active travel users to step off the carriageway to avoid passing vehicles are limited in width and availability.

5.3 The limited widths of the carriageway and passing places mean that there are numerous locations along Stone Wood Lane where vehicles have to reverse to allow other vehicles to pass, including a need for multiple vehicles to reverse in some cases, and in areas where visibility around bends is limited. The need for such reversing manoeuvres generates concerns in terms of highway safety for all users but especially for active travel users, particularly when the lack of

footway and limited verge areas alongside the carriageway are taken into account.

- 5.4 Mr Darwin's evidence considers the increase in vehicle movements along Stone Wood Lane as a result of the proposed development, and he concludes that the proposed development would result in a material increase in traffic along Stone Wood Lane, even taking account of the Appellant's latest assessment scenario, which is not considered to be robust, as set out in Mr Darwin's evidence.
- 5.5 As a result of those additional vehicle movements along Stone Wood Lane, it is considered that the proposed development would exacerbate existing highway safety concerns along Stone Wood Lane, including a greater likelihood of conflict between vehicles and other road users, necessitating further potentially hazardous reversing manoeuvres, and further unacceptable risks to active travel users as result of the greater number of vehicles using the route and of such manoeuvres taking place.
- 5.6 Because of the configuration of Stone Wood Lane, including its limited widths at various points, active travel users are likely to need to pause at various points if they meet a vehicle, including stepping to the side of the road or onto the verge whilst vehicles pass them. The disruption of having to do so repeatedly when travelling along the route is likely to detract from the convenience and amenity of active travel users, including walkers and cyclists. The additional traffic associated with the development would increase the likelihood of such users meeting passing vehicles, and would thus further detract from the convenience and amenity of active travel users using the route.
- 5.7 For the reasons set out in Mr Darwin's evidence, the improvements which were proposed to passing places along Stone Wood Lane during the course of the planning application are limited. It is considered that those proposed improvements would not materially address the deficiencies of those passing places, nor would they offset or mitigate the effects of the additional traffic that would arise as a result of the development, in terms of highway safety or the amenity of active travel users.
- 5.8 Therefore, it is considered that the proposed development would have an adverse impact on the safe and efficient movement of traffic along Stone Wood

Lane by all modes of transport, but particularly active travel users. It is considered that the mitigation proposed would not mitigate that adverse impact. It is therefore considered that the proposed development would have an unacceptable impact on highway safety and on the amenity of active travel users using Stone Wood Lane, in conflict with Local Plan Policies LP21 and LP24, and with the NPPF.

5.9 Additional and revised information was received from the appellant by email on 19th January 2026 (CD 5.5), including additional traffic survey information and revised passing place improvement proposals. Little information or commentary was providing regarding the submitted information or the context in which it has been provided.

5.10 With regard to the submission of this additional and revised information at this stage of the appeal, and in the light of the guidance in Section 16 of the Planning Inspectorate's *Procedural Guide: Planning appeals – England*, it is the Council's view that the appeal should be considered on the basis of the plans and information that were considered by the local planning authority at the application stage, including the plans showing proposed passing place improvements (drawing numbers: 24071-LE-00-ZZ-DR-D-0110 Rev P3 (CD 1.40) and 24071-LE-00-ZZ-DR-D-0111 Rev P3 (CD 1.41)), which were listed on the Council's decision notice.

5.11 Nevertheless, the Council has sought to review this additional and revised information in advance of the proof of evidence deadline as far as possible. However, the Council reserves the right to provide further comments on this information by means of supplementary or rebuttal proof(s) in due course, once the context has been understood from the appellant's proofs of evidence.

6.0 OTHER MATTERS

Ancient Woodland

6.1 The site is adjacent to an area of woodland which is identified as ancient woodland, and which is part of a wider network of ancient woodland in the local area. Ancient woodland is defined as 'irreplaceable habitat' in accordance with the definition in the NPPF. The woodland is also part of a Local Wildlife Site and part of the Wildlife Habitat Network, as identified in the Local Plan.

6.2 Although the Inspector has identified the ancient woodland as a main issue, the effects of the proposals on the adjacent ancient woodland did not form a reason for the Council's refusal of the application.

6.3 Local Plan Policy LP30 states that:

“Proposals having a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland, Veteran Tree or other important tree, will not be permitted unless the benefits of the development can be clearly shown to outweigh the need to safeguard the local conservation value of the site or feature and there is no alternative means to deliver the proposal. In all cases, full compensatory measures would be required and secured in the long term.”

6.4 Paragraph 193 of the NPPF states that:

“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”.

6.5 The Officer Report (CD 3.1), pages 31-36 inclusive, sets out the Council's assessment of the proposed development with regard to the adjacent ancient woodland, including with reference to comments received from consultees, including an objection from the Woodland Trust, and in local representations, and explains the reasons for its conclusion that *“The proposal would not result in the loss or result in a material deterioration of the adjacent Ancient Woodland, subject to the given conditions”.*

6.6 The ancient woodland is outside the site and, as set out in the Officer Report, no trees within the ancient woodland would be removed as part of the application. The Officer Report also explains that ‘there is intended to be no access into the woodland as part of the proposal’. This matter could be dealt with via a suitably worded condition requiring an appropriate boundary treatment (with no gates or other openings) along the boundary between the site and the ancient woodland, thus preventing direct access into the woodland from the site.

- 6.7 According to the submitted details, the closest part of the development to the ancient woodland (the foul water pumping station) would be around 30m from the ancient woodland, which is double the recommended minimum 'buffer zone' of 15m set out in the Natural England and Forestry Commission guidance: *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions* (CD 7.33). According to the submitted details, the nearest dwellings would be at least around 45m from the ancient woodland. The proposed separation distance was considered acceptable by the Council in its assessment of the application.
- 6.8 The eastern part of the site also slopes steeply downhill from the proposed houses towards the ancient woodland. Those gradients, together with appropriate landscaping and boundary treatment proposals and a suitable lighting scheme within the development, which could be secured by conditions if the appeal was allowed, would limit potential human activity and disturbance in that area of the site closest to the ancient woodland.
- 6.9 Measures to mitigate potential impacts on the ancient woodland during construction, including dust and potential effects from surface water run-off during construction, and an appropriate tree protection scheme, could be secured via conditions requiring a Construction Environment Management Plan, an Arboricultural Method Statement and a temporary surface water drainage scheme during construction.
- 6.10 There are existing established paths through parts of the nearby ancient woodland. The 50 proposed dwellings could result in some increase in the use of those routes. The Council's arboricultural officer did not object to the application. I have subsequently discussed the matter further with the arboricultural officer with reference to the potential increase in the use of the woodland by occupants of the development, and they have advised that any increase in footfall would be likely to be via the existing well-established public rights of way or other desire paths, and that the woodland would already have adapted to compaction from such use, and any increased footfall would not cause any further impact in that regard which does not already exist.

6.11 As set out in the Officer Report, and subject to suitably-worded conditions relating to mitigation measures during construction and appropriate landscaping, boundary treatments and lighting proposals as part of the development once complete, the Council considered that the proposals ‘would not result in the loss or result in a material deterioration of the adjacent Ancient Woodland’. Therefore, this did not form a reason for the Council’s refusal of the application.

Ecology

6.12 The effects of the development on ecology and biodiversity did not form a reason for the Council’s refusal of the application.

6.13 As set out above, the woodland to the south east of the site is part of a Local Wildlife Site and the Wildlife Habitat Network as identified in the Local Plan. The identified Wildlife Habitat Network also includes land along the railway line to the north of the site.

6.14 An Ecological Impact Assessment (EclA) (CD 1.26) was submitted as part of the application. The submitted report acknowledges as a limitation that the *“field surveys were undertaken at a sub-optimal time of the year for botanical surveys and for many protected species”*. However, this was not identified as a reason for the refusal of the application. The Officer Report (CD 3.1) considered that the submitted EclA *“provides a comprehensive assessment of the site”*.

6.15 Ecological matters are considered on pages 34-36 inclusive of the Officer Report, which refers to recommendations in the submitted EclA including suggested mitigation measures which, the Officer Report notes, *“can be delivered through appropriately-worded planning conditions”*.

6.16 The Officer Report also notes that the submitted EclA *“advises that a protected species survey be undertaken prior to works commencing, in case of a change in circumstances, the provision of which is recommended to be secured via condition”*. The Officer Report also refers to other suggested conditions, including a Pollution Prevention Plan in relation to the stream in the corner of the site, an Ecological Design Strategy for enhancements as part of the proposed development, and an invasive species protocol to deal with invasive species identified on the site.

6.17 As set out in the Officer Report, and subject to suitably-worded conditions to cover relevant matters, including protected species surveys for relevant species and appropriate mitigation during and post-construction as necessary, measures to protect ecology and biodiversity during construction, and a scheme of biodiversity enhancements to be included as part of the proposed development, the Council concluded that ecology and biodiversity matters did not justify a reason for the refusal of the application.

Flood risk and drainage

6.18 Matters relating to flood risk and drainage did not form reasons for the Council's refusal of the application. As set out in the Officer Report (CD 3.1), the proposals were considered acceptable in this regard, subject to relevant conditions and securing management and maintenance arrangements via the Section 106 agreement. The Lead Local Flood Authority (LLFA) did not object to the application, subject to conditions.

6.19 Surface water is proposed to be drained to a nearby watercourse, with a surface water attenuation tank to be provided on-site as part of the development, and discharge rates to be restricted to the greenfield equivalent rate, such that there would be no increase in the level of surface water discharge to the watercourse as a result of the proposed development, compared with the current situation. This could be secured by condition.

6.20 Foul water would be discharged to the public combined sewer. Yorkshire Water did not object to the application or to the proposal for foul water to discharge to the public combined sewer, and did not identify any anticipated capacity issues in relation to foul drainage from the development discharging to that public sewer. As surface water would not discharge to the combined sewer, heavy rainfall on the site would not affect the Yorkshire Water combined sewer network.

6.21 Potential impacts from surface water flows during construction, including on the adjacent ancient woodland, could be dealt with by a suitably-worded condition requiring a temporary scheme for surface water drainage during construction to be approved and implemented, as suggested by the LLFA.

6.22 No sequential test was requested with regard to groundwater flood risk. I have discussed this with the LLFA and they have advised that, based on the appellant's Flood Risk Assessment, and the LLFA's own British Geotechnical Survey records, the risk of groundwater flooding to the site would be low (less than 25%) and that groundwater in the location of the proposed housing is greater than 5.0m below ground. The LLFA has therefore advised that they consider that the groundwater flood risk to the proposed development would be low.

6.23 Paragraph 174 of the NPPF states that the aim of the sequential test *"is to steer new development to areas with the lowest risk of flooding from any source"*. Paragraph 175 states that:

"the sequential test should be used in should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

6.24 In the light of the NPPF policy as set out above and the guidance in the Planning Practice Guidance, Flood Risk and Coastal Change chapter, which states that the sequential approach 'means avoiding, so far as possible, development in current and future medium and high flood risk areas' (Paragraph Reference ID: 7-023-20220825), and as the LLFA has advised that they consider the current groundwater flood risk, and the groundwater flood risk to the proposed development, to be low, it is considered that no sequential test for groundwater flood risk would be required.

6.25 As set out in the Officer Report, and subject to conditions requiring detailed drainage proposals and a temporary surface water drainage scheme during construction, and a Section 106 agreement to include arrangements for the management and maintenance of the drainage until adopted by the relevant statutory undertaker, the Council concluded that the proposals would be acceptable with regard to flood risk and drainage.

7.0 PLANNING BALANCE

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 As set out above, as the LPA does not have a 5 year housing land supply, and as the most HDT results were below 75%, the policies which are most important for determining the application are out-of-date with reference to Paragraph 11(d) of the NPPF, and the presumption in favour of sustainable development, or 'tilted balance', in Paragraph 11(d) applies.

7.3 Nevertheless, as set out in Paragraph 12 of the NPPF, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. The development plan policies most important for determining the application remain relevant and weight should be given to them, having regard to their degree of consistency with the NPPF.

7.4 In this case, having regard to the site's identification as safeguarded land, and to the Council's Reasons for Refusal, the Local Plan policies most important for determination are considered to be:

- LP4 – Providing infrastructure
- LP6 – Safeguarded land
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity and Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP49 – Educational and health care needs
- LP52 – Protection and improvement of environmental quality

- LP53 – Contaminated and unstable land
- LP63 – New open space

7.5 Local Plan Policy LP6 relates to the supply of land for development, including housing. In the absence of a 5 year housing land supply, and having regard to the most recent HDT results, I consider that limited weight can be given to Policy LP6. This is consistent with the Interim Housing Statement (CD 6.3), which makes provision for safeguarded land to be brought forward for development earlier than was anticipated in Policy LP6. Nonetheless, the Interim Housing Statement makes it clear that such development will only be considered acceptable where relevant constraints to development can be overcome, and where such proposals accord with other relevant policies, including those in the NPPF, the development plan, SPDs and other planning guidance.

7.6 Local Plan Policy LP21 relates to highways and access. Amongst other things, it states that:

“Proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe.

Proposals shall demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network. Proposals shall also consider any impacts on the Strategic Road Network.”

7.7 As such, Policy LP21 is consistent with Paragraph 116 of the NPPF which states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios”.

7.8 It is also consistent with Paragraph 115 of the NPPF which, amongst other things, requires that in assessing specific applications for development, it should be ensured that:

“a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;

b) safe and suitable access to the site can be achieved for all users”.

7.9 Accordingly, I consider that Policy LP21 is consistent with the NPPF and should be given full weight in the assessment of this appeal proposal.

7.10 Insofar as it relates to the main issue arising from the Council’s first reason for refusal, the safety and amenity of highway users, Local Plan Policy LP24 requires that proposals should promote good design by ensuring high levels of sustainability, to a degree proportionate to the proposal through, amongst other things:

“design that promotes behavioural change, promoting walkable neighbourhoods and making walking and cycling more attractive”

7.11 Local Plan Policy LP20 also states that *“proposals for new development shall be designed to encourage sustainable modes of travel”* and that:

“Proposals will be required to facilitate the needs of the following user hierarchy:

a. pedestrians

b. cyclists

c. public transport

d. private vehicles”.

7.12 In that regard, and insofar as they relate to those matters arising from the Council’s first reason for refusal, Local Plan Policies LP20 and LP24 are consistent with Paragraph 115 of the NPPF as quoted above, and with Paragraph 117 of the NPPF which states that applications for development should, amongst other things:

“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas”.

- 7.13 Accordingly, I consider that Policies LP20 and LP24 are consistent with the NPPF and should be given full weight in the assessment of this appeal proposal.
- 7.14 Local Plan Policy LP4 states that *“new development should contribute to the provision of infrastructure, taking account of local and strategic needs and financial viability”*.
- 7.15 Local Plan Policies LP11, LP20, LP28, LP30, LP49 and LP63 identify the specific requirements for such infrastructure in association with proposals for new residential development, including affordable housing (LP11), travel plans (LP20), drainage infrastructure including management and maintenance arrangements (LP28), net biodiversity gains (LP30), new or enhanced education facilities (LP49) and new open space (LP63). The Affordable Housing and Housing Mix SPD (CD 6.20) and the Open Space SPD (CD 6.4) provide further supplementary guidance on the detailed requirements in those regards.
- 7.16 In identifying the need for necessary infrastructure to be provided in association with new development, and the specific requirements for the various types of infrastructure identified, those Local Plan Policies are consistent with Paragraph 35 of the NPPF, which states that:
- “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure).”*
- 7.17 They are also consistent with other sections and paragraphs of the NPPF which refer to the specific types of infrastructure required, including Paragraphs 64 and 65 (affordable housing), Paragraph 118 (travel plans), Paragraph 182 (drainage), Paragraph 187 (net gains for biodiversity) and Paragraph 103 (open space).
- 7.18 Therefore, it is considered that those policies set out above, and those listed in Reason for Refusal 2 with regard to the provision of infrastructure, are consistent with the NPPF and should be afforded full weight. In this case, those policies would be satisfied by an acceptable Section 106 agreement to secure the relevant infrastructure requirements.

7.19 The site is close to ancient woodland, which is identified as ‘irreplaceable habitat’ in the NPPF. As such, although effects on the ancient woodland did not form part of the Council’s reasons for the refusal of the application, Local Plan Policy LP30 is considered a ‘most important’ policy in this regard. It states, amongst other things, that:

“Proposals having a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland, Veteran Tree or other important tree, will not be permitted unless the benefits of the development can be clearly shown to outweigh the need to safeguard the local conservation value of the site or feature and there is no alternative means to deliver the proposal. In all cases, full compensatory measures would be required and secured in the long term.”

7.20 It is therefore considered consistent with the NPPF in that regard, which states, at Paragraph 193:

“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”.

7.21 Accordingly, I consider that full weight should be afforded to Policy LP30 insofar as it relates to the matter of the ancient woodland.

7.22 The other Local Plan policies listed above, relating to trees, landscape, ecology, protection of water quality, and addressing contaminated land issues, are also considered ‘most important’ policies based on the matters to which they relate, even though no specific conflict has been identified with those policies in the Council’s reasons for refusal. Nevertheless, they are generally consistent with the NPPF with regard to those matters and, accordingly, should be given full weight.

Identified harm

7.23 For the reasons set out in Mr Darwin’s evidence, in this case it is considered that the proposed development would result in unacceptable impacts on highway safety and on the amenity of active travel users. I consider that substantial weight

should be afforded to those unacceptable impacts on highway safety, and to the harm arising in those regards. The proposed development would therefore conflict with Policies LP21 and LP24 of the Local Plan. Full weight is to be given to those policies, as set out above, and I consider that substantial weight should be afforded to the identified conflict with them.

- 7.24 Subject to a satisfactory Section 106 agreement to secure relevant planning obligations, the Council's second reason for refusal would be addressed and there would be no harm arising with respect to those matters identified in Reason for Refusal 2.

Planning benefits

- 7.25 The proposed development would deliver 50 new homes, including 10 affordable homes (subject to a satisfactory Section 106 agreement), and would thus contribute towards meeting identified housing need, including in the context of the Council's inability to demonstrate a 5 year supply of deliverable housing land. Although not a residential development of substantial scale, the 50 dwellings proposed would make a notable and significant contribution to the supply of housing. Accordingly, I consider that the delivery of those 50 dwellings, and their contribution towards meeting identified housing need in the context of the current shortfall, carries significant weight as a benefit in the planning balance.
- 7.26 The proposed development would be required to provide a 10% biodiversity net gain, which would represent a benefit in the overall planning balance. However, given the scale of the development, the areas of biodiversity net gain arising from the development are likely to be relatively limited, and I therefore consider that this benefit carries only limited weight in the planning balance.
- 7.27 The proposed development would include some open space on site, and would contribute to the provision and/or enhancement of existing open space in the vicinity (subject to a satisfactory Section 106 agreement). Although this provision is required in order to mitigate the effects of the development and make it acceptable in planning terms, it would also provide some limited benefit for existing nearby residents. Nonetheless, given the scale of the proposed development, I consider this carries limited weight as a benefit in the planning balance.

- 7.28 The proposed development would create employment opportunities during the construction phase of the development. As a development of 50 dwellings, the length of the construction period in this case would be relatively limited. Consequently, I consider that the benefits in this regard would be relatively modest and thus carry limited weight.
- 7.29 The proposal would bring additional population into the area which could contribute to supporting local services within nearby villages. Given the scale of the development, I consider the benefits in this regard would be relatively modest and thus carry limited weight as a benefit.
- 7.30 A Travel Plan Monitoring Fee, and contribution towards sustainable transport, would also be required. However, even if such measures were secured via a satisfactory Section 106 agreement, these are mitigation for the development, not a benefit weighing in its favour.
- 7.31 For the reasons set out in Mr Darwin's evidence, it is considered that the works proposed to Stone Wood Lane would not be sufficient to mitigate the adverse impacts of the proposed development with regard to highway safety. Consequently, those works are not considered to be a benefit that would weigh in favour of the proposed development.
- 7.32 The appellant also refers to additional council tax payments and the New Homes Bonus. However, although the Planning Practice Guidance (PPG) advises that a local planning authority must have regard to a 'local finance consideration' (such as New Homes Bonus payments) as far as it is material, it states that whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. The PPG also clearly states that 'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority' (paragraph reference ID: 21b-011-20140612). Such sums are not necessary to make the development acceptable in planning terms, and the potential for such payments to raise money for the local authority is not a material consideration to which weight should be given as a benefit in support of the scheme. Accordingly, I consider that no weight should be given to this in the planning balance.

7.33 However, although I acknowledge the benefits of the proposed development as set out above, I nevertheless consider that the adverse impacts of the proposed development on highway safety and the amenity of active travel users, as described and explained in Mr Darwin's evidence, significantly and demonstrably outweigh the benefits, taken together, of the proposed development in this instance.

7.34 For the reasons given, I consider the adverse impacts on highway safety to be determinative in this case, and that the appeal should therefore be dismissed. However, for the avoidance of doubt, if the Inspector was to reach a different conclusion regarding the highway safety impacts and if the Inspector concluded that there would be no unacceptable impact on highway safety and amenity as a result of the proposed development (and if that adverse effect was thus considered not to apply), then in the absence of any other adverse impacts having been identified, the 'tilted balance' would be decisive in favour of the development and the appeal should be allowed.

8.0 CONCLUSION

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 In the absence of a Section 106 agreement, the appeal would not secure planning obligations. A draft Section 106 agreement has been submitted and is currently under discussion between the Council and the appellant. If a satisfactory Section 106 agreement is agreed, this would address the second reason for refusal. However, if not, this would remain a reason for the refusal of the application and thus a matter for discussion at the Inquiry.

8.3 For the reasons set out in Mr Darwin's evidence, it is considered that the proposed development would have an unacceptable impact on highway safety and on the amenity of active travel users, and would conflict with Local Plan Policies LP21 and LP24. For the reasons given, I consider that full weight should be given to those Local Plan policies and that substantial weight should be given to the identified adverse impacts on highway safety and the resultant conflict with those policies.

- 8.4 As the Council is unable to demonstrate a 5 year supply of deliverable housing land, and the HDT indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years, the presumption in favour of sustainable development or 'tilted balance' in paragraph 11(d) of the NPPF applies.
- 8.5 However, for the reasons given, having regard to the unacceptable impacts on highway safety and on the amenity of active travel users identified, I consider that the adverse impacts of the proposed development on highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF in this case.
- 8.6 Therefore, for the reasons given, it is respectfully requested that the appeal is dismissed.