

Formal Objection to Planning Application 2025/90919 – Land off Rowgate & Heator Lane, Upper Cumberworth

To: Kirklees Council Planning Department
Subject: Stage 1 PIP Application for 4 Dwellings – Objection on Grounds of Unsustainable Location, Green Belt Harm, and Poor Transport and Service Connectivity.

Dear Sir/Madam,

We are writing to object to the proposed Permission in Principle (PIP) application for residential development at Land off Rowgate and Heator Lane, Upper Cumberworth (Ref: 2025/90919). This objection is submitted on the grounds that the proposal represents an unsustainable location for development, would cause significant harm to the Green Belt, and fails to provide adequate transport and service connectivity, contrary to key policies within the **National Planning Policy Framework (NPPF, December 2024)**.

1. Unsustainable Location – Non-compliance with NPPF Paragraph 155(c)

The applicant's assertion that the site constitutes a "sustainable location" is not supported by the evidence.

The village of Upper Cumberworth offers only a very limited range of local facilities, consisting of a primary school, a Post Office, a church, and a pub. Lower Cumberworth similarly provides only a pub and a church. There are no local shops, GP surgeries, pharmacies, or other essential services within a practical walking distance. As such, residents would be heavily dependent on travel to larger settlements for basic daily needs.

Public transport options are also extremely limited. The nearest train station at Denby Dale lies approximately 1.6 miles from the site — **requiring a 38-minute walk** along sections of the A635 and A636, which have no safe cycle routes and experience high traffic volumes. Train services are hourly at best, which does not represent a frequent or convenient service for most travel needs. Bus services are similarly infrequent, and especially so during evenings and weekends, and a typical bus journey to Huddersfield town centre takes approximately 52 minutes. Moreover, the applicant's claim that the 'Star Inn' bus stop is 200 metres away is inaccurate; the correct walking distance to the Star Inn bus stop is approximately 480 metres.

There are no safe walking routes along Carr Lane or Birk House Lane, adjacent to Heator Lane. These country lanes are subject to the national speed limit (60mph), have no street lighting, and present significant risks to pedestrians and cyclists. Additionally, the nearby A629 junctions at the Sovereign and Carr Lane crossroads are recognised accident hotspots, with a number of serious and fatal accidents occurring in recent years.

Given these factors, the location is heavily reliant on the use of private vehicles. Current residents of Rowgate and Heator Lane are predominantly car owners, reflecting the area's unsuitability to rely on sustainable transport modes.

Paragraph 155(c) of the National Planning Policy Framework (2024) requires development to promote sustainable patterns of travel, minimising the need to travel and prioritising opportunities for walking, cycling, and public transport use. This proposal would do the opposite: it would embed car dependency, has roads with unsafe walking conditions, has inadequate public transport, and limited local services.

Accordingly, the proposal fails to comply with national policy on sustainable development and should be refused.

2. Incorrect Classification of Land as “Grey Belt” – NPPF Paragraph 143 and Annex 2

While the applicant refers to the site as “grey belt”, this label has no basis in national planning policy. The National Planning Policy Framework (NPPF) does not define or recognise a “grey belt” category.

Under Annex 2 of the NPPF, the western parcel does not meet the definition of previously developed land, as it has never been subject to lawful development or had any permanent structures. The site remains open, rural land and continues to contribute fully to the purposes of the Green Belt.

In particular, the western parcel fulfils the Green Belt purpose identified in paragraph 143(c) of the NPPF — namely, assisting in safeguarding the countryside from encroachment. The openness and rural character of the site are not diminished by its condition or appearance. Attempts to reclassify the land are misleading, unsupported by any policy framework, and would unjustifiably undermine the integrity and objectives of the Green Belt.

It is further noted that the applicant's references to previous “use” of the land are misleading. Any such use was unlawful, as evidenced by the Council's enforcement action and the conviction of the landowner for unlawful use in 2022 (see sections 4.3 and 4.4). Unlawful activity does not constitute lawful development for the purposes of planning policy or alter the site's Green Belt status. Accordingly, the land must continue to be assessed as open countryside, fulfilling the Green Belt purpose of safeguarding against encroachment under paragraph 143(c) of the NPPF.

Furthermore, the proposal cannot be considered “limited infilling” under paragraph 154(e) of the NPPF. The western parcel is not contained by existing substantial built development on all sides, nor is it located within a defined village boundary. It represents open countryside forming part of the wider Green Belt. The development would therefore not constitute infilling, but unjustified encroachment into rural land, directly conflicting with Green Belt policy.

Accordingly, the proposal fails to comply with national planning guidance on Green Belt protection and should be refused. Please see section 4.3 for further analysis of the western and eastern parcels of the site.

3. Harm to Openness and Character of the Green Belt

Even if the site were accepted as “grey belt” - a label not recognised in national planning policy - the proposed development would cause significant harm to the openness, character, and rural quality of the Green Belt.

The erection of multiple dwellings on this modest parcel of approximately **0.42 hectares** would result in:

- A permanent loss of openness, through the introduction of substantial built form where none currently exists;
- Visual harm when viewed from Heator Lane, Rowgate, Carr Lane, Birk House Lane, Barnsley Road (across the Lower Jane Well Local Wildlife Site), and multiple surrounding public rights of way, given the site's prominent and elevated position.

The site area is confirmed in the 2021 Environmental Desk Study submitted with application 2021/92850, where the land was described as 0.41 hectares. The current application (2025/90919) inconsistently inflates the site area to 0.5 hectares without justification.

The site retains strong visual openness. There are swathes of open fields to all, but one side and any houses built here would be prominently visible from every angle, including key public viewpoints and when looking down across from the conservation area of Upper Cumberworth. The neighbouring modest bungalow, the only adjacent building, is nestled and barely visible from these routes, demonstrating the site's existing rural character. Apart from this isolated property, there are no other houses immediately next to, behind, or opposite the site. It is contiguous with open countryside, reinforcing its role in maintaining the openness of the Green Belt.

Furthermore, the pattern of development along Heator Lane supports only sporadic, low-density dwellings, typically cottages. Allowing four dwellings on this site would represent an urbanising intensification wholly out of character with the established settlement pattern. Planning permission for a single dwelling (approved under application 2023/90282) on the adjoining eastern parcel was carefully limited in scale and footprint to align with local character (following the refusal to allow the applicant's 2021 PIP for two dwellings). That approval does not justify or diminish the harm that would arise from developing the western parcel.

Importantly, the western parcel:

- Has never been lawfully developed;
 - Is not classified as previously developed land under Annex 2 of the NPPF;
- and

- Does not appear on the Kirklees Brownfield Register.

As such, it continues to fulfil the fundamental Green Belt purposes, including safeguarding the countryside from encroachment.

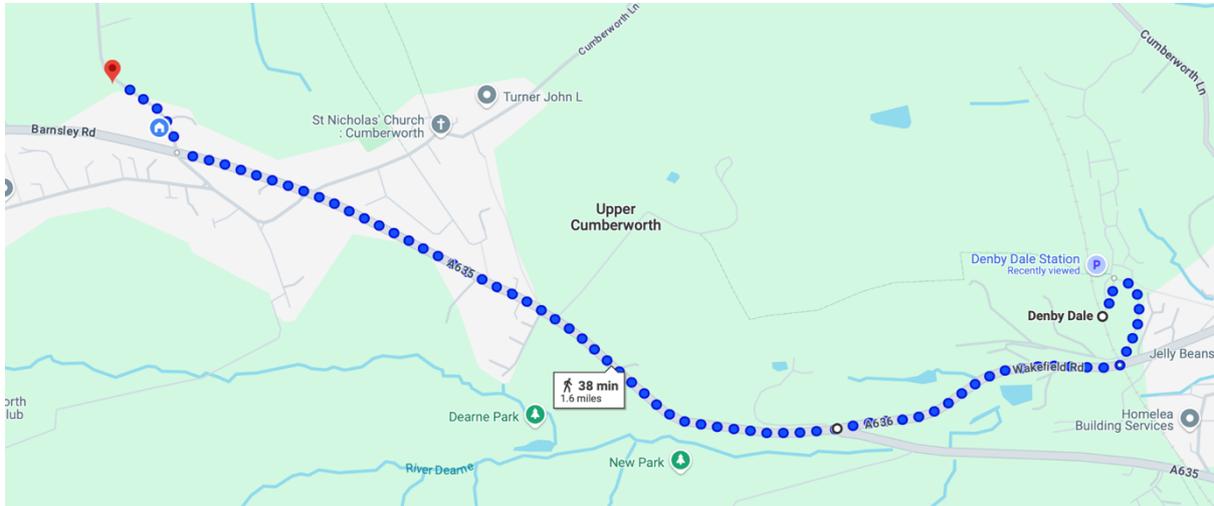
Paragraph 155 of the National Planning Policy Framework (2024) makes clear that substantial weight must be given to any harm to the Green Belt. Even small-scale developments can cumulatively erode the countryside and undermine Green Belt purposes. Here, the site's small size amplifies the impact of even modest development proposals. The scale, massing, and urbanisation effects arising from the proposal would be fundamentally at odds with the essential characteristics of the Green Belt - its openness and permanence - in clear conflict with NPPF 2024 Paragraphs 152, 155, and 157.

For these reasons, the proposed development would cause serious and lasting harm to the openness and character of the Green Belt and should be refused.

4. Supporting Evidence and Historical Context

4.1 Walking Route to Denby Dale Station

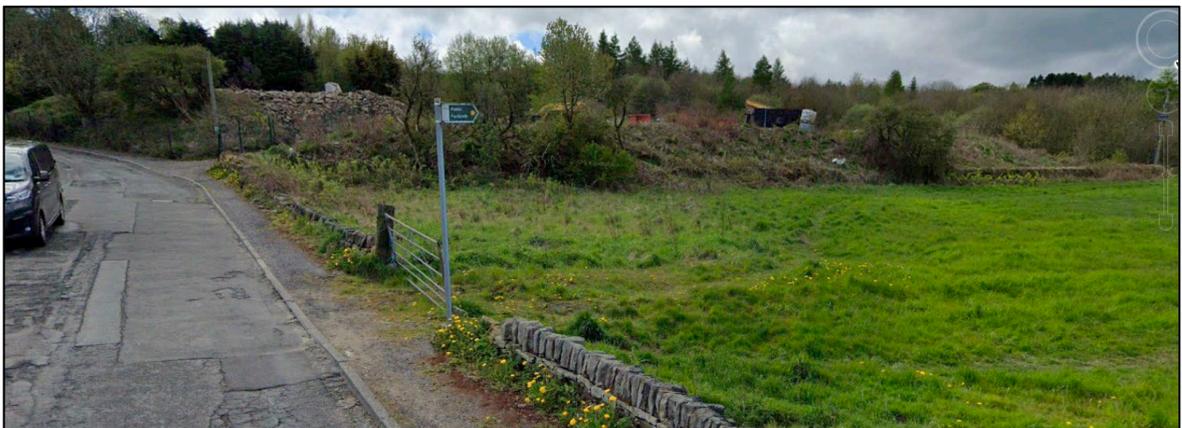
Please see the attached annotated map



which shows the walking route from the application site to Denby Dale Station. It highlights the 1.6-mile distance / 38 mins walk

4.2 Photo misrepresenting the view of the site from Heator Lane

The applicant's submission at paragraph 2.7 is misleading; the photograph they use is not a current or accurate representation. The site has been free from the previously unauthorised land use with associated stone piles for over three years, following enforcement action and the landowner's conviction for unlawful use in 2022.



Above is a screenshot taken from the planning application, inserted as a 'recent photograph taken from Heator Lane'

The photo below taken on 22 April 2025, shows what the site actually looks like from Heator Lane. (note the new road, which was re-tarmacked about a year ago)



Also to note the additional photographs supplied by Emery Planning are not a true representation of the site as it looks today. The photos Emery has submitted as part of the PIP were taken during the period of recent unlawful use (2019-2022) where both the eastern and western part of the land were despoiled, with unlawful processing of stone activities and illegal storage activities as described in sections 4.3 and 4.4 below.

4.3 Different Planning Status of eastern and western Parcels

The application site is split into two distinct parts: **the eastern and western parcels**. These two parcels are subject to very different planning controls and histories, which must be properly distinguished.

Eastern Parcel

The eastern parcel, which fronts onto the road, historically benefitted from limited lawful use for the storage of building materials, as confirmed by a 1992 Certificate of Established Use and upheld in subsequent court proceedings (Abacus Stone Sales Ltd v Kirklees Council, District Judge Capstick, October 2022).

The lawful use permitted:

- Storage of stone, bricks, timber, shuttering, topsoil, hardcore, and similar materials (with a maximum storage height of 3 metres);
- Storage of a limited number of vehicles (three) and site cabins (three).

However, the courts also found that unlawful processing activities — such as mechanical crushing, chipping, fettling, and excavator sorting — had occurred, constituting a breach of planning controls. This unlawful processing activity led to successful enforcement action and convictions.

In 2023, planning permission (application 2023/90282) was granted for a single dwelling on the eastern parcel, replacing the previous lawful storage use. That permission does not extend to or authorise any development on the western parcel.

Western Parcel

By contrast, the western parcel has no lawful use. It has never benefitted from a certificate of lawful use and has historically been the subject of enforcement action requiring complete cessation of storage activities (Enforcement Notice EN0293).

Importantly:

- A guilty plea was entered in relation to illegal storage activities on the western parcel (District Judge Capstick, 2022 judgement).
- In the 2023 application (2023/90282), Emery Planning, on behalf of the applicant, explicitly acknowledged that:
 - The western parcel does not benefit from lawful storage rights;
 - The enforcement notice against the western parcel remains in effect;
 - The western parcel would not form part of the residential curtilage of the new house on the eastern parcel;
 - A landscaping scheme was proposed for the western parcel specifically because it could not lawfully be developed.

4.3.1 Historic Land Use Evidence

Further evidence from the 2021 Environmental Desk Study (Rogers Geotechnical Services – previously submitted by the applicant as part of planning application 2021/92850) confirms that the site’s historical development patterns are materially different between the two parcels of land:

Presence of Mill

- Emery Planning Statement 2025 (EPS 2025): States that a “mill complex” existed across the site (EPS 2025, Section 2.2).
- Environmental Desk Study 2021 (EDS 2021): 1854 mapping shows “Green House Mill (Woollen)” located on the eastern part of the site only (EDS 2021, Table 1, p.3).
- **Comment:** Emery overstates — the mill was confined to the eastern parcel near Heator Lane.

Presence of Reservoir

- Emery Planning Statement 2025 (EPS 2025): States a “reservoir” existed, suggesting it covered the whole site (EPS 2025, Section 2.2).
- Environmental Desk Study 2021 (EDS 2021): 1891–1893 maps show reservoirs located on both parcels, with the larger reservoir on the western parcel (EDS 2021, Table 1, p.3).
- **Comment:** Correct that a reservoir existed, but critical distinction is that Western parcel had no mill buildings.

Removal of Structures

- Emery Planning Statement 2025 (EPS 2025): No mention of the removal of the mill or reservoir (EPS 2025, silent on this point).
- Environmental Desk Study 2021 (EDS 2021): 1922 mapping shows mill and reservoir removed, returning the site to open fields (EDS 2021, Table 1, p.3).
- **Comment:** Major omission — land reverted to countryside well before the NPPF baseline date.

Western Parcel Use

- Emery Planning Statement 2025 (EPS 2025): Implies continuous historic industrial use across the whole site (EPS 2025, Section 2.2).
- Environmental Desk Study 2021 (EDS 2021): Western parcel only hosted a reservoir — no industrial structures; enforcement notice later served (EDS 2021, p.3).
- **Comment:** Misleading — the western parcel is not previously developed land under the NPPF Annex 2 definition.

Eastern Parcel Use

- Emery Planning Statement 2025 (EPS 2025): Acknowledges lawful storage of stone, bricks, and plant on the eastern parcel (EPS 2025, Section 2.3–2.4).
- Environmental Desk Study 2021 (EDS 2021): Confirmed lawful storage granted via 1992 Certificate, with subsequent breaches enforced (EDS 2021, p.3).
- **Comment:** Correct for the eastern parcel — but no extension of lawful use to the Western parcel.

Rebuttal to Misleading Site Description

The applicant's Planning Statement (2025) inaccurately describes the site's historic use. While a mill complex existed historically, it was located solely on the eastern parcel adjacent to Heator Lane. The western parcel contained only a reservoir, which was removed along with the mill buildings by 1922. The western parcel has never hosted permanent built structures and does not qualify as previously developed land under Annex 2 of the NPPF. Attempts to imply a continuous industrial use across the whole site are factually incorrect and should carry no weight in the planning balance.

In summary

Given this clear history:

- The eastern parcel, following the 2023 permission, may be regarded as “grey belt” in the context of limited previous lawful use and appropriate redevelopment.
- The western parcel, however, has no such lawful fallback. It remains open Green Belt land, never subject to lawful development, and is not previously developed land under Annex 2 of the NPPF.

Any attempt to characterise the western parcel as “grey belt” is wholly inaccurate, and ignores the clear findings of the courts, enforcement history, and technical environmental evidence. The western parcel must be assessed as open countryside within the Green Belt and subject to the highest level of protection against development.

4.4 Planning Enforcement and Legal History

This land has been the subject of long-term planning control: In 2022, the applicant was convicted under Section 179 of the Town and Country Planning Act for breaching an enforcement notice on this land. In the same year, an appeal against a noise abatement notice was dismissed after the site was found to constitute a statutory nuisance. These events confirm that the recent degradation of the site was due to unlawful industrial and commercial use, **not long-standing lawful activity**.

4.5 Failure to Implement Existing Planning Permission

The applicant received approval in 2023 (application 2023/90282) for a single dwelling on the eastern parcel of the site (nearest the road). That permission has not been implemented. Instead, the applicant now proposes to increase the scale to four dwellings and extend development to the western parcel, which has no lawful development use and is in the Green Belt. This speculative approach undermines the principle of careful, policy-led planning.

4.6 Ecological Importance and Adjacency to Local Wildlife Site

The site borders Lower Jane Well, a Local Wildlife Site (LWS) designated for priority MG5 (species-rich neutral grassland) and U4 (acid grassland). It lies within the Kirklees Bat Alert Zone and serves as an important wildlife corridor across the Green Belt. Since enforcement action was taken, the land has naturally begun to rewild. We have regularly observed the presence of roe deer, bats, birds of prey including owls and buzzards, and foxes, with wildlife activity visible on a daily basis.

Claims that the site is of 'low ecological value' are based on its previously unlawfully degraded state and do not reflect its current function as a habitat buffer and contributor to local biodiversity. If these new homes were to be approved and occupied, the resulting noise, light pollution, human activity, and associated vehicle traffic would severely disrupt and fragment these important wildlife habitats.

Whilst the eastern parcel has already received permission for a single dwelling, the western part has no lawful development use. The western parcel is immediately adjacent to the Local Wildlife Site and forms a critical access and movement corridor for wildlife across this part of the Green Belt.

Conclusion

This application fails to meet the key tests required under paragraph 155 of the National Planning Policy Framework (2024) for development in the Green Belt:

- It does not involve the redevelopment of previously developed (brownfield) land (contrary to paragraph 155(a));
- It is not located in a sustainable location with access to services and sustainable transport modes (contrary to paragraph 155(c)); and
- It would materially harm both the spatial and visual openness of the Green Belt, as well as detract from local landscape character and biodiversity value.

The proposal constitutes inappropriate development in the Green Belt. No “very special circumstances” have been demonstrated that would clearly outweigh the significant harm to the Green Belt and other identified harms, as required by paragraph 156 of the NPPF.

In line with both national and local policy, the application should be refused. In particular, the western parcel remains undeveloped open countryside, with no lawful fallback position, and must be afforded full Green Belt protection in accordance with national policy.

We respectfully request that Kirklees Council **refuse this application.**

Yours faithfully,

Reference Documents

1. **National Planning Policy Framework (NPPF) – December 2024 Version**
 - Referenced throughout the objection, particularly Paragraphs 143, 152, 154, 155, 156, and 157.
 - Available at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
2. **Application 2025/90919 – Permission in Principle for 4 Dwellings**
 - Subject of the current objection.
3. **Application 2023/90282 – Full Planning Permission for Single Dwelling on Eastern Parcel**
 - Prior application referenced for context.
 - Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023/90282>
4. **Environmental Desk Study by Rogers Geotechnical Services (June 2021)**
 - Provides historical land use information.
 - Available under Application 2021/92850 on the Kirklees Planning Portal.
5. **Location Plan submitted with Application 2023/90282**
 - Illustrates site boundaries and parcel distinctions.
 - Available under Application 2023/90282 on the Kirklees Planning Portal.
6. **Planning Statement submitted with Application 2025/90919 (Emery Planning, 2025)**
 - Reviewed and critically assessed for site history claims.
 - Available under Application 2025/90919 on the Kirklees Planning Portal.
7. **Covering Letter submitted with Application 2023/90282 (Emery Planning)**
 - Supporting document referenced for earlier application context.
 - Available under Application 2023/90282 on the Kirklees Planning Portal.
8. **1992 Certificate of Established Use (Appeal Decision)**
 - Confirms lawful use of the Eastern parcel only for storage purposes.
 - Available via Kirklees Council Planning Enforcement records.
9. **Enforcement Notice EN0293 (Western Parcel)**
 - Requires cessation of unlawful storage use on the Western parcel.
 - Available via Kirklees Council Planning Enforcement records.
10. **District Judge Capstick’s Judgment (October 2022)**
 - Confirms conviction for breach of enforcement notice relating to the western parcel.
11. **Noise Abatement Notice Appeal Decision (2022)**
 - Confirms that the site was found to constitute a statutory nuisance.
 - Available via Kirklees Council Environmental Health and Legal records.

Note:

All documents were accessed via the Kirklees Council Planning Portal (<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications.aspx>) or the UK Government Planning Policy Library, as of April 27, 2025.