

Response to Applicant's Comments on Objection – Planning Application 2025/90919

To: Kirklees Council Planning Department
FAO: Ms N Sayers, Development Management

Date: May 16, 2025

Subject: Response to Applicant's Comments on Objection – Planning Application 2025/90919, Land off Rowgate & Heator Lane, Upper Cumberworth

Dear Ms Sayers,

We write in response to the applicant's submission dated 8 May 2025 by Emery Planning, which seeks to rebut our formal objection to the above application. We have carefully reviewed their letter and offer the following response, which is intended to be balanced and fair, while ensuring that key matters of planning policy, local context, and factual accuracy are fully represented. This response should be considered alongside our original objection.

1. Sustainability under NPPF Paragraph 155(c)

While we note the applicant's reliance on national policy acknowledging different thresholds for sustainability in rural areas, this does not diminish the need to properly assess site-specific circumstances.

In this case, the site is located at the fringe of Upper Cumberworth, and, aside from a small number of local facilities (pub, church, primary school to Year 5 only), residents would be entirely reliant on private vehicles for all essential services, including shopping, healthcare, and employment. This is not a thriving or self-sustaining village community, as suggested by the applicant, but a small settlement with limited day-to-day facilities and in-frequent bus and train services.

The applicant's comparison to the Surrey appeals is not directly comparable to this site, which is not within the village core, but physically and functionally at the edge, with development extending into currently open countryside.

While the council previously approved a single dwelling on the eastern parcel (2023/90282/E), this cannot be interpreted as a precedent to extend development into the western parcel, which is a distinctly different site context, scale, and relationship to the village.

2. Western Parcel, Green Belt Function, and Site Classification

While national policy now provides a formal 'grey belt' definition, we maintain that the western parcel must be assessed as a separate planning unit that performs an important Green Belt purpose under Paragraph 143(c) — specifically, safeguarding the countryside from encroachment.

The western parcel has never been lawfully developed. It has been subject to enforcement requiring the cessation of unlawful storage uses, and there is no lawful fallback position. The applicant's attempt to characterise the site as a historic single planning unit is not credible, given the clear planning and enforcement distinction between the two parcels. The land reverted to open countryside following the removal of the reservoir and mill structures by 1922, and it has remained such since that time.

Accordingly, the western parcel must be considered as open countryside within the Green Belt, irrespective of the applicant's attempts to conflate the eastern and western parcels into a single planning unit.

3. Harm to Openness and Green Belt Character

We note the applicant's assertion that harm to openness is not a separate consideration where proposals are compliant with paragraph 155. However, we maintain that the proposal does not fully meet paragraph 155(a) or (c), and therefore the development remains inappropriate in Green Belt terms.

Furthermore, the site is elevated, visually prominent from multiple public vantage points, including surrounding rights of way, and forms part of a wider open countryside setting. Even a modest development would have a disproportionate and lasting impact on the openness, rural character, and landscape setting of this part of the Green Belt.

These factors further support the conclusion that the proposal would cause substantial harm to the Green Belt's essential characteristics of openness and permanence, as well as to local landscape character.

4. Misrepresentation of Local Planning History

We note the applicant's references to several planning approvals, and we must correct the record:

- **2024/62/93130/E** (1 dwelling) and **2023/62/93185/E** (2 dwellings) relate to developments within existing residential curtilages, outside the Green Belt, and are not comparable to the application site.
- **2018/62/92165/E** (4 dwellings) was refused, contrary to the applicant's presentation.

- The only relevant permission is the applicant's own **2023/90282/E**, which relates solely to the eastern parcel and has not yet been implemented. This limited approval does not establish a precedent for extending development westwards onto undeveloped Green Belt land, which remains subject to the highest level of policy protection.

This planning history supports small, carefully controlled infill developments within the established village envelope and does not establish any precedent for speculative intensification into the Green Belt.

5. Ecology and Site Context

Whilst we accept the applicant's point that detailed ecological matters will formally be addressed at Stage 2 Technical Details Consent. However, the site's proximity to the Lower Jane Well Local Wildlife Site, its role as an ecological corridor, and the observed rewilding since enforcement action provide important site context. These factors support a precautionary approach at this stage, particularly given the potential for significant disruption to sensitive habitats if the site were developed.

Conclusion

In summary, while we acknowledge where the applicant's interpretation of national policy is technically correct, their response downplays key site-specific constraints, misrepresents local planning history, and overlooks the site's sensitive Green Belt setting.

We maintain that the proposal:

- Fails to comply with NPPF paragraph 155(c) due to its unsustainable location.
- Inappropriately seeks to extend development onto the western parcel, which performs an important Green Belt purpose under paragraph 143(c) and has no lawful fallback position.
- Would result in significant and lasting harm to the openness, character, and rural setting of the Green Belt.
- Relies on misleading comparisons to local planning history, which do not support the applicant's case.

We respectfully request that the council gives these matters full and proper consideration and refuses the application accordingly.