

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 59A

DELEGATED DECISION FOR APPLICATION FOR PERMISSION IN PRINCIPLE

Reference no.: 2025/59/90919/E

Site: Land off, Heator Lane & Rowgate, Upper
Cumberworth, Huddersfield, HD8 8XJ

Description: Application for permission in principle for erection of
up to 4 dwellings

Case Office: Nina Sayers

Decision Reference: Planning Permission in Principle - Approved

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kirsty Nicholls

AUTHORISED OFFICER

Date 08-Jul-2025

Officer Report

Application: 2025/90919 Land off, Heator Lane & Rowgate, Upper Cumberworth, Huddersfield, HD8 8XJ

Proposal: Permission in principle for erection of up to 4 dwellings

Site Description

The application site is a rectangular site measuring 0.42ha which is located to the west of Rowgate/Heator Lane in Upper Cumberworth. To the north and east of the site are open fields with an area of woodland to the west. To the northeast is a linear residential development along Heator Lane. To the southeast is a detached dwelling which shares a boundary with the site. The site is currently used for the storage of building materials and is accessed via two access points from Rowgate/Heator Lane to the East.

The site is within the Green Belt. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity to the site.

Description of Proposal

The application is seeking permission in principle for the erection of up to 4 dwellings. As this application relates to permission in principle, the information provided is limited to a location plan and planning statement.

History of Negotiations

An additional document was provided by the agent in response to an objection received as well as an email detailing a recent appeal case. Both these have been taken into consideration, alongside all other submitted information, during the assessment of the application.

Consultation Responses

KC Ecology – Comments received during the course of the application discussed in part 1 of assessment section of this report.

Public / Local Representations

The application was advertised by a site notice and on the web. Final publicity expired on 31st May 2025. 3 representations were received in total, all in objection to the proposal. It is noted that one representation is a direct response to the rebuttal document provided by the agent, another was received by Denby Dale Parish Council.

The representations raised the following comments:

- Over-development of the plot
- Traffic issues (narrowest point in the village)
- Dangerous access onto the main road
- Proximity to the bus stop and safety issues for children crossing to reach Skelmanthorpe Academy
- Development is not in a sustainable location
 - Village of Upper Cumberworth has very limited local facilities with no shops, GP surgeries or pharmacies
 - Nearest train station is 1.6miles away on long sections of A-road with limited service
 - Infrequent bus services and takes 52mins to Huddersfield Town Centre
 - 'Star Inn' is further away than the applicant describes – 480m
 - No safe walking routes or street lighting along Carr Lane or Birk House Lane
 - Frequent accidents at the Sovereign crossroads
 - Development is heavily reliant on car use
 - Fails to comply with p.155(c) of the NPPF.
- Land is not 'grey belt' and would not be appropriate development in the Green Belt.
 - The NPPF does not define 'grey belt'
 - The western parcel of land does not meet the definition of previously developed land (as defined in NPPF) as it has never been subject to lawful development or any permanent structures
 - 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 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
 - 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.
- Harm to openness and character of the Green Belt
 - 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.
 - Site is adjacent to open fields so visible from all angles. The adjacent bungalow which is sunk into the landscape so it not prominent
 - 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
 - Refusal to allow the applicant's 2021 PIP for two dwellings
 - 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.
- Photograph of the site is misleading, much more landscaping and planting along the boundary since
 - Different planning status for eastern and western parcels of the site
 - The eastern parcel, which fronts onto the road, historically benefitted from limited lawful use for the storage of building materials
 - 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.
 - 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
 - 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.
 - Query historic land use
 - The submitted information claims there was a mill complex across the site however this was confined to the eastern parcel
 - The submitted information claims a reservoir existed covering the whole site however the western parcel had no mill buildings
 - The mills and reservoir were removed in 1922 returning the site to open fields
 - The submitted information implies continuous historic industrial use across the whole site however the western parcel only hosted a reservoir, no industrial structures
 - The eastern parcel may be considered 'grey belt' however the western parcel cannot
 - Enforcement action
 - 2022 breach of enforcement notice then 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.

- 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.
- Ecological importance
 - 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.
 - 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.

A further representation was received in response to the rebuttal statement provided by the agent. The following comments were made:

- The location 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 infrequent 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.
- Acknowledge definition of 'grey belt' but believe the separate planning unit performs an important Green Belt purpose under Paragraph 143(c) — specifically, safeguarding the countryside from encroachment
- They note applicant's reference to several planning approvals however:
 - 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 application, 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.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is located within the Green Belt as demonstrated within the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP24 – Design
- LP59 – Brownfield sites in the Green Belt

Supplementary Planning Documents (SPD):

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Housebuilders Design Guide
- Biodiversity Net Gain Technical Advice Note

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 12th December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes

- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land

Assessment

1. Permission in Principle Purpose

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. The technical details stage has the effect of granting planning permission.

The scope of Permission in Principle is limited to the following;

- Location
- Land Use
- Amount of Development

Issues relevant to these 'in principle' matters should be considered at the Permission in Principle Stage. Other matters should be considered at the technical consent stage (Local Authorities cannot list the information they require for applications for Permission in Principle in the same way they can for planning permission).

It is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type of development and the amount of development. The LPA can inform the applicants what they expect to see at the technical details stage.

It is not possible to secure a planning obligation at the permission in principle stage.

The LPA may not grant permission in principle for a major development. This means where the number of houses is 10 or more, the floor space created is 1,000sqm or more or the development is carried out on a site having an area of 1 hectare or more. In this case the development is for 5 units and the site has an area of less than 1 hectare. The resultant floor-space to be created is unknown at this stage but would need to be assessed at the Technical Details Stage.

The LPA may not grant Permission in Principle for Schedule 1 development. This proposal would not be Schedule 1 development.

Local Planning Authorities must not grant permission in principle for development which is likely to affect a Habitats Site (as defined within the NPPF). The Councils Ecologist has confirmed the site is surrounded by SSSIs, Special Protection Areas and Special

Areas of Conservation, however they are not in close vicinity and so impacts would be unlikely so there are unlikely to be any issues with sites designated under the Habitat Regulations. They do however recommend submission of a PEA and BNG which can be provided at the technical details stage.

2. Housing Land Supply

It is appropriate to consider the Local Planning Authority's overall housing position. The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment.

It is noted that this site is within the Green Belt. Irrespective of the Council's position on the five-year supply of deliverable housing sites, the National Planning Policy Framework at paragraph 11 is clear that in the event a Council cannot demonstrate a five-year supply of deliverable housing sites, the council should grant permission "unless the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed". Footnote 7 at paragraph 11di) states that the protected areas include land designated as Green Belt. Although the council are not able to demonstrate a five-year supply of housing, the tilted balance would not be engaged for this proposal.

Therefore, the principle of developing in the Green Belt must be assessed in order to determine whether the principle of development is acceptable. The proposal will also be assessed against all other material considerations.

3. Location and Land Use – Green Belt

The application site is within the Green Belt as allocated on the Kirklees Local Plan. Chapter 13 of the NPPF requires Local Planning Authorities to regard the construction of new buildings in the Green Belt as inappropriate development. Within the submitted planning statement, the applicant has outlined that they consider the development of four dwellings on this site would fall under paragraph 155 of the NPPF which states:

The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
- a) There is a demonstrable unmet need for the type of development proposed;*
- b) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and*
- c) Where applicable the development proposed meets the ‘Golden Rules’ requirements set out in paragraphs 156-157 below*

The NPPF glossary (Annex 2) defines grey belt as: *“For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”*

Regarding paragraph 155(a), the NPPF outlines the 5 purposes of including land within the Green Belt in paragraph 143:

- a) to check the unrestricted sprawl of large built-up areas;*
- a) to prevent neighbouring towns merging into one another;*
- b) to assist in safeguarding the countryside from encroachment;*
- c) to preserve the setting and special character of historic towns; and*
- d) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

The application site is located on the edge of Upper Cumberworth, a small village. NPPG is clear that purpose a) *“relates to the sprawl of large built up areas. Villages should not be considered large built up areas.”* The NPPG goes on to state that purpose b) *“relates to the merging of towns, not villages”*. Similarly, the NPPG also states that purpose d) *“relates to historic towns, not villages”*.

It is noted that a detailed representation has been submitted which highlights the difference between the eastern and western parcel of land, arguing that the western parcel is not previously developed land and therefore should not be considered grey belt. Officers agree that the eastern parcel of land could be considered previously

developed land, whereas the western parcel cannot. This is clearly outlined by the Inspector in the appeal decision for application 2021/92850. Regardless of this, for the reasons outlined above, officers are in agreement with the applicant that this application would not conflict with purposes a, b or d of paragraph 143 and therefore would be considered grey belt land.

To comply with 155(a) of the NPPF, the development must not fundamentally undermine the purposes (taken together) outlined in paragraph 143 and therefore the development must also be assessed against 143(c) and (e). The submitted planning statement outlines *“In terms of the purpose at (c) of paragraph 143 of the Framework, the site is highly contained physically, visually and functionally:*

- *There is woodland to the western boundary, which covers an extensive area southwards to Barnsley Road, and separates our client’s site from the wider countryside and would contain our client’s scheme.*
- *The fields to the north of our client’s site are at a notably lower level, and there are existing boundary features along this boundary, that create a sense of our client’s site being separate to the wider countryside beyond.*
- *There is housing and the built-up envelope of Upper Cumberworth beyond Barnsley Road to the southern boundary.*
- *The site is contained by Rowgate to the eastern boundary.*
- *The site is partly previously developed and can lawfully be used as a storage or builders yard. [...].*
- *There is already an extant planning permission for the erection of a dwelling on the eastern half of the site as noted further below, and circa. 50% of the application site will be used for residential purposes regardless of the outcome of this PIP application”*

Given the eastern part of the site currently has permission for the storage of specified building materials to a height not exceeding 3m and the storage of plant not exceeding 3 vehicles and 3 offices or site cabins at any one time (90/02343 and 92/05208), and as there is an extant permission for one dwelling on the eastern part of the site (2023/90292), residential development on the eastern part of the site is considered acceptable.

The western part of the site, whilst not included in the initial application boundaries, forms part of the larger section of land which is bounded by trees and shrubbery and a change in land level. When considering the site within its wider context, there is a clear separation between the application site and the land to the south which serves large open fields, characteristic of the green belt, and similarly the land to the east which is separated from the site by the highway. There is, however, no clear boundary between the eastern and western parcel of the site. It is considered on balance that the introduction of residential development to the western part of the site would not result in significant encroachment into the green belt over and above the existing permission on the application site and would therefore not conflict with the purposes of including land within it. It must however be noted that any further development into the land to the north of the site would be assessed differently given the contrast in the landscape.

The application is not within an urban area so 143(e) is not relevant in this instance.

Taking the above into consideration, the development is considered to comply with paragraph 155(a) of the NPPF.

This application is for residential development and as explained in footnote 56 of the NPPF, the lack of a five-year supply of deliverable housing sites is considered a demonstrable unmet need for housing. As detailed in section 2 of this report, the Council's inability to demonstrate a five-year supply of housing land means this development complies with paragraph 155(b).

Regarding paragraph 155(c), the submitted planning statement outlines:

“The site is highly accessible in terms of public transport options and services and has recently benefitted from consent for residential development on part of the site and therefore would have to have been considered sustainable for the purposes of that application. It is in an established village and within easy and convenient walking distance of the following:

- *Cumberworth Church of England First School.*
- *The Star Inn Public House.*
- *Upper Cumberworth playground.*
- *St Nicholas Church.*
- *Post office.*
- *Playing fields at Cumberworth Football Club.*
- *There is a bus stop at the Star Inn Public House, which is just 200m away, and offers regular services such as the X1 Holmfirth-Denby Dale-Wakefield service with key destinations such as Holmfirth Bus Station (25mins) and Wakefield Bus Station (50mins). Circa. 2km Denby Dale Train Station, which is on the Penistone Line and provides regular services to key destinations such as Huddersfield and Sheffield.*
- *There are also a range of services in the surrounding villages such e.g. Shepley, Lower Cumberworth, Denby Dale and Birdsedge.”*

In support of their statement the agent also emailed details of appeal decision APP/R0660/W/24/3354674 for the erection of two dwellings with associated works at Broadheath Farm, Over Alderley, Macclesfield, Cheshire, SK10 4SN.

When assessing the sustainability of the development, the inspector gives weight to the proximity to larger settlements, outlining *“Any journeys by car to these services and facilities would be brief and given the scale of development, limited”* and further to this *“Even without convenient walking options or nearby bus stops, given the proximity to services and facilities, the appeal site is therefore reasonably well connected for a rural location”*.

As outlined by the applicant, the application site is walkable distance from Upper Cumberworth village store and post office and the Star Inn public house (<500m/8 min walk) and Upper Cumberworth Primary School (<650m/9 min walk). The local centre of Shepley is ~1.7km walk and is accessible almost entirely on public footpaths. There is a bus stop ~220m from the application site with hourly buses to Denby Dale Town Centre, Shepley and further onto Holmfirth and Wakefield.

It is acknowledged that representation raised concerns regarding the sustainability of the application site as outlined in detail in the representations section of this report. It is however considered that due to the proximity to essential services and a bus stop which connects the development to the nearby local and town centres, on balance the proposal is in a sustainable location, in close proximity to existing dwellings and as such is considered to comply with 155(c) of the NPPF.

Paragraph 155(d) relates to major planning applications therefore not applicable to this application.

Taking all of the above into careful consideration, it is considered on balance that the proposed development would comply with paragraph 155 of the NPPF and would therefore not be regarded as inappropriate development in the green belt and as such the principle of residential development, in its broadest form, on this site is acceptable.

4. Amount of Development

The proposed development is seeking permission in principle for up to 4 dwellings. Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate 14 to 15 dwellings. Four dwellings are proposed in this instance, which is considered appropriate given the density of development would not be dissimilar to the existing dwellings on Rowgate and landscaping would be required to minimise the visual impact of the proposal. 15 dwellings on this site would likely result in a cramped form of development which would not be in keeping with the existing surrounding development in the area. For this reason, the quantum and density of development proposed, is considered to accord with Local Plan policy LP7 and Chapter 11 of the NPPF.

It is noted that representation has raised concerns that four dwellings on this site would result in overdevelopment. Four dwelling on the application site would have a density of 9.5 dwellings per hectare which is significantly lower than desired by LP7. It is therefore considered four dwellings on this site would not result in overdevelopment if they are appropriately designed, which will be assessed at Technical Details Stage.

5. Other Matters

Contaminated Land

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site. Similarly, the site is located within a Coal Development High Risk Coal area. This matter would be dealt with at the Technical Details Stage.

Biodiversity

Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

The applicant is required to provide details of BNG at the Technical Details Stage.

All other matters would be dealt with at the Technical Details stage.

6. Representations

3 representations were received in total, all in objection to the proposal. It is noted that one representation is a direct response to the rebuttal document provided by the agent, another was received by Denby Dale Parish Council. The representations raised the following comments which have been grouped into themes and officers have responded:

Quantum of Development

- Over-development of the plot

Officer response: As outlined in the section 4 of this report, the development would be a lower density than the councils desired housing density in line with LP7 of the Kirklees Local Plan.

Land Use

- Land is not 'grey belt' and would not be appropriate development in the Green Belt.
 - NPPF does not define 'grey belt'
 - The western parcel of land does not meet the definition of previously developed land (as defined in NPPF) as it has never been subject to lawful development or any permanent structures
 - 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 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

- 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.
- Acknowledge definition of ‘grey belt’ but believe the separate planning unit performs an important Green Belt purpose under Paragraph 143(c) — specifically, safeguarding the countryside from encroachment

Officer response: As outlined in section 3 of this report, Officers have undertaken a detailed assessment of whether the site is considered to be grey belt and in turn whether the proposal is appropriate development in the green belt. The history of the site, including the outcome of previous applications and appeals has also been taken into account during this assessment.

- Harm to openness and character of the Green Belt
 - 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.
 - Site is adjacent to open fields so visible from all angles. The adjacent bungalow which is sunk into the landscape so it not prominent
 - 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
 - Refusal to allow the applicant’s 2021 PIP for two dwellings
 - 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.

Officer response: As outlined in section 3 of this report, Officers have undertaken a detailed assessment of whether the development of this site is acceptable in the green belt policy terms. As officers concluded the site is grey belt land, a consideration of the impact on openness is not a requirement at this stage. The impact on visual amenity will however need to be fully assessed at the Technical Details Stage.

- Different planning status for eastern and western parcels of the site
 - The eastern parcel, which fronts onto the road, historically benefitted from limited lawful use for the storage of building materials

- 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.
- 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
- 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.
- The eastern parcel may be considered 'grey belt' but the western parcel cannot be
- 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.
- 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.

Officer response: As outlined in section 3 of this report, Officers have undertaken a detailed assessment of whether the site is considered to be grey belt and therefore not inappropriate development in the Green Belt. The history of the site, including the differences between the eastern and western parcels and the outcome of previous applications and appeals has been taken into account during this assessment.

- Queries historic land use
 - The submitted information claims there was a mill complex across the site however this was confined to the eastern parcel
 - The submitted information claims a reservoir existed covering the whole site however the western parcel had no mill buildings
 - The mills and reservoir were removed in 1922 returning the site to open fields
 - The submitted information implies continuous historic industrial use across the whole site but the western parcel only hosted a reservoir, no industrial structures

Officer response: As outlined in section 3 of this report, officers have considered the relevant planning history during the assessment of this application. Officers have concluded that the western part of the site would not constitute previously developed land.

- They note applicant's reference to several planning approvals however:
 - 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.

Officer response: As outlined in section 3 of this report, officers have considered the relevant planning history during the assessment of this application.

Highways

- traffic issues (narrowest point in the village)
- dangerous access onto the main road
- proximity to the bus stop and safety issues for children crossing to reach Skelmanthorpe Academy

Officer response: An assessment of the impact on highway safety will be undertaken at Technical Details Stage.

Sustainable Location

- Development is not in a sustainable location
 - village of Upper Cumberworth has very limited local facilities with no shops, GP surgeries or pharmacies
 - nearest train station is 1.6miles away on long sections of A-road with limited service
 - infrequent bus services and takes 52mins to Huddersfield Town Centre
 - 'Star Inn' is further away than the applicant describes – 480m
 - No safe walking routes or street lighting along Carr Lane or Birk House Lane
 - Frequent accidents at the Sovereign crossroads
 - Development is heavily reliant on car use
 - Fails to comply with p.155(c) of the NPPF.
- The location 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 infrequent 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

Officer response: As outlined in the section 3 of this report, officers have undertaken an assessment of whether the development is in a sustainable location, taking into consideration the local facilities and transport links. In this instance the development is considered to be in a sustainable location in accordance with paragraph 155(c) of the NPPF.

Ecology

- 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.

- 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.

Officer response: As outlined in section 1 of this report, the Councils Ecologist has confirmed there are unlikely to be any issues with sites designated under the Habitat Regulations. A full assessment of the impact on ecology and biodiversity will be undertaken at Technical Details Stage.

Other Matters

- Photograph of the site is misleading, much more landscaping and planting along the boundary since

Officer response: Officers have undertaken a site visit and are aware of the current site context.

- Enforcement action
 - 2022 breach of enforcement notice then 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.

Officer response: As outlined in section 3 of this report, officers have considered the relevant planning history during the assessment of this application.

6. Conclusion

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. The technical details stage has the effect of granting planning permission.

The scope of this Permission in Principle is limited to the following;

- Location
- Land Use
- Amount of Development

This application is considered to comply with paragraph 155 of the NPPF and would therefore not constitute inappropriate development in the Green Belt. The density of development is considered appropriate for the wider setting of the site. Given such, this permission in principle application has been assessed against relevant policies in the

development plan and other material considerations. It is considered that the permission in principle would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approval of Permission in Principle

Application: 2025/90919 Land off, Heator Lane & Rowgate, Upper Cumberworth, Huddersfield, HD8 8XJ

Proposal: Permission in principle for the erection of up to four dwellings.

Kirklees Council hereby give notice that **PERMISSION IN PRINCIPLE HAS BEEN GRANTED** for the carrying out of the above development in accordance with the application plans and documents submitted or as may otherwise be amended following written approval by the Local Planning Authority. The Permission in Principle Approved is for the erection of a maximum of four dwellings.

Note: You are advised that an application for approval of Technical Details Consent must be made no later than the expiration of three years beginning with the date of this permission.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	2260-G&T-Z0-00-DR-A-1000		14/04/25
Planning Statement	19-512	Stage 1	14/04/25
Re: Stage 1 (Rebuttal Statement)	19-512		08/05/25

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

An additional document was provided by the agent in response to an objection received as well as an email detailing a recent appeal case. Both these have been taken into consideration, alongside all other submitted information, during the assessment of the application.