

Further to the comments received regarding the planning history of the site and the previous public open space designation, I can confirm the following.

The application site formed part of the wider residential development approved under planning permission 99/93218 and was historically subject to obligations contained within earlier Section 106 Agreements and multiple Deed of Variations.

However, planning permission 2025/90297 was approved under a section 73 application, on 7 April 2026 following completion of a new Section 106 Agreement between Kenneth Hall (Builder) Limited and Kirklees Council.

That Agreement expressly reviewed and superseded the previous planning obligations affecting the remaining undeveloped land within the development.

In particular, the completed Section 106 Agreement states that:

- All previous planning agreements are discharged and no obligations survive insofar as they affect the site.
- Previous planning obligations are "OfNo Effect" and are not enforceable.
- All obligations relating to public open space are discharged and OfNo Effect.
- All off-site and on-site public open space planning obligations are discharged and OfNo Effect from the date of the Agreement.
- The Council retains the previously paid off-site public open space contribution.

Accordingly, there is no extant planning obligation requiring the application site to be laid out, retained or safeguarded as public open space.

Whilst the land has remained undeveloped and may have been accessible for a short period of time, it is privately owned land and has not been implemented under the previously agreed Section 106 Agreement nor adopted by the Council as public open space. Any informal use does not alter the planning position established by the approved planning permission and associated Section 106 Agreement.

The Section 106 Agreement was completed prior to the grant of planning permission 2025/90297 and the statutory period for legal challenge of that decision has now expired. The permission therefore remains extant and the planning obligations contained within the Agreement remain operative.

It is therefore considered that there are no outstanding public open space obligations affecting the application site and no validation issue arises from the previous planning history.

I trust the above clarifies the position and enables the application to be validated and progressed.

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