

CONSULTATION RESPONSE:

Application 2026/91494 – Land off Penistone Road, Birds Edge

The Upper Dearne Valley Environmental Trust (UDVET) makes the **STRONGEST POSSIBLE OBJECTION** to the proposals made in the above outline planning application.

Our main areas of objection (expanded further later in this document) are as follows:

- The Site Is Green Belt
- The Site Is Not Allocated for Housing
- The Housing Need Argument Is Weak and Based on Manipulated Numbers
- The Ecological Impacts Are Greatly Underplayed
- Development in this Area Poses a Severe Risk of Polluting the Source of the River Dearne
- Loss of Agricultural Land Is Dismissed Too Easily
- Highways and Road Safety Concerns Are Significant
- Public Transport Provision Is Poor
- Community Opposition Is Clear
- The Development Harms Rural Character and forms a True and Long Lasting 'Blot on the Landscape'
- The Applicant Has Not Demonstrated "Very Special Circumstances"
- The Applicant's Planning Statement is Legally Weak and Contradictory

1. The Site Is Green Belt — and the Applicant Admits It

The applicant's Planning Statement document states:

"The site is designated as green belt within the Kirklees Local Plan (KLP)."

Green Belt development is *inappropriate* unless very special circumstances exist. The applicant tries to argue “Grey Belt”, but this is **not a formal designation** and is **not adopted in Kirklees policy**. This is not ‘previously developed land’, it is agricultural land.

We would emphasise that the Kirklees Local Plan still designates the land as **Green Belt**, full stop. That “Grey Belt” is **not a statutory category** and has no weight in local policy. The applicant’s own assessment is subjective and can be challenged. The site is **open countryside**, clearly performing Green Belt purpose (d) — safeguarding the countryside from encroachment and coalescence with Upper Cumberworth.

2. The Site Is Not Allocated for Housing – and again the Applicant Admits it

The Applicant’s Planning Statement document states:

“Residents stated that the site is not allocated for residential development within the KLP.” **“The Applicant acknowledges** the comments raised...”

As already pointed out by one resident *“the Council has already assessed and rejected this site (H2582). This land was submitted to the Council during preparation of the adopted Local Plan and assessed by its own officers. It appears in the Council’s Rejected Sites: Housing background paper as site H2582 — “Land south east of Birds edge Mills, Penistone Road, Birds Edge” (1.35 ha, indicative capacity 47). The Council’s conclusion was clear: the eastern boundary “does not follow any feature on the ground so does not present a defensible new green belt boundary”; release would leave land to the east “a significant risk from encroachment”; “the site could not be released in isolation”; and “the Local Plan strategy does not include the removal of Birds Edge from the greenbelt.” It also recorded that there are “no exceptional circumstances to justify the removal of this site ... from the green belt.” The land has not changed. It remains washed-over Green Belt in the adopted Local Plan (2019). What has changed is the applicant’s argument. Their Design and Access Statement now asserts that the eastern boundary is a feature — “a dry-stone wall with agricultural fields located beyond” — and applies for the site as “grey belt” under paragraph 155 of the NPPF. That is the pivot of the whole application, and it does not hold”*

Again, we would emphasise, the site was **rejected** in the Local Plan after full examination at which UDVT representatives were present. The Council considered this land and **did not allocate it but rejected it**, meaning it was judged unsuitable. Once again, we see an applicant trying to bypass the plan-led system.

3. The Housing Need Argument Is Weak and Based on Manipulated Numbers

The applicant relies heavily on the claim that Kirklees cannot demonstrate a 5-year supply. However, they use an **inflated “standard method” figure** (1,915 dwellings/year) which is **not the figure used in the adopted Local Plan**. They then apply a **20% buffer** to worsen the supply position and ignore the fact that the Council’s own published figure is **4.18 years**, not 4.02.

The Local Plan remains the starting point for decision-making. The applicant is using **selective calculations** to artificially worsen the supply position. The Housing Delivery Test result (54%) is **borough-wide**, not site-specific, and does not justify Green Belt release.

4. The Ecological Impacts Are Greatly Underplayed

The Applicant’s Planning Statement admits:

“Residents stated that the site supports wildlife habitats... Northern Lapwings and Roe Deer...”

And:

“Suitable habitats for commuting, foraging and nesting species are present within and adjacent to the site.”

We would also add that multiple bat species, barn owls, stoats, hedgehogs and a wide range of common and uncommon bird life exist in the area.

Lapwing is a **red-listed species of conservation concern**. Roe deer indicate a functioning habitat corridor which operates all down the Upper Dearne Valley. The site borders **ancient woodland** and **priority deciduous woodland**. The applicant relies on a **single-season Preliminary Ecological Appraisal**, which is insufficient for a site of this sensitivity. Biodiversity Net Gain (BNG) claims (29.33%) rely on **off-site land** outside the red line — which is not guaranteed to be deliverable or enforceable long-term.

5. Development in this Area Poses a Severe Risk of Polluting the Source of the River Dearne

The whole area around and within Birds Edge drains to form the head waters of the River Dearne and any development of surrounding fields will pose a serious pollution threat not only at the construction stage, but also on an on-going basis.

We note the application proposes using one such tributary to remove surface water from the development. But, as experienced further down the Dearne Valley (e.g.

Skelmanthorpe), the so called Sustainable Urban Drainage system (SUDS) just does not work. It is not only rainwater that ends up down the drain from any urban development. Paints, weed killer, bleach and other harsh chemicals, grease, oils, car wash products end up down the surface water drainage system discharging into a natural waterway. It's like pouring pollutants directly into the river. Oil for instance, is toxic the fish and other aquatic life. Just one litre of oil and pollute one million litres of water.

Kirklees Council themselves acknowledge this failure via their 'Yellow Fish' – 'Only Rain Down the Drain' campaign.

Such pollution must not be allowed to happen on such an ecologically sensitive site.

6. Loss of Agricultural Land Is Dismissed Too Easily

The applicant states:

"The site is identified as Grade 4 agricultural land..."

But this does not remove the fact that the land is quite typical of an upland area and **actively farmed**. It contributes to the **rural character** of Birds Edge and surrounding area. It forms part of a **continuous and valuable agricultural landscape**.

The loss of agricultural land contributes to **urban sprawl** and the applicant's argument that it is "privately owned" is irrelevant in planning law.

7. Highways and Road Safety Concerns Are Significant

Residents raised:

"The road is heavily trafficked... congestion... proximity to the school... increased accident risk..."

The applicant does **not** provide convincing mitigation.

A629 is already congested at school times. The proposed access is **close to Birds Edge First School**, increasing risk to children. Bus services are **infrequent (every 120 minutes)** — meaning car dependency will increase. In fact, the whole area is car dependent. The village has **no safe cycling infrastructure** and cycling is a totally impractical means of regular transport for most residents given the hilly and steep topography and the vagaries of the weather at around 1000ft.

The Transport Statement is based on **assumptions and questionable/deceptive computer modelling**, not real-world traffic counts during peak school hours. The latter completely ignores the known and well documented dangerous Sovereign Junction through which traffic has to pass to get to Shepley, Huddersfield and beyond. In the past 2 weeks, there has been 2 very serious accidents at the Carr Hill

Road/Penistone Road junction which is likely to provide a dangerous 'rat run' for traffic trying the access the M1 North.

A more honest and realistic way to consider the volume of traffic likely to be generated is to look at expected total traffic movements per day and per week.

The applicant states the development will contain 158 car parking spaces and 70 cycle spaces.

If we assume, not unreasonably and possibly very conservatively in a car dependent area, each of the above cars makes 2 return journeys per day, this gives the following traffic movement calculation:

$$158 \times 4 = 632 \text{ traffic movements/day}$$

$$632 \times 7 = 4424 \text{ traffic movements/week}$$

And the above, of course, directly opposite the infant and junior school. We do not consider cycling to be a feasible form of commuting in this area.

8. Public Transport Provision Is Poor

The applicant admits "The D3 bus service... every 120 minutes..." This is **not sustainable public transport**.

Hourly or two-hourly buses do not support sustainable development.

The nearest rail station is **3.1 km away**, with no safe walking route. Shepley Station has no car park and only a very few spaces are available at Denby Dale Station. Clearly, the site is **car-dependent**, and contrary to NPPF paragraphs on sustainable travel.

9. Community Opposition Is Clear

The applicant admits only 17 forms were completed out of the 130 issued. The then proceed to downplay the level of concern. Objections cover **policy, ecology, highways, and character** — not just NIMBYism.

It is notable that there is no support from the local MP or Ward Councillors was received.

10. The Development Harms Rural Character and forms a True and Long Lasting 'Blot on the Landscape'

The site is described by the applicant as "Two grazed pasture fields enclosed by stone walls... historically undeveloped..."

The proposal introduces **urban form** into a rural edge. The magnitude of change and overall landscape effect described in the applicant's submitted Landscape Assessment is described as follows:

- *"The magnitude of effect at construction was assess to be High, leading to an overall landscape effect of **Moderate/Substantial Adverse**.*
- *The magnitude of effect at year one operation was assessed to the High, leading to an overall landscape effect of **Moderate/Substantial Adverse**.*
- *The magnitude of effect at Year 15 operation was assessed to be Medium leading to an overall landscape effect of **Moderate Adverse**".*

This is truly an unacceptable and long term 'blot on the landscape' even, presumably with the implementation of the Landscape Consultant's recommendations for further tree and hedge planting.

11. The Applicant Has Not Demonstrated "Very Special Circumstances"

The applicant has not demonstrated that harm to the green belt is clearly outweighed by very special circumstances. The arguments rely on housing numbers, 'grey belt' which is not policy and the land does not qualify, biodiversity net gain but this is currently off site, and subjective landscape claims. None of these would appear to meet the required legal threshold.

12. The Applicant's Planning Statement is Legally Weak and Contradictory

Looking at national policy (NPPF 2023/2024 revisions), Kirklees Local Plan, and the applicant's own Planning Statement, including direct quotations from the above document, we note the following:

12.1 Section 5 – Statutory Policy Context and Other Relevant Policies

This section normally sets out the NPPF, Local Plan, and other policy tests. The weaknesses are already baked in:

- **The proposal directly conflicts with the Local Plan — and they admit it**

Earlier text confirms:

"The site is designated as green belt within the Kirklees Local Plan (KLP)."

This section, repeatedly acknowledges the statutory Green Belt designation yet seeks to re-characterise the land as “grey belt.” That re-labelling is an evidential claim, not an adopted policy change, and cannot override the Local Plan’s mapped Green Belt status under Section 38(6).

The applicant accepts the site is ‘located entirely within the Green Belt’ yet asks the Council to treat it as ‘grey belt’ — a reinterpretation that has no status in the adopted Local Plan and cannot displace the statutory development plan.

This means Chapter 5 must acknowledge the proposal is **inappropriate development**, it is **a rejected site not allocated**, and it conflicts with **multiple Local Plan policies** (e.g.LP1, LP3, LP24, LP30, LP33, LP35). This is a **fatal weakness** because the applicant must now rely entirely on proving “very special circumstances”.

- **Their reliance on the 2024 NPPF ‘Grey Belt’ concept is legally weak**

In Section 5, the applicant tries to argue that ‘grey belt’ is somehow less harmful and therefore, not inappropriate. Grey belt is not **adopted Kirklees policy**, it is **not mapped**, it is **not part of the Kirklees evidence base**. It also cannot override the Local Plan (Section 38(6)).

The applicant’s Grey Belt conclusion is asserted rather than demonstrated: the PPG requires objective, plan-wide Green Belt contribution testing and evidence that release would not ‘fundamentally undermine’ remaining Green Belt — which the submission fails to provide.

This is a **major vulnerability**.

- **They selectively use national policy to exaggerate housing need**

Earlier text shows the applicant has inflated the housing requirement, applied a 20% buffer, ignored the Local Plan housing target and used the Housing Delivery Test as a justification for Green Belt release.

This is **policy manipulation**.

- **They ignore NPPF paragraph 15 (community involvement)**

The applicant admits that only “17 forms completed...”. But Section 5 of the Planning Statement does not acknowledge that **community opposition is a material consideration**. We understand community opposition is substantial.

This omission is a weakness.

12.2 Section 6 – Planning Assessment

This is the Section where the applicant must prove the site is “Grey Belt”, harm is limited, that benefits outweigh harm and very special circumstances exist. We believe this is where their case collapses, because:

- **Their Green Belt assessment is self-serving and contradicted by their own evidence**

The applicant claims *“The site does not make a strong contribution to greenbelt purposes (a), (b) or (d).”* But earlier they describe open pasture, stone walls, historic agricultural landscape, woodland and river corridors, and no previous development on the site. The applicant’s own descriptions of the site’s open, rural character contradict the claim it makes in Chapter 5 that the land does not strongly contribute to Green Belt purposes.

All the above **clearly meets Green Belt purposes (a) and (d)**. This contradiction is a major weakness.

- **They rely on off-site Biodiversity Net Gain**

The applicant admits *“A BNG area of approximately 0.89 hectares is designated outside of the red line...”*

This is a **huge weakness** because off-site BNG is not guaranteed, it requires long-term legal agreements, it cannot be counted as a benefit unless secured, it does not reduce Green Belt harm

Biodiversity Net Gain cannot be used as a “very special circumstance”.

- **They rely on “indicative” landscape mitigation**

Landscape buffers are not fixed, not enforceable at outline stage, and not capable of removing Green Belt harm. As shown in Point 10 above, the applicant’s own Landscape Assessment, indicates severe/moderate adverse effects on the landscape even after 15 years.

The NPPF requires **substantial weight** to be given to any Green Belt harm.

- **They rely on a two-hourly bus service to claim sustainability**

The applicant admits *“The D3 bus service... every 120 minutes...”*. This destroys their sustainability argument.

The applicant tries to make a case based on *“Access to public transport”, “Sustainable travel choices” and “Reduced car dependency”*.

But the evidence contradicts this. Birds Edge like so many other places in Kirklees Rural is a car dependent location for almost all basic needs of life.

- **They rely on a single-season ecological survey**

The Preliminary Ecological Appraisal report admits “*Suitable habitats for commuting, foraging and nesting species are present...*”. But there is no breeding bird survey, no multi-season survey, no mammal corridor assessment, no ancient woodland buffer assessment

This is a **technical weakness** that can invalidate ecological conclusions. It is an unreliable report based on insufficient evidence.

We also understand that this area forms part of the West Yorkshire Combined Authority’s (WYCA) Nature Recovery Strategy.

- **They rely on housing need as a “very special circumstance” (VSC)**

Case law has determined housing need **cannot** be a VSC, housing shortfall **does not override** Green Belt, benefits must be **truly exceptional**. They are not. Their entire argument collapses here.

12.3 Section 7 – Summary and Conclusion

This Section tries to summarise benefits and downplay harm. However, the weaknesses are structural:

- **They cannot demonstrate “very special circumstances”**

The applicant’s benefits case centres on housing numbers, affordable housing, BNG, Landscape buffers, “Grey Belt”, and challengeable economic benefits. None of these are “very special”.

Even if accepting the applicant’s housing supply figures, the submission fails to show that alternatives have been exhausted or that the claimed benefits amount to the ‘very special circumstances’ required to justify inappropriate Green Belt development.

This is the **core weakness** of their application and arguments.

- **They ignore cumulative harm**

The development would extend the village disproportionately, urbanise open countryside, creates a precedent, reduces openness and increase car dependency and the amount of traffic on already busy roads and junctions (Carr Hill Road and Sovereign Junctions) which have been the scene of many RTAs, including fatalities.

Chapter 7 does not address cumulative harm — a major flaw.

- **They ignore the Local Planning Authority' and Local Plan Inspector's judgment**

The site was **rejected, not allocated** during the Local Plan formulation and examination. This is a **material fact** they cannot overcome.

- **They rely on benefits that are generic, not site-specific**

Affordable housing, construction jobs, and BNG are **not unique** to this site. Case law (*Timmins, Wychavon*) says generic benefits **cannot** outweigh Green Belt harm.

The applicant's emphasis on Golden Rules compliance and BNG is misplaced: these are mitigation/obligations, not 'very special circumstances' that clearly outweigh the permanent loss of Green Belt openness.

- **They fail the NPPF paragraph 11(d) test**

Even if the tilted balance applied (it doesn't in Green Belt), Footnote 7 disappplies it. Green Belt harm is a clear reason for refusal

This again is a legal weakness.

- **Emerging plan and interim statements are given weight but cannot displace the adopted plan**

The Interim Housing Position and early engagement on an emerging plan are material considerations but do not alter the statutory primacy of the adopted Local Plan or justify overriding mapped Green Belt.

13. Conclusion

Again, UDVET would like to reiterate its **strongest possible objection** to this application.

It is clear the applicant concedes the site 'is located entirely within the Green Belt' yet seeks to treat it as 'grey belt' without the objective, plan-wide evidence the PPG requires.

The applicant's housing supply calculations are selective and do not demonstrate the very special circumstances necessary to justify inappropriate Green Belt development.

The claimed benefits (Golden Rules compliance, off-site BNG, affordable housing) are mitigation or obligations, not exceptional circumstances that clearly outweigh permanent loss of openness.

The Council should, therefore, once again refuse development on this site and this outline planning application

Upper Dearne Environmental Trust (UDVET)

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