

# Kirklees Local Plan Examination

## Stage 4 – Initial Hearings

### MATTERS, ISSUES AND QUESTIONS (MIQs)

#### Council Response

#### **Matter 29 - Urban Green Spaces and other open spaces**

- 1.1 This statement sets out the council's responses in relation to the Inspector's matters and issues Matter 29 – Urban Green Space and other open spaces. All the documents referred to in this statement are referenced within the main body of the statement. The modifications proposed in this document have been provided to assist with the discussions at the hearings for this matter and have not been subject to sustainability appraisal testing or public consultation. Should it be necessary to make any of the modifications these will be added to the full schedule of modifications to the Local Plan which will be made available for comment and subject to sustainability appraisal at a later stage of the Examination in Public, subject to the delegated powers agreed by the council's Cabinet.

***Issue – Does the Plan set out an effective approach to the protection of Urban Green Spaces and other open spaces, which is justified and in line with national policy?***

#### **General**

- a) **A number of open spaces over 0.4 hectares and recommended for retention in the Council's Open Space Assessment Report (LE123) do not appear to have been designated as Urban Green Space (UGS) or considered as part of the accepted/rejected options in the Council's Urban Green Space and Local Green Space Technical Paper (BP13). [including sites 972 and 245 in Batley and Spennings Dale Sub-Area; 1019, 1060 and 1081 in Dewsbury Sub-Area; 192 and 214 in Huddersfield Sub-Area; 1105, 1106, 1119, 1121, 1127, 1133, 1138, 1150 and 1159 in Kirklees Rural Sub-Area].**
- i. **What are the reasons for this? What criteria have been used to select the designated UGS sites?**
- 1.2 A number of open spaces that are 0.4 hectares or above, categorised as natural/semi-natural greenspace and recommended to be retained or considered for retention as open space in the Council's Open Space Assessment Report (LE119), have not been created either as UGS sites or UGS options for consideration in the Local Plan process. The council considers that these sites do not have sufficient open space qualities to perform an urban green space function in terms of their importance for sport, recreation, wildlife and/or visual amenity. The council has provided further information on natural/semi-natural greenspaces which includes a summary of the Local Plan assessment for these sites, including the reasons these sites do not merit designation as urban green space (EX42, Part 2).

- 1.3 The methodology used to designate urban green space is set out in the Urban Green Space and Local Green Space Technical Paper (BP13, paragraphs 5.3.1–5.4.9). In summary, the criteria considered relate to the site's importance in performing an urban green space function for sport, recreation, wildlife and/or visual amenity, determined by:-
- the quality assessments undertaken in the Open Space Study which determine the value of open spaces and recreation facilities (LE119);
  - the assessments of playing pitch provision and site recommendations set out in the Playing Pitch Strategy (LE124);
  - site specific typologies (LE119, paragraphs 5.4.2 – 5.4.8); and
  - additional information including open space deficiencies, public health inequalities in the area and location and function within the Kirklees Wildlife Habitat Network.
- 1.4 This information was taken into account in determining an overall conclusion about the importance of each site as an open space, sport or recreation facility required to meet local needs and on this basis whether the site merited designation as urban green space. This is set out in the Urban Green Space and Local Green Space Technical Paper BP13 (paragraph 5.13) along with the methodology used to accept or reject sites (paragraph 5.4.1).

**ii. What is the status of these other large sites and how will they be dealt with? Should Policy PLP 61 include reference to 'other sites' rather than 'other smaller sites'?**

- 1.5 The information supplied by the council about natural/semi-natural greenspaces demonstrates that these other large sites do not have sufficient open space qualities to perform an urban green space function or merit protection as open space under policy PLP 61 (EX42, Part 2, Tables 2 and 3). As such, these sites will not be protected as open space under Local Plan policy PLP 61. Development proposals on these sites would be required to take account of the Local Plan as a whole and relevant Local Plan policies would apply, such as PLP 30 regarding habitat value and the Wildlife Habitat Network.
- 1.6 As all the other larger natural/semi-natural greenspaces are not deemed to merit protection as open space under PLP 61, the council considers it is not necessary to amend this policy. Reference to 'other smaller sites' provides clarity that policy PLP 61 will apply to other valuable open spaces less than 0.4 hectares in size.
- b) Why in some cases are red ratings for open spaces identified in the Council's Open Space Assessment Report (LE123) shown as green or amber in the Council's Technical Paper (BP13)? (e.g. UGS1477, UGS1445, UGS1176)**
- 1.7 As set out in the council's Urban Green Space and Local Green Space Technical Paper (BP13) some urban green spaces will have more than one open space assessment where parts of the site are in different open space uses. In these cases the assessment ratings for the individual parts have been considered together to provide an overall rating. This has taken into account the qualities of the open space as a whole (BP13, paragraph 5.3.6). The reasons for the overall ratings given for the sites listed in question (b) are set out below.

- 1.8 Site UGS1477 Victoria Street Allotments, Birstall comprises high value allotments and low value natural/semi-natural greenspace (OLS 953 in LE145, Appendix 1.1, pages 135-136). As a low value site this natural/semi-natural greenspace was subject to further consideration in determining whether the site merited retention as open space. This identified it as a habitat link between the allotments and wider green space within the Wildlife Habitat Network to the north. For the purposes of the review of UGS shown in BP13 (Appendix 1 and 2) the overall rating of the site was considered to be high based on the importance of the allotments and the value of the natural/semi-natural greenspace as a habitat link.
- 1.9 Site UGS1445 Brayside Avenue Allotments Cowcliffe (OLS 188) comprises medium value allotments and a small associated natural/semi-natural area (0.04 hectares in size) assessed as having low value. The overall medium rating in the UGS Review reflects the importance of the majority of the site as allotments and that the natural/semi-natural greenspace forms part of the wider allotment area (LE145, Appendix 1.3, pages 23-25).
- 1.10 Site UGS1176 Almondbury Cemetery, Almondbury Recreation Ground and Benholmley Banks (OLS 671) comprises a variety of open spaces, including a recreation ground assessed as high value (OLS 671 class 564) and an area of low value natural/semi-natural greenspace (OLS 671 class 560). The overall medium rating reflects the moderate value of these sites taken together.

**c) What methodology has the Council applied in its assessment of open space deficiency in a locality?**

- 1.11 As set out in the Open Space Assessment Report (LE119) the council has set minimum quantity and accessibility standards for different types of open space to use as benchmarks in comparing existing provision across the district (LE119, Table 4.5, page 16). These standards are generally consistent with the Fields in Trust national standards (NE37) and are set out in policy PLP 63. The standards have been applied to identify areas where there is a deficiency in the amount of or access to open space when compared against the standards (LE119, paragraph 4.6.1-4.6.5).
- 1.12 In order to identify deficiencies in the amount of open space provision, the council has applied the quantity standards firstly at ward level to determine the level of provision in each ward and then aggregated the ward level information into sub-areas to determine the level of deficiencies across the sub-area (LE119 paragraph 4.6.4). The standards have been applied to the total population in each ward and sub-area to identify those areas where current provision falls short of the standards and is therefore deficient in open space (LE119, Table 5.2, page 21; Table 6.2, page 31, Table 7.2, page 40 and Table 8.2, page 48). A summary of the quantity standards is set out in BP13 (Table 3, page 13).
- 1.13 In order to identify the coverage and gaps in access to open spaces across the district, the council developed a range of benchmarking accessibility standards for different types of open space based on walking and/or travel distances (LE119, paragraph 4.3.10-4.3.11 and Table 4.4, page 14). The walking/travel distances have been applied to each site as a catchment area and as such are not restricted to ward boundaries thereby providing a comprehensive assessment of the accessibility of open spaces. Deficiencies in access to

open space are identified where a locality is not covered by a catchment area (LE119, paragraph 4.6.5). These deficiencies are shown in the accessibility catchment maps shown in the Open Space Assessment Report (LE119, Figure 1, page 27 and Figure 2, page 28; Figure 3, page 37; Figure 4, page 45; and Figure 5, page 54).

**i. Has it relied solely on the minimum benchmark levels by ward, or have other assessments been carried out? For example, the assessment of sites 737 and 1456 (pages 118 and 107 in the Open Space Assessment) refer to alternative information. If so, what is the nature of this evidence and where is it located?**

- 1.14 In addition to the ward level benchmarking against quantity and accessibility standards, the council has also assessed the scarcity value of open spaces in the Open Space Assessment (LE119, paragraph 4.3.5 and Appendix 1) and this is the alternative information referred to for OLS 737 and OLS 1456. The scarcity value for each site has been determined by its distance to other open spaces of the same typology. This has been derived by applying the accessibility standards (walking/travel distances in BP13, Table 2, page 11) to each site to provide a catchment area. The scarcity value of a site is based on the extent that its catchment area overlaps with other catchment areas for the same types of open space. The extent of the overlaps with these other catchment areas has been converted to a percentage overlap and equated to a scarcity score of 0-5. A score of 0 indicates the site is in close proximity to other sites of the same typology and is not scarce. A score of 5 indicates that the site is isolated from other sites of the same typology and therefore has a high scarcity value. Further explanation is provided in the Open Space Assessment Report (LE119 Open Space Assessment Guidelines, page 71).
- 1.15 Information regarding the scarcity value of individual sites is identified in the Open Space Assessments (LE145) and in the accessibility catchment maps shown in the Open Space Assessment Report (LE119 Figure 1 page 27, Figure 2 page 28, Figure 3 page 37, Figure 4 page 45 and Figure 5 page 54).

**ii. Did the Council also take account of distances to other similar open spaces in the immediate vicinity, within a particular ward?**

- 1.16 As set out in the response to question c (i) above, the council has taken account of the scarcity value of open spaces as part of the Open Space Assessment (LE119). The scarcity value of an open space was determined by the extent that its catchment area overlapped with the catchment areas of other open spaces in the same typology and was not restricted to ward boundaries.

**iii. To what extent has open countryside been captured in the benchmarking of natural/semi-natural greenspace within a ward/local area?**

- 1.17 The purpose of urban green space is to provide protection for valuable green spaces in the built-up areas of Kirklees which perform an important function for sport, recreation, wildlife and/or visual amenity. This includes the identification of two extensive green spaces in the urban areas of Batley and Cleckheaton which have the characteristics of

open countryside (UGS973 and UGS1068). Whilst these sites have been included in the total provision of natural/semi-natural greenspace, open countryside outside the built-up areas has not been factored into the benchmarking of natural/semi-natural greenspace.

- 1.18 The purpose of the Open Space Study was to assess the provision of open space and recreation facilities within the towns and villages in Kirklees (built-up areas not in the green belt) (LE119, paragraph 4.2.5) to help inform the allocation of urban green spaces in the Local Plan (LE119, paragraph 4.2.2). The built-up areas are indicative of where the main residential areas are in Kirklees and high quality open spaces within these areas are important in promoting healthy communities (NPPF, paragraph 73) where people can have physical and visual access to open spaces near where they live. Residential areas not on the edges of the urban area where it meets the green belt can be significant distances away from the countryside, as is the case with the urban centres of Dewsbury, Batley and Huddersfield. Accessibility of open spaces has been considered as part of the Open Space Study explained in document LE119 (paragraph 4.3.10).
- 1.19 Over 68% of the land in Kirklees is green belt and the majority of this is open countryside. Given the extent of open countryside in the district, the council did not consider it was appropriate to include such land within a study looking at the quantity and availability of open spaces within the towns and villages. The inclusion of open countryside in the Open Space Study would have had the effect of skewing the results for natural/semi-natural greenspace provision and would not have provided a true reflection of the availability of this type of open space within the built-up areas.
- 1.20 The council's local standard for the provision of natural/semi-natural greenspace is 2 hectares per 1,000 population and is used as the benchmark against which to compare the amount of natural/semi-natural greenspace available within the built-up areas of Kirklees. As set out in the Open Space Study Assessment Report the standard is based on the total amount of the existing natural/semi-natural greenspace included within the Open Space Study (876.11 hectares). For the Kirklees population of 428,100 residents this represents 2.05 hectares per 1,000 population (LE119, Appendix 5, page 81).
- 1.21 The inclusion of open countryside within the total amount of natural/semi-natural greenspace would result in a different benchmark standard which would be significantly higher than the 2 hectares per 1,000 population standard for provision in the built-up areas. Assessment of deficiencies against a new standard which includes open countryside in the green belt would not necessarily provide a robust and credible understanding of the provision of natural/semi-natural greenspaces within the towns and villages.
- 1.22 The council considers it is important to note that the existence of deficiencies in the provision of natural/semi-natural greenspace is not always the determining factor in designating urban green space. Designation of natural/semi-natural greenspace as urban green space is based on the qualities and function of a site as a valuable open space taking into account site specific circumstances and the site's wider context, as well as additional information on open space deficiencies and role within the Kirklees Wildlife Habitat Network.

- d) **In cases where an open space has a red rating (low value) in the Open Space Assessment, what weight has the Council given to the existence of a deficiency of open space when determining whether a site should be designated as UGS or redeveloped for other uses? Are there circumstances where benefits arising from alternative uses could outweigh the need for retention of the open space? [the Council's response should be illustrated with reference to examples where such sites have, and have not, been designated as UGS]**

1.23 In designating low value open spaces as urban green space, the council has given varying degrees of weight to the existence of open space deficiencies depending on the type of open space and individual characteristics and circumstances of each open space. The weight given to open space deficiencies in whether to designate a low value open space as urban green space is set out below.

#### Low Value Sites Allocated as UGS

1.24 The council has given considerable weight to the existence of an open space deficiency in designating low value open spaces in recreation use as urban green space and this is justified on the basis they are required to meet local needs. Examples include the following recreation grounds:-

- UGS1079 Milton Road Recreation Ground, Norristhorpe (OLS 572)
- UGS1104 Glenfield Recreation Ground, Deighton (OLS 598)

1.25 The council has also given considerable weight to the existence of an open space deficiency in designating low value amenity greenspaces as urban green space and consider this is justified as such sites often comprise public open spaces meeting informal recreation needs. Examples include the following open spaces:-

- UGS1259 (OLS 759) Manor Way Open Space, Staincliffe
- UGS 971 (OLS 464 class 1383) Carlinghow Princess Royal School, Batley
- UGS1038 (OLS 531) Field Lane Open Space, Ravensthorpe
- UGS1175 (OLS 670 class 584) Land adjacent Fleminghouse Lane, Almondbury
- UGS956 (OLS 449) Moorside Road Open Space, Kirkheaton
- UGS 1214 (OLS 710 class 357) Moorcroft Avenue Open Space, Golcar

1.26 For low value natural/semi-natural greenspaces designated as urban green space, the council did give some weight to the existence of an open space deficiency but no natural/semi-natural greenspaces were designated as urban green space exclusively on the basis of a deficiency of this type of open space. The determining factor in designating such sites as urban green space related to site specific circumstances and the wider context of the site. The following low value natural/semi-natural sites were designated as urban green space and the justification for the designation is set out in the further information provided by the council on natural/semi-natural greenspaces in document EX42 (Part 1):-

- UGS1168 (OLS 663 class 370) Almondbury Bank, Almondbury
- UGS1176 (OLS 671 class 560) Benholmley Banks, Almondbury
- UGS1138 (OLS 632 class 2244) Fell Greave Wood and Bradley Gate Wood, Bradley
- UGS1147 (OLS 642 class 2245) North Huddersfield Trust School, Fartown
- UGS3367 (OLS 868 class 2719) Netheroyd Hill Allotments, Fartown
- UGS1445 (OLS 188 class 669) Brayside Avenue Allotments, Cowcliffe

- UGS1217 (OLS 713 class 513 ) Longwood Edge, Longwood
- UGS883 (OLS 374 class 1885) Calmlands Road Allotments, Meltham
- UGS1249 (OLS 749 class 1879) Meltham Dike, Meltham
- UGS886 (OLS 377 class 1784) Sands Recreation Ground, Holmfirth
- UGS895 (OLS 386 class 2120) Victoria Park, Holmfirth
- UGS1246 (OLS 743 class 1805) Shaw Avenue, Holmfirth
- UGS861 (OLS1201 class 1679) Holmfirth Parish Church Tennis Club, Wooldale
- UGS914 (OLS 405 class 1745) Flockton Recreation Ground, Flockton
- UGS926 (OLS 417, class 2639) Thurstonland First School, Thurstonland
- UGS1284 (OLS 786 class 1925) Abbey Road South, Shepley
- UGS1311 (OLS 880 class 1810) Burton Dene Park, Kirkburton

#### Low Value Sites Not Allocated as UGS

1.27 In a number of cases, in areas where the current provision of open space exceeded the quantity standard, the recommendation for some low value sites in the Open Space Study Assessment (LE119) was to consider a change from open space to an alternative use.

Examples include the following sites which have been considered for other uses:-

- OLS 638 Former Allotments, Brackenhall Hall Road, Sheepridge (considered as housing option H63)
- OLS196 Former car park, Close Hill Lane, Newsome (considered as housing option H1811)
- OLS 195 Land rear of 2-28 Newsome Road South, Newsome (considered as housing option H2583)
- OLS 199 Land at Hart Street, Newsome (considered as mixed use option MX1924).
- OLS 156 Land off Station Road, Denby Dale (considered as housing option H1784)

#### Open Spaces where Benefits from Alternative Uses Outweigh Retention of the Open Space

1.28 Options for housing and employment development have been submitted to the council on existing open spaces. Where this has occurred, the benefit of the alternative use proposed has been weighed against the benefit of retaining the open space. In a number of cases this has resulted in the allocation of the site for development but with the requirement that replacement provision/mitigation measures are provided in line with NPPF (paragraph 74). The following sites have been allocated for alternative uses on this basis:-

- OLS 396 Former Carters Playing Fields, New Mill Road, Brockholes - allocated for employment (site E1829) (SD2, page 16);
- OLS 984 St Thomas Gardens, Bradley - allocated for housing (site H1656) (SD2, page 35-36);
- OLS 1431 St Patrick's Sport Club, Mill Street, Birstall - allocated for housing (site H138) (SD2, page 83); and
- OLS 524 (classes 1509 and 1919) Land south of Ravensthorpe Road/Lees Hall Road, Dewsbury - allocated for housing (site H2089) (SD2, page 71-73).

- e) **Which natural/semi-natural green spaces are identified in the Open Spaces assessment as having low value but are recommended for retention on the basis of a deficiency of this type of open space in the locality? Is this approach justified and evidenced?**

*[see the Council's evidence on natural/semi natural green spaces in Kirklees, as requested in the Inspector's Note to the Council dated 24th November 2017]*

1.29 The following natural/semi-natural greenspaces assessed as low value have been recommended for retention in the Open Space Study on the basis of a deficiency of natural/semi-natural greenspace in the area (LE119, Appendix 7):-

- OLS 589 (class 2620) Ings Grove Park, Mirfield
- OLS 953 (class 817) Victoria Street Allotments, Birstall, Batley
- OLS 351 (class 417) Golcar Central Liberal Club, Golcar
- OLS 979 Land north of Crackenedge Lane, Batley
- OLS 972 Land south of Pennine View, Birstall
- OLS 245 (class 1340) Land north east of Headlands Road, Liversedge
- OLS 443 Denby Dale Viaduct, Barnsley Road, Denby Dale
- OLS 1081 Land rear of Bank Mews, Mirfield
- OLS 1149 Land north of Fairfield Road, Holmbridge
- OLS 1164 Land adjacent 5 South Lane, Holmfirth

1.30 The council has provided further information on natural/semi-natural greenspaces (EX42) which shows that the existence of a deficiency in this type of open space has not been the determining factor in deciding whether an open space should be retained. The main consideration related to site specific circumstances and the site's wider context, including whether the open space characteristics are sufficient to perform an urban green space function for sport, recreation, wildlife and/or visual amenity. Information is provided in EX42 for the sites listed above and provides the justification for either:-

- designation as UGS - sites OLS 589 (class 2620) and OLS 953 (class 817) (see EX42, Part 1);
- retention as open space under policy PLP 61 - OLS 351 (class 417) (see EX42, Part 2, Table 1);
- consideration for retention through other relevant Local Plan policies, such as PLP30 (Biodiversity) - OLS 979, OLS 972, OLS 245 (class 1340), OLS 443 and OLS 1081 (see EX42, Part 2, Table 2); or
- not to be retained as open space under policy PLP 61 or PLP 30 - OLS 1149 and OLS 1164 (see (EX42, Part 2, Table 3).

- f) **Which green spaces recommended for retention in the Council's Open Spaces assessment do not benefit from i. public access; and/or ii. a Public Right of Way through the site? Is the retention of such sites justified and suitably evidenced?**

1.31 Green spaces recommended for retention in the Open Space Study that do not benefit from public access or a Public Right of Way include a number of natural/semi-natural greenspace and some amenity greenspaces.



## Natural/Semi-Natural Greenspaces

1.32 Further information provided by the council on natural and semi-natural greenspaces shows a small number of these sites do not benefit from public access or a right of way are but are identified for retention as open space under policy PLP61 (EX42, Part 2, Table 1). These include the following open spaces:-

- OLS 351 (class 417) Land adjacent Golcar Central Liberal Club, Church Street, Golcar – retention is justified on the basis that the land is associated with an existing bowling green.
- OLS 326 (class 497) Land north of 15 Hall Cross Road, Lowerhouses - retention is justified on the basis this site functions as a stepping stone connecting habitats.
- OLS 1099 (class 898) Land south of Fairlea Cottages, Taylor Hill Road, Newsome – retention is justified on the basis of high visual amenity benefits and wildlife value as a priority habitat (deciduous woodland).
- OLS 1104 (class 874) Land south of 48 Bristfield Road, Grange Moor – retention is justified on the basis of the site’s visual amenity benefits which add to the character of the village.
- OLS 1062 (class 952) Land north of Edge Road, Thornhill Edge – retention is justified on the basis of the site’s high structural and landscape benefits forming part of prominent Thornhill Edge and its value as a habitat link.

1.33 As shown above, the reasoned justification for the retention of these sites as open space has been made on a site-by-site basis and relates to high visual amenity benefits, high structural and landscape benefits or their important function as stepping stones connecting wildlife habitats.

1.34 The retention of these sites is justified on the basis that the NPPF (Annex 2: Glossary) definition of open space includes all open space of public value, including those which act as a visual amenity, and the broader definition of open space in PPG (Paragraph: 001 Reference ID: 37-001-20140306) which recognises that open space can take many forms. The NPPF does not require open space to be in public ownership or publicly accessible.

1.35 Other natural/semi-natural greenspaces that do not benefit from public access or a right of way but whose retention will be considered under other policies are identified in document EX42 (Part 2, Table 2) together with their Local Plan assessment.

## Amenity Greenspaces

1.36 The following amenity greenspaces do not benefit from public access or a Public Right of Way but are justified for retention as set out below:-

- OLS 589 (class 2619) Ings Grove Park, Huddersfield Road, Mirfield – this site forms amenity space within the curtilage of an existing nursing home (LE119, Appendix 8, page 140) (LE145, Appendix 1.2, page 45).
- OLS 709 (class ref 448) Golcar Cricket and Athletic Club, Swallow Lane, Golcar - this comprises a small area of vacant land associated with an existing cricket and athletic club (LE119, Appendix 8, page 148) (LE145, Appendix 1.5, page 120).

- OLS 880 (class 1828) Burton Dene Park and Dean Bottom Allotments, North Road Kirkburton – this forms part of continuous open space (UGS1311) adjacent to the Wildlife Habitat Network (LE145, Appendix 1.5, Page 157-158).
- OLS 715 (class 702) Ballroyd Clough, Quarmby, Huddersfield – includes an area of protected trees and an existing dwelling which form an integral part of a wider open space UGS1219 (LE119, Appendix 8, page 145) (LE145, Appendix 1.4, Page 15-16).
- OLS 404 (class 1740) Land adjacent 69 Barnsley Road, Flockton – this appears to be used as private gardens but includes protected trees and is part of the Wildlife Habitat Network (LE145, Appendix 1.5 page 93).
- OLS 611 (class 2607) Land rear of 45-73 Heaton Road, Paddock – forms an integral part of larger urban green space UGS1117 (LE145, Appendix 1.3, pages 108 and 110).
- OLS 786 (class 1802) Land adjacent Lydgate Road, Shepley – this site has high visual amenity benefits and forms part of larger urban green space UGS1284 (LE145, Appendix 1.5, page 146).
- OLS 1005 (class 2078) Land adjacent 1a-7 Stubbins Road, Marsden - retention justified based on its high visual amenity benefits (LE145, Appendix 1.5, page 161).

**g) Where extensive tracts of open countryside have been designated as UGS (natural/semi-natural green space), how were sites assessed and boundaries determined?**

***[the Council is requested to include reference to examples, such as UGS973 (land at Field Head Farm, Batley) and UGS1068 (land at Springfield, Upper and Lower Blacup Farms, Cleckheaton)]***

1.37 The assessment of extensive tracts of open countryside designated as UGS was based on their classification as natural/semi-natural greenspaces and considered their physical, environmental, social and economic qualities in order to determine their public value as open space (LE119, Appendix 1 Open Space Assessment Sheet and Guidelines).

1.38 UGS973 has been assessed as a high value open space having:-

- high structural and landscape benefits performing a strategic function as a green lung within a densely developed area;
- high amenity and sense of place benefits based on its openness, attractiveness and semi-rural character that can be viewed over long distances; and
- some informal recreation use along public footpaths that cross the site.

The full site assessment is set out in document LE145 (Appendix 1.1, OLS 466 class ref 1542, page 45-50).

1.39 The UGS designation of the north western part of UGS973 has been supported by a recent appeal decision at Land off White Lee, Batley which was dismissed for 66 dwellings (ID15). The Inspector considered that the appeal site reads as part of, and significantly contributes towards the strategic function of the wider urban green space (ID15, paragraph 21) and “...has a pleasant, semi-rural character; that it positively contributes to and enhances the enjoyment of the use of the public footpath; and that its designation as UG is merited” (ID15, paragraph 22).

- 1.40 UGS1068 has been assessed as a high value open space having:-
- high structural and landscape benefits as an important strategic greenspace acting as a green lung within a highly urbanised area which defines the identity and character of the area and separates the settlements of Cleckheaton and Hightown;
  - high amenity and sense of place benefits providing a high quality attractive open space which has the appearance of countryside and can be viewed from many locations, including public footpaths, and provides visual relief in the urban area; and
  - some informal recreation use along various public footpaths that cross the site.
- The full site assessment is set out in document LE145 (Appendix 1.1, Open Space 561, page 86).
- 1.41 Planning permission for 39 dwellings has been granted on appeal on part of UGS1068 off New Lane (ID14) and in recognition that this development has now started, the council suggest a proposed change to amend the boundary of UGS1068 to remove the area of this planning permission.
- 1.42 In determining the boundaries of UGS973 and UGS1068, the council used the existing statutory urban green space boundaries as shown on the Kirklees Unitary Development Plan (LE1) as a starting point. The boundaries were then reviewed to ensure that only land having open space characteristics was included in the site. This resulted in some minor amendments to the boundaries to remove the following areas from the sites:-
- UGS973 – a private garden area off Mortimer Street and the garden/curtilage of 49 Cross Bank Road; and
  - UGS1068 – residential property 49 Moorside.
- The same methodology was used to review all open space boundaries (BP13, paragraph 5.2.2).

### Huddersfield Urban Green Spaces

- h) Is the proposed designation of the Thewlis Lane Open Space site, Crosland Hill (UGS851) as UGS justified? Does the allocation of the adjoining quarry site for housing have any implications for the structural and landscaping value of the open space and the overall site assessment results?**
- 1.43 The council considers that the designation of UGS851 is justified based on its Open Space Assessment as a high value amenity greenspace. The site comprises public open space with some heathland, attractive trees and some natural vegetation and has been assessed as having high structural and landscape benefits as a buffer between existing housing and nearby quarrying operations; high ecological benefits provided by heathland and acid grassland which are priority habitats and high amenity benefits based on its visual attractiveness as well as its use for informal recreation, including along public footpaths. The full assessment is set out in document LE145 (Appendix 1.3 Part 1, site 238 page 48).
- 1.44 Additional evidence shows a deficiency in the quantity of amenity greenspace in the Crosland Moor and Netherton ward (0.22 ha per 1,000 population compared to the standard of 0.3 ha per 1,000 population) which further supports the designation of this site as urban green space (BP13, Table 2, page 11).

1.45 The allocation of housing site H1783 to the north will does not have implications for the structural and landscape benefits of UGS851 as the site will still act as a buffer between existing quarrying operations to the west and existing housing to the east.

**i) Is the proposed designation of the Celandine Avenue Recreation Ground (part of UGS1240) as UGS justified, effective and achievable, in the context that it is stated to be surplus to University requirements?**

1.46 Celandine Avenue Recreation Ground is council owned and in active use for sport and recreation purposes. It has been assessed as having high value as open space based on meeting local needs for sport and recreation and having high benefits for social inclusion and health and amenity and sense of place benefits (LE145, Appendix 1.4, OLS 736 (class 130), page 36-38). The recreation ground also includes an adult football pitch recommended for protection as an existing local football site in the Playing Pitch Strategy (see LE124, page 73). The council has not submitted a development option on this recreation ground and its value for sports and recreational use justifies its designation as urban green space.

1.47 Land adjacent to the recreation ground (part of UGS1240) includes the following open space uses:-

- OLS 736 (class 129) council owned and private allotments which are well used and have been assessed as having medium value as open space; and
- OLS 736 (class 128) former University playing fields and a former sports ground. These are identified in the council's Playing Pitch Strategy 2015 (PPS) as lapsed football provision (LE124, KKP site 361b, page 28) and as lapsed cricket provision (LE124, KKP sites 361). These sites are recommended for protection in the PPS due to shortfalls in playing pitches in the area (LE124, KKPS sites 361 and 361b, page 74-75). The shortfalls identified in Huddersfield are significant and include deficits in junior football and 3G pitches, as well as considerable deficiencies in cricket provision (LE124, page 10-11). As such, these sites have not been identified as surplus to requirements for sport and recreation purposes as part of the Playing Pitch Strategy assessment. In recognition of this, the council considers that these sites should be retained for sport and recreation use unless the considerations set out in NPPF paragraph 74 can be met.

1.48 The council therefore considers that the designation of these sites as urban green space is justified, effective and achievable based on their existing active use for sport and recreation purposes and evidence from the Playing Pitch Strategy assessment which clearly shows the land is not surplus to requirements and is required to help meet shortfalls in playing pitch provision in the area.

1.49 No evidence has been put forward to demonstrate that replacement sport and recreation facilities will be provided to mitigate the loss of the existing provision in accordance with NPPF paragraph 74. However, there is sufficient flexibility in Urban Green Space Policy PLP 61 to deal with any changes in circumstances consistent with the tests set out in NPPF paragraph 74.

j) **The natural/semi-natural greenspace parts of the following UGS designations are identified in the Open Space Assessment Report as being an integral part of a wider open space.**

- **To what extent was this factor critical in determining the UGS designation?**
- **Why did these sites receive a red rating in the Open Space Assessment?**
- **Are the proposed designations justified by the evidence?**

**UGS1168 (site 663) – Almondbury Bank**

**UGS1176 (site 671) – land adjacent Benholmley Banks**

**UGS1138 (site 632) – land east of Lower Fell Greave Wood**

**UGS1147 (site 642) – land north of New North Huddersfield Trust School**

**UGS3367 (site 868) – land west of Netheroyd Hill Road Allotments**

**UGS1445 (site 188) – land adjacent Brayside Avenue Allotments**

- 1.50 The council considers that the natural/semi-natural greenspace parts (assessed as having low value) of the sites listed above form an integral part of a wider open space and that this factor was critical in determining the urban green space designation. As low value open spaces, these parts were subject to further consideration in assessing whether they should be retained as open space or could be considered for alternative uses (LE119, paragraphs 4.6.6-4.6.7). The further consideration of these sites, taking account of site specific circumstances and their wider open space context, shows their importance in supporting wildlife through their function as habitat links or providing connecting stepping stones within the Wildlife Habitat Network (EX42, Part 1 and Table 1 below). The exception to this is UGS1145 (OLS 188 class 669) which merits urban green space designation as part of a wider allotment area.
- 1.51 The sites were assessed as having a red rating as they do not meet any specific needs or rate highly against any of the specific benefits set out in the Open Space Assessment (LE119, Appendix 1) when considered solely on their own merits. However, they do have merit when considered in their wider context.
- 1.52 The council considers that the designation of these sites as urban green space is justified by information it has provided on natural/semi-natural greenspaces which includes the reasoned justification for the designation of these sites (EX42, Part 1). An extract of the information for these sites is shown below in Table 1.

**Table 1: Low Value Natural/Semi-Natural Greenspaces Allocated as UGS in Huddersfield**

Local Plan UGS Ref	Open Space Site Ref	Open Space Class Ref	Site Address	Summary of Reason for Urban Green Space Designation Provided in Document EX42 (Part 1)
UGS1168	663	370	Almondbury Bank, Almondbury	Although assessed as having low value as open space in itself, this site is part of a larger urban green space UGS1168 which includes an adjoining area of woodland included within the Kirklees Wildlife Habitat Network. As a semi-natural greenspace it is important in providing an open aspect to the woodland and streetscene. It merits urban green space allocation on this basis.
UGS1176	671	560	Land adjacent Benholmley Banks	This site is an integral component of a larger urban green space UGS1176 and woodland corridor which includes adjacent Benholmley Wood ancient woodland and forms part of the Kirklees Wildlife Habitat Network. The site itself provides a valuable link between this woodland and protected trees to the north east and supports a priority habitat which forms an important element of this local ecological network. The site merits urban green space allocation based on its importance in maintaining habitats link and function of the Kirklees Wildlife Habitat Network.
UGS1138	632	2244	Land east of Lower Fell Greave Wood	This area of grassland forms an essential component of a wider strategic urban green space UGS1138 comprising areas of extensive woodland. The site is located between two areas of existing ancient woodland which form an integral part of the Kirklees Wildlife Habitat Network. Its openness is important for maintaining habitat links between the two woodland areas which form stepping stones within the wider network. This site therefore merits urban green space allocation based on its Importance for the function of the Kirklees Wildlife Habitat Network as part of a larger urban green space allocation.
UGS1147	642	2245	Land north of New North Huddersfield Trust School	This site is an integral part of wider urban green space which includes a significant woodland corridor identified as part of the Kirklees Wildlife Habitat Network. It supports a priority habitat which forms an important element of this local ecological network. The site merits urban green space allocation based on its fundamental function maintaining habitat links within the Kirklees Wildlife Habitat Network.
UGS3367	868	2720	Land west of Netheroyd Hill Road Allotments	This site is considered to have an important function as a stepping stone between existing wildlife corridors and is therefore an integral component of the Kirklees Wildlife Habitat Network. It supports a priority habitat which forms an important element of this local ecological network. As such, this site merits urban green space allocation based on its function and importance in maintaining continuity of the Kirklees Wildlife Habitat Network.
UGS1445	188	669	Land adjacent Brayside Avenue Allotments	This site merits urban green space allocation as part of a wider allotment area.

## **Dewsbury and Mirfield open spaces**

### **k) Is the designation of UGS2151 (land off Rumble Road, Dewsbury) justified on the basis of its visual and landscape buffer value?**

- 1.53 The council considers the designation of UGS2151 is justified based on its assessment as a high value natural/semi-natural greenspace having high amenity benefits and some informal recreational use along the public footpath on the eastern boundary. In view of the built-up surroundings, the council considers that the open character of this site is important in providing visual relief as a buffer separating existing housing from the adjoining business park, as well as for local residents and for users of the public footpath. The council considers that additional evidence of health inequalities and deficiencies in natural and semi-natural greenspace in the area provided additional justification for designation as urban green space.
- 1.54 Planning permission was granted for 149 dwellings on this site following two recent appeals which were upheld on 22 December 2017 (APP/Z4718/W/17/3174217 and APP/Z4718/W/17/3184318 attached as Appendix 2 to this MIQ response). The applications are subject to Section 106 Agreements to secure community benefits relating to the improvement of local parks and recreation grounds, with specific improvements to Bywell Recreation Ground.
- 1.55 The overall conclusion of the Inspector is that the adverse impacts of the development would be limited and the benefits of 149 dwellings in helping to address the shortfall in housing land supply outweigh the need to retain the site as open space (attached Appendix 2, paragraph 61). The Inspector did acknowledge that the open nature of the site provides an open setting for the public right of way and nearby houses and has some public value and as such its designation as urban green space has not been incorrectly applied (Appendix 1, paragraph 32).

### **l) How were the boundaries of the Strategic Green Infrastructure designation at Mirfield Promenade (SGI2110) determined?**

- 1.56 The boundaries of the Mirfield Promenade (SGI2110) were submitted to the council by the Mirfield Community Partnership which is working with the Canal and River Trust to improve, develop and promote a walking route linking green spaces from Cooper Bridge through Mirfield Town Centre to Ravensthorpe. The route follows the Calder and Hebble Navigation Canal and River Calder paths. Mirfield Community Partnership plan to carry out environmental improvements, develop facilities and enhance the landscape, wildlife, tourism, history and archaeology of the area for the public's enjoyment.
- 1.57 The boundary was amended following representation made on the Draft Local Plan and now includes Lady Wood to reflect environmental enhancements and other improvement works, including the upgrading of footpaths, carried out by the Mirfield Community Partnership. The boundary was also changed to more accurately reflect the intended route around the Calder and Hebble Navigation canal.

1.58 The inclusion of Lady Wood within the Strategic Green Infrastructure Proposal has created an overlap with housing allocation H2089 (Land south of Ravensthorpe Road/Lees Hall Road, Dewsbury). The site allocation box for H2089 (SD2, page 72) recognises that proposals for the development of H2089 should take account of SGI2110. Lady Wood is recognised as part of the existing woodland belt in the Dewsbury Riverside Masterplan (SS14, page 5).

### **Batley and Spen Urban Green Spaces**

**m) Is the designation of UGS1804 (land south of The Beeches, Birkenshaw) justified by the evidence? Has account been taken of any recent planning permissions?**

1.59 The council considers that the designation of UGS1804 is justified based on its assessment as a high value open space forming a semi-natural greenspace within a residential area with protected trees on the northern boundary. It has high scarcity value on the basis it is remote from other natural/semi-natural greenspace (illustrated on accessibility catchment map in LE119, Figure 3, page 37) and is one of only two natural/semi-natural spaces allocated as UGS in Birkenshaw (EX42, Part 1, pages 7-8). Designation as urban green space is further supported by additional information on open space deficiencies which shows the current provision of natural/semi-natural greenspaces in the Birstall and Birkenshaw ward is 0.6 hectares per 1,000 population, significantly below the 2 hectares per 1,000 population standard (BP13, Table 2, Page 13).

1.60 The recent outline permission granted on appeal for one dwelling (application 2016/60/90511) has been taken into account in the review of site boundaries which resulted in the removal of the application site from the urban green space designation.

**n) Is the designation of the natural/semi-natural greenspace section of UGS1477 (adjacent to Victoria Street allotments, Birstall) justified, having regard to its red rating in the Open Spaces Study?**

1.61 As a low value (red rating) open space in the Open Space Study, this site was subject to further consideration in assessing whether it merited retention as open space (LE119, paragraphs 4.6.6-4.6.7). This included consideration of the specific circumstances of the site and its function within its wider context as part of a larger urban green space. As part of this assessment the council considers that the site performs an important function connecting existing allotments to grassland to the north which is identified in the Wildlife Habitat Network (EX42, Part 1, page 9-10).

### **Kirklees Rural: Urban Green Spaces**

**o) Is the inclusion of areas of natural/semi-natural green space in the northern part of UGS1214 (Golcar Flatts) justified?**

1.62 The council considers that the northern part of UGS1214 is justified as it comprises an area of grassland that provides an open setting for the adjoining allotments and amenity space to the west and forms an integral part of the wider open space to the south. The



whole of UGS1214 has value for visual amenity and informal recreation along both formal and informal footpaths (LE145, Appendix 1.5, site OLS 710 (class 355), page 122-124).

1.63 Designation as urban green space is further supported by additional information on open space deficiencies which shows that the current provision of all types of open space in the Golcar ward is below the benchmark standards (BP13, Table 2, page 13). Provision of natural/semi-natural greenspaces in the Golcar ward, at 0.6 hectares per 1,000 population, is significantly below the 2 hectares per 1,000 population standard.

**p) Are the boundaries of the following sites robustly based and justified, having regard to representations made by landowners?**

- **UGS886 - Sands Recreation Ground, Holmfirth**
- **UGS936 - Clayton West Cricket Ground, Back Lane**
- **UGS1251 - Meltham Pleasure Grounds, Meltham**

UGS886 - Sands Recreation Ground, Holmfirth

1.64 The council considers that the boundary of UGS886 is justified having regard to the representation made by the landowner that part of it is within the private curtilages of dwellings on Summervale.

1.65 The objection site falls within part of UGS886 assessed as having low value as open space (OLS 377 class 1784, LE145, Appendix 1.5, page 71-71). However, OLS 377 (class 1784) is considered to be justified as urban green space on the basis it forms an integral part of a wooded embankment, contiguous with adjoining woodland and makes a valuable contribution to the Kirklees Wildlife Habitat Network identified by West Yorkshire Ecology (EX42, Part 1, page 31-32). It makes a valuable contribution to the River Holme corridor and is part of the Holme Valley Strategic Green Infrastructure Network which has been identified in partnership with Natural England (EX42, Part 1, OLS 377 (class 1784) on pages 31-32).

1.66 Urban green spaces can be in private ownership and are not necessarily required to be accessible to the public provided they perform an urban green space function as a valuable open space, sport or recreation facility (BP13, paragraph 1.4). The definition of open space set out in the NPPF Glossary does not require open space to be in public ownership.

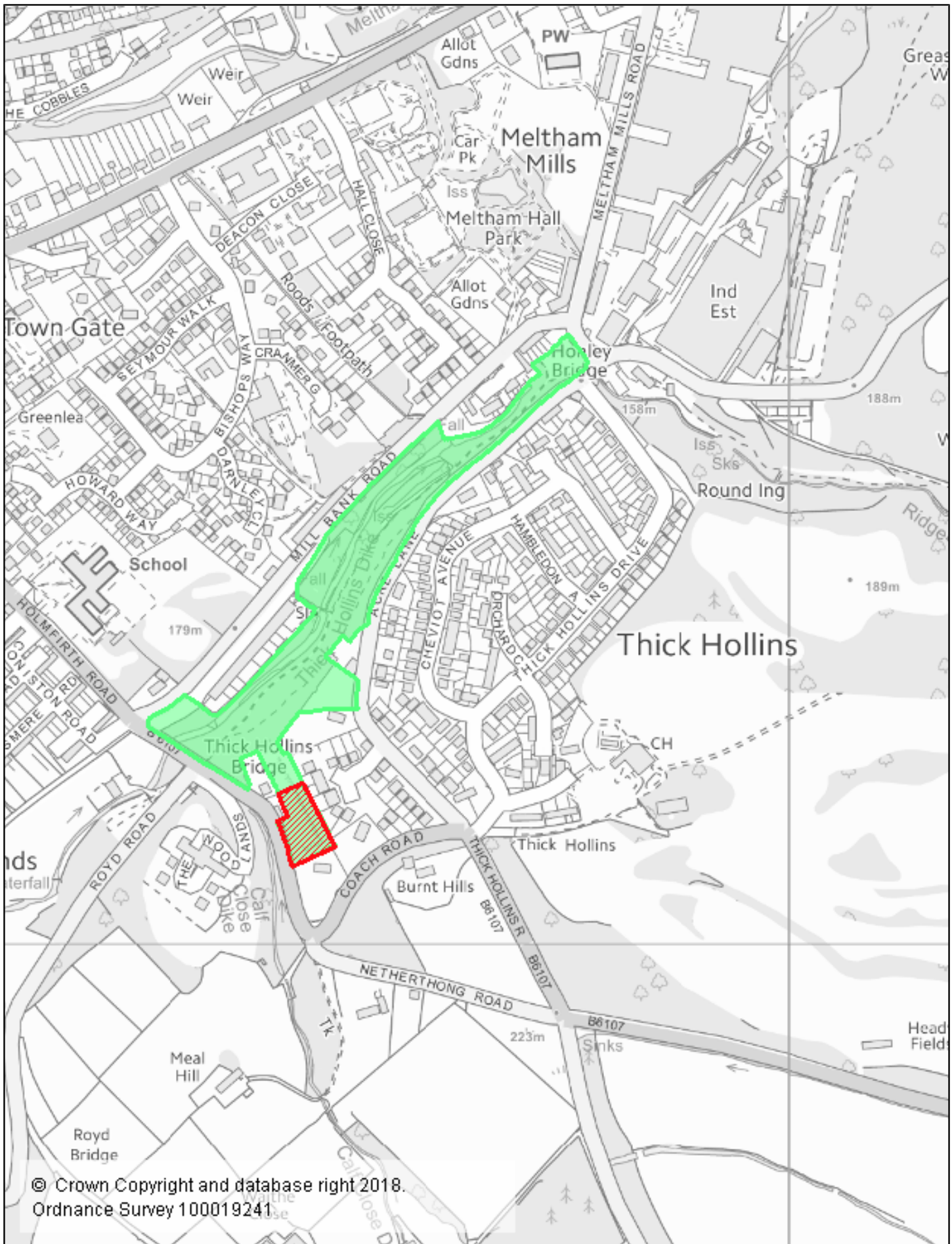
UGS936 - Clayton West Cricket Ground, Back Lane

1.67 The council considers that the inclusion of land used for horse grazing (OLS 428 class 2616) within the boundary of UGS936 is justified on the basis that it forms part of the wider urban green space which includes the adjoining cricket ground and recreation ground. This land merits designation as urban green space forming part of a contiguous open green space that contributes to the character and visual amenity of the area (LE145, Appendix 1.5, page 105 and EX42, Part 1, pages 11 and 12).

### UGS1251 - Meltham Pleasure Grounds, Meltham

- 1.68 The boundary of UGS11251 was amended at the Local Plan Publication Draft stage to include an area of protected trees adjoining properties 83 and 93 Holmfirth Road, Meltham.
- 1.69 Following this change, the council received a representation from one of the landowners concerned that the urban green space designation as revised would restrict the future use of land used as a tree surgery business and that the extended designation also includes the private garden of 93 Holmfirth Road. The landowner therefore suggested a proposed change to remove these areas from the urban green pace designation.
- 1.70 In response to this representation, the council's view is that the landowner's concerns could be met through a proposed modification to amend the boundary of UGS1251 as suggested (see Appendix 1 attached below). This proposed modification is considered to be justified on the basis that the land does not perform an urban green pace function.

**APPENDIX 1: UGS1251 MELTHAM PLEASURE GROUNDS, MELTHAM  
PROPOSED BOUNDARY CHANGE**



© Crown Copyright and database right 2018.  
 Ordnance Survey 100019241

UGS1251 and area to be removed



**APPENDIX 2: UGS2151 LAND AT RUMBLE ROAD, DEWSBURY  
APPEAL DECISION**

---

## Appeal Decisions

Hearing Held on 15 November 2017

Site visit made on 14 November 2017

**by A J Mageean BA (Hons) BPI PhD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22<sup>nd</sup> December 2017**

---

### **Appeal A Ref: APP/Z4718/W/17/3174217 Land at Rumble Road, Dewsbury WF12 7LR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Persimmon Homes West Yorkshire against Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93514, is dated 14 October 2016.
  - The development proposed is the erection of 149 dwellings with associated car parking, access, landscaping, public open space and drainage works.
- 

### **Appeal B Ref: APP/Z4718/W/17/3184318 Land at Rumble Road, Dewsbury WF12 7LR**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Persimmon Homes West Yorkshire against Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/91459/E dated 26 April 2017, was refused by notice dated 11 August 2017.
  - The development proposed is the erection of 149 dwellings with associated car parking, access, landscaping, public open space and drainage works.
- 

## Decisions

### **Appeal A Ref: APP/Z4718/W/17/3174217**

1. The appeal is allowed and planning permission is granted for 149 dwellings with associated car parking, access, landscaping, public open space and drainage works at Land at Rumble Road, Dewsbury WF12 7LR in accordance with the terms of the application, Ref 2016/62/93514, dated 14 October 2016, subject to the conditions set out in the attached schedule.

### **Appeal B Ref: APP/Z4718/W/17/3184318**

2. The appeal is allowed and planning permission is granted for 149 dwellings with associated car parking, access, landscaping, public open space and drainage works at Land at Rumble Road, Dewsbury WF12 7LR in accordance with the terms of the application, Ref 2017/62/91459/E, dated 26 April 2017, subject to the conditions set out in the attached schedule.

## **Procedural Matters**

3. Appeal A relates to the failure of the Council to determine the planning application within the prescribed period. As the decision notice issued for Appeal B relates to essentially the same proposed development, the given reason for refusal similarly applies to Appeal A.
4. Policy PLP61 of the Kirklees Publication Draft Local Plan (DLP) is cited as a reason for refusal in this case. The criteria set out at paragraph 216 of the National Planning Policy Framework (the Framework) determine the weight to be attached to such emerging plans. In this case the draft plan is currently being examined. However, the independent Inspector has recently expressed significant concerns about some key matters following Stage 1 hearings, including the Council's approach to protecting natural/semi-natural green spaces as Urban Green Space<sup>1</sup>. I also understand that there are unresolved objections in relation to both emerging Policy PLP61 and its application to the appeal site. Therefore, whilst this Policy is broadly in line with the provisions in the Framework relating to the protection of open space and does not represent a significant departure from current development plan policy in this regard, my view is that it is of limited weight in the determination of these cases.
5. The applications are accompanied by S106 Agreements to secure affordable housing, financial contributions relating to the funding of additional school places, footpath improvements, the provision of MetroCards for the occupants of the proposed developments, improvements to local parks and recreation grounds, specific improvements to Bywell Recreation Ground and the introduction of traffic calming/management measures along Rumble Road. I have taken these documents into consideration in determining the appeals.
6. The only significant difference between the two appeals relates to action undertaken to address the objection made by Yorkshire Water to Appeal A. This concerns the fact that the site layout under consideration in Appeal A did not identify the location of the raw water main. I understand that the amended layout under consideration in Appeal B does accurately locate this facility and that an adequate easement has been agreed. Nevertheless, should Appeal A be acceptable in all other regards, this matter would not in itself amount to a planning objection to these proposals.
7. Interested parties in attendance at the hearing stated that letters notifying local residents of the appeals and hearing had not been received by all those living in local roads. However the Council maintains that the appropriate notifications took place. A number of local residents were present at the hearing and were able to express their views as part of proceedings. I am therefore satisfied that local interests have been fairly represented in these appeals and have not been prejudiced.

## **Main Issue**

8. The main issue in both appeals is the effect of the proposals on the provision of urban green space in Dewsbury East Ward.

---

<sup>1</sup> Letter to Kirklees Council from Local Plan Inspector, 25 October 2017

## Reasons

### *Policy Context*

9. Urban Green Space (UGS) is a locally derived designation intended to protect open spaces of identifiable public value in the towns and villages of Kirklees. Saved Policy D3 of the Kirklees Unitary Development Plan 1999 (UDP) seeks to safeguard these sites from development, except where this would maintain or enhance the site's value as open land. Saved Policy D3 also allows for the release of UGS for development where this would result in a 'specific community benefit'. The supporting text to this policy notes that in these circumstances usually only small parts of designated UGS would be considered for development. This is because one of its main functions is to safeguard the balance within urban areas between the amount of land that is built-up and the amount of open land. Also, in all cases, the development proposed must protect visual amenity, wildlife value and opportunities for sport and recreation.
10. The appellant has challenged the relevance of saved Policy D3 to these cases in terms of its age and its consistency with the Framework. It is also suggested that it can be seen as a policy which restricts the supply of housing. However, the age of the policy is not in itself an indication of relevance. Furthermore, in the Hopkins Homes judgment<sup>2</sup> the Supreme Court clarified that whilst policies such as this may affect the supply of housing they are not policies for the supply of housing as referred to in paragraph 49 of the Framework.
11. Notwithstanding this point, the Council has accepted that it is unable to demonstrate a five-year supply of housing land, with the parties agreeing that the most that can be claimed is a 2.66 year supply, and that the relevant policies for the supply of housing are out-of-date by virtue of paragraph 49 of the Framework. The fourth bullet point of the Framework paragraph 14 therefore applies. This provides that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
12. Nonetheless, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As such the starting point for decision making remains the relevant development plan policy, before other matters such as paragraph 14 of the Framework are considered.

### *Current value as open space*

13. The site is a privately owned field, which I understand has been variously used in recent years as grazing land and for growing crops. At the time of my site visit it appeared as managed grassland and whilst a number of signs are in place to indicate that there is no public access, the open nature of the eastern site boundary suggests that informal use does take place. The public footpath (PROW) running alongside the eastern boundary is outside the appeal site.

---

<sup>2</sup> Suffolk Coastal District Council v Hopkins Homes and SSCG, Richborough Estates Partnership LLP and SSCGL v Cheshire East Borough Council [2017] UKSC 37



14. The parties agree in the Statement of Common Ground (SoCG) that the site has no material ecological, wildlife conservation, biodiversity, environmental education or landscape value. Reference is made by objectors to the site's wildlife value but this appears to be limited to the trees scattered about its periphery and the hedgerow on the north western boundary.
15. The Council has undertaken recent assessments of open space, sports and recreation facilities as part of the DLP preparation. The Open Space Study 2015 (Revised 2016) (KOSS) indicates that the appeal site has been categorised as natural/semi natural green space (NSNGS). The primary purpose of such open space is wildlife conservation, biodiversity and environmental education and awareness. This category includes woodlands, local nature reserves, scrubland, grassland, heath or moor, wetlands, wastelands and bare rock habitats, as well as unmanaged and unused sites. The detailed assessment looks at the quality, quantity and accessibility of open space within each category. My review of the contribution of the site presented in the following paragraphs follows this same structure, with a final section looking at landscape value.

*i. Qualitative considerations*

16. The appeal site is given a 'high' value rating based on its physical, social, environmental and visual qualities. Within this assessment, it achieves the highest rating possible in relation to the 'Amenity and Sense of Place' category. This is based on the site's open character and the fact that it provides visual relief in the built up area. However, these benefits are restricted largely to the rear outlook of the occupants of those properties on Selso Road, Rumble Road and Bywell Road which back on to the western side of the appeal site. For these residents the site provides a pleasantly open outlook and an element of tranquillity by virtue of the absence of built form.
17. Users of the PROW also experience a sense of openness in this part of the footpath. The assessment of the level of use of the site is indicated as '2' which, as the appeal site is private land, presumably relates to PROW use. The Council's assessment guidelines indicate that a rating of '2' falls somewhere between 'poorly used' and 'reasonably used'. Whilst the path provides a direct route between Leeds Road and Wakefield Road, at the time of my site visit during a weekday afternoon the footpath was little used and appeared somewhat neglected. Furthermore, notwithstanding distant views of the Pennines to the south and the open nature of the appeal site to the west, it is not particularly attractive as a recreational route as it has high metal railings on one side and limited natural surveillance.
18. The high value given in the Council's assessment is also derived in part from the level of deprivation in this area (assumed to be the Dewsbury East Ward (DEW)), as represented by the Index of Multiple Deprivation ranking of the relevant Super Output Areas. This combines a range of key indicators relating to different elements of deprivation including income, education, housing, crime and health. Out of a maximum score of 5, which would indicate the most deprived area, the appeal site scores 4.
19. Further assessment of relevant health indicators is presented in the Urban Green Space and Local Green Space Technical Paper (2017) (Technical Paper) prepared as part of the DLP. Table 7 of this document indicates that DEW has significant health inequalities in relation to levels of obesity, rates of emergency admission due to respiratory disease and rates of adults feeling lonely or isolated. The

Technical Paper states that green spaces can help to reduce health inequalities through their availability as opportunities for physical activity and a healthier lifestyle. However as the recreational role of the appeal site is limited to providing an open setting for houses and the PROW, its role in addressing these specific health inequalities is restricted.

20. On this point I have also considered the relevant aspects of the Framework. Paragraphs 73 and 74 and the glossary definition of 'open space' have the most direct links with saved Policy D3. The glossary definition refers to open space as being of public value in terms of offering important opportunities for sport and recreation and acting as visual amenity. The question of whether these two limbs of this definition, that is sport/recreation and visual amenity, are meant to be conjoined or can be separately applied is contested by the parties, and indeed has been the subject of different interpretations by Inspectors dealing with similar cases.
21. My view is that the glossary definition is provided in support of paragraphs 73 and 74 within the 'Promoting healthy communities' section of the Framework. These paragraphs read together establish the need for high quality open spaces and opportunities for sport and recreation based on robust assessments of need. Such provision should be protected from development unless it is found to be surplus to requirements, would be replaced by better provision elsewhere, or the development itself is for alternative sports and recreation provision. As such the sport and recreation element of the glossary definition is of primary importance. In this sense it does not appear that the intention was to allow the visual amenity element to be detached as a stand-alone test of the value of open space.
22. I have noted that the sport or recreational role of the appeal site itself is limited to providing an open setting for the PROW and a pleasant outlook for residents. Nonetheless it does have some basic public value in these regards. In this respect it appears that there is some contrast with the case referred to by the appellant<sup>3</sup> relating to a community garden with no formal access or use and which was enclosed by high hedges. In this case a challenge to an Inspector's conclusion that the site had little public value was rejected.
23. Overall, the value of the appeal site in qualitative terms is limited.
  - ii. *Quantitative considerations*
24. The KOSS indicates that the amount of NSNGS within the DEW falls below the required standard of 2ha per 1000 population. The KOSS identifies 14.05ha as NSNGS giving a current level of 0.74ha per 1000. The 4.5ha appeal site contributes around a third of the NSNGS in this area and is the largest of all the sites identified. However, the DLP Inspector's comments in relation to the Stage 1 hearings make reference to the fact that these quantitative assessments have not taken into account the surrounding countryside or other NSNGS in nearby settlements. On this particular point I understand that Green Belt sites have mostly been excluded from the assessment of NSNGS. This is except for local nature reserves and woodlands with formal public access arrangements, though it appears that there are no such sites of any significant size within DEW.
25. The range of alternative sites put forward by the appellant which include Green Belt land have been criticised by the Council. I agree that this evidence has not

---

<sup>3</sup> Robinson v SSCLG, Suffolk Coastal District Council and Withers Trust Corporation Ltd [2016] EWHC 634 (Admin)

followed the same rigorous assessment criteria as the KOSS, and that some of the smaller sites would not be appropriate for inclusion. I also agree with the similar assessment made by the Inspector in the White Lee Road case<sup>4</sup> that the appellant's evidence does not indicate with any certainty that a surplus of NSNGS exists.

26. Nevertheless DEW contains 186ha of Green Belt land and is essentially an urban fringe area with a close relationship with the Green Belt curtilage of both Kirklees and the adjoining Council area of Wakefield to the east. Visible connections with open land and countryside to the east and south are evident from a number of vantage points in the vicinity of the appeal site. As such the contribution of these areas to visual amenity and specifically the sense of openness for the residents of DEW is a valid consideration. This suggests that the significance of the quantitative deficiencies of NSNGS within DEW is not as great as the Council's assessment would indicate.

*iii. Accessibility*

27. The Council's standard for access to NSNGS is for residents of towns and villages to have access to such sites within 15 min walking time (720m) and/or be within 2km of a 20ha site. The KOSS indicates that there is no current deficiency in terms of access to NSNGS in DEW. Furthermore, my view is that the role of the appeal site in providing visual relief within the built up area is also performed by some of the other open space designations within the KOSS. For example, the Bywell playing fields are immediately to the north of the appeal site, and Wakefield Road playing fields are close by to the south east. Overall the KOSS demonstrates that there is a good level of access to a wide range of open space types within DEW.

*iv. Landscape value*

28. I have already established the fact that the site has limited landscape value. Furthermore saved Policy D3 is not a landscape protection policy and so this point is not central to the Council's case. Nevertheless, I have considered the landscape character and appearance of the site in terms of the evidence presented, the views of local residents and my own site visit observations.
29. Open views across the site are valued by the occupiers of properties backing onto it. In this respect the site provides a buffer between this housing and the Shaw Cross Business Park to the east, with the large UPS warehouse visible beyond the steep bank lining the eastern side of the PROW. As such, and accepting that the Business Park is a relatively recent addition, the appeal site has intrinsic value to these local residents and users of the PROW as open land. More specifically it gives a semi-rural appearance to an area which is for the most part surrounded by urban land uses. I have also noted that the open nature of the site affords distant views of the Pennine foothills to the south.
30. However, the site itself is mostly flat and featureless with any landscape interest limited to perimeter trees and the section of mature hedgerow on the north western boundary. Indeed, from my observations on site, it seems that the assessment made by the UDP Inspector that the site is 'featureless grassland of undistinguished character and unexceptional appearance' remains as relevant today as it was then.

---

<sup>4</sup> APP/Z4718/W/16/3162164

31. There is little or no visibility of the appeal site in the wider area. As such its value in terms of the sense of openness and visual relief beyond its immediate context is limited. The Council makes reference to the fact that the development of land at the Owl Lane site to the east, on the other side of the Business Park, would isolate the appeal site and make its preservation even more important. However, the restricted visibility and landscape value of the appeal site, combined with the extent of green and open areas further to the east and south, mean that this point does not in itself add to its value.

*v. conclusions on current value of open space*

32. Pulling these threads together, the role of the site in relation to both the primary purposes of NSNGS and the specific health deprivation indicators identified by the Council is limited at the present time. Also, whilst a deficiency of NSNGS has been identified in DEW, there is good access to a range of other open space types in this local area. However, the value of the appeal site relates to its open nature and the absence of built form in this urban fringe location, providing an open setting for the PROW and nearby houses. In these basic terms it has some public value. As such its designation as UGS has not been incorrectly applied.

*Effect of development*

33. The proposed developments of 149 dwellings would result in the loss of an area of open land which has intrinsic value to those living close to it. Open views across this area would be lost, as would some of the southern distant views from the PROW to the foothills of the Pennines. As such the semi-rural appearance of this immediate area would be greatly eroded, with the nature of the PROW changing from semi-open to largely enclosed and urban in character.
34. The Council makes a comparison between the effect of the developments on this site and that considered by the Inspector in the White Lee Road appeal. This previous case similarly addressed the loss of an area of privately owned land designated as NSNGS with a PROW separating it from a wider area of UGS. I was able to view this site as part of my site visit and observed that it forms part of an attractive landscape, with the PROW offering stunning views across a wider area. Thus the Inspector's comments regarding the loss of openness and feeling of rurality resulting from the development proposed in this previous case related to an open area which clearly has more strategic landscape significance than that currently under consideration.
35. The developments would be of comparable density to surroundings streets, and would contain a mixture of detached, semi-detached and a small number of terraced properties. This layout would incorporate two areas of public open space (POS): one of modest size close to the northern boundary, and also a good sized space at the southern end which would link to the PROW. The proposed layout plan also indicates a further four potential and proposed links from the site onto the PROW. As such pedestrian permeability through this currently inaccessible site would be achieved, creating opportunities for the PROW to integrate more effectively with a wider range of movement around this area. Suggested amendments to the housing layout to improve opportunities for the natural surveillance of the footpath have been incorporated into the proposals, and improvements to the PROW itself would be funded through the S106 Agreements.

36. Some of the existing perimeter trees would be removed, though there would be additional tree planting to site boundaries, within the POS and in some street and garden areas. This would assist in softening, though clearly not masking or significantly screening, the appearance of what would essentially be an urban landscape.

*Specific community benefit*

37. I have noted that saved Policy D3 allows for development of UGS where this would result in a specific community benefit. The supporting text to this Policy further states that: 'Exceptionally, there may be cases for areas within designated urban green space to be released for development not associated with open land uses where it can be shown that this would result in a specific benefit to the community'.
38. The present schemes would replace the whole UGS area, though two smaller areas of POS would be created. Additionally the S106 Agreements would provide for Off-Site Community Benefit Contributions amounting to £596,000 to fund improvements to Bywell Recreation Ground, Wakefield Road Recreation Ground and Earlsheaton Park. This would include drainage works to enable year round use, footpath improvements, landscaping, seating areas, improvements to play equipment and other sport and recreation provision including football pitches and informal recreation facilities.
39. The Framework at paragraph 204 requires that planning obligations should only be sought if they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The funding for the Off-Site Community Benefit Contribution has been identified on the basis of £4,000 per new dwelling. Each of these sites is well within 1km of the appeal site. Whilst not formally part of the Off-Site Community Benefit Contribution, additional funding for play equipment at the Bywell Road site would be provided in lieu of on-site play provision.
40. The full range of improvements originally identified by the Council cannot be funded by this sum, nonetheless I accept that the provisions identified would be sufficient to mitigate the loss of UGS and ensure that these enhanced sport and recreation facilities would meet the needs of the future occupiers of the proposed dwellings as well as existing local residents. As such I am satisfied that the three paragraph 204 tests would be met.
41. Additional obligations are included which would secure the provision of 30 units of affordable housing, a contribution to the educational needs generated by the development, a contribution to the improvement of the PROW, the provision of MetroCards to the future occupiers of the dwellings to encourage the use of public transport, and a contribution towards traffic calming measures associated with the Rumble Road access and Selso Road junctions. I find that each of these elements meet the tests set out in paragraph 204. Furthermore, I have been provided with a signed and dated Planning Obligation Compliance Statement indicating compliance with Regulation 122 of the Community Infrastructure Levy Regulations.



### *Conclusion on Main Issue*

42. The supporting text to saved Policy D3 states that one of the main functions of UGS is to safeguard the balance within urban areas between the amount of land that is built up and the amount of open land. In these simple terms this proposed development would undermine this policy purpose. Furthermore, the final limb of the relevant sub-section of this policy requires that, in all cases, the development proposed will protect visual amenity, wildlife value and opportunities for sport and recreation. In this case I have identified the fact that the visual amenity of some local residents would be harmed by this development, in that what are currently open views would be replaced by built form.
43. Balanced against this I have found that in qualitative terms the current value of the appeal site as NSNGS is limited. I have also noted that the development would bring some improvements to the site itself in terms of landscaping, access to the PROW, small areas of POS and enhancement of wildlife value.
44. With reference to the 'exceptional' situation in which development of UGS may be justified by a specific community benefit, the appellant has provided Section 106 Agreements to fund improvements to local sports and recreation facilities. Such provision would improve local opportunities for participation in both formal and informal sport and recreation in the local area. As such a more direct contribution would be made to the health outcomes identified earlier.
45. Nevertheless it remains that when assessed against all the requirements of saved Policy D3 there would be conflict with the need to protect visual amenity. In this respect the proposals would have a harmful effect on the provision of UGS in DEW.

### **Other Matters**

46. I have taken into consideration the views and concerns of local residents as expressed in both the letters relating to the planning applications and in person at the hearing. I give further consideration to the main points made below.

#### *Access and Highway Matters*

47. Reference is made to possible congestion from the additional traffic which would be generated by the developments, particularly at the traffic lights from Bywell Road onto Leeds Road and Wakefield Road. Nevertheless the Transport Assessment has demonstrated that, taking all traffic considerations into account, including the operation of local schools, the traffic generated by the proposals would have no material impacts on the safety and operation of the highway network, or significantly add to any peak time congestion.
48. Concerns about pedestrian safety are also raised, noting the presence of a high proportion of elderly people in the area and also children accessing local schools. Particular reference is made to the possibility that there would be additional cars parked in roads to the west of the appeal site, and also speeding traffic. These proposals may well result in additional cars parking in local roads around school drop off and pick up times. However as parking for the new dwellings would be provided on site it does not appear that this would be a significant problem for most of the day. Furthermore, in addition to the existing traffic calming measures in place in the form of raised platforms at junctions along Bywell Road, the S106 Agreements make provision for the funding of further traffic calming measures to reduce vehicle speeds if the Council determines that this is required.

49. Reference is also made to the potential disruption to local bus services as the result of additional parking on Selso Road. However, this local road is of reasonable width and so this would be unlikely to lead to problems of any significance.
50. I have also noted concerns about the inadequacy of the width of the access point to the site from Rumble Road, particularly if cars are parked in the street. Nevertheless it is clear that the geometry and width of this area meet the required design standards.
51. Reference is also made to additional air pollution from car engines resulting from these schemes. Whilst this may be the case, this location is well served by public transport. Furthermore, provisions to support sustainable transport modes, including funding for residents' MetroCards within the S106 Agreements, would ensure that any adverse effects are minimised.

#### *Living conditions*

52. I have some sympathy with the fact that the living conditions of the occupiers of dwellings which back onto the appeal site would change, both during development and when new residents move into this area. For the occupants of these properties there would be additional noise and activity which would contrast with the current situation. Whilst I have taken this point into consideration, it must be balanced against the fact that such effects are likely to be experienced whenever new houses are built. Such considerations should not in themselves stymie growth, subject to any necessary safeguards.
53. The proposed dwellings would be mostly 2 storeys, though some would be two and a half storeys in height. Whilst some existing dwellings in surrounding streets are of similar height, there are also a number of bungalows backing onto the appeal site. However, whilst recognising the potential for overlooking, there would be reasonable distances between the existing and proposed dwellings, and these proposals have been designed in accordance with design standards which seek to protect residential amenity. Therefore an appropriate level of privacy for properties in what is an urban fringe location would be provided.

#### *Land safety and stability*

54. References to this being a former coal mining area, with resulting contamination and safety concerns, have been addressed by submissions made by the appellant. As such specific conditions relating to further investigation and remedial work could be required if necessary.

#### *School capacity*

55. A sum to fund the additional school places that would be required as the result of these developments has been calculated by the Local Education Authority and incorporated into the S106 Agreements. Whilst concern is expressed about the adequacy of this sum, it is clear that these schemes would result in the further expansion of the local community in this area, with spin-off benefits in terms of support for both the local economy and local services.

### **Balancing and Conclusions**

56. I have found that the proposal would be contrary to UDP saved Policy D3 which seeks to protect UGS. Of specific concern is that the development of this field

would have a harmful effect on the visual amenity of some local residents, particularly those whose homes back onto the appeal site. However, as the degree of harm identified is restricted by the lack of visibility of the site in the wider area, I attribute limited weight to the conflict with this policy.

57. Furthermore, set against this harm is the modest value of the site as NSNGS in qualitative terms, the fact that the quantitative deficiencies of such provision in DEW is not as great as the Council suggests, and the fact that the site has limited landscape or wildlife value. I have also noted that the developments proposed could bring about some benefits in terms of improvements to landscaping and publicly accessible open space, both on site and through the provision of funding through the Section 106 Agreements to fund improvements elsewhere.
58. I identified at the outset that there is a significant shortfall in the supply of housing within the Borough and that paragraph 14 of the Framework applies.
59. When considered against the three dimensions of sustainable development the proposed developments would make a social contribution towards helping address the shortage of housing in the Borough as a whole. This would include the provision of 30 units of affordable housing which would help address local needs in this regard. Environmentally, there would be the loss of open land, though I have also noted the improvements to landscaping and the footpath itself.
60. Economically, the loss of a modestly sized area of agricultural land to development would not have a significant adverse effect. The developments would generate construction employment and the additional households would increase the spending power of the local community to the benefit of businesses and services in the area.
61. My overall conclusion in these cases, having considered all matters, including those raised by local residents, is that the adverse impacts of the proposals would be limited and fall short of significantly and demonstrably outweighing the benefits of 149 dwellings in helping address the shortfall in housing land supply. As a result the presumption in favour of sustainable development applies. Consequently, whilst there would be a conflict with the development plan, the other material considerations are of sufficient weight to outweigh that finding.

### *Conditions*

62. I have considered the conditions suggested in these cases which, having regard to Planning Practice Guidance, I have amended in the interests of clarity and enforceability. The following refers to both those conditions listed with reference to Appeal A and those listed with reference to Appeal B.
63. A condition detailing the approved plans is required to provide certainty. Conditions requiring details of wall and roof materials and landscaping are necessary in the interests of the character and appearance of this area. It is necessary to include a condition requiring noise mitigation measures to be introduced to some dwellings in the interests of the living conditions of future occupiers.
64. Conditions relating to the investigation and treatment of contaminated land are required to ensure that risks to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.



Those relating to the satisfactory means of surface water disposal, including during the construction phase and also resulting from extreme weather events, are required to prevent the increased risk of flooding. In the interests of protecting and enhancing local wildlife a condition seeking to promote biodiversity is necessary.

65. Conditions relating to internal highway layout and lining to the junctions of local roads are required in the interests of the safety of the local highway network. A condition requiring a Construction Method Statement is necessary for the same reasons, whilst also to protect the living conditions of local residents. Finally a travel plan and electric vehicle charging points are required in the interest of promoting environmental sustainability. It is essential that the requirements of the above conditions are put into place prior to the development commencing to ensure that the development is acceptable in respect of the matters they seek to address.

### **Final Conclusion**

66. For the reasons identified above, the appeals should succeed.

*AJ Mageean*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Justin Gartland	Lichfields
Brain Denney	Pegasus Group
Richard Sagar	Walker Morris
Martin Whittaker	Optima Highways
Kate Schofield	Walker Morris
Paul Thornton	Permission Homes
Adam Jackson	Lichfields

### FOR THE LOCAL PLANNING AUTHORITY:

Bill Topping	Kirklees Council, Planning Service
Andrea Lane	Kirklees Council, Planning Service
Andrew Muddiman	Kirklees Council, Environment and Greenspace
Rebecca Drake	Kirklees Council, Planning Service

### INTERESTED PERSONS:

Melanie Walker (rep)	Local Resident
A Watts	Local Resident
John Goldthorpe	Local Resident
Ian Townend	Local Resident
Brain Smith	Local Resident
Margaret Brooke	Local Resident
Christopher Brown	Local Resident
Anne R Brown	Local Resident
Roger Lewis	Local Resident
A Moorhous	Local Resident
Cllr Cathy Scott	Local Resident
Nicolas Hirst	Local Resident
James Garbett	Walker Morris
James Parkin	Permission Homes

### DOCUMENTS

- 1 Planning Obligation Compliance Statement
- 2 Note summarising Off-Site Community benefit Contribution:  
Proposed Expenditure
- 3 Summary of S106 Agreement with respect to Appeal A
- 4 Summary of S106 Agreement with respect to Appeal B
- 5 Signed and dated S106 Agreement relating to Appeal A
- 6 Signed and dated S106 Agreement relating to Appeal B

## **Schedule of Conditions: Appeal A**

- 1) The development hereby permitted shall be begun not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in complete accordance with following the approved plans and specifications except as may be required by other conditions: Location Plan RR-2015-01; Proposed Layout Plan RRD-2017:001D; Landscape Masterplan YOR.2651.005 Rev B; Boundary Treatments 423-BOUN-01; Plans and Elevations: Bickleigh BK-WD10 Rev C; Plans and Elevations: Clayton Corner CCA-WD10 Rev H; Plans and Elevations: Chedworth CD-WD10 Rev P; Plans and Elevations: Hanbury HB-WD10 Rev R; Plans and Elevations: Hatfield HT-WD10 Rev S; Plans and Elevations: Roseberry RS-WD10 Rev S; Plans and Elevations: Rufford RF-WD10 Rev T; Plans and Elevations: Single and Double Garage SGD-01 Rev B; Plans and Elevations: Souter SU-WD10 Rev U; Plans and Elevations: The Alwick AN-WD10 Rev F; Plans and Elevations: Winster WS-WD10 Rev U; Illustrative Sections YOR.2651.07; Levels and Drainage Layout Rev A; Garages 6X3 SGD-02 Rev B.
- 3) Prior to commencement of the development hereby approved details of the walling and roofing materials to be used, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with approved details.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of the development.
- 5) All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Before construction of the buildings identified in drawings SK05 & SK06 of the Noise Assessment report by WYG Planning and Environment dated 26 January 2017 (ref: A095148) as requiring noise mitigation, a noise mitigation scheme for those plots shall be submitted to and approved in writing by the Local Planning Authority. In addition to the standard double glazing and acoustic background ventilation specified in the above mentioned WYG report, the mitigation scheme shall include a specification for a means of providing rapid acoustic ventilation for the purposes of achieving thermal comfort without the need to open windows. The mitigation scheme shall be implemented before the plot is brought into use and retained permanently thereafter.
- 7) No development shall commence until a Phase II Intrusive Site Investigation Report to provide a land contamination risk assessment has been submitted to and approved in writing by the Local Planning Authority.

- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 9) In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 10) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
- 11) No development shall commence until a scheme detailing the provision of electric charging points within the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the development, or in accordance with a timeframe to be agreed with the Local Planning Authority, and subsequently be retained permanently thereafter.
- 12) No development shall commence until a scheme detailing separate foul, surface water and land drainage, (including off site works, outfalls, an agreed surface water discharge rate with the LLFA, balancing works incorporating the critical 1 in 30 and 1 in 100 storm events with a 30% allowance for climate change, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the piped watercourse and works for the lifetime of the development. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development, or each agreed phasing of the development to which the

dwelling relate, and retained thereafter in accordance with the agreed management and maintenance plan.

- 13) No development shall commence until a detailed assessment of, and scheme to mitigate, the effects of 1 in 100 year storm events, with an additional allowance for climate change, exceedance events and blockage scenarios on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall develop the solution shown on Drainage Strategy Plan 4565-C-D10-10 Rev A included in the revised Flood Risk Assessment and Surface Water/SUDS Strategy Report 4565 FRA01B dated 26th April 2017, where routes avoid property and curtilage. No part of the development shall be brought into use (and dwellings shall not be occupied) until the works comprising the approved scheme have been completed. The approved scheme shall be retained permanently thereafter.
- 14) No development shall commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:
- phasing of the development and phasing of temporary drainage provision.
  - include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.
- The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.
- 15) No development shall commence until a scheme detailing biodiversity enhancement (including bird and bat roost opportunities within the development) shall be submitted for the written approval of the Local Planning Authority. The approved scheme shall be implemented prior to occupation, or in accordance with a timetable to be agreed with the Local Planning Authority, and retained permanently thereafter.
- 16) No development shall commence until a scheme detailing the programme of works, internal highway layout, and construction specification, and all associated highway works together with the appropriate level Road Safety Audits has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved scheme has been implemented. The implemented scheme shall be retained permanently thereafter.
- 17) No development shall commence until a scheme detailing give way lining at the junctions of Selso Road and Hobart Road with Rumble Road has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved scheme has been implemented. The implemented scheme shall be retained permanently thereafter.

- 18) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
  - ii. loading and unloading of plant and materials;
  - iii. storage of plant and materials used in constructing the development;
  - iv. wheel washing facilities;
  - v. measures to control the emission of dust and dirt during construction;
  - vi. a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - vii. delivery, demolition and construction working hours;
  - viii. site manager and resident liaison officer contact details (including their remit and responsibilities)
  - ix. advisory directional/speed limit signage on Rumble Road.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 19) Prior to the occupation of the first dwelling, a scheme for the provision and maintenance of a full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include measures to improve and encourage the use of sustainable transport. The measures will include (but not limited to) the provisions as laid out within the Framework Travel Plan Rev 2 dated 12 April 2017 that accompanies this application. The full Travel Plan will include details of how and when measures will be introduced, as well as targets to achieving sustainable mode share throughout the lifetime of the plan. This will include:
- targets aimed at lowering car use, particularly single occupancy trips, from/to the site;
  - a program for monitoring the Travel Plan and its progress and how its objective of more sustainable travel will be promoted.
- The approved Travel Plan shall thereafter be retained throughout the lifetime of the development.

## **Schedule of Conditions: Appeal B**

- 1) The development hereby permitted shall be begun not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans and specifications except as may be required by other conditions: Location Plan RR-2015-01; Proposed Layout Plan RRD-2017:001E; Landscape Masterplan YOR.2651.005 Rev B; Boundary Treatments 423-BOUN-01; Plans and Elevations: Bickleigh BK-WD10 Rev C; Plans and Elevations: Clayton Corner CCA-WD10 Rev H; Plans and Elevations: Chedworth CD-WD10 Rev P; Plans and Elevations: Hanbury HB-WD10 Rev R; Plans and Elevations: Hatfield HT-WD10 Rev S; Plans and Elevations: Roseberry RS-WD10 Rev S; Plans and Elevations: Rufford RF-WD10 Rev T; Plans and Elevations: Single and Double Garage SGD-01 Rev B; Plans and Elevations: Souter SU-WD10 Rev U; Plans and Elevations: The Alwick AN-WD10 Rev F; Plans and Elevations: Winster WS-WD10 Rev U; Garages 6X3 SGD-02 Rev B.
- 3) Prior to commencement of the development hereby approved details of the walling and roofing materials to be used, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with approved details.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of the development.
- 5) All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Before construction of the buildings identified in drawings SK05 & SK06 of the Noise Assessment report by WYG Planning and Environment dated 26 January 2017 (ref: A095148) as requiring noise mitigation, a noise mitigation scheme for those plots shall be submitted to and approved in writing by the Local Planning Authority. In addition to the standard double glazing and acoustic background ventilation specified in the above mentioned WYG report, the mitigation scheme shall include a specification for a means of providing rapid acoustic ventilation for the purposes of achieving thermal comfort without the need to open windows. The mitigation scheme shall be implemented before the plot is brought into use and retained permanently thereafter.
- 7) No development shall commence until a Phase II Intrusive Site Investigation Report to provide a land contamination risk assessment has been submitted to and approved in writing by the Local Planning Authority.



- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 9) In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 10) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
- 11) No development shall commence until a scheme detailing the provision of electric charging points within the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the development, or in accordance with a timeframe to be agreed with the Local Planning Authority, and subsequently be retained permanently thereafter.
- 12) No development shall commence until a scheme detailing separate foul, surface water and land drainage, (including off site works, outfalls, an agreed surface water discharge rate with the LLFA, balancing works incorporating the critical 1 in 30 and 1 in 100 storm events with a 30% allowance for climate change, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the piped watercourse and works for the lifetime of the development. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development, or each agreed phasing of the development to which the



dwelling relate, and retained thereafter in accordance with the agreed management and maintenance plan.

- 13) No development shall commence until a detailed assessment of, and scheme to mitigate, the effects of 1 in 100 year storm events, with an additional allowance for climate change, exceedance events and blockage scenarios on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall develop the solution shown on Drainage Strategy Plan 4565-C-D10-10 Rev A included in the revised Flood Risk Assessment and Surface Water/SUDS Strategy Report 4565 FRA01B dated 26th April 2017, where routes avoid property and curtilage. No part of the development shall be brought into use (and dwellings shall not be occupied) until the works comprising the approved scheme have been completed. The approved scheme shall be retained permanently thereafter.
  
- 14) No development shall commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:
  - phasing of the development and phasing of temporary drainage provision.
  - include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.
  
- 15) No development shall commence until a scheme detailing biodiversity enhancement (including bird and bat roost opportunities within the development) shall be submitted for the written approval of the Local Planning Authority. The approved scheme shall be implemented prior to occupation, or in accordance with a timetable to be agreed with the Local Planning Authority, and retained permanently thereafter.
  
- 16) No development shall commence until a scheme detailing the programme of works, internal highway layout, and construction specification, and all associated highway works together with the appropriate level Road Safety Audits has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved scheme has been implemented. The implemented scheme shall be retained permanently thereafter.
  
- 17) No development shall commence until a scheme detailing give way lining at the junctions of Selso Road and Hobart Road with Rumble Road has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved scheme has been implemented. The implemented scheme shall be retained permanently thereafter.

- 18) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
  - ii. loading and unloading of plant and materials;
  - iii. storage of plant and materials used in constructing the development;
  - iv. wheel washing facilities;
  - v. measures to control the emission of dust and dirt during construction;
  - vi. a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - vii. delivery, demolition and construction working hours;
  - viii. site manager and resident liaison officer contact details (including their remit and responsibilities)
  - ix. advisory directional/speed limit signage on Rumble Road.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 19) Prior to the occupation of the first dwelling, a scheme for the provision and maintenance of a full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include measures to improve and encourage the use of sustainable transport. The measures will include (but not limited to) the provisions as laid out within the Framework Travel Plan Revision 2 dated 12 April 2017 that accompanies this application. The full Travel Plan will include details of how and when measures will be introduced, as well as targets to achieving sustainable mode share throughout the lifetime of the plan. This will include:
- targets aimed at lowering car use, particularly single occupancy trips, from/to the site;
  - a program for monitoring the Travel Plan and its progress and how its objective of more sustainable travel will be promoted.

The approved Travel Plan shall thereafter be retained throughout the lifetime of the development.