



Development Management
Bury Council
3 Knowsley Place
Duke Street
Bury
BL9 0EJ

Our Ref: MJ/RG/G315/L001
Date: 29 July 2021

Dear Sir / Madam

**PROPOSED ERECTION OF 8 DWELLINGS, AND NEW / IMPROVED FORMAL AND INFORMAL COMMUNITY OPEN SPACE / PLAY SPACE, REPLACEMENT / IMPROVED FOOTPATH CONNECTIONS AND WIDER GREENSPACE ENHANCEMENTS
LAND OFF BROWNHILLS CLOSE AND BURY ROAD, TOTTINGTON, BL8 3LF**

On behalf of Barnaby Properties Ltd and Dial-a-Skip UK Ltd, we are pleased to submit this outline planning application which proposes the erection of 8 dwellings (split into two zones, each containing 4 dwellings, connected internally by an upgraded footpath), to be accessed via both Brownhills Road and Bury Road, with a range of public open space provision and enhancements. The application site is marked on the accompanying site location plan.

The application is submitted in outline, with all details – apart from access arrangements - reserved for future determination.

Specifically, the application is promoting :

- A total of 8 homes with associated garden curtilage, garages and parking.
- 4 of the houses are to be accessed via Bury Road.
- 4 of the houses are to be accessed via Brownhills Close by extending its existing turning head eastwards to connect to a shared drive to serve those 4 units.
- An internal path to connect the two housing zones.
- Both housing zones to be linked internally via the new / improved path link
- Provision of new formal and informal public open space, including formal childrens' play space and an informal 'kick-about' area (specifically requested at pre-application stage by the LPA)
- Improved pedestrian access to connect with adjacent housing and the Kirklees Trail, designed to facilitate use by those dependent on wheelchairs, and those with prams and cyclists.
- Tree / woodland and ecological management measures.
- Eradication of invasive species that is taking hold of parts of the land.



Pre-Application Feedback from the LPA

On 22nd October 2020, the Applicant engaged with Bury LPA and sought pre-application advice.

While a formal / full pre-application response was not issued by the LPA, that dialogue (including an online 'Teams' meeting in December 2020) was positive, and is summarised in the email reproduced at *Annex A* of this letter.

Those discussions indicated that the LPA is supportive of the overall proposition, and in particular the qualitative improvements to public open space that will be delivered if this application is approved.

However, it also important to acknowledge that - following the summary email reproduced at *Annex A* - the Council's Highways Team raised concerns about how the proposal can be safely and efficiently accessed. We have sought to address those comments / concerns in the application paperwork, and we look forward to progressing those discussions / details during the application process.

The Site

The site is 0.72 ha, located on the southern fringe of Tottington.

Enclosed with this application is a *Phase 1 Preliminary Risk Assessment* prepared by Curtins. This notes that the earliest mapping (1850) shows that the site / area was undeveloped. The north of the site was occupied by agricultural land and the south by trees. A water course is recorded running west to east through the centre of the site.

By 1929, a gravel pit is recorded in the south west corner and rough pasture in the north. Two unidentified buildings are recorded in the north of the site.

By 1958, the gravel pit has extended to the north east and embankments are recorded along the northern and southern boundary.

Records show that a historic landfill operated on site, receiving industrial waste from 1875 to 1977.

Records suggest that the landfill contains waste from bleach works and dye works, and was then capped with hardcore waste in the 1970s.

In 1999, the gravel pit was no longer recorded.

By 1989, tipping had ceased and the site was then used as public open space, with a footpath running to the former railway line (now known as the Kirklees Trail).

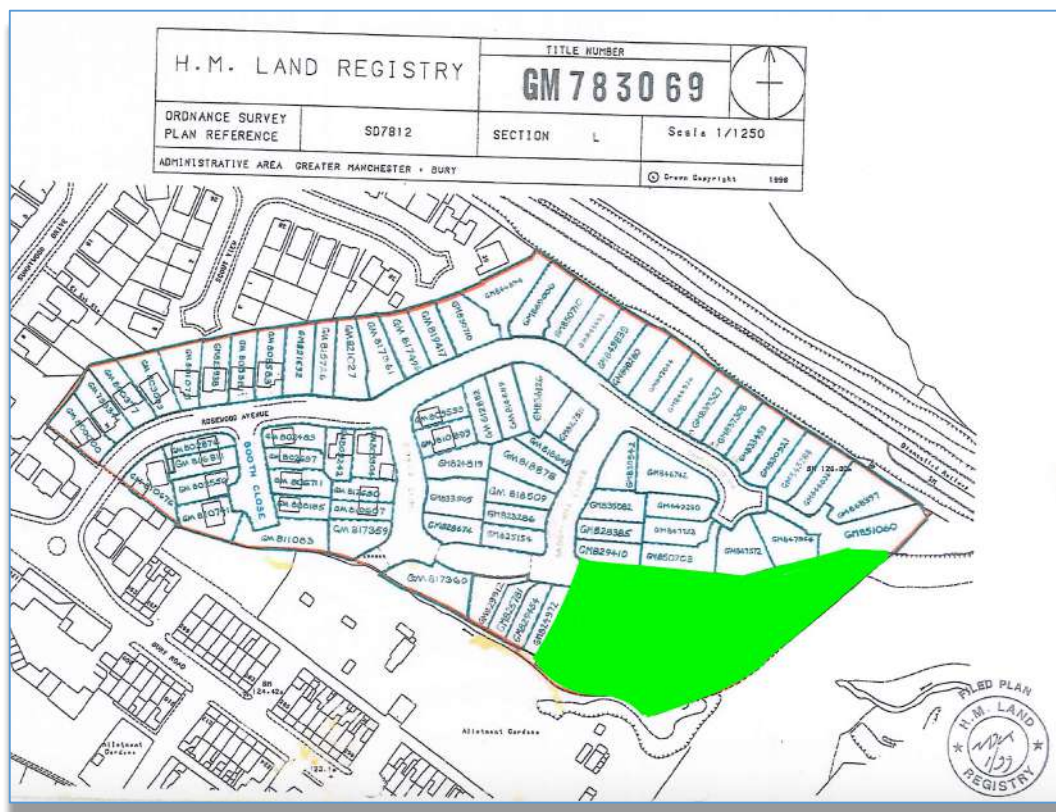


Our Understanding of the Planning History

We have not had full sight of all historic planning documents. Certain documents are absent from the files that have been provided to our client, and our search of Bury's portal has revealed little else in terms of historic data / documentation. The following is therefore based up on documents that our client has been provided with.

It is important that the following planning history is recorded, as it is of contextual relevance to what is proposed by this planning application.

In July 1997, planning permission was granted under application 33376 for 79 dwellings. That permission was subject to a S106 obligation that required the area of land shown in green on the plan extract below to 'remain open and unbuilt upon and not used for any other purpose.' The remainder of our client's land (to the east) is not governed by the S106.



Whilst our client has a copy of part of the S106, it is not the full version, and our client's previous discussions with the LPA suggest that the Council does not hold a full copy.

Crucially, that S106 refers to drawings which apparently indicated a landscaping scheme in respect of the land, but – again - those drawings do not appear to be available anywhere. That said, it seems that no party has any clear record or understanding of the type of work that the S106 required for the land, or indeed whether or not it was laid out as required. In which case, questions must be put about the obligations within the S106, because no party would seem to know the finer details.



The part of the S106 that has been provided to our client includes the following obligations :

- 3.2 Before the expiration of twelve months from the date the first dwelling house comprised in the Development is first occupied:
- 3.2.1 To landscape the area described in Schedule 3 hereof in accordance with the detail indicated on drawing numbers M3204/002REVB and DM711.PL01 revisions D and F annexed hereto and thereafter to keep this area open and unbuilt upon and not used for any other purpose

The drawings referred to above appear to be missing, and as such (unless the LPA or another party is in possession of those drawings) no weight can sensibly be attached to those in above clause, because no party understands what was shown on those cited drawings.

The S106 also includes the following :

4. **IT** is agreed that on completion of the landscaping and fencing works to the satisfaction of the Council and the payment to the Council of the sum of fourteen thousand three hundred pounds (£14,300.00) in respect of future maintenance costs of the landscaped area the land described in Schedule 3 hereof shall be conveyed to the Council by a Deed of Transfer in the form or substantially

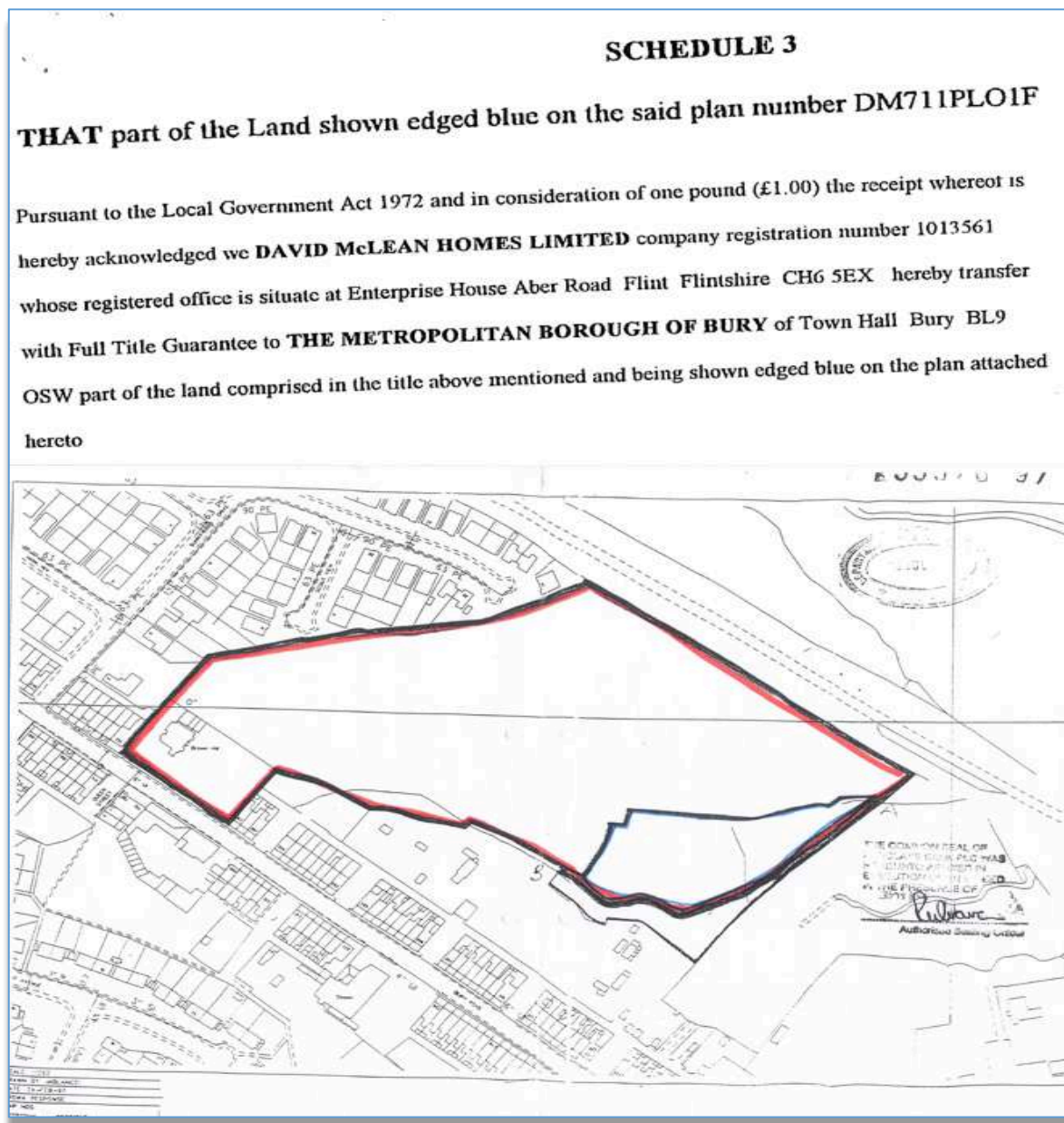
We have seen no evidence, but our client has been advised us that the £14,300 payment was paid to Bury MBC, and it would seem improbable that the Council would have failed to claim a fee of such magnitude having accepted responsibility for maintaining the land.

What is the case, however, is that the land (ie the application site itself and the wider 'blue line' area marked on the Site Location Plan) is currently managed by no party, including the Council itself.

Cont/d ...



The S106 also includes the following 'land transfer' provision :



In spite of the above provision, our client advises us that there has been no such transfer of the blue edged land, and that – legally – it remains the property of David McLean Developments (in liquidation).

In view of the above and the missing details, the weight that can be afforded to the S106 must surely be very limited because :

- I. The land is wholly owned by a company that is in liquidation, which is no longer operating, employs no staff and possesses no funds.



2. It is uncertain how the land was intended to be laid out, and in turn whether it was ever laid out as required. It might have been, but unless any party can source the precise details of what was intended and the drawings referred to in the S106, it is not possible to establish this.
3. No party is currently maintaining the land, and there appears to have been no proper maintenance for many years (if at all).
4. The responsibility for maintenance the land appears to rest with the Council, because that was set out in the S106 referred to above, and our client advises us that they are of the understanding that the Council was paid £14,300 to cover that ongoing maintenance cost.
5. Even if that were not the case, there are no funds available to maintain the land (even to the extent of eradicating the invasive species that appears to be gradually taking hold) because the owner is in liquidation and has no funds, and can hardly be taken to task in the courts, as that would be an entirely futile exercise.

The above raises serious questions and concerns about the future of the land.

Before our own involvement in this project, our client submitted an application in June 2018 (ref: 62967) to remove the planning obligations attached to planning permission 33376/97, in respect of open space and landscaping.

That application was refused in August 2018 for the following reason :

'The planning obligations (at paragraphs 3.2 and 4 of the Section 106 agreement, dated 21 April 1998, which is related to planning permission 33376) provided for continued recreational and amenity space for the residents of the development and the immediate locality. As such, the obligation continues to serve a useful planning purpose. Therefore, the relevant planning obligations shall continue to have effect and will not be discharged.'

We concur with the LPA that the land in question does provide *'recreational and amenity space for the residents of the development and the immediate locality'* and in turn that the obligation *'continues to serve a useful planning purpose.'* However, we question the extent and quality of that benefit (which we contend is relatively poor), and we consider – via the proposition set out in this planning application – that the value, appeal, usability and maintenance of the POS could and should be considerably enhanced.

It is important to note that the above planning obligation relates to only part of the application site, which stretches eastwards beyond the S106 land and which did not form part of that permission / S106.



The Rationale for this Proposal

The land (as a whole) is utilised as informal public open space, but it is unkempt in nature / appearance, with steep level changes, and in most places overgrown and inaccessible.

We note that the Council's 2015 Greenspace Audit (reviewed later in this letter) concluded that this Greenspace is of 'average' quality. We dispute that, and suggest that it is in fact of poor quality and character.

While we acknowledge that, while the land provides a benefit in terms of its relative openness and absence of development, its overall attraction, appeal and usability is questionable.



It contains a link between the adjacent housing areas and the Kirklees Trail to the east (and the PROW network beyond), but the quality of that connection is poor. The paths are narrow and unkempt, and are entirely unsuitable / inaccessible for disabled and infirm people, and only the very fittest and most determined of cyclists could utilise them.



The land is overgrown, entirely unmanaged and in parts present a quite hostile environment, where most users are unlikely to wish to loiter. The pathway network is tight, narrow, unlit and confined, with blind spots, resulting in a generally unappealing environment with little natural surveillance.



The enclosed Ecological Assessment by Rachel Hacking Ecology records significant findings of Himalayan Balsam, Japanese Knotweed and Montbretia. It is inevitable that these invasive species will continue to flourish unless managed, and – in places – are already showing signs of taking over parts of the land.

Furthermore, we note that there is a dearth of good quality, formal quality childrens' play space, not just on this particular parcel of POS, but in the local area generally, and the overall appearance of much of this open space is scrub-like, unmanaged land that offers little in terms of visual appeal or charm.

Bury Greenspace Audit and Strategy (February 2015)

We have reviewed the *Audit and Strategy* report in respect of the subject land. This assessed open space, sport and recreation facilities across the Borough, and considered the long-term requirements in terms of quantity, quality and accessibility of the various types of open space, sport and recreation for future provision in meeting local need, through establishing minimum standards to be achieved.



At §1.7, it notes that :

‘A key consideration ... is how these deficiencies, whether this is a shortfall in quantity or quality, are tackled.’

The Audits assesses (scores) each greenspace as below :

0 to 19%	20 to 39%	40 to 59%	60 to 79%	80+%
Very Poor	Poor	Average	Good	Excellent

At §4.88, it is highlighted that community views expressed in 2006 concluded that there were :

“too few play facilities across the Borough”.

The subject land falls within the Ramsbottom / Tottington sub-area. The Audit records (Table 18 – see below) that, in **quantitative** terms in this area, there was (in 2015) an average or slight excess of all types of open space in this part, apart from a slight deficiency in outdoor sports space.

Table 18: Comparison of Existing Quantitative Provision against Minimum Quantitative Standards

	Population (aged 0-19 in brackets)		Parks and Gardens (Ha.)	Natural and Semi- Natural Greenspace (Ha.)	Outdoor Sports (Ha.)	Amenity Greenspace (Ha.)	Provision for Children and Young People (Ha.)	Allotments (plots)
Provision Standard per 1,000 population			0.73	3.90	0.83	0.5	0.25	3.9
Ramsbottom, Tottington and North Manor	31,363 (7,290)	Required	22.77	122.21	26.02	15.74	1.80	122
		Existing	23.43	131.53	23.33	19.36	2.45	126
		Balance	+0.66	+9.31	-2.69	+3.61	+0.65	+4

Average

+/- 1 Ha. or +/- 1 allotment plot

Excess

SLIGHT	1.01 to 10 Ha. or 1 to 10 allotment plots
SIGNIFICANT	10.01 Ha. to 50 Ha. or 11 to 50 allotment plots
MAJOR	50.01 Ha. + or 51+ allotment plots

Deficiency

SLIGHT	1.01 to 10 Ha. or 1 to 10 allotment plots
SIGNIFICANT	10.01 Ha. to 50 Ha. or 11 to 50 allotment plots
MAJOR	50.01 Ha. + or 51+ allotment plots

In **qualitative** terms (again in the Ramsbottom / Tottington area – see Tables 19 and 20 below), two categories were found to be deficient : ‘Natural / Semi-Natural Greenspace’ and ‘Allotments’. Most of the subject land falls within the ‘Natural / Semi Natural’ category.



Table 19: Summary of Qualitative Assessment and Comparison with Minimum Qualitative Standards

	Parks and Gardens	Natural/ Semi-Natural Green-space	Playing Pitches	Bowling Greens	Tennis Courts	Amenity Green Space	Equipped Play Areas	MUGAs	Skate Parks	Allotments	Cemeteries/ Church-yards	Civic Spaces
RAM	64%	35%	52%	64%	68%	56%	74%	62%	82%	37%	68%	75%
BUR W	56%	31%	40%	56%	74%	64%	70%	61%	N/A	90%	N/A	63%
BUR E	79%	34%	55%	55%	64%	57%	70%	69%	53%	48%	60%	79%
RAD	65%	34%	50%	64%	75%	60%	69%	53%	52%	39%	74%	86%
WFD	63%	33%	49%	66%	64%	63%	76%	57%	N/A	53%	69%	N/A
PRE	58%	39%	48%	46%	75%	54%	65%	67%	53%	64%	57%	79%

0 to 19%	20 to 39%	40 to 59%	60 to 79%	80+%
Very Poor	Poor	Average	Good	Excellent
Extensively Below Minimum Standard	Significantly Below Minimum Standard	Below Minimum Standard	Meets Minimum Standard	Exceeds Minimum Standard

Table 20: Key issues for quantity and quality across each Township

	Quantity	Quality
RAM	- Slight deficiency in outdoor sports provision (-2.69 Ha.). - Parks and gardens (+0.66 Ha.) and provision for children and young people (+0.65 Ha) are roughly in line with the standard. - Slight excess in natural and semi-natural greenspace (+9.31 Ha.), amenity greenspace (+3.61 Ha.) and allotment provision (+4 plots).	- Natural and semi-natural greenspace and allotment provision are rated as 'poor' quality and are significantly below the minimum qualitative standard. - Playing pitches (52%) and amenity greenspace (56%) are just below the minimum qualitative standard. - Skate parks in this area are rated as 'excellent' overall. - Other than the above, the average quality of other open space, sports and recreation facilities meet the minimum qualitative standard of 'good'.

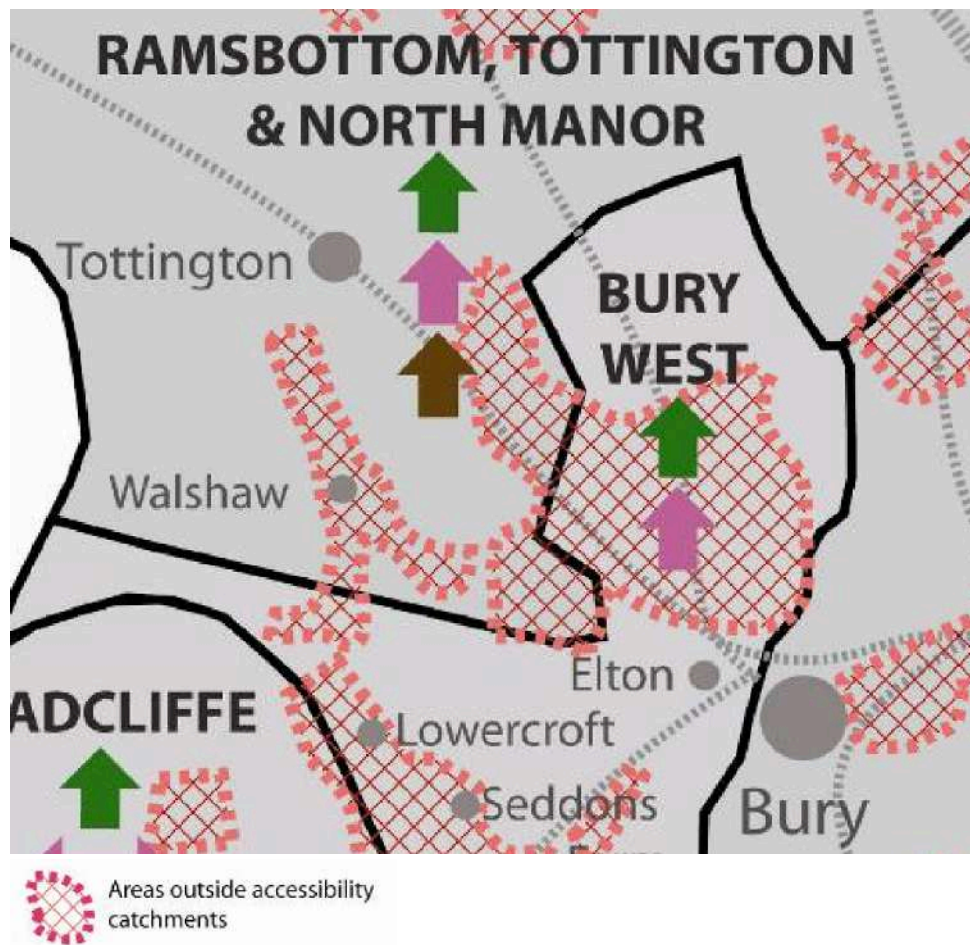
So, in respect of **quality** – the wider Tottington / Ramsbottom area's '*natural and semi-natural greenspace*' (such as the subject land) was ranked as :

'poor quality and significantly below the minimum qualitative standard'

Part of Figure 6 is reproduced below. This notes the key Audit findings for the provision for children and young people. While the plan below is difficult to interpret with precision on a site by site basis, the extract below appears to suggest that the subject land falls outside the '*accessibility catchment*' for childrens' play facilities. This reinforces our own observations of the local area, and what appears to be an absence / shortfall of formal, good quality childrens' play facilities.



Extract from Figure 6 of *Bury Greenspace Audit and Strategy* :



As we note above, the Audit assessed the subject land as “average” :

AMENITY GREENSPACE

SITE REFERENCE	SITE NAME	TOWNSHIP	SUB TYPOLOGY	AREA (Ha)	QUALITY ASSESSMENT
RP/TT031/00	Recreation space at Brownhills	Ramsbottom, Tottington And North Manor	Informal Recreation	0.518	Average

We respectfully dispute that overall ‘average’ conclusion. We accept that the land does provide a benefit / resource to the local community - in respect of its openness (ie lack of buildings); its provision of relief and green buffering adjacent to the built up area; its trees and woodland; its quite interesting / varied relief; and its connections between adjacent residential areas and the Kirklees Trail. However, it suffers from serious deficiencies and defects (as we have explained elsewhere).

It does, however, have potential to become a more attractive, usable and useful greenspace for local people, which we suggest could elevate its assessment in the *next* Greenspace Audit from simply ‘average’ to ‘very good’, or even ‘excellent’.



It is the purpose of this proposal – to be cross-subsidised by the provision of a modest number (8) of good quality houses – to deliver that change, and to create a superior Greenspace that can be enjoyed by all members of the local community (not just the able-bodied). Crucially, this will include disabled people who cannot current utilise the resource.

Policy Considerations

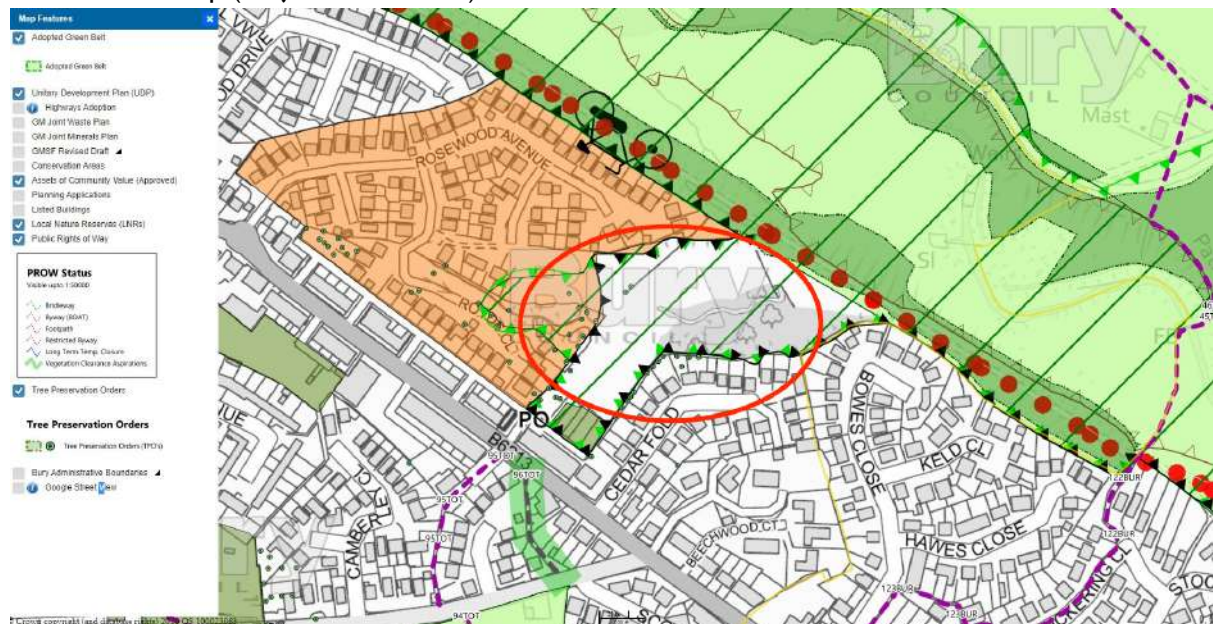
The Development Plan currently comprises the Bury Unitary Development Plan (UDP) as adopted in August 1997.

The Council is currently working to replace the UDP with a new Local Plan. That is associated with progress on the Greater Manchester Spatial Framework (GMSF), the recent progress of which has been less than smooth.

Key policy documents that comprise ‘material considerations’ include the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG), and relevant local supplementary planning guidance documents considered relevant to the proposal.

The land in question is designated as part of the Kirklees Valley (Informal Recreation Area), River Valley, and Wildlife Link Corridor (see extract from UDP Policies Map on following page). We briefly consider the most relevant policies below.

UDP Policies Map (subject land circled) :



Policy EN6/4 - Wildlife Links and Corridors

This policy states that the Council will seek to consolidate and, where appropriate, strengthen wildlife links and corridors, and will not permit development which would adversely affect identified areas. In particular,



the Council will seek to ensure that new development within or adjacent to identified links or corridors contributes to their effectiveness through the design, landscaping and siting of development proposals and mitigation works, where appropriate.

We suggest that this proposal is consistent with this policy. The building of 8 houses and their gardens and associated access(es) may result in a degree of harm to biodiversity, but balanced against that are the environmental benefits of the scheme. Enclosed with this pre-application submission is an Extended Phase I Habitat Survey prepared by Rachel Hacking Ecology. The principal findings of the report are summarised below.

Protected Species:

Water Vole: The watercourse was surveyed for field signs of Water Vole. No evidence was found such as burrows, latrines or feeding remains. The Watercourse is considered sub-optimal habitat for Water Vole due to its shallow profile and water depth, rocky substrate and lack of aquatic vegetation.

Badger: A Badger latrine was found on the north-eastern boundary of the site, there are also mammal tracks within the northern area of the woodland, Badger hairs were found on one of these tracks. Two disused holes, filled with leaf litter and partly collapsed were also found on the site. No Badger Setts were found. It is likely that Badgers forage along the northern woodland of the site.

GCN: No ponds occur within 250m of the site boundary, the site does provide suitable terrestrial habitat but due to the lack of suitable breeding habitat in the locality it is reasonable to assume that GCNs are absent from the site.

Bats: No trees were identified as supporting potential roosting features. The site does provide suitable foraging habitat.

Nesting Birds: Nesting habitat is present on the site within the woodland and scrub.

Invasive Species:

Himalayan Balsam: Himalayan Balsam is present in high density on the site, concentrated around the watercourse and Footpath but generally found in every habitat.

Japanese Knotweed: Two stands of Japanese Knotweed occur on the site. One of the stands appears to have undergone some treatment but there is evidence of regrowth. Location marked on the PI map.

Montbretia: Found in the south of the site. Location marked on the PI map.

Proposed Mitigation/Recommendations :

- Buffer Zone around the watercourse
- Sensitive lighting scheme for potential bat foraging habitat.



- Bird boxes and bat boxes
- New native planting within the proposed landscaping scheme
- Eradication of the invasive species using suitable methodologies
- Badger RAMs statement to protect foraging Badger during the construction phase, and foraging habitats included within the landscaping.
- Vegetation clearance to be carried out outside of the nesting season (or following a nesting bird survey).

Policy RT3/2/4 – Kirklees Valley, Tottington (76.90 ha.)

This policy explains that much of the industry which used to occupy this valley has now moved out, leaving large amounts of derelict land. The main features of the valley are the network of water courses and lodges, and the (then) disused Holcombe Brook railway line. Along with some of the adjoining farmland, these features provide an area with considerable potential for informal recreation. The disused railway line in particular, could provide a valuable link to the Irwell Valley. Much of this area provides important habitats for wildlife and is designated as a SBI.

Policy OL5/2 - Development in River Valleys

This policy states that, within the River Valleys, new buildings or the change of use of existing buildings or the change of use of land will not be permitted. The only exceptions considered acceptable will be those where the development would not lead to the division of the open parts of the valleys into sections and it falls within the terms below:

- a) *where the area is designated as Green Belt the established Green Belt policies will apply; or*
- b) *where the area does not form part of the Green Belt, at least one of the following circumstances is met:*
 - i) *that the development represents limited infilling to an established valley settlement or industrial area;*
 - ii) *that it is an extension to, or renewal of an existing industry, where the economic and employment factors are of overriding importance;*
 - iii) *that the development is required in association with an outdoor recreation or appropriate tourist facility;*
 - iv) *that the development is limited and will form part of, and be essential to, the maintenance of the provision and improvement of public services and utilities;*
 - v) *any other development that would be appropriate in a Green Belt.*

The proposition being presented by this application is in line with three of the above criteria, as explained below.

First, the modest scale of housing proposed might arguably be presented as ‘*limited infill*’ in that it will be closely related to existing houses and will utilise modest spaces / gaps between existing zones of housing. The overwhelming majority of the Greenspace will remain intact, albeit it will be much improved in terms of its quality, management and overall usability to the wider community.

Second, the development is required in association with outdoor recreation. The effect of allowing a modest extent of good quality new housing (ie 8 homes) will be to cross subsidise the delivery of



very considerable improvements to outdoor recreation. It will render the remaining Greenspace more attractive and more useable. Bearing in mind that one of the key findings of the Council's Audit was that the 'natural and semi-natural greenspace' in this part of Bury is of '**poor quality and significantly below the minimum qualitative standard**', this proposal will help to rectify that.

Another finding of the Audit was lack of childrens' play space in this locality. This proposal will rectify that also, by introducing good quality formal childrens' play space, excellent connections (designed for the use of all parties, some of whom are currently denied use of this open space resource), biodiversity enhancements and better land management.

It is self-evident that, without the proposed enabling housing development, the above benefits cannot and will not be delivered. That said, we maintain that the proposal is '**required**' if the range of qualitative benefits - which we hope will be welcomed by the LPA and the wider community - are to come forward.

Third, the development will be '**limited**' as required by policy. 8 homes are proposed, at a time when the Council cannot demonstrate its minimum housing requirement and is / will be under pressure to release far more sensitive Green Belt and other land to accommodate its future development needs.

Policy RT3/2/4 confirms that Kirklees Valley covers an area of some 76.90 ha. The whole subject land is 1.68 ha, which equates to just 2.2% of the Kirklees Valley. Of that, we estimate that there will be a net loss of less than 0.5 ha as a result of the proposed housing. That would equate to a loss of around 0.5% of the designated Kirklees Valley. That, we suggest, is '**limited**' when taken into overall context.

Furthermore – for reasons explained elsewhere – the proposed housing is '**essential to the maintenance of the provision**'. The 'provision' in this case being the betterment of the Greenspace for the benefit of the wider community. Put simply, the proposed houses will fund the proposed Greenspace enhancements proposed by this application. Without the houses, there will obviously be no enhancements, and the quality of the Greenspace will remain 'average' (we suggest poor) and unkempt, unmanaged land increasingly dominated by invasive species (which no party appears to be responsible for or dealing with).

It is our view, therefore, that the proposition presented by this application is in accordance with UDP policy OL5/2. Even in the event that there is considered to be any conflict, we will contend that the acceptance of a small quantitative reduction of what is poor quality open space in exchange for a superior, more attractive, more usable and more accessible area of open space, play facilities and connecting routes constitutes a very important material consideration to weigh in the overall planning balance.

Considering **national policy**, this is set out in the NPPF. Section 5 of NPPF details the need to continually deliver a sufficient supply of homes. The council is currently unable to demonstrate a sufficient supply of housing. Lack of a five year supply of deliverable housing land calls to be treated as a material factor when determining applications for residential developments, and - in situations



where the NPPF's presumption in favour of sustainable development applies - the need for housing must be weighed against other policies of the NPPF and UDP.

NPPF §68 states that small and medium sized sites (such as this one) can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites, it tells local planning authorities that they should:

- Identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; *[in this case, the overall extent of land being discussed exceeds 1 ha, but the extent of land being promoted for housing is considerably less than that at circa 0.5 ha]*.
- use tools '... to **help bring small and medium sized sites forward**';
- support the development of windfall sites through their policies and decisions – giving '**great weight**' to the benefits of using suitable sites within existing settlements for homes.

NPPF §91 states that planning decisions should aim to achieve healthy, inclusive and safe places which, *inter alia*, promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. In this case, it is not possible for infirm or disabled people (especially those who rely on wheelchairs) to properly access this POS. Our proposal will allow for disabled access along the paths, connecting to the wheelchair-accessible Kirklees Trail.

The proposal will also enable others – such as parents with prams and young children on cycles – to access the open space more safely and conveniently.

Not only will those paths / connections be improved, but the sense of security and safety will be enhanced. In anybody's terms, the current paths are narrow and – in many places – devoid of natural surveillance and public scrutiny.

We anticipate that the Council will attach very great weight to these benefits of the proposal.

NPPF §92 states that, to provide the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities.

§96 notes that access to a network of '*high quality*' open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. The subject open space is not '*high quality*'. Indeed, that is confirmed in the LPA's own assessment, which ranked it as only '*average*'. Our own view is that this area of open space is, in many respects, of poor quality. This proposal will result in a small **quantitative** loss of space, but it will also deliver considerable **qualitative** improvements that will have the effect of rendering the remainder of the open space as '*high quality*'.

NPPF §97 is particularly relevant to this proposal. It states that existing open space, sports and recreational buildings and land should not be built on unless:



- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

This proposal is being presented on the basis of compliance with both exceptions (b) and (c).

In respect of exception (b), a small quantitative loss of open space will arise (circa 0.5 ha), but the net outcome of the exercise will be considerably **‘better provision’** in qualitative and usability terms. Not only will the Green Space be visually improved, but there will be meaningful enhancements such as the creation of a formal childrens’ play area (none currently exists) and the provision of good quality connections to adjacent areas, including the Kirklees Trail. As noted above, this will enable – for the first time – local residents who rely on wheelchairs or those pushing prams - to be able to safely and conveniently access the open space and the Trail beyond. That is a major benefit of the proposal.

The proposal is also consistent with exception (c) above, in that – for the same reasons – the qualitative benefits on offer will **‘clearly outweigh’** the modest quantitative loss of what is currently unprepossessing and largely unusable space (to certain sectors of the community).

Concluding Comments

While it is acknowledged that the POS offers some benefits to the community, it is – at best – mediocre in its quality and character (according to the Council’s Audit). We disagree with that Audit assessment, and would argue that it is in fact poor, in that :

- It is largely unprepossessing in visual character and charm.
- Its inner spaces and footpath network are of poor, narrow, confined quality.
- The space is inaccessible to disabled people, especially those who rely on wheelchairs.
- It is also difficult / impractical for use by those with prams or on cycle.
- This means that access is denied to sectors of the community who might wish to use it.
- It contains no childrens’ play facilities, and there is a shortage of such facilities in the local area. This means that local children are being denied the type of play facilities that children in other parts of Bury can experience and enjoy.
- The land and path network lacks natural surveillance and feels isolated and somewhat hostile in parts.



- That shortfall is recognised in the Council's Audit, which confirms that :

'A key consideration ... is how these deficiencies, whether this is a shortfall in quantity or quality, are tackled.'

- The land is the home to at least three invasive species, which is showing signs of taking over parts of the land, and which will continue to flourish unless it is treated / eradicated.
- The land – including its trees, woodland and ecology - is entirely unmanaged. No management takes place, and has not taken place for many years (if at all).
- There is no provision in place for maintenance, which (according to the S106 that is in place) would appear to be the responsibility of the Council (which we are advised by our client was paid healthily to take on the maintenance burden).
- Unless the Council has the funds / manpower to improve and manage the open space in accordance with we believe to be the legal obligation, there is no other mechanism to deliver that, because the land is owned by a company that is in liquidation - with no funds and no scope to extract funds.

In terms of the **benefits** on offer, these include :

- A small number good quality homes.
- An associated contribution to assist Bury in meeting its minimum housing target, at a time when it cannot demonstrate a 5YS.
- New and improved high quality public open space / linear park.
- The introduction of formal, good quality childrens' play area in an area where such facilities are sadly lacking.
- Much improved access to connect with adjacent housing and the Kirklees Trail, which will be designed to facilitate use by disabled persons in wheelchairs, those with prams and cyclists (who cannot currently use the open space and its connections).
- Tree / woodland and ecological management.
- Eradication of invasive species that is taking hold of large parts of the land. While it might be maintained that this is not a benefit *per se* because it is the landowner's legal responsibility to deal with this, the landowner is in liquidation with no funds. Added to which, the S106 appears to hand all maintenance liabilities to the Council. That said, unless treatment / eradication is funded by the Council or another party, it will remain untreated and will continue to flourish and ultimately take over the entire site and spread into



adjoining gardens. The removal of the invasive species is therefore a very real and important benefit of the proposal.

Application Documents

The application is supported by the following documentation :

- Application form / certificates
- This letter setting out the planning case
- Design and Access Statement (Square Yard)
- The following drawings (Square Yard) :
 - Drawing ref: YD2_BC_SP001 Revision B – Site Location Plan
 - Drawing ref: YD2_BC_SP100 Revision D - Development Boundary Plan
 - Drawing ref: YD2_BH_LP001– Illustrative Development Layout
- Phase I Preliminary Risk Assessment (Curtins)
- Updated Transport Statement (Report No. J1215/TS Rev A) (DTPC)
- The following access drawings (DTPC) :
 - Ref: J1215 access fig 1 – ‘Access and layout arrangements’
 - Ref: J1215 access fig 2 – ‘Access off Brownhills Close’
 - Ref: J1215 access fig 3 – ‘Access off Bury Road’
- Extended Phase I Habitat Survey (Rachel Hacking Ecology)
- Arboricultural Constraints Appraisal (Bowland Tree Management)
- Flood Risk and Drainage Strategy (Betts Hydro) [revised in July 2021]
- Crime Impact Assessment (GM Police)

We look forward to receipt of confirmation and validation of the application in due course, and if we can assist further, please do not hesitate to contact Richard Gee at the above offices.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director



Annex A

Email of 11th February 2021 summarising our understanding of pre-application feedback received from the LPA

From: Richard Gee <richard@romansummer.com>

Date: Thu, 11 Feb 2021 at 08:31

Subject: Re: 02506 - Brownhills Close, Tottington

To: Leach, Helen <H.Leach@bury.gov.uk>

“Hi Helen

Thanks again for your VM yesterday on Brownhills. I’ve listened to it again and it sounds as if we are ‘good to go’ with an application, albeit we still have not had any definitive comments from Highways, which we could ideally do with knowing if you wouldn’t mind tracking those down. I do recall that (when we had our Teams meeting before Xmas) concern had apparently been expressed by Highways, but I didn’t get the impression that those were outright concerns ... but would you mind checking and forwarding any comments, so we can pick those up / address them?

In terms of the rest of it, I think that the following is a fair summary of where we are :

1. There is agreement on the overall principle of what is being proposed.
2. There is acceptance / agreement that the quality of the land (POS) in question is currently poor and would benefit from some investment / management / improvement.
3. There is acceptance that - to cross subsidise the investment needed to secure the improvements set out in our pre-app package - an element of housebuilding will be required, and that is accepted in principle.
4. We discussed the type / number of units, and I think I am correct in stating that the overall preference is for a smaller number of units up to say 9.
5. Your VM suggested that we might like to consider self-build units, which you stated are in short supply in Bury.
6. The LPA feels that it is important that any POS ought to include a small / modest ‘kick about’ area of informal open space. The suggested kiddies play area is also welcomed, as are the improvements to the footpaths and any works that can be completed that will secure access for those in wheelchairs, to connect through to the former railway line.

I believe that’s where we stand, but please feel free to correct me or add to that list.

In which case (and assuming I am correct in the above), the only feedback we are missing is on the highways / access front. If you wouldn’t mind liaising with Highways and letting us know if they have any particular concerns or needs us to focus on anything in particular?



I suspect this is now the trigger for my client to instruct his team to crack on with an application, so hopefully that will be with you in next couple of months.

Thanks again for your good assistance with this, and please do let me know if I am wrong on any of the above or have missed anything important.”

NB

SUBSEQUENT TO THE ABOVE EMAIL, THE COUNCIL’S HIGHWAYS TEAM EXPRESSED CONCERNS ABOUT ACCESS ISSUES, WHICH WE HOPE TO ADDRESS VIA THE APPLICATION PAPERWORK AND ASSOCIATED DISCUSSIONS DURING THE APPLICATION PROCESS.