

NFPC 20/03555 Objection - Mis-use of the Open Space – Loss of Recreational Amenity

North Ferriby Parish Council (NFPC) contends that the legally defined Open Space next to North Ferriby is being used for landscaping and noise reduction mitigation rather than its intended and legally defined use as Open Space.

The Open Space was defined in a Section 106 Agreement linked to approved Planning Application 03/05511/STVAR which defined the Long Plantation and the Open Space next to it. This application and all subsequent prior to 20/03555/STVAR also proposed **an additional** landscaping strip to protect North Ferriby from industrial nuisance.

In 2011 ERYC confirmed “*This level of open space has now been implemented thus fulfilling the open space requirement associated with this development proposal*” and is therefore legally set and the decision advises further landscaping for each plot, i.e. not assuming use of the Open Space.

In the reasons for the 2011 approval decision:

*The eastern part site is sufficient distance (130m+) away from residential properties in North Ferriby not to adversely affect their residential amenities, subject to further details which would be forthcoming within future reserved matters applications. A large landscaping strip is proposed to provide **a further** buffer to the development.*

In line with the established historic requirement for the Long Plantation and Open Space protection, St Modwen had in 2008 signed a comprehensive lease with ERYC that defined the Open Space as Grassland, with specific maintenance for the same. St Modwen respected this lease for 11 years. NFPC is still awaiting clarification from ERYC as to why the agreement was not simply replicated with Wykeland. All that is apparent so far is a maintenance agreement for the Long Plantation, with absolutely no mention of the Open Space.

ERYC have in the last month confirmed that the strip of land next to Long Plantation is legally defined as Open Space, but the applicant either, mistakenly or deliberately, pushing the boundaries, is proposing to cover the Open Space with bunds of up to 5 metres high, with an effective narrow walkway on the pretence that this land can be redefined as a Bio-diversity corridor.

The PC contends that covering the land in steeply sided inaccessible mounds is not Open Space for recreation by all. Legal opinion from Ashtons legal and The Landscape Partnership has confirmed this as grounds for Judicial Review.

On the 1st June 2020 Dominic Gibbons, the Managing Director of Wykeland confirmed to ERYC that topsoil would be transferred to the Long Plantation Area “to form bunds to **aid visual and noise transfer** between Plot E and North Ferriby”, showing an ignorance of the open space definition and that public access to the land should be permitted at all times, and not as the Wykeland - Private Land signpost claim.

This misunderstanding was compounded in the FPCR Landscape and Visual Appraisal of October 2020

5.35 there are no Public Rights of Way across the site and it is not publicly accessible. However, during the field work there was evidence of the eastern parts of the site near Long Plantation being used informally by walkers.

The cynical use of the Open Space for noise mitigation, rather than biodiversity is exemplified by the proposal to remove a centuries old mature English Oak tree to make way for a bund. This tree (T4)

on the plans is in the Open Space, with a trunk diameter of over a metre and acknowledged by FPCR 4.45 as *Following the detailed PRF assessment, Tree (T4), was confirmed as having moderate bat roosting potential.*

To confirm, Wykeland propose to remove a centuries old English Oak Tree on legally defined Open Space and replace it with a pile of Top-soil, grass seeded and planted with a few trees or shrubs that might in 15 years' time be established, or more likely become scrubland, **thereby substantiating this is not about biodiversity, it is about land use for financially driven landscaping and noise mitigation.**

It is absolutely clear that the present application will not fit on to Plot E with anything like the previously approved levels of landscaping for visual and noise mitigation – hence the proposal to solve this requirement on East Riding's and the public's Open Space, but requiring a cover of a Bio-diversity pretence.

The vast majority of North Ferriby's 4000 residents can see through this and want the Open Space to remain on its' historic basis and want to prevent this valuable publicly owned land from being 'gifted' to Wkeland by ERYC.

In summary, it appears that Wykeland's due diligence of their purchase from St Modwen was not comprehensive and since Wykeland's acquisition of Melton West, ERYC officers are now seeking to amend this and promote the application. This cannot be to the detriment of the local community's recreational amenity and destroying iconic trees.

NFPC representing their 4000 residents, whilst supporting the principle of quality jobs into the East Riding continues to object to this application in the strongest terms due the loss of recreational amenity and will review the legal implications on an ongoing basis. If the application is not approved the Plot E land is still available for real quality jobs in line with all previous applications and respecting the Open Space requirement.