

Nick Hirst
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2022/145159/01-L01
Your ref: 2022/93154

Date: 06 December 2022

By email: dc.admin@kirklees.gov.uk

Dear Nick

ERECTION OF 68 DWELLINGS WITH ASSOCIATED ACCESS, PARKING, OPEN SPACE, LANDSCAPING AND INFRASTRUCTURE WORKS (INCLUDING INSTALLATION OF SURFACE WATER ATTENUATION TANK) – LAND AT PENISTONE ROAD, FENAY BRIDGE, HUDDERSFIELD, HD8 0AW

Thank you for consulting us on this application which we received on 9 November 2022.

Flood Risk

Our Flood Map for Planning shows the site lies predominantly within Flood Zone 1, however there is an area of Flood Zone 2 and 3 within the red line boundary where the surface water attenuation tank is proposed. The application is for residential development, which is considered to be a 'more vulnerable' land use in [Annex 3](#) of the National Planning Policy Framework. It is necessary for the application to be supported by a site-specific flood risk assessment (FRA), which can demonstrate that the 'development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.

Flood Risk Assessment

An FRA by Andrew Moseley Associates dated August 2022, reference Project no: 21312-FRA-001, has been submitted in support of the application.

Environment Agency position

In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused.

Reasons

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change section of the planning practice guidance (PPG) and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- Consider how a range of flooding events will affect the development using appropriate climate change allowances.
- Flood risk mitigation measures included in the design may be inadequate for the lifetime of the development.

OVERCOMING OUR OBJECTION

Assess the Flood risk to the site taking into account climate change

The residential development is entirely within Flood Zone 1. However, the FRA indicates surface water attenuation is required south of Penistone Road. The FRA indicates the attenuation tank is not within Flood Zones 3 or 2. It isn't clear whether the attenuation tank will be above or below ground.

The area of land shown in drawing 'Attenuation Tank Area Plan', reference 101 rev P3 (FRA Appendix E), is close to Flood Zones 2 and 3 and an area of functional floodplain 3b within the red line boundary of the site south of Penistone Road. Flood Zone 3b (functional floodplain) is an area at high flood risk where water would flow or be stored in times of flood. As an indicator of flood risk flood zone 3ai was originally designated by the council as at risk from a modelled 1 in 20/25 year (or 5% probability) this definition has recently changed to a 1 in 30 year (or 3.3% probability) in an update to PPG.

The FRA needs to assess the flood risk to any development on the south side of Penistone Road such as the surface water attenuation tank. The assessment needs to be up to and including the design event ie the 1% (or 1 in 100 year probability) taking into account [climate change allowances](#). The flood zones do not take climate change into account.

We advise the applicant requests the most up to date flood model data we have for this area, flood event outlines and levels. This is available by request from our Customers and Engagement team. Please email neyorkshire@environment-agency.gov.uk.

For completeness it may be useful to overlay the development south of Penistone Road onto the Council's SFRA functional flood plain outline to show if there is any development within these areas.

Compensatory Storage

The FRA needs to show there is no loss of storage up to and including the 1% plus climate change scenario (design flood level). It would be useful to map this extent on a site plan to show any development in these areas.

Compensatory storage is provided to offset any loss in floodplain storage within the site up to and including the design flood level, and to demonstrate there is no transfer of flood risk.

The FRA needs to indicate site ground levels pre and post any re-profiling and compare this to the design flood level. Cross sectional drawings may be used to show this does not alter the flood risk to the site, existing flood flow routes or transfer flood risk to others. (Please see further information in the Informatives below).

Planning Advice Service

Please advise the applicant that if they would like to get further specific advice on how to overcome our objection, they can take advantage of our planning advice service. We can offer services including meetings, telecons and reviews of revised information prior to formal submission. We encourage the applicant to contact us directly to discuss this further.

We currently charge £100 plus VAT per officer per hour. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms for our charged for service are available [here](#).

INFORMATIVES

Compensatory storage

Where a development is likely to increase flood risk by taking up flood plain storage, it may be necessary to provide compensatory storage to mitigate this risk. Compensation works are divided into direct and indirect. These terms come from CIRIA report C624 “Development and flood risk – guidance for the construction industry (2004)”.

Direct or ‘level for level’ methods as they are also known re-grade the land at the same level as that taken up by the development. Direct schemes therefore provide a direct replacement for the lost storage volume.

Indirect methods rely on water entering a storage area which then releases water at a slower rate, akin to a surface water attenuation scheme. The storage area can be remote from the flood plain or even a tank. Indirect schemes are complicated to design and construct and require a more intensive maintenance regime, which must be continued indefinitely. For these reasons we are generally opposed to indirect schemes unless a planning decision has already been made and they are the only remaining option.

Environmental permit - advice to applicant

Fenay Beck is a designated main river. The FRA identifies a new outfall will be required to discharge surface water to Fenay Beck.

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it’s a tidal main river) and you don’t already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Biodiversity Net Gain

New developments should not only protect watercourses and their riparian corridors but also provide overall net gain for biodiversity. Net gain for biodiversity is defined as delivering more or better habitats for biodiversity and demonstrating this through use of the Defra Biodiversity Metric. It encourages development that delivers biodiversity improvements through habitat creation or enhancement after avoiding or mitigating harm.

Paragraphs 174 and 179 of the National Planning Policy Framework (NPPF) recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

We recommend that development proposals protect and enhance the local environment and seek opportunities to enhance ecology and provide Biodiversity Net Gains (BNG). The enhancement of biodiversity in and around development should be led by a local understanding of ecological networks, and should seek to include:

- habitat restoration, re-creation and expansion;
- improved links between existing sites;
- buffering of existing important sites;
- new biodiversity features within development; and
- securing management for long term enhancement

The Environment Act 2021 looks to ensure that the overall impact from development on the environment is positive. The Act includes measures to strengthen local government powers in relation to net gain and a minimum requirement of 10% biodiversity net gain. Chapter 15 and Paragraphs 174, 175, 179 & 180 of [Nationally Planning Policy Framework \(NPPF\)](#) contain strengthened net gain policies. We encourage you to consider an approach to development that results in measurable net gains in biodiversity, having taken positive and negative impacts into account. [Planning Practice Guidance \(PPG\)](#) provides guidance on the application of net gain.

IEEM, together with CIRIA and IEMA have published guidance on how to deliver net gain in practice. These can be downloaded [here](#).

Surface water

The [Lead Local Flood Authority](#) are responsible for providing advice on the management of surface water from new larger developments. Please consult them for their comments on this proposal.

Sustainable Drainage Systems (SuDs) should always be carefully considered in discussions with the lead local flood authority. However, any drainage system must not pose a risk to groundwater quality and must not be constructed in ground affected by contamination.

Should you require any further information or clarification, please contact me.

Yours sincerely

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