

Nicole Helliwell
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2023/146565/01-L01
Your ref: 2023/93388

Date: 19 December 2023

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

Dear Nicole

CHANGE OF USE FROM DOMESTIC TO COMMERCIAL, DEMOLITION OF EXISTING WORKSHOP AND ERECTION OF THREE STOREY OFFICE BUILDING (WITHIN A CONSERVATION AREA) – DENE END FUNERAL HOME, 50 NORTH ROAD, KIRKBURTON, HUDDERSFIELD, HD8 0RW

Thank you for consulting us on this application which we received on 29 November 2023.

Flood Risk

Our Flood Map for Planning shows the site lies partly within Flood Zone 3, with a high probability of flooding from rivers and/or the sea. The application is for commercial use, which is considered to be a 'less vulnerable' land use in [Annex 3](#) of the National Planning Policy Framework. It is therefore necessary for the application to pass the Sequential Test and 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'.

Environment Agency position

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

Reason

The application site lies partly within Flood Zone 3, which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 167, footnote 55) states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown. This is sufficient reason for refusing planning permission.

Overcoming our objection

To overcome our objection, the applicant should submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Guidance on how to prepare a flood risk assessment can be found at <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>.

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](#).

Sequential test - advice to LPA

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test and:
 - o the proposed development is consistent with the use for which the site was allocated; and
 - o there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance: [Flood risk and coastal change - GOV.UK \(www.gov.uk\)](#).

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

Yours sincerely

Bev Lambert
Sustainable Places - Planning Advisor

Telephone 020 3025 7982

Mobile 07833 234623

Direct e-mail bev.lambert@environment-agency.gov.uk

Team e-mail sp-yorkshire@environment-agency.gov.uk