

Nick Hirst
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2023/146640/05-L01
Your ref: 2023/93539

Date: 22 January 2025

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

Dear Nick

OUTLINE APPLICATION, INCLUDING THE CONSIDERATIONS OF ACCESS APPEARANCE, LAYOUT, AND SCALE, FOR THE ERECTION OF A SIX-STOREY BUILDING TO HOST 76 RESIDENTIAL APARTMENTS (C3 USE) AND ANCILLARY WORKS COMPRISING DEMOLITION OF VACANT BUILDING, FORMATION OF NEW ACCESS, PARKING AREAS, OPEN SPACE AND LANDSCAPING; ERECTION OF CYCLE AND BIN REFUSE STORAGE STRUCTURES – LAND ADJ, LEDGARD BRIDGE MILL, BACK STATION ROAD, MIRFIELD, WF14 8NZ

Thank you for re-consulting us on this application following submission of additional information, which we received on 20 December 2024.

The following documents have been uploaded to the planning file:

- [General \[id 1070386\]](#) Size: 2.3MB 19/11/2024 - Flood Route and Evac Plans
- [General \[id 1070385\]](#) Size: 1.3MB 18/12/2024 - Sequential and Exemption Test
- [General \[id 1070384\]](#) Size: 1.6MB 18/12/2024 - Sequential and Exemption Test: Appendix 1 - Unidentified Windfall Sites
- [General \[id 1070383\]](#) Size: 171KB 18/12/2024 - Sequential and Exemption Test: Appendix 3 Wider Sustainability Benefits Appeal
- [General \[id 1070382\]](#) Size: 372KB 18/12/2024 - Sequential and Exemption Test: Appendix 2

We have no comment to make on the above documents as that is a matter for the LPA, as detailed in the informative comments below.

In our previous letter dated 12 July 2024, we said that we were satisfied with the proposal from a flood risk perspective only, which was based on information sent to us directly from the applicant (as outlined in our letter).

We note that the proposal has been changed to allow safe access and egress on foot. The Flood Risk Assessment will need to be updated to accommodate this change and we ask to be reconsulted at that time.

Our previous position may be subject to change if we are formally reconsulted by the LPA in relation to any changes.

BIODIVERSITY

We take this opportunity to remind the LPA and applicant that in our first response to this application dated 19 January 2024, we raised concerns and an objection relating to biodiversity and protected species, namely otters. We do not appear to have received any information to satisfy those concerns which still need to be addressed.

INFORMATIVES

Sequential test - advice to LPA

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 \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-and-coastal-change).

Exception test – advice to LPA

Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 178). For the test to be passed it must be demonstrated that

1. The development would provide wider sustainability benefits to the community that outweigh flood risk; and
2. 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.

Paragraph 179 of the NPPF makes clear that both parts need to be met for the test to be satisfied. It is for the applicant to demonstrate this.

We provide advice on the second part of the test, but it is for you, as the local planning authority, to consider the first part of the test, accounting for the findings of the flood risk assessment and our flood risk advice, and to determine whether the test, overall, has been satisfied. Development that does not satisfy both parts of the exception test should be refused.

Where the flood risk assessment shows the development will be safe throughout its lifetime without increasing flood risk elsewhere

Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by flooding. You will need to weigh these risks against any wider sustainability benefits to the community.

If you need any clarification or further information, please contact me.

Yours sincerely

Bev Lambert
Sustainable Places - Planning Advisor

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