

Nina Sayers
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2024/147049/01-L01
Your ref: 2024/90792

Date: 25 April 2024

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

Dear Nina

USE OF LAND FOR ASSEMBLY AND STORAGE AND FIT-OUT OF ACOUSTIC CONTAINERS OF CONTAINER-BASED GENERATOR UNITS WITH REINSTATEMENT OF ACCESS, ERECTION OF SECURITY FENCE AND SITING OF CABINS – FORMER WHITELEY ENGINEERING WORKS SITE, ST. PEG LANE, CLECKHEATON, BD19 3SH

Thank you for consulting us on this application which we received on 5 April 2024.

Flood Risk

Our Flood Map for Planning shows the site lies within Flood Zones 2 and 3, with a medium / high probability of flooding from rivers and/or the sea. The application is for industrial/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'.

Flood Risk Assessment

An FRA by Ashfield Solutions Group referenced 182623-F02 and dated 31 January 2024, 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 planning practice guidance 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 assess the impacts of the development on flood risk.

Please note that the use of stilts or voids is not considered floodplain storage but rather mitigation/reduction of risk by design. The use of raising reduces the impact of the development but does not guarantee that the floodplain will be retained in the same way as a compensation scheme so therefore raising is not considered a suitable form of mitigation.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

The FRA also needs to demonstrate the impact of the developments use of 11% CC and show that their proposal doesn't increase flood risk with the lower allowance. If this cannot be achieved the use of 20% that is already modelled will be appropriate but again this will need to be demonstrated in detail in the FRA.

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

INFORMATIVES

Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit 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 the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a 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. 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.

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 168), 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:
 - the proposed development is consistent with the use for which the site was allocated; and
 - 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 \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-and-coastal-change).

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

Yours sincerely

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