Lucy Taylor
Kirklees Metropolitan Borough Council
Development Management

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

Our ref: RA/2024/147181/01-L01
Your ref: 2024/91002

Date: 12 June 2024

Dear Lucy

FORMATION OF 2 OUTDOOR COVERED PADEL TENNIS COURTS WITH 9M HIGH POLYCARBONATE CANOPY, ONE UNCOVERED PADEL TENNIS COURT, RELOCATION OF MODULAR BUILDING AND EXISTING OUTDOOR TENNIS COURT AND ASSOCIATED CAR PARKING IMPROVEMENTS. THONGSBRIDGE TENNIS & FITNESS CLUB, MIRY LANE, THONGSBRIDGE, HOLMFIRTH, HD9 7RY

Thank you for consulting us on this application which we received on 14 May 2024.

Flood Risk
Our Flood Map for Planning shows the site lies within Flood Zones 2 and 3, with a medium and high probability of flooding from rivers and/or the sea. The application is for additional outdoor sports facilities, which is considered to be a 'water compatible' 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 (no identified author, no reference, and no date) has been submitted in support of the application.

Environment Agency position
The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition
The development shall be carried out in accordance with the submitted flood risk assessment (titled "Site Specific Flood Risk Assessment", no reference, no date, no compiler details) and the submitted design and access statement (titled "Thongsbridge Tennis and Fitness Club – Proposed Covered Padel Courts – Design and Access Statement", no reference, no date, no compiler details) and the following mitigation measures they detail:

- There shall be no ground level raising in Flood Zone 3 as a result of the proposed development.
- The walls of the new padel courts shall be of meshed design.

- There shall be no development within 8 metres of the Main River.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason
To prevent flooding elsewhere.

INFORMATIVES

Maintenance – advice to applicant
We recommend clearing any wrack or debris from the fencing following flood events.

Flood warning and emergency response – advice to LPA
We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. Planning practice guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 173 of the NPPF and the guiding principles of the PPG.

Signing up for flood warnings – advice to applicant
The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit https://www.gov.uk/sign-up-for-flood-warnings. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, and others to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

For practical advice on preparing for a flood, visit https://www.gov.uk/prepare-for-flooding.

To get help during a flood, visit https://www.gov.uk/help-during-flood.

For advice on what do after a flood, visit https://www.gov.uk/after-flood.

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).

BIODIVERSITY NET GAIN
Application form states:

> *We are seeking a de minimis exemption on the grounds that the majority of the application site is currently occupied by either a sealed surface or by a building. This has been discussed in advance with Kirklees Planning and we understand that this may be subject to further discussion at a later stage.*

Cont/d..

Note, the de minimis exemption, as set out in the legislation, applies to development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m x 5m) of non-priority onsite habitat or 5m for non-priority onsite linear habitats. Equally, if a development impacts less than 25 square meters of non-priority habitat but 5m or more of non-priority linear habitat is negatively impacted, or vice-versa, then the exemption will not apply, and all habitats will be subject to BNG.

From the information supplied, it isn't clear if the de minimus exemption applies to the proposed development or not – largely because no ecological appraisal and/or (pre & post development) habitat map has been submitted. We recommend that the LPA requests more information and that the applicant sufficiently justifies the decision that the de minimis exemption can be met.

For example, the proposed car park appears to be close to, and may possibly impact, existing areas of grassland and woodland within the site. Equally, the River Holme and Hagg Dike (and their respective riparian zones – i.e. land 10m from the river bank top) both fall within the proposed development's red line boundary. While the proposed development may not involve any work to the channel bed or bank of these watercourses, clarity should be sought on whether the proposed development will encroach (i.e. impact) the riparian zone (bank top) of either, or both, of these watercourses. Increases in riparian encroachment would result in a loss of watercourse units when measured using the biodiversity metric. Where this occurs, this would be quantified as a decrease in biodiversity value and an 'impact' to that habitat type.

ECOLOGY
No preliminary ecological appraisal or similar has been provided nor mentioned within the information submitted for consultation on this proposal. With the information submitted and without an appropriate ecological assessment of the site it is difficult to judge the importance and quality of the local habitats that could be impacted by the proposed development, nor can we assess whether there is potential for protected species within the vicinity of or within the red line boundary. We therefore recommend that the LPA requests more information from the applicant regarding this matter and ask that we are consulted on any subsequent additional information submitted.

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

Yours sincerely

Bev Lambert
Sustainable Places - Planning Advisor

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