

Lucy Taylor
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2024/147181/03-L01
Your ref: 2024/91002

Date: 06 January 2025

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

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 re-consulting us on this application following submission of additional information and amended plans, which we received on 6 December 2024.

We have reviewed the Preliminary Ecological Appraisal (PEA) prepared by JCA Limited, referenced 21251b/RW and dated 2 December 2024.

We note the following comment made on the Block Plan, drawing number PPF-04 Revision 2 contained in the PEA:

“Car Parking Provision

Following discussions with Kirklees Council Ecologist, the proposed parking area has been amended to remain within the existing footprint of the existing surfaced area and will retain the existing road-planning surface, minimising the impact of any works.

As the revised layout stays within already surfaced areas it does not impact any priority habitat, linear habitat (such as hedgerows) and is below the the BNG threshold of 25m² of any on-site habitat. On this basis, no BNG calculations are submitted as part of the application.”

We request the following conditions are included on the decision notice if permission is granted:

Undeveloped buffer zone for watercourse, pond or wetland: scheme to be submitted

Environment Agency position

Development that encroaches on watercourses can have a potentially severe impact on their ecological value. Hard engineering reducing the riparian margins and the reduction or loss of the vegetated buffer which screens the watercourses leading to distance and fragmentation.

Environment Agency
Kings Pool Peasholme Green, York, North Yorkshire, YO1 7PX.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

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Networks of undeveloped buffer zones might also help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan.

The proposed development will therefore only be acceptable if a planning condition is included requiring a scheme to be agreed to protect an 8-metre-wide buffer zone around the River Holme and Hagg Dike. This is based on the understanding that all development will be confined to already hard surfaced areas which means the site falls within the de minimus exemption under Biodiversity Net Gain (BNG) statutory guidance.

Condition

No development shall take place until a scheme for the provision and management of an 8-metre-wide buffer zone alongside the River Holme and Hagg Dike has been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, and formal landscaping.

The scheme shall include:

- an agreement that all construction work will be carried out as stated on document BLOCK_PLAN Drawing no PPF-04 version 2 November 2024 restricted to hard surfaced areas therefore not impacting on priority habitats and therefore falling within the de minimus exemption
- plans showing the extent and layout of the buffer zone
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development
- details of how development will be restricted to the hard surfaced areas to ensure it continues to fall under the de minimus exemption.

Reasons

Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected.

Should this proposed plan change and work be needed that could impact on priority habitats e.g. watercourses, further BNG assessment would be required as it would no longer fall within the de minimus exemption. This should include an associated river condition assessment and should be provided as a planning variation which we ask to be consulted on.

This approach is supported by paragraphs 187 and 193 of the National Planning Policy Framework (NPPF) which 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.

This condition is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats and promote the expansion of biodiversity.

England Biodiversity Strategy priority habitat/species protection plan required

Environment Agency position

Bats are present at the proposed development site. This species is identified under England's Biodiversity Strategy (EBS) and is listed under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 states that local planning authorities must have regard to biodiversity conservation.

Information about bats has been submitted within the Preliminary Ecological Appraisal Document.

The proposed development will therefore only be acceptable if a planning condition is included requiring an appropriate protection plan and lighting scheme to be agreed to ensure that the bats and their associated habitats are protected from disturbance. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in significant harm to bats through disturbance.

It is not necessary for the priority species protection plan to be provided prior to the granting of planning permission, as this matter can be addressed by a planning condition. We ask that we are consulted on the plan prior to commencement of any work on site. The scheme must be in accordance with the recommendations of the submitted PEA and Natural England standing advice. The Bat Conservation Trust guidance on lighting and bats must also be followed with regards to the scheme design.

Condition

No development shall take place until a plan for the protection of bats, both during construction works and once the development is complete, with the provision of an appropriate lighting scheme has been submitted to and approved in writing by the local planning authority. The bats protection plan shall be carried out in accordance with a timetable for implementation as approved.

Reason

To protect bats and their associated habitats such as watercourses, woodlands and trees, within the development site and avoid damaging the site's nature conservation value.

This approach is supported by paragraphs 187 and 193 of the National Planning Policy Framework (NPPF) which 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. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in significant harm to bats and the associated habitats such as the adjacent watercourses and woodland areas that will be used for foraging.

Construction and ecological management plan (CEMP)

Environment Agency position

The activities proposed as part of this development could have an unacceptable effect on the ecological value of the River Holme, Hagg Dike and the woodland on and adjacent to this site. Vegetation removal, disturbance and construction activities could lead to a deterioration of the habitats and disturbance to the wildlife using those habitats.

The Humber river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote their recovery. Without a CEMP, the proposal's ecological impact may prevent a water body quality element from attaining good status or potential. This was also suggested within the recommendations of the submitted Preliminary Ecological Appraisal (PEA) document.

In light of the above, the proposed development will only be acceptable if a planning condition requiring a CEMP to be provided is included.

This approach is supported by paragraphs 187 and 193 of the National Planning Policy Framework (NPPF) which 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. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in significant harm to the watercourses and woodland.

It is not necessary for the document to be provided prior to the granting of planning permission, as this matter can be addressed by a planning condition but it must be submitted to the Local Planning Authority and we ask to be consulted on it so we can make comment, prior to any on site working.

Condition

No development shall take place until a Construction and Ecological management plan, has been submitted to, and approved in writing by, the local planning authority. The document must be followed as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The document shall include the following elements:

- Methods and measures to avoid impacts to the adjacent River Holme habitats
- Methods and measures to avoid impacts to the adjacent Hagg Dike
- Methods and measures to avoid impacts to the adjacent woodland habitats
- Measures to avoid disturbance to wildlife using adjacent habitats and corridors
- Details of any treatment of site boundaries and buffers along water bodies and woodland
- Details of how impacts to wildlife will be avoided such as breeding birds (in line with recommendations of the provided PEA submitted)
- Opportunities for site enhancements should also be considered and included e.g. native planting.

Reason

To ensure the protection of wildlife and supporting habitat, whilst securing opportunities for enhancing the site's nature conservation value in line with national planning policy and section 13 of the adopted Kirklees local development plan, which states:

'A key objective of the Local Plan is to protect and enhance the integrity of the natural environment in Kirklees and the locally distinctive qualities which contribute to its character, including the district's varied landscapes and natural assets.'

Flood Risk

I also take this opportunity to remind you of the flood risk condition requested in our letter dated 12 July 2024, which is still applicable and repeated below for ease of reference:

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.

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

Yours sincerely

Bev Lambert

Sustainable Places - Planning Advisor

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

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