

William Simcock
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2024/147770/04-L01
Your ref: 2024/91476

Date: 28 February 2025

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

Dear William

ERECTION OF 24 DWELLINGS – CLOUGH FARM, LONG LANE, EARLSHEATON, DEWSBURY, WF12 8LQ

Thank you for re-consulting us on this application following submission of amended plans, which we received on 6 February 2025.

Biodiversity

In our response dated 10 December 2024 we determined the planning application was acceptable if a 10m wide undeveloped buffer zone between the watercourse and the development was incorporated into the layout of the site.

We can see that the site layout has been altered in the new plan shown in the document titled published on the planning file as "Proposed Site / Block Layout [jd 1075522] Size: 479KB 07/02/2025 - Site Plan Rev L." However, the areas of hard development (block 12, non-adopted highway, block 13) that encroach into the riparian corridor have not been set back from the watercourse and remain the same as the original layout with the addition of two parking spaces. Instead, the areas of soft landscaping such as meadow seeding and scrub planting along the edge of block 13 and 12 and by the access road have been removed from the plan.

The change to the red line boundary and layout of the new plan has resulted in loss of soft landscaping and does not look like it has reduced the quantity of hard surfaces in the riparian corridor. This is not what we intended to achieve in our original response when we requested a 10m buffer zone.

We understand that a 10m buffer may not be possible across the whole boundary of the site. We ask that the applicant uploads an updated landscape masterplan to show how soft landscaping will be incorporated into the riparian corridor.

Legally protected species and habitat protection plan required

Bats are a protected species under the Wildlife and Countryside Act (1981) and are believed to be present at the proposed development site, confirmed within the supporting document 'Preliminary Ecological Appraisal, March 2024 Ref no LLE-BWB-ZZ-XX-RP-LE-0001_PEA'

We re-iterate the need for the following condition which we previously requested. The proposed development will only be acceptable if a planning condition is included requiring a plan to protect against and mitigate any damage to bat habitat that bats may use for roosting in line with Natural England statutory guidance. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in harm to bats and because we may not be able to permit associated permits.

Condition

No development shall take place until a plan detailing the protection of bats and mitigation of damage to habitats that bats use eg the woodland, watercourse and its riparian corridor, populations of bat, a protected species under The Wildlife and Countryside Act 1981 as amended and Natural Environment and Rural Communities Act 2006 has been submitted to the local planning authority. The plan must consider the whole duration of the development, from the construction phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to, and approved in writing by the local planning authority. The plan should be in order with NE Standing advice. The protection plan shall be carried out in accordance with a timetable for implementation as approved.

Reason

To protect bats and their habitat within the development site, and to 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.

The applicant should ensure that the development is carried out in accordance with the recommendations of the following document and that the recommendations of the document are included in the design of the scheme:

- 'Preliminary Ecological Appraisal, March 2024 Ref no LLE-BWB-ZZ-XX-RP-LE-0001_PEA'

As such prior to commencement of works the developer should provide a Biodiversity Enhancement and Mitigation Plan (BEMP) with measures outlined to protect retained habitats, enhance existing, and create new habitats as well as mitigate losses. A Construction Environmental Management Plan (CEMP) should be provided to ensure no impacts to the watercourse and the species that use this habitat and a suitable lighting strategy be produced to ensure that habitats that bat may use are not impacted by the proposed development. This should be in accordance with the best practice guidelines outlined in the Bats and artificial light at Night (2023). We request that we are consulted on these documents prior to the commencement of works. Provision of bat and bird boxes are also recommended.

INFORMATIVES

BNG assessment not updated

The new site plan titled "Proposed Site / Block Layout [id 1075522] Size: 479KB 07/02/2025 - Site Plan Rev L," shows alteration to the red line boundary for the proposed development and changes to the layout of the site which reduce the soft landscaping proposed. As a result, the BNG assessment for the development needs to be updated to reflect the changes to the site plan.

We recommend the LPA request an updated BNG Metric and Statement.

Failure to achieve BNG for watercourse/trading rules not satisfied

Based on our knowledge of the site and the information submitted, we believe that watercourse habitat immediately adjacent to the proposed development site may have been incorrectly omitted from Biodiversity Net Gain (BNG) assessment. We strongly recommend that this is taken into account when the application is considered for approval.

The statutory Biodiversity Metric includes a watercourse module. The watercourse module accounts for habitats associated with watercourses, including the riparian zone. For rivers, the riparian zone is defined as the area 10m from the top of each bank. Where watercourse habitat, including the riparian zone, falls within a proposed development site (red line boundary), adjacent lengths of watercourse must be included the BNG assessment, and a minimum 10% net gain must be achieved for *Watercourse Units*.

The BNG assessment for the proposed development (document reference: "General [id 1042670] Size: 6.9MB 24/05/2024 - 0002_Biodiversity Net Gain Statement-S2-P01 Draft Issue 20240430") does not currently include watercourse habitat. The BNG report submitted states "*It is BWB's understanding that the Site's red line boundary does not encroach into the riparian zone (i.e. it is over 10m from the watercourse) and an assessment of the watercourse will not therefore be required. If this changes or there are to be any direct impacts to the watercourse, it will be necessary to include watercourse units in the BNG assessment.*"

However, the proposed development red line boundary (as shown in drawings submitted) appears to fall within 10m of the bank top of Chickenley Beck watercourse.

We recommend that the LPA seeks clarity on the alignment and proximity of the proposed development's red line boundary to the watercourse habitat, including the riparian zone. Where the proposed development falls within 10m of the riverbank top, we recommend that an updated BNG assessment that includes the watercourse module and demonstrates a minimum 10% net gain in Watercourse Units is submitted.

If the watercourse is deemed to form part of the BNG assessment, in line with the biodiversity gain hierarchy, we recommend existing opportunities to deliver river enhancements on-site are explored. Where the minimum 10% net gain for Watercourse Units is unachievable on-site, off-site biodiversity gain options should be explored.

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

Yours sincerely

Bev Lambert
Sustainable Places - Planning Advisor

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