

Farzana Tabasum
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2024/147529/02-L01
Your ref: 2024/92236

Date: 14 April 2025

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

Dear Farzana

DEMOLITION OF EXISTING INDUSTRIAL BUILDING AND ERECTION OF STORAGE AND DISTRIBUTION BUILDING WITH CAR PARK AND ASSOCIATED ENGINEERING WORKS – WOOD STREET MILLS, WAKEFIELD ROAD, SCISSETT, HUDDERSFIELD, HD8 9JS

Thank you for re-consulting us on this application following submission of additional information titled Response to Environment Agency Objection prepared by Sheppard Planning, dated January 2025, which we received on 24 March 2025.

The information submitted does not satisfactorily address our earlier concerns or meet the requirements needed to ensure a Flood Risk Activity Permit (FRAP) can be granted. We therefore maintain our objection detailed in our response dated 18 October 2024.

Water Framework Directive Assessment (WFD)

We previously objected on the grounds that we would be unlikely to be able to grant a Flood Risk Activity Permit (FRAP) for the development which involves building over/close to an existing culvert.

We must secure compliance with the requirements of the WFD and meet our other environmental duties both when undertaking physical works in rivers and when issuing consents/licences for others to do so.

To ensure physical works in rivers meet WFD and wider environmental duties, our operational and regulatory teams should be confident that:

- works will not lead to **deterioration** in the quality of a water body;
- works will not prevent the **future improvement** of a water body;
- works will not impact a **protected nature conservation area or priority habitat**;
- works will not impact a **protected or priority species**;
- **heritage, landscape and fisheries** interests and the need for an **EIA** have been considered
- opportunities have been sought to **improve the water environment**

The Applicant states:

“This proposal wouldn't result in any deterioration of the water body quality- it would maintain the current status quo. Whilst it is accepted that this is perhaps not ideal, from the sole perspective of achieving WFD objectives, it would nonetheless have suitable regard to the approach advocated in the ministerial guidance- which is clear that some balancing needs to occur in public decision making on this topic.”

At the planning stage, we need to have sufficient evidence to show that the proposed development can meet our environmental requirements so that we can grant a FRAP. We are reluctant to agree to planning proposals for works where we may not be able to grant a permit.

The Applicant has not submitted sufficient evidence to demonstrate that the works will not prevent future improvement of the Dearne from Source to Bentley Brook (GB104027063220).

To overcome our objection, we require a WFD Assessment to be submitted for the works which demonstrates that it will be possible for us to grant a FRAP.

Options for deculverting

We consider the applicant has provided reasonable justification for discounting Option 1 “*Complete Deculverting*” and Option 2 “*Partial Deculverting with bridge*” subject to further evidence regarding WFD compliance.

However, Option 3 “*Open up the extreme western part of the culvert, which is not affected by new building footprint (partial deculverting)*” remains feasible.

The applicant states this option “*would require the building to be re-organised – by moving the main pedestrian entrance to the north of the site, where parking is proposed. However, a modest level of deculverting could be achieved.*”

We disagree with the applicant's justification for discounting this option which states:

“It is suggested that the environmental benefits to be secured from opening up this short section of culvert would be limited - it would remain a relatively urbanised section of river, which would have limited potential to be improved, softened or planted to enhance biodiversity.”

We recommend the applicant develops Option 3 as this would deliver ‘Policy LP34 Conserving and enhancing the water environment’ of the Kirklees Local plan which states that:

Proposals must:

- 1) Ensure no deterioration of water courses or water bodies (including groundwater) by conserving and, **where practicable, enhancing:**
 - a. the natural geomorphology of watercourses, including **reinstating watercourses to their natural state through removal of modifications** resulting from past industrial uses;
 - b. water quality; and
 - c. the **ecological value** of the water environment, including the functionality of habitat networks”

And goes on to say:

Proposals are encouraged to:

- 4) Make positive progress towards achieving 'good status or potential' under the Water Framework Directive in surface and groundwater bodies.

Whilst we recognise that deculverting 6 metres of the Dearne through Option 3 will still leave remaining culverted sections along this reach, it will result in localised improvement to hydro-morphology and river habitat in this constrained section of the watercourse. Therefore, the ecological value that Option 3 would provide should not be overlooked.

Biodiversity Net Gain

The following comments are for information. We draw your attention to the following inconsistencies which we consider you should address when determining this application.

Inconsistent baseline provided for pre-development watercourse units

Contradictory values provided in the reports for the pre-development Baseline Watercourse units on site:

- Biodiversity Net Gain Assessment (Report Ref. ER-7197-04) = 0.55 units
- Biodiversity Net Gain Assessment (Baseline) (Report Ref. ER-7197-04) = 0.75 units

We recommend the LPA requests an updated BNG report which clarifies the correct amount of pre-development baseline Watercourse Units on site.

This is necessary for the LPA to determine the number of units required to deliver a 10% post-development uplift in Watercourse units.

Inconsistent values provided for post-development watercourse units

Inconsistent values are provided for post-development Watercourse Units. Biodiversity Net Gain Assessment (Report Ref. ER-7197-04) states the following:

"The Site has been assessed as having a post-development score of 1.28 Habitat Units and 0.38 Watercourse Units." (Page 6, paragraph 25)

This contradicts the final results which state:

"The Statutory Metric has been used to calculate the net unit change for the Site, which has been predicted an overall net loss of 0.44 Habitat Units (-25.61%) and **no change in Watercourse Units**" (Page 8, paragraph 33)

A post-development score of 0.38 Watercourse Units is a reduction in units from the baseline (whether the baseline is 0.55 or 0.75 units).

We advise the LPA to request an updated BNG report which clarifies the post-development Watercourse Units.

Inconsistent values provided for Watercourse units required

The Biodiversity Net Gain Assessment (Report Ref. ER-7197-04) gives inconsistent values for the number of Watercourse Units required to deliver a post-development 10% uplift:

"Notwithstanding Trading Rules, the scheme will need to secure an additional 0.17 Habitat Units and 0.06 Watercourse Units, on top of the current deficit to demonstrate a 10% net gain." (page 8, paragraph 35)

“An additional 0.05 Watercourse Units will need to be generated.” (Page 8, paragraph 38).

We advise the LPA to request an updated BNG report which clarifies the post-development Watercourse Units required to deliver a 10% uplift.

BNG delivered on site or as close as reasonably practicable

The applicant has stated that:

“There is very little capacity in and around any of these industrial buildings for environmental enhancement” and “These enhancements will be provided through an off-site contribution.”

There are opportunities to deliver BNG Watercourse units along the Dearne within the red line boundary. Local premises owned/managed by the applicant, including Spring Grove and ‘Distribution Hub 1’, adjacent to the proposed development in the Wood Street industrial estate, both contain culverted and open sections of the Dearne.

Photographs on Page 9 of the submitted PEA clearly show that there is much more to the Dearne than just being an urbanised section of river.

We believe there are sufficient sections of the Dearne under the applicant’s ownership/management to provide opportunities for delivery of mitigation and enhancement within or as close to the red line boundary as possible.

We therefore advise the LPA to encourage the applicant to pursue delivery on one or a number of these sections to achieve the necessary Net Gain.

Planning Advice Service

Please advise the applicant that if they would like to get further specific advice on how to overcome our objection, they can take advantage of our planning advice service. We can offer services including meetings, telecons and reviews of revised information prior to formal submission. We encourage the applicant to contact us directly to discuss this further.

We currently charge £100 plus VAT per officer per hour. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms for our charged for service are available [here](#).

Note to LPA and applicant

We ask to be re-consulted on information submitted to overcome our objection and we will provide further comments and/or conditions regarding biodiversity and ecology.

We have not made any comments at this stage relating to other matters such as flood risk on the site and will consider the need to include conditions to secure any flood risk mitigation we feel appropriate after resolving the objection.

As stated above, the proposed development will require a FRAP. As part of the permit application, it will need to be demonstrated how both temporary and permanent works will not compromise the structural integrity of the culvert. The applicant will need to determine if any works to the culvert are needed to achieve this and complete those works, as necessary.

Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption 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 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

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.

Additional advice to LPA and applicant

The proposed development will require a Flood Risk Activity Permit, as explained above. As the proposed demolition and construction will be over an existing culvert, as part of the permit application, it will need to be demonstrated how both temporary and permanent works will not compromise the structural integrity of the culvert. The applicant will need to determine if any works to the culvert are needed to achieve this and complete those works, as necessary.

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