

Kerri Simpson
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2025/148811/01-L01
Your ref: 2025/92327

Date: 09 October 2025

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

Dear Kerri

**ERECTION OF 4 DWELLINGS (WITHIN A CONSERVATION AREA) – LAND
ADJACENT TO, 185, WOODHEAD ROAD, HOLMBRIDGE, HD9 2NW**

Thank you for consulting us on this application which we received on 18 September 2025.

We object to this application for the following reasons:

- Inadequate flood risk assessment
- Restricted access to main river for maintenance
- Detrimental impact on a watercourse
- Detrimental impact on protected species
- Detrimental impact on protected habitats

FLOOD RISK

Our Flood Map for Planning shows the site lies partly within Flood Zones 2 and 3, with a medium / high probability of flooding from rivers and/or the sea. The application is for dwellings, which are considered to be a 'more 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 Exception 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 Building design Northern, referenced S4655-C-01-B, and dated 8 August 2024, has been submitted in support of the application.

Objection 1 – Inadequate Flood Risk Assessment (FRA)

Environment Agency position

In the absence of an adequate 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 whether the development will increase flood risk elsewhere. In particular, the FRA fails to:

- adequately assess risk to site, including from historic flooding levels
- consider the impacts of climate change
 - Different climate change allowances have been used to assess future flood risk than those advised in 'Flood risk assessments: climate change allowances', without adequate justification
- provide details of appropriate mitigation
 - The FRA states "the minimum proposed FFLs have been set at a minimum of 182.200mAOD", however, drawing number "3595 (0-) 08" dated 26/06/2024 indicates that the proposed development will extend below this level and will experience internal flooding.
- demonstrate that the proposed development will not increase flood risk to others

Overcoming our objection

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

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us if a revised FRA is submitted and we will respond within 21 days of re-consultation.

Objection 2 – Restricted access to the main river for maintenance

Due to the location of the development close to a main river an Environmental Permit for a Flood Risk Activity (FRAP) is likely to be required in addition to planning permission. Please see detailed informative below for further information about permit requirements.

Environment Agency position

We object to this application as it involves works within 8 metres of a watercourse. As submitted, it is unlikely that we would grant a flood risk activity permit for this application.

Reasons

The proposed development would restrict maintenance and emergency access to the watercourse. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works.

It is unclear from the information provided whether the proposed development would affect bank stability.

Overcoming our objection

The applicant should arrange the site layout so that there is an unobstructed easement of 6 metres as measured from the top of the bank.

The applicant should submit a report to demonstrate that the proposed development will not negatively impact bank stability.

River wall - note to LPA/Applicant

We note that a "river wall" has been included on several design drawings. We understand this to be an existing retaining wall which does not have a flood risk function. If this river wall is intended to be a flood defence wall, the flood risk assessment must be updated to include a full assessment of the flood defence wall.

BIODIVERSITY / ECOLOGY

Objection 3 - Detrimental impact on a watercourse

Environment Agency position

As stated above, this proposal may also require a flood risk activity permit, which is unlikely to be granted for the development as it is currently proposed.

The submitted planning application and associated documents indicate that changes are proposed within 8 metres of the top of the bank of the watercourse and/or within the watercourse which will have a detrimental impact on the physical habitats and the Water Regulations requirements for the Holme from Source to New Mill Dike (GB104027057600) watercourse.

We therefore object to the proposed development and recommend that planning permission is refused.

Reasons

The supporting documents fail to show that the development will not have a detrimental impact on the watercourse, its corridor, and associated ecology/fisheries/physical habitats.

Specifically, the development is situated on a steeply sloping bank which forms the riparian zone of the river Holme. Currently, this bank is relatively un-modified with extensive riparian vegetation and habitat continuity.

Developing here will require extensive modification of this bank slope to facilitate the proposed housing and the current plans show development close to the watercourse. This will remove riparian habitats and encroach on the watercourse. Such encroachment will adversely affect the natural function of the river and result in loss of habitat as well as changes in species and migratory pathways.

The site is within a steep sided, confined valley which presents geomorphological risk. Additionally, upstream of the site is a meander bend, it is unclear how stable this feature is, as this looks to be an active channel, there is risk of future bank destabilisation.

The applicant has not provided information on how the foundations of the proposed housing will be secured within the bank therefore we are unable to determine the environmental impact.

This objection is supported by paragraphs 187 and 193 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. It is also supported by Local Plan policy LP34 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.”*

The objection is also supported by Section 41 of the NERC Act 2006 which lists rivers as a priority habitat and Section 40, as amended by section 102 Environment Act 2021, which establishes a general duty on public authorities, to conserve and enhance biodiversity through the exercise of its functions. Therefore, we as a public authority must assess how proposals within our remit could conserve and enhance biodiversity and include this as part of our decision-making process when considering external proposals.

Based on the information submitted with this application, there is a significant risk that the development may prevent achievement of good ecological potential due to net increase in physical modification and increase in riparian and watercourse encroachment and therefore cannot meet the requirements of The Water Environment Regulations unless the provisions of Regulation 19 can be met.

In addition to this, when determining the flood risk activity permit for this development, we will assess its compliance with the Humber River Basin Management Plan (RBMP) which states that the water environment should be protected and enhanced to prevent deterioration and promote the recovery of water bodies.

Overcoming our objection

It may be possible to overcome this objection if the development is reconfigured to provide an 8-metre-wide ecological buffer zone measured from the bank top/wetland edge (defined as the point at which the bank meets the level of the surrounding land) alongside the watercourse. However, given the constraints of this valley side, it would not seem likely that an 8-metre buffer zone can be incorporated into the layout. Therefore, we recommend that planning permission is refused, and an alternative site is sought.

Objection 4 – Detrimental impact on protected species

Environment Agency position

We object to this development due to the likely effect this will have on otter and its habitat. Insufficient information has been provided to assess the risks posed by this activity as well as insufficient details of mitigation or compensation measures to address any identified risks. We therefore recommend that planning permission is refused.

Reasons

The otter is a protected species under the Wildlife and Countryside Act 1981 and/or listed under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

The proposed development may have a detrimental effect on the species and its habitat along the river Holme. The application does not include adequate information about the measures proposed to protect otter in this location.

The Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment August 2024, Report Reference 1982, Rev 1 states:

“No evidence of Otter was identified during the survey. The section of River Holme immediately adjacent to the site boundary could potentially be used by Otter for passage, foraging and potentially for resting places. Given the highly overgrown and undisturbed nature of the site, there is also potential for Otter to use the woodland and scrub within the site for resting places.”

It also recommends that “...further surveys for otter should be undertaken including searches for field signs such as spraints, footprints and holts and static-camera trap surveys.”

These further surveys have not been carried out and no report has been submitted. Therefore, it is not possible to assess the risk of disturbance to otter by the proposed development due to insufficient information.

This objection 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. Opportunities to incorporate biodiversity in and around developments should be encouraged.

England’s Biodiversity strategy identifies priority species also listed as being of ‘principal’ importance under section 41 of the NERC Act 2006. Local planning authorities have responsibilities under NERC to have regard to those species in their decision-making because of their duty to conserve Biodiversity (s40).

In this instance, the proposed development may have a detrimental impact on a priority species that we have a role in protecting. The application does not include any information about the measures proposed to ensure that otters are protected in this location and fails to provide a valid and up to date otter survey as recommended in the submitted reports.

Overcoming our objection

It may be possible to overcome this objection by submitting an otter survey of the site and adjacent watercourse as recommended in the Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment Report. Should evidence of otter be found, appropriate mitigation should be proposed to avoid impacting on the species and its habitat in line with the legislation above.

The design, construction, mitigation, and compensation measures should be based on a survey which is carried out at an appropriate time of year by a suitably experienced surveyor using recognised survey methodology.

Objection 5 – Detrimental impact on protected habitats

Environment Agency position

We object to the development due to its likely effect on lowland mixed deciduous woodland which is within a conservation area. This habitat is listed as being of 'principal' importance under s41 of the Natural Environment and Rural Communities (NERC) Act 2006. Insufficient details of mitigation or compensation measures have been submitted to address any identified risks to the habitat. We therefore recommend that planning permission is refused.

Reasons

England's Biodiversity strategy identifies those priority habitats which are also listed as being of 'principal' importance under section 41 of the NERC Act 2006. This Act states that local planning authorities must consider these habitats in their decision-making, because of their duty to conserve biodiversity (section 40).

In this instance, the proposed development will have a detrimental effect on a priority habitat that falls within 8 metres of the river Holme and as part of the river corridor, we have a role in protecting. The application does not include *any* information about the measures proposed to ensure protection of the lowland mixed deciduous woodland in this location. In particular the application fails to provide any information as to how the habitats in this conservation area will be mitigated if they will be lost.

The Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment August 2024, Report Reference 1982, Rev 1 states:

"The woodland within the site could qualify as the Priority Habitat 'Lowland Mixed Deciduous Woodland' which is listed in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 as a Habitat of Principal Importance in England and is capable of being a material consideration in the planning process."

It also recommends that all woodland at the site should be retained in situ with a suitable buffer from development areas.

Of these it states:

"The southern edge of the site (adjacent to the River Holme) along with part of the western part of the site lie within the Kirklees Wildlife Habitat Network (KWHN). Therefore, those parts of the site which are within the KWHN are categorised as 'high' strategic significance and those parts of the site which directly adjoin the KWHN are categorised as 'medium' strategic significance."

As this is priority habitat in a conservation area it is hard to replicate if it is to be lost. The document above states that a large proportion of this habitat will be lost as well as mixed scrub habitat. We feel without some reassurance of how the developer is planning on mitigating the loss of this priority habitat there is a real risk the development will not be able to comply with legislation in place to protect it. Therefore, we **object** to the proposal until further information is provided on how the applicant plans to compensate this loss.

This objection 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. Opportunities to incorporate biodiversity in and around developments should be encouraged.

Overcoming our objection

It may be possible to overcome our objection by submitting:

- The drawings provided show some retention of a woodland fringe along the river Holme but it is not clear the size of this buffer. Please can a detailed drawing be provided with a measurement of this buffer included
- details of the proposed development (including timing of works, methods and materials to be used)
- details of how the woodland is to be protected during construction works
- a scheme for the long-term management and protection of the woodland and the wildlife that would use it
- details of mitigation/compensation for any loss of this habitat

INFORMATIVES

Biodiversity Net Gain – advice to LPA

Biodiversity Net Gain (BNG) applies to all new development since 14th February 2024. The submitted BNG assessment states:

The Total Project Biodiversity % Change (Net Project Biodiversity Units) is as follows:

- Habitat Units: -0.90 (equivalent to a loss of 75.68%).
- Hedgerow Units: not applicable.
- Watercourse Units: -0.34 (equivalent to a loss of 77.97%).

Therefore, the target net biodiversity gain of at least 10% is not achieved for Area-Based Habitat Units nor Watercourse Units. The Trading Rules are therefore not satisfied, and this is due to the loss of Lowland Mixed Deciduous Woodland and the loss of Mixed Scrub.

The loss of this habitat would have to be offset with a 10% net gain, (and no net loss overall) meaning a large proportion of priority habitat would need to be created. This is further compounded by the habitat being within a conservation area. We encourage the LPA to have regard to this and ask for further information on how the applicant is proposing to meet this legal requirement before a decision is made as to whether planning permission should be granted. This is because there is a risk this habitat will be lost and hard to replicate so the legal requirement cannot be met. We would be

reluctant to lose this habitat without an appropriate plan in place so we would urge consideration of this matter.

We would also recommend the full BNG metric is provided as it is not included within the application. Without the full metric we could not investigate the calculations and therefore understand how the applicant reached the figures with the report. It would therefore be useful to have this information.

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 (paragraphs 175), 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.
 - Developments where no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future.

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).

Exception test – advice to LPA

The exception test should only be applied as set out in flood risk table 2 of the Planning Practice Guidance (PPG) following application of the sequential test. The exception test should not be used to justify the grant of planning permission in flood risk areas when the sequential test has shown that there are reasonably available, lower risk sites, appropriate for the proposed development.

In those circumstances, planning permission should be refused, unless you consider that sustainable development objectives make steering development to these lower risk sites inappropriate as outlined in PPG (ref ID: 7-031-20220825).

Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 178). For the test to be passed it must be demonstrated that

1. The development would provide wider sustainability benefits to the community that outweigh flood risk; and
2. 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.

Paragraph 179 of the NPPF makes clear that both parts need to be met for the test to be satisfied. It is for the applicant to demonstrate this.

We provide advice on the second part of the test, but it is for you, as the local planning authority, to consider the first part of the test, accounting for the findings of the flood risk assessment and our flood risk advice, and to determine whether the test, overall, has been satisfied. Development that does not satisfy both parts of the exception test should be refused.

Where the flood risk assessment shows the development will be safe throughout its lifetime without increasing flood risk elsewhere

Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by flooding. You will need to weigh these risks against any wider sustainability benefits to the community.

Environmental permit – Flood risk activities – advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any of the following activities:

- erecting any temporary or permanent structure in, over or under a main river, such as a culvert, outfall, weir, dam, pipe crossing, erosion protection, scaffolding or bridge
- altering, repairing or maintaining any temporary or permanent structure in, over or under a main river, where the work could affect the flow of water in the river or affect any drainage work
- building or altering any permanent or temporary structure designed to contain or divert flood waters from a main river
- dredging, raising or removing any material from a main river, including when you are intending to improve flow in the river or use the materials removed
- diverting or impounding the flow of water or changing the level of water in a main river
- quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- any activity within 8 metres of the bank of a main river, or 16 metres if it is a tidal main river
- any activity within 8 metres of any flood defence structure or culvert on a main river, or 16 metres on a tidal river
- any activity within 16 metres of a sea defence structure
- activities carried out on the floodplain of a main river, more than 8 metres from the river bank, culvert or flood defence structure (or 16 metres if it is a tidal main river), if you do not have planning permission (you do not need permission to build agricultural hay stacks, straw stacks or manure clamps in these places)

For further guidance please visit [Flood risk activities: environmental permits - GOV.UK](#) 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.

Advice to applicant

We advise joint discussions between the operator, the LPA, and the Environment Agency and parallel tracking of the planning and permit applications to allow these issues to be resolved. This should reduce uncertainty as to whether the permit can appropriately control flood risk and ecology issues, which in turn will reduce uncertainty and promote faster decision-making for both planning and permitting applications.

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

Yours sincerely

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