

Planning Services  
Leeds City Council  
Planning Services  
Merrion House (Neighbourhoods and  
Housing Department) Merrion Way  
Leeds  
LS2 8BB

**Our ref:** RA/2021/143809/02-L01  
**Your ref:** 21/08506/RM  
**Date:** 21 September 2022

Dear Planning Services,

**RESERVED MATTERS APPLICATION FOR 785 DWELLINGS RELATING TO  
SCALE, LAYOUT, APPEARANCE AND LANDSCAPING PURSUANT TO OUTLINE  
APPLICATION (17/02594/OT)**

**LAND OFF RACECOURSE APPROACH WETHERBY**

Thank you for your consultation regarding the above proposal which was received on 5 September 2022.

We have reviewed the additional information submitted with the application and we object to the proposal. Our detailed comments are as follows.

**Flood Risk**

**Note to Applicant/LPA**

For this Reserved Matters consultation, the LPA and applicant will need to read the 21/09077/COND Discharge of Conditions response reference RA/2022/144719/02-L01, dated 21<sup>st</sup> September 2022 in conjunction with the below comments.

We note that, since our previous response on 29 November 2021, additional information was provided in support of the reserved matters application 21/08506/RM, namely a modelling report and technical note regarding culvert dimensions and compensatory storage. This additional information has drawn attention to the fact that the layout of the site has changed since our initial outline planning permission condition recommendations provided under 17/02594/OT on 18 May 2017 which stated that “no built development shall be located within flood zone 2 or flood zone 3 as shown on the Environment Agency Flood Map for Planning”. This change in layout is contradictory to our understanding to date. In light of this new information our response to the reserved matters is to be superseded. Please see below an updated response to the updated information.

## **Flood Risk Assessment**

We note that the proposal is now to locate residential properties within Flood Zones 2 and 3 on a raised development platform so that they are above the flood level. It is not clear from the information provided how this flood level has been calculated, or what the potential impact of constructing such a development platform will be. Given the changes to the development proposal, the FRA submitted in 2017 (ref. MT/LDS/WDL/P16-362/006, dated 19/04/2017, compiled by Morgan Tucker Ltd.) is no longer considered development-specific and requires amendment, this does not appear to have been provided.

However, we note that the Modelling Methodology Report (ref. ENS-JBA-00-00-RP-Z-0001-A3, dated December 2021) and the Technical Note (ref. 2020s1435, dated 10/12/2020) have been submitted as part of this reserved matters application.

We note that there has been a model produced to assess the development proposals. We request a copy of this model package so that the model can be reviewed to ensure it is fit for planning purposes. However, from an initial review of the modelling report we note the following questions/concerns that the applicant may want to resolve prior to submitting any model package for review.

There is a proposal to include compensatory storage for both pluvial and fluvial floodwater. However, this appears to be within Flood Zones 2 and 3, how will this be designed to ensure the storage is not full of one source of floodwater when needed by the other, and how has this been represented within the model? We recommend that the applicant considers level for level, like for like compensatory storage.

Section 6.4, of the modelling report states that the model could not be calibrated, and the results could not be verified.

The modelling report does not appear to consider the impact of the proposed development platform, nor blockage scenarios either for the existing culvert that runs underneath the Young Offenders Institute or the two new culverts.

The LPA should satisfy themselves that the development passes the Sequential Test.

We therefore object to this reserved matters application on flood risk grounds.

## **Environment Agency Position**

In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused.

### Reason(s)

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 23 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

Adequately assess risk to site.

Demonstrate that the development does not increase flood risk to others.

Due to the above, provide details of appropriate mitigation.

Consider access and egress.

## **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 on any revised FRA submitted and we'll respond within 21 days of receiving it.

## **Informatives**

### **Surface Water**

The [Lead Local Flood Authority](#) are responsible for providing advice on the management of surface water from new developments. Please consult them for their comments on the proposal.

Sustainable Drainage Systems (SuDs) should always be carefully considered in discussions with the lead local flood authority. However, any drainage system must not pose a risk to groundwater quality and must not be constructed in ground affected by contamination.

### **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 162), 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, which are consistent with the use for which the site was allocated.

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 decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used. Further guidance on the area of search can be found in 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 [here](#).

### **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: 7-033-20140306](#)).

### Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 164). In order 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 165 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.

### **Further Planning Advice**

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 terms and conditions of our charged for service are available [here](#).

We trust the above advice is useful.

If I can be of any further assistance, please don't hesitate to contact me.

Yours faithfully

[Redacted signature]

Sustainable Places Planning Specialist

[Redacted contact information]