

Cumberland Council
Development Control
The Copeland Centre Catherine Street
Whitehaven
Cumbria
CA28 7SJ

Our ref: NO/2020/113177/03-L01
Your ref: 4/20/2472/0F1
Date: 11 August 2023

Dear Sir/Madam

RESIDENTIAL DEVELOPMENT FOR 115 DWELLINGS

LAND TO THE NORTH OF CLEATOR MILLS, CLEATOR. CA23 3AE

Thank you for re-consulting us on the above application.

Environment Agency position

In our letter referenced NO/2020/113177/02-L02 and dated 16 September 2021 we objected to this application because it fails the second part of the flood risk exception test.

The planning application is now accompanied by a Flood Risk Assessment (FRA) prepared by RWO Associates, referenced; RO/FRA/RES/19002.1 Version 4 and dated 21.06.2023. The document history purpose/ description indicated that the FRA has been 'updated to suit the revised layout and unnamed watercourse flood modelling.'

We have reviewed the amended FRA (version 4) in so far as it relates to our remit, and we are not satisfied that the FRA satisfactory addresses to points raised in our objection or provides any further sufficient evidence to demonstrate that this site can be safely developed. And therefore, we maintain our objection to the development as proposed.

Flood risk

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. As discussed, the FRA is currently in its 4th iteration since version 1 dated 4/11/2020. The document has been edited and added to but not comprehensively updated. It does not reflect updates to relevant guidance, nor have the reasons for objecting been systematically addressed. The FRA retains several persistent errors that have not been

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corrected and the overall result is a somewhat incoherent report.

The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to address most of the points raised in our previous letter, as follows: -

1. Demonstrate that the development is 'safe' (point two of first bullet in our previous letter NO/2020/113177/02-L02):

The overall assessment of flood risk over the lifetime of the proposed development has not been correctly assessed and therefore the flood hazard to people remains uncertain. The assessment of risk to people of the flood defence overtopping is unsatisfactory and incomplete. No numerical hazard rating is applied and no correct corresponding 'hazard to people' classification is identified. A hazard assessment has taken place for the (out of date) breach analysis but not for the overtopping scenarios. The breach analysis indicates that some areas of the development may experience a 'moderate to significant hazard rating'. This rating is not a UK flood hazard rating and hazard to people classification. The FRA needs to be updated following the methodology for calculating UK flood hazard rating is defined in the EA/ Defra research Flood Risk Assessment Guidance for New Development (FD2320) and the supporting Explanatory Note for FD2320 and FD2321.

2. Update the out-of-date model (point three of first bullet in our previous letter NO/2020/113177/02-L02):

The Envireau Water Breach analysis modelling included in the FRA has not been further updated as per our recommendation. The breach analysis modelling must therefore be treated as having little contemporary relevance in the assessment of flood risk as the Cleator Mills site has been significantly modified by non-permitted works to the existing flood defences and the demolition of much of the original building massing represented in the model and then by subsequent redevelopment of the site as a business park.

Additional information on the FRA

In addition, to the above matters that have not been satisfactorily addressed, there remain errors and out of date information and references in FRA. These have not been corrected or do not reflect the intervening updates in guidance and policy since the previous iteration of the FRA in 31.08.2022.

These are as follows:

- **Section 4- Proposed Development**, on page 4 says: - 'the extent of the flood zone 3a being noted as defended on the online Environment Agency Flood Maps'...

The FRA is referring to the site being in an Area Benefitting from Defences (ABD). Since production of the version 4 FRA, you will be aware from our external briefing that the Environment Agency have taken the decision to retire this (ABD) dataset and remove it from the Flood Map for Planning portal. This is because we have determined that it no longer meets customer needs and creates a false sense of security for users.

There is no longer a mapped layer shown on the portal but instead, upon searching for an address or location, users will be informed if their site is within an area assessed as having a reduction in risk of flooding from rivers and sea due to the presence of defences Reduction in Risk of Flooding from Rivers and Sea due to Defences for this site the reduction is from High to Medium.

The FRA needs to be updated the reflect these changes to Flood Map for Planning.

- **Section 5- Flood Risk-River Ehen – Climate Change Impact**, page 9, refers to peak river flow allowances by river basin district. On 20 July 2021, we updated the guidance: <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

We used the UKCP19 projections to update the peak river flow allowances based on management catchments instead of river basin districts. We also changed the guidance on how to apply peak river flow allowances. The FRA contains no reference to the guidance and provides no rationale for deviation from the climate change allowances in the updated guidance. Page 8 of the FRA says, *‘To assess the flood risk associated with the proposed development site climate change needs assessing under the Environment Agency guidance for higher central and upper-end allowances as per Table 1: peak river flow allowances by river basin district.’*

This information is now incorrect, and the FRA should be updated to refer to changes in the guidance and the Management Catchment approach, in this case the South West Lakes Management Catchment peak river flow allowances and the central 30% allowance for the 2080’s epoch.

- **Section 5- Flood Defence Overtopping**, page 11, includes a paragraph which says: -

“It is the responsibility of the Environment Agency to ensure flood defences are maintained under their statutory powers. As highlighted by the Environment Agency the flood defences are not within the developer’s control and for this reason, all proposed FFL’s will be raised above the required flood level so that the quality of the flood defences does not need to be taken into consideration.”

This statement is incorrect and overstates the position. We would clarify that:

- The EA has powers it may choose to exercise to maintain flood defences and that: -
- In this case the EA does not maintain the flood defences in question

The wording in the FRA needs to be amended to reflect the above.

- **Section 5- Flood Defence Breaching**, page 11, there is text missing in paragraph, the opening sentence says- ... *‘based upon the requirements of the Environment Agency have been undertaken’*...N.B. we are objecting as 1. bullet point three of our previous letter of objection in relation to there being no Flood Hazard analysis rating as discussed earlier.
- **Section 6. Recommended Finished Floor Levels** refers to previous guidance and historic requests that are not of current relevance and that we would not now

request. However, we do recognise the intention to set habitable FFLs above the undefended 1:1000-year return period (0.1% AEP) scenario.

This section describes dividing the site into 3 Zones:

- zone 1, red with FFLs of 63.54 m AOD,
- zone 2, purple with proposed finished floor levels of 62.43 m AOD,
- zone 3, green with finished floor levels of 61.061 m AOD.

We believe this latter level is a typo and should read 61.61 m AOD. We consider that these proposed habitable finished floor levels would be safe but have concerns about the revised layout, the proposed land raising within Flood Zone 3, and modification of flood routing in the design flood event.

In relation to the revised layout, the FRA describes proposals to raise ground levels to ensure in the event of the flood defences failing the proposed dwellings remain protected, and goes on to say *'the only real significant ground-level changes are to the southern extent of the development, with some localised variations across the centre.'*

Despite being one of the main outstanding reasons for objection the version 4 of the FRA contains no satisfactory assessment of the impact of ground raising and flood routing and no consideration of the requirements for compensatory flood storage is provided to ensure and flood risks identified are not transferred off site and to the downstream flood affected communities of Hilden Road and Kiln Brow/ Millers Walk.

The FRA needs to be updated to include full consideration of all these aspects.

Overcoming our objection

Should the LPA be satisfied that the site satisfies the requirements of the Sequential Test, to overcome our objection and satisfy the requirements of part 2 of the Exception Test, the applicant needs to demonstrate that the proposed development will be safe without increasing flood risk elsewhere. An updated FRA will need to address all the point raised in this letter and any outstanding matters from our previous letter of objection.

Yours faithfully

Hui Zhang
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