



Malkiln EiP ([via email](#))  
Kerry Trueman – Programme Officer

**Our ref:** Reg 22 Malkiln DPD  
**Your ref:** Malkiln EiP (MIQs)

**Date:** 06 September 2024

Dear Kerry,

## **EXAMINATION OF THE NEW SETTLEMENT (MALTKILN) DEVELOPMENT PLANNING DOCUMENT**

### **MATTERS, ISSUES AND QUESTIONS**

Thank you for consulting the Environment Agency in advance of the formal Hearings. We have reviewed the Matters, Issues and Questions (MIQs) in relation to both our previous comments and in accordance with our planning remit.

We have a few further comments relating to ONLY Matter 4 – Natural Environment.

#### **Matter 4 – Natural Environment** Issue 1 (Policy NS12)

##### ***Water Framework Directive***

Part d of the policy states “*enhance riparian habitats and take opportunities to help deliver Water Framework Directive objectives*”. Paragraph 6.16 within the justification section for the policy also states, “*The Biodiversity Net Gain strategy provides an opportunity to help address these objectives by enhancement of the riparian habitat of the onsite streams or, if appropriate, to provide off-site enhancement on Syke Dike or directly on the River Nidd*”. Again, while we support this policy, we recommend that clarity is provided by highlighting that opportunities for both in-channel and riparian habitats should be sought.

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### Environment Agency Reg 19 position

Further clarity is required on the following areas. Recommend that the water policies reflect the requirements of the Humber River Basin Management Plan and WFD. The potential impacts on water quality should be appropriately considered within the DPD. Para. 6.16 Welcome the reference to the Water Framework Directive (WFD) and the Humber River Basin Management Plan. We note that this refers to the BNG strategy as an opportunity to address the objectives for these water bodies. While this is true, this section could be strengthened. The waterbody here has a poor status for phosphorus therefore, appropriate wastewater management is key to ensure the development doesn't increase the level of nutrients entering into the water body.

The Kirk Hammerton Beck is a tributary of the River Nidd from Crimble Beck to the River Ouse. This waterbody is classified as moderate because it has been heavily modified and has failures due to phosphates and priority hazardous substances. Providing habitat opportunities along Kirk Hammerton Beck would help with the efforts to address the heavily modified status of the overall waterbody. Further information can be found on the Catchment Data Explorer here: [Nidd from Crimble Beck to River Ouse | Catchment Data Explorer | Catchment Data Explorer](#)

### Council Proposed Justification

The Local Plan Policy NS2 refers to water quality and requires developers to undertake a thorough risk assessment of the impact of proposals on surface and groundwater systems considering appropriate avoidance measures before incorporating appropriate mitigation measures where necessary.

DPD Policy NS11 requires the design and development of proposals to be based on a detailed site-specific flood risk assessment, along with a drainage strategy which incorporates sustainable drainage systems (SuDs).

While under Policies NS12 and NS13 a blue green infrastructure strategy and a settlement wide Biodiversity Net Gain strategy will give chance to explore habitat opportunities along Kirk Hammerton Beck and opportunities to reconnect the beck with its flood plain as part of SuDS opportunities where it flows through land which is part of the red-line area.

Further information is recommended to be added to the supporting text to ensure it is clear the proposals need to be considered in conjunction with the Local Plan which specific reference to the construction phase.

### Proposed Amendment

Additional para. after 6.16

6.17 Local Plan Policy NS2 refers to water quality and requires developers to undertake a thorough risk assessment of the impacts on surface and groundwater

systems in order to prevent pollution through both the construction and operational phases of development to prevent contamination of any watercourses. Further advice is available here [Pollution prevention for businesses - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

#### Environment Agency position Aug 2024

Regulation 33 of [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#) clearly states that the legislation places a duty on each public body, including local authorities, to 'have regard to' River Basin Management Plans (RBMPs) when exercising their functions. This means they must ensure they neither undertake nor authorise a project which may jeopardise:

- The current status of a WFD element or cause its deterioration
- The attainment of good status
- Pollution reduction measures
- Standards and objectives for protected areas

The Environment Agency currently expects this to be addressed in all relevant development proposals. We invite the Planning Inspector to explore this with the local planning authority to identify if the legal requirement has been met. We strongly recommend and would support a further modification change to clearly highlight this responsibility to all applicants.

Issue 2 (Policy CS13)

#### ***Biodiversity Net Gain***

The justification section for the policy states *"The BNG strategy, an Ecological Impact Assessment and completed metric for all habitats must be submitted with the outline planning application to evidence how the required net gain will be delivered across the whole site. The masterplan and phasing plans must include the post-development biodiversity value for each phase of development and subsequent applications for reserved matters should show how the target biodiversity value for each phase will be met"*.

#### Environment Agency Reg. 19 position

We recommended the wording should be updated to explicitly reference the three types of high-level habitat type / biodiversity units (Habitat Units, Hedgerow Units and River Units), and explain that these are unique so cannot be summed, traded, or converted. When reporting biodiversity gains or losses with the metric, the three different biodiversity unit types must be reported separately and not summed to give an overall biodiversity unit value – i.e., a minimum of 10% net gain must be demonstrated for each of the biodiversity unit habitat types present on the development site. Wording should also specify that the latest version of the metric should be used to carry out the baseline assessments. Versions of the metric are not comparable; therefore, it is important that the same version of the metric is used to calculate both the baseline and post development units. Finally, we recommend

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including the requirement to produce a post-development 30-year management plan for the compensatory biodiversity units within the text.

Council Proposed Justification/ Modifications

Paragraph 6.15 refers to the Council's Supplementary Planning Document, Providing Net Gain for Biodiversity which sets out the process to calculate and evidence biodiversity net gain.

Environment Agency position Aug 2024

We do not question the soundness of the policy, but we do recognise that recent legislative changes place a greater responsibility on the local authority to deliver BNG in accordance with specific criteria.

We acknowledge and continue to support the inclusion of Policy NS13 on Biodiversity Net Gain (BNG) in the DPD document. That said, we invite the Planning Inspector to consider a revision in the supporting text that continues to emphasise the importance, while clearly referencing a need that applicants will be expected to identify which of the three types of high-level habitat/ biodiversity units are being targeted: Habitat Units, Hedgerow Units and/ or River Units. We recognise and agree that the full explanation can be signposted to the Supplementary Planning Guidance, but we also consider it crucial to include the amendment for this stage of the development plan.

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This concludes our formal response to the MIQs and trust the remarks are useful when discussing Matter 4 and related Issues 1 and 2.

Yours sincerely,

**Mr. Neil Wallace**  
**Planning Specialist**

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Lateral 8 City Walk, LEEDS, LS11 9AT.  
Customer services line: 03708 506 506  
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