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**WALSINGHAM PLANNING**

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# Sequential Test Statement of Case

Land at Lynchmead Farm, Weston-super-  
Mare

Mead Realisations Ltd

DECEMBER 2022

**Walsingham Planning**

1 Gas Ferry Road

Bristol

BS1 6UN

*Telephone*

01173 252000



bristol@walsingplan.co.uk  
[www.walsinghamplanning.co.uk](http://www.walsinghamplanning.co.uk)

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## APPENDICES

1) Sequential Test prepared by Walsingham Planning (dated December 2022)

# I INTRODUCTION

- I.1 This Statement of Case, comprises, the Appellant’s Statement of Case specifically in respect of Flood Risk Sequential Test matters, and has been prepared by Walsingham Planning on behalf of Mead Realisations Ltd (the Appellant) in respect of a planning appeal against the decision by North Somerset Council (NSC) on 9 July 2022 to refuse an outline planning application (LPA Reference 20/P/1579/OUT) for the following development:

*“Outline planning application for a residential development of up to 75no. dwellings and associated infrastructure, with access for approval and appearance, scale, layout and landscaping reserved for subsequent approval”*

- I.2 The Council listed three Reasons for Refusal, of which Reason 1 covers the flood risk sequential test, as follows:

- I. *Housing development should only be permitted in a 'High Probability' (3a) floodplain when it is necessary, and where it has been demonstrated through a flood risk sequential test that there are no 'reasonably available' sites in areas with a lower flood risk where the development can be provided. The Council consider that the applicant's Flood Risk Sequential Test fails to demonstrate this, and the proposed development is therefore unnecessary in a "High Probability" floodplain, which is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 159, 162 and 163 of the National Planning Policy Framework.*

- I.3 As demonstrated by the updated Sequential Test submitted (attached at Appendix 1) the appellant maintains the view that there are no reasonably available sites which are appropriate for the proposed development in areas with a lower risk of flooding.

## **2 APPEAL SITE AND PROPOSAL**

### **Appeal Site**

- 2.1 The appeal site comprises of undeveloped land extending to an area of approximately 4.99 hectares to the North-East of Weston-super-Mare (GR: Easting 335833, Northing 164349).
- 2.2 The site boundary is lined with hedgerow and trees to the North, East and West which leads to more agricultural fields. Access to the site is proposed from Ebdon Road which abuts the southern boundary of the site, separating the site from existing residential development.
- 2.3 The Flood Risk Assessment, submitted alongside the refused outline application, identifies the site as located within Flood Zone 3a, however, the site is located in an area that benefits from flood defences.

### **Appeal Proposal**

- 2.4 The appeal proposal seeks outline planning permission for up to 75 dwellings and associated infrastructure. All matters are reserved for future consideration with the exception of access, details of which form part of the application. The original application was supported by an Illustrative Masterplan which shows how a scheme of up to 75 dwellings could be accommodated. In addition to the dwellings, the illustrative Masterplan includes ecological buffer areas open space, additional planting and a potential area for SUDs.

### 3 PLANNING HISTORY

- 3.1 Prior to submission of the outline planning application, the appellant undertook pre-application discussions with NSC. As part of the pre-application process NSC issued a formal advice letter, LPA Ref 17/P/5072/PRE (dated 19 January 2018, received by the appellant on 23 Jan 2018). A meeting was held with a representative of the Planning Department on the 21 February 2018 and an updated formal advice letter (version 2) was issued by NSC on 23 March 2018.
- 3.2 The appeal proposal was submitted in outline with all matters reserved for future consideration (save for access) on 6 June 2020, and subsequently validated & registered by NSC as planning application Ref 20/P/1579/OUT.
- 3.3 A Flood Risk Assessment submitted with the original application identifies that the appeal site is located in Flood Zone 3a. In compliance with the local policy, national guidance and pre-application advice provided by NSC, Flood Risk Sequential Test evidence was submitted as part of the planning application supporting documents.
- 3.4 During the course of NSC's consideration of the planning application, additional sequential test evidence was prepared and submitted to NSC. The suite of Flood Risk Sequential Test evidence documents submitted comprises:
1. Sequential Test Report (June 2020) – Considered sites in Weston-super-Mare in accordance with NSC's pre-application advice and Policy CS3.
  2. Sequential Test Addendum (April 2021) – Included additional justification for search area and considered additional sites in Weston-super-Mare based on the guidance in NSC's Development Management Advice Note dated November 2019.
  3. Sequential Test Addendum (July 2021) – Provided a district-wide assessment of sites as requested by NSC.
  4. Additional Site Specific Comments (December 2021) – Included clarification and further examination of specific sites in response to NSC's comments regarding reasons for discounting sites.

5. Additional Site Assessments 2022 SHLAA (May 2022) – Provided an assessment of additional sites not previously assessed in NSC’s updated SHLAA dated January 2022 published alongside the preferred options Local Plan consultation in March 2022.
- 3.5 The Sequential Test Report accompanying the original planning application (dated June 2020) and the subsequent Sequential Test Addendum (dated April 2021) were prepared in line with the advice provided by NSC at the pre-application stage. The evidence presented by the Report and Addendum confirmed there were no reasonably available sites at a lower risk of flooding in Weston-super-Mare.
- 3.6 During the course of the application 20/P/1579/OUT, NSC requested the Appellant to undertake a district-wide sequential test. The district-wide assessment Sequential Test Addendum (dated July 2021) and Additional Site Specific Comments (dated December 2021) were submitted to NSC on 26 July 2021 and 14 December 2021 respectively. This further evidence concluded that there were no reasonably available sites at a lower risk of flooding. The LPA did not contest the conclusions.
- 3.7 Following publication of the NSC SHLAA in January 2022, further Sequential Test site assessment evidence was requested by NSC. This additional assessment work – Additional Site Assessments 2022 SHLAA (May 2022) – was submitted to NSC in May 2022.
- 3.8 NSC did not agree with the appellant’s findings in relation to the assessment of the additional sites set out in the Additional Site Assessments 2022 SHLAA evidence and identified 7 other sites which in the view of NSC were sequentially preferable to the appeal site.
- 3.9 The appeal application was refused by NSC on 9 July 2022.

## 4 PLANNING POLICY

- 4.1 The appellant's evidence will refer to relevant national planning policy and guidance and other relevant Government publications. The appellant will refer to the following:
- National Planning Policy Framework (July 2021)
  - National Planning Practice Guidance 'Flood Risk and Coastal Change' (published 6 March 2014 and updated on 25 August 2022)
- 4.2 The appellant's evidence will refer to relevant policies contained within the Development Plan, which comprises, at the time of writing, the NSC Core Strategy (2017), the Sites and Policies Part 1: Development Management Policies (2016), and the Sites and Policies Plan Part 2: Site Allocations Plan (2018),
- 4.3 The appellant will also refer to guidance in NSC's Development Management Advice Note, Development and Flood Risk Issues (November 2019).
- 4.4 NSC is in the process of reviewing its Local Plan. Where relevant the appellant will refer to the emerging local plan and associated evidence base documents.
- 4.5 Where appropriate the appellant will refer to relevant appeals and case law.

## **5 THE COUNCIL'S REASONS FOR REFUSAL AND THE APPELLANT'S RESPONSE**

- 5.1 The matters in dispute are set out within NSC's reasons for refusal listed on the Decision Notice dated 9 July 2022 including the following reason relating to the flood risk sequential test:
1. Housing development should only be permitted in a 'High Probability' (3a) floodplain when it is necessary, and where it has been demonstrated through a flood risk sequential test that there are no 'reasonably available' sites in areas with a lower flood risk where the development can be provided. The Council consider that the applicant's Flood Risk Sequential Test fails to demonstrate this, and the proposed development is therefore unnecessary in a "High Probability" floodplain, which is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 159, 162 and 163 of the National Planning Policy Framework.
- 5.2 The appellant will present evidence at the Inquiry which will demonstrate that this reason for refusal is unjustified.
- 5.3 The appellant will demonstrate that the appeal proposals comply with the sequential approach set out in Policy CS3 and paragraphs 159, 162 and 163 of the NPPF.
- 5.4 The appellant will refer to a revised Sequential Test Assessment dated December 2022 (Appendix 1), prepared by Walsingham Planning Ltd, which demonstrates that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, within either Weston-super-Mare or the North Somerset District area.
- 5.5 The appellant will demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding using Weston-super-Mare as the relevant search area, but even where the search area is the North Somerset administrative area this still demonstrates there are no reasonably available sites appropriate for the proposed development with a lower risk of flooding.
- 5.6 The NSC Officer's report concluded that the appellant did not provide sufficient reasons for discounting the 31 sites assessed from the SHLAA 2022 and identified 7 other sites that the appellant did not assess which the LPA considered were sequentially preferable to the appeal site (SHLAA references number HE20500; 201086; 202000; 201016, 20594, land at Anson



Road in Worle and Rectory Farm in Yatton). The LPA therefore considered the appellant failed to demonstrate that the appeal proposal could not be delivered on reasonably available land with a lower flood risk.

- 5.7 The appellant's updated Sequential Test demonstrates that none of the sites previously assessed from the SHLAA 2022, and the additional sites identified by the NSC Officer's Report are reasonably available sites appropriate for the proposed development.
- 5.8 Where possible the appellant will seek to agree common ground with the LPA in respect of any disputed sites prior to the Inquiry.
- 5.9 The appellant reserves the right to produce and submit further evidence in the event further information becomes available following submission of the appeal and prior to the Inquiry.
- 5.10 The appellant may amend or update or refresh the Flood Risk Sequential Test evidence further at later stages of the appeal process to reflect any changes at the time.