



# Land at Rectory Farm (North), Yatton, North Somerset

**Flood Risk Sequential Test**  
**March 2024**

On behalf of **Persimmon Homes Severn Valley**

Project Ref: 33313551300/A5/P1d | Rev: P1d | Date: March 2024

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## Document Control Sheet

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# 1 INTRODUCTION

## 1.1 Introduction

- 1.1.1 This Flood Risk Sequential Test has been prepared by Stantec on behalf of Persimmon Homes Severn Valley (the 'Applicant') in support of an outline planning application for the proposed development of Land at Rectory Farm (North), Chescombe Road, Yatton (the 'Site') for the following description of development:

***Outline planning application for the development of up to 190no. homes (including 50% affordable homes) to include flats and semi-detached, detached and terraced houses with a maximum height of 3 storeys at an average density of no more than 20 dwellings per net acre, 0.13ha of land reserved for Class E uses, allotments, car parking, earthworks to facilitate sustainable drainage systems, orchards, open space comprising circa 70% of the gross area including children's play with a minimum of 1no. LEAP and 2no. LAPS, bio-diversity net gain of 20% in habitat units and 40% in hedgerow units, and all other ancillary infrastructure and enabling works with means of access from Shiners Elms for consideration. All other matters (means of access from Chescombe Road, internal access, layout, appearance and landscaping) reserved for subsequent approval.***

- 1.1.2 The Site Location Plan for the outline planning application can be found at **Appendix A**.
- 1.1.3 This Sequential Test has been prepared in line with national and local policy and guidance and the methodology is detailed in **Section 4** of this report. The purpose of this report is to address policy requirements in respect of the suitability of the Site for the proposed residential development in terms of flood risk, having due regard to reasonably alternative sites within North Somerset.
- 1.1.4 The Report should be read in conjunction with the submitted Flood Risk and Drainage Strategy Reports and associated Documents and the Planning Statement.
- 1.1.5 This Report demonstrates that the Site is one of the most sequentially preferable sites for residential development in North Somerset and the Planning Statement then goes on to conclude how the Sequential Test is passed, on the basis of Case Law Judgements. The Exception Test is covered in part by the Planning Statement and partly by the technical Flood Risk Reports accompanying this application.
- 1.1.6 This report has been updated following the submission of a FRST in March 2023 with the planning application, to update the list of sites to be considered and to account for methodological changes in light of appeal decisions and case law Judgement. The FRST is prepared at a point in time and this process remains dynamic as policies, case law and site specifics evolve.
- 1.1.7 Therefore, the development is consistent with local and national planning policy and guidance concerning flood risk. As such, flood risk does not present a barrier to the sustainable development of the Site with the mitigation measures proposed in the Flood Risk Assessments, Technical Notes and Hydraulic Modelling Reports.

## 2 BACKGROUND CONTEXT AND SITE OVERVIEW

### 2.1 The Site

- 2.1.1 The Site is located on the western edge of Yatton and is comprised of grazing land and agricultural fields, measuring approximately 13.79 hectares. It is formed of multiple fields divided by drainage water rhynes (ditches), with hedgerows and trees located within the Site and around its perimeter.
- 2.1.2 The Site is irregular in shape, with hedgerows and trees located internally and along the majority of the Site's boundaries. A series of drainage water ditches are located within the Site which border the various individual fields.
- 2.1.3 It is confirmed by the Environment's Agency online mapping system that the entirety of the Site is located within Flood Zone 3 (land having 1 in 100 or greater annual probability of river flooding, or land having a 1 in 200 or greater annual probability of sea flooding). With a network of drainage water ditches running through various parts of the Site, risk from surface water flooding is at low and medium probabilities.

### 2.2 Planning History

- 2.2.1 A review of the North Somerset Council online planning search has been undertaken and no planning application history relevant to the current proposals was found. The only previous planning application carried out on-site included the coppicing of hedgerows to access heavily silted drainage ditches. The following applications relate to the wider area.

*Land at Rectory Farm, Chescombe Road, Yatton – 21/P/0236/OUT*

- 2.2.2 An outline planning application (21/P/0236/OUT) was submitted at 'Land at Rectory Farm' (to the south of the application site) in 2021 for the following description of development: 'Outline planning application for a residential development of up to 100no. dwellings and associated infrastructure following demolition of existing buildings on site, with access for approval and all other matters for subsequent approval'.
- 2.2.3 The application was refused under delegated powers for the following reasons:
1. The proposed development of up to 100 dwellings would deliver a scale of development that is in conflict with the spatial strategy for the development plan, which permits sites of up to around 25 dwellings adjoining the settlements edges of service villages. The proposed development is therefore contrary to policies CS14 and CS32 of the Core Strategy and the made Yatton Neighbourhood Plan.
  2. The proposed development, due to its location in close proximity to the North Somerset and Mendip Bats SAC, would have significant effect on this habitat site. The site is located in Bat Consultation Zone B as designated in the North Somerset and Mendip Bats SAC SPD and the survey evidence and consultation with Natural England suggests that SAC bats would be adversely affected by the development. The proposed mitigation measures do not prioritise onsite mitigation, and the proposed offsite mitigation is unsuitable.

Additionally, the development, due to its location in close proximity to the Biddle Street SSSI, is likely to result in operational impacts and increase recreational pressure on this nationally designated site. The submitted Ecological Impact Assessment has not adequately identified and considered the scope of these impacts, nor identified how mitigation could be achieved.

The proposal also fails to adequately demonstrate how a Biodiversity Net Gain can be achieved on site, as the calculation of Biodiversity Net Gain includes habitat utilised for mitigation purposes. The proposed development is therefore contrary to Policy CS4 of the Core Strategy, Policy DM8 of the Sites and Policies Plan Part 1: Development Management Policies, the North Somerset and Mendip Bats SAC SPD and paragraphs 175 and 177 of the NPPF.

3. The proposed development, by reason of its protrusion in an area of high landscape sensitivity in close proximity to the Strawberry Line, does not accord with the linear form of the village and would appear an incongruous projection into open countryside. The proposal would cause unacceptable harm to the amenity value of the Strawberry Line being a popular recreational route forming part of the strategic cycle network. The proposed development is therefore contrary to Policies CS5 and CS9 of the Core Strategy, Policy DM10 of the Sites and Policies Plan Part 1 – Development Management Policies, the North Somerset Landscape Character Assessment SPD, and paragraphs 98 and 170 of the National Planning Policy Framework.
4. The proposed development, due to the substandard width of Chescombe Road, the inadequate visibility splays at the adjacent junction between Chescombe Road and Mendip Close, and the lack of submission of a Road Safety Audit and tracking data for cars and emergency vehicles, would have an unacceptable impact on highway safety. The proposed development is therefore contrary to Policy DM24 of the Sites and Policies Plan Part 1: Development Management Policies, and paragraph 108 and 1098 of the National Planning Policy Framework.

2.2.4 Following the above, an appeal was submitted (PINS Reference: APP/D0121/W/21/3286677). The Inspector determined that the appeal was to be allowed and outline planning permission granted, on the basis that *“Taking all of the above into consideration, applying the tilted balance pursuant to paragraph 11d of the NPPF, the adverse impacts of granting permission plainly would not significantly and demonstrably outweigh the benefits of doing so. The Council cannot demonstrate a 5YHLS and the overall benefits of the appeal proposals clearly outweigh the harm”*.

Land at Rectory Farm, Chescombe Road, Yatton – 23/P/0238/RM

2.2.5 Following the above consent for outline planning permission at Land at Rectory Farm, Chescombe Road, an application for reserved matters was validated on 1<sup>st</sup> March 2023. The reserved matters description of development is as follows *‘Reserved matters application for layout, scale, appearance and landscaping in relation to the erection of 98 dwellings, provision of open space, landscaping, car parking and associated infrastructure pursuant to the outline planning consent ref 21/P/0236/OUT (Outline planning application for a residential development of up to 100no. dwellings and associated infrastructure following demolition of existing buildings on site, with access for approval and all other matters for subsequent approval - approved under appeal reference APP/D0121/W/21/3286677)’*. The application is yet to be determined, with revised drainage plans submitted on 3<sup>rd</sup> January 2024.

Land at Rectory Farm, Chescombe Road, Yatton – 21/P/2791/OUT

2.2.6 An outline planning application (21/P/2791/OUT) was submitted in 2021 for the following description of development, *‘Outline planning application for a residential development of up to 75no. dwellings and associated infrastructure following demolition of existing buildings on site, with access for approval and appearance, scale, layout and landscaping reserved for subsequent approval’*.

2.2.7 This outline planning application was submitted whilst application 21/P/0236/OUT was being considered at appeal. The appeal was allowed in June 2022 and the judicial review challenge period for the appeal decision expired in September 2022. As such, the applicant withdrew this application in October 2022.

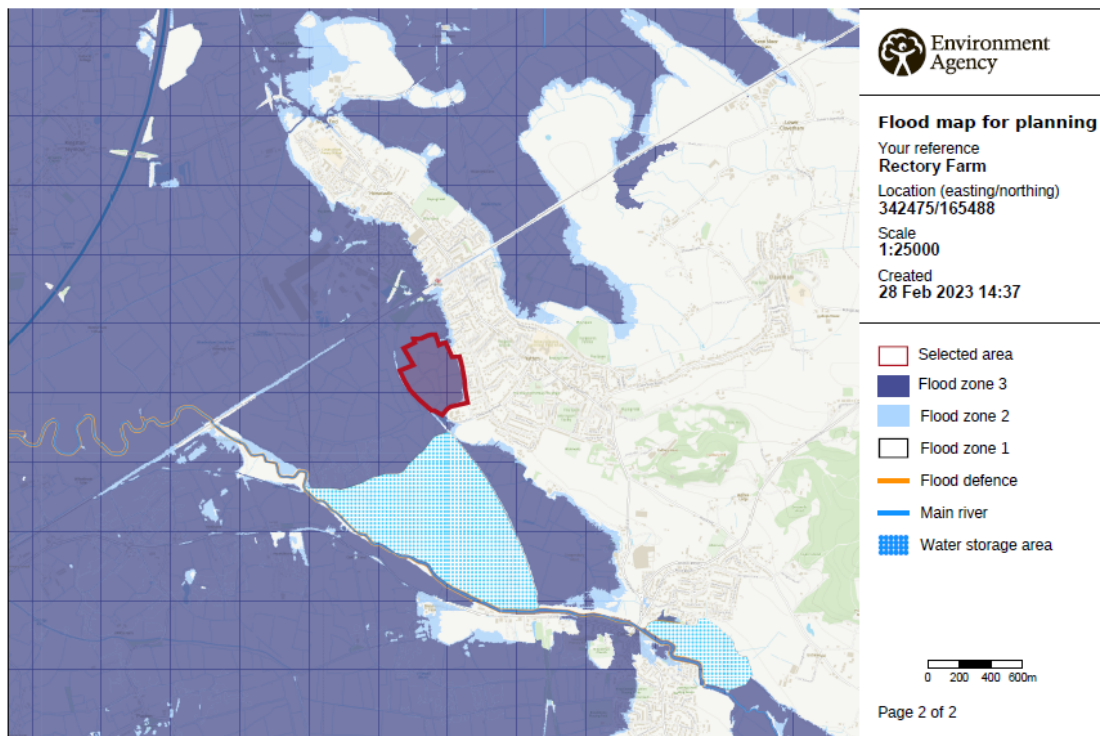


Titan Ladders 195 – 201, Mendip Road, Yatton – 17/P/2377/F

2.2.8 A full planning application (17/P/2377/F) was submitted in 2017 for the following description of development, 'Demolition of existing buildings and erection of 37no. dwellings with associated vehicular access improvements, parking, hard / soft landscape works and drainage'. The application was approved under delegated powers in April 2019, subject to a legal agreement and conditions.

### 2.3 Flood Constraints

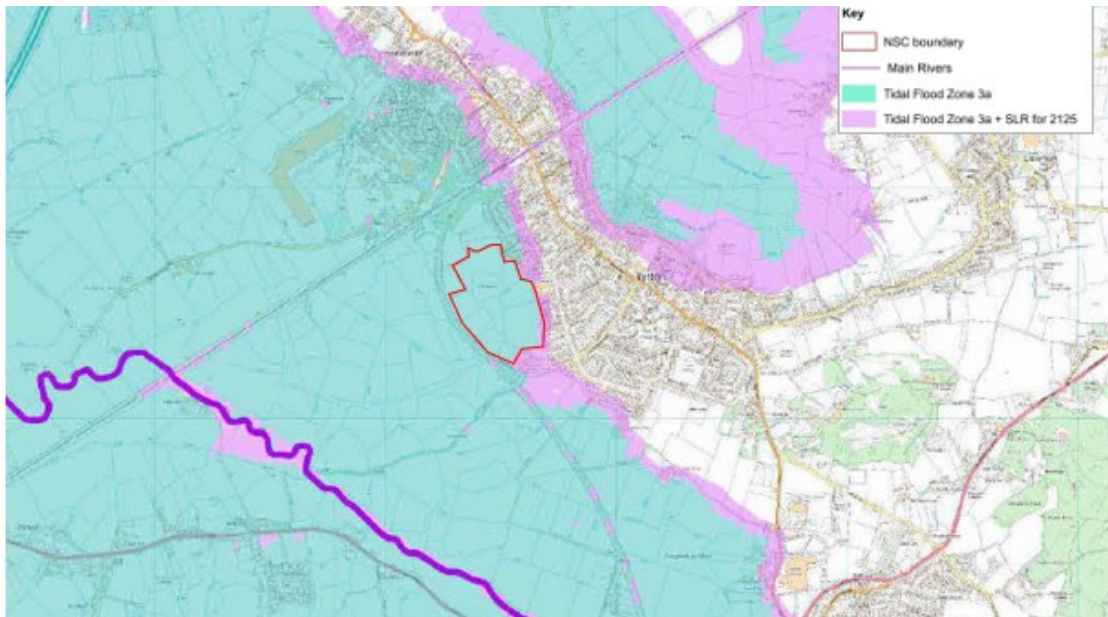
2.3.1 The Site lies within Flood Zone 3 according to the EA's Flood Risk Map, as shown on **FIGURE 2-1** below. It is also in an area benefitting from flood defences. **Appendix B** shows all parts of North Somerset which benefit from Flood Defences.



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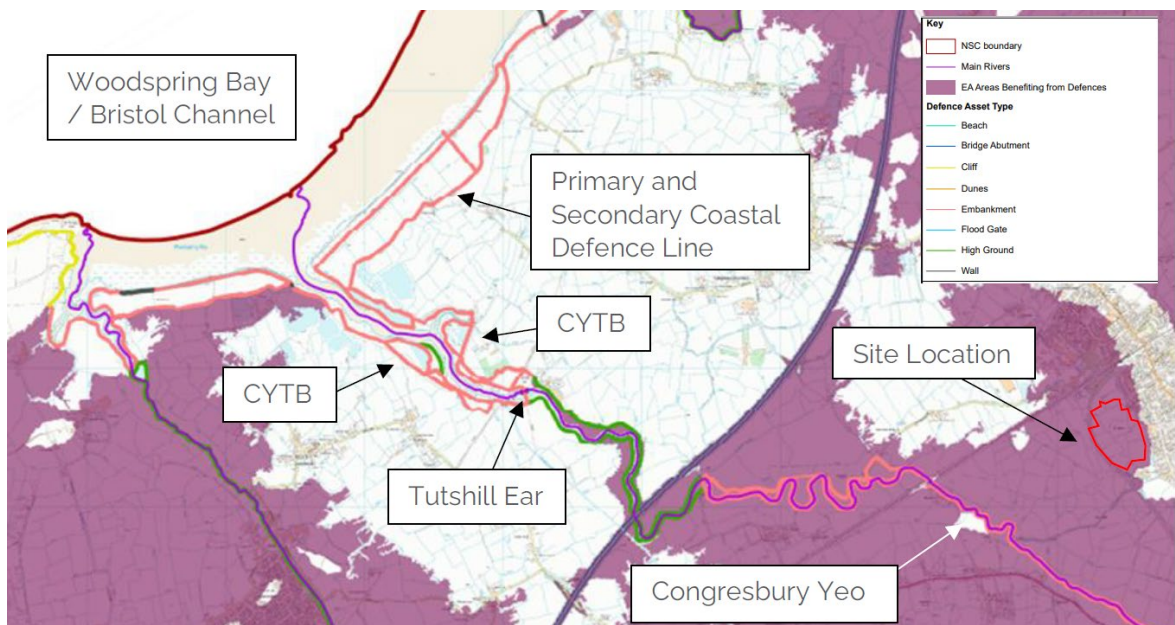
**FIGURE 2-1: Environment Agency Flood Map For Planning**

2.3.2 The North Somerset Council Local Plan policies map confirms that the Site lies within Flood Zone 3a for Tidal Flooding, as opposed to Flood Zone 3b (functional flooding), as shown on **FIGURE 2-2**. It is useful to set the context of flood risk and development in the area, as this informs the overall approach to development, flood risk management and the sequential test.



**FIGURE 2-2: North Somerset Council Policies Map**

2.3.3 A significant proportion of the North Somerset District is within Flood Zones 2 and 3, as shown by the extent of the coverage on **FIGURE 2-2**. Flood risk is therefore a constraint to development within much of the District and flood defences are required to protect many areas, including the application site. The plan held at **Appendix B** shows the extent of flood defences within North Somerset and **FIGURE 2-3** shows defence types and areas benefitting from defences between the Woodspring Bay / Bristol Channel and the Site.



**FIGURE 2-3: Defence Types and Areas Benefitting From Defences - Taken From North Somerset Council Level 1 SFRA Figure 040**

## 2.4 The Proposals

2.4.1 This outline planning application seeks permission for the following:

***Outline planning application for the development of up to 190no. homes (including 50% affordable homes) to include flats and semi-detached, detached and terraced houses with a maximum height of 3 storeys at an average density of no more than 20 dwellings per net acre, 0.13ha of land reserved for Class E uses, allotments, car parking, earthworks to facilitate sustainable drainage systems, orchards, open space comprising circa 70% of the gross area including children's play with a minimum of 1no. LEAP and 2no. LAPS, bio-diversity net gain of a minimum of 20% in habitat units and 40% in hedgerow units, and all other ancillary infrastructure and enabling works with means of access from Shiners Elms for consideration. All other matters (means of access from Chescombe Road, internal access, layout, appearance and landscaping) reserved for subsequent approval.***

2.4.2 Further details about the proposed development can be found in Section 5 of the Planning Statement submitted with this application.

2.4.3 The built form and development is concentrated to the east of the Site with open space, green infrastructure and ecological buffers located to the west. The use of topography and the overall drainage strategy are discussed in the associated flood risk and drainage reports and documents.

## 3 PLANNING POLICY CONSIDERATIONS, APPEAL DECISIONS AND CASE LAW

### 3.1 National Planning Policy Framework (NPPF) 2023

- 3.1.1 The National Planning Policy Framework ('NPPF') sets out that inappropriate development in areas at risk of flooding should be avoided. Paragraph 168 states that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source, and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 3.1.2 Paragraph 169 continues, stating that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the Exception Test may have to be applied. The need for the Exception Test depends on the potential vulnerability of the site and development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3 of the NPPF. Residential development, such as that proposed, is classified as 'more vulnerable' development in Annex 3 of the NPPF.
- 3.1.3 Paragraph 170 states that the application of the Exception Test should be informed by a Flood Risk Assessment. To pass the Exception Test, it must be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) 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
- 3.1.4 Both elements of the Exception Test should be satisfied for development to be permitted.

### 3.2 Planning Policy Guidance (PPG)

- 3.2.1 Planning Policy Guidance ('PPG') was updated on 25<sup>th</sup> August 2022 to bring it in line with the changes introduced to the NPPF in 2021. There are now clearer requirements for multifunctional SUDS; the Sequential and Exception Tests have been updated to consider surface water; the definition of functional floodplain (Flood Zone 3b) has been changed; and there is increased promotion of Natural Flood Management (NFM) in new developments.
- 3.2.2 PPG indicates that where necessary, planning authorities should apply the Sequential Test and, if needed, the Exception Test, to ensure that flood risk is minimised and appropriately addressed<sup>1</sup>.
- 3.2.3 Paragraph 024 states that *"The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites:*
- *Within medium risk areas; and*
  - *Then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas<sup>2</sup>."*

<sup>1</sup> PPG Paragraph: 004 Reference ID: 7-004-20220825

<sup>2</sup> PPG Paragraph: 024 Reference ID: 7-024-20220825



- 3.2.4 Paragraph 024 also states that “Initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain.”
- 3.2.5 With respect to planning applications, Paragraph 027 states that the Sequential Test should be applied to major development proposed in areas at risk of flooding, and that **“For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location<sup>3</sup>.”** (our emphasis)
- 3.2.6 Paragraph 028 gives a definition of ‘reasonably available sites’ as **“those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’”** (our emphasis).
- 3.2.7 PPG is clear that **“the absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications<sup>4</sup>.”**
- 3.2.8 Paragraph 029 states that **“Relevant decision makers need to consider whether the test is passed, with reference to the information it holds on land availability. The planning authority will need to determine an appropriate area of search, based on the development type proposed and relevant spatial policies. The applicant will need to identify whether there are any other ‘reasonably available’ sites within the area of search, that have not already been identified by the planning authority in site allocations or relevant housing and/or economic land availability assessments, such as sites currently available on the open market. The applicant may also need to check on the current status of relevant sites to determine if they can be considered ‘reasonably available’”** (our emphasis).
- 3.2.9 PPG builds on paragraph 164 of the NPPF in terms of Exception Testing. Paragraph 031 explains that it **“is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. It would only be appropriate to move onto the Exception Test in these cases where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified”**.
- 3.2.10 PPG sets out the circumstances where the Exception Test will be required. As the Site lies within Flood Zone 3a and residential development is classified as ‘More Vulnerable’ development, an Exception Test would be required to support the proposed application, and only **“if the Sequential Test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered”**, as set out in **Figure 3-1**.

<sup>3</sup> PPG Paragraph: 027 Reference ID: 7-027-20220825

<sup>4</sup> PPG Paragraph: 028 Reference ID: 7-028-20220825

| Flood Zones | Flood Risk Vulnerability Classification |                         |                         |                 |                  |
|-------------|---|-------------------------|-------------------------|-----------------|------------------|
|             | Essential infrastructure                | Highly vulnerable       | More vulnerable         | Less vulnerable | Water compatible |
| Zone 1      | ✓                                       | ✓                       | ✓                       | ✓               | ✓                |
| Zone 2      | ✓                                       | Exception Test required | ✓                       | ✓               | ✓                |
| Zone 3a †   | Exception Test required †               | X                       | Exception Test required | ✓               | ✓                |
| Zone 3b *   | Exception Test required *               | X                       | X                       | X               | ✓ *              |

Key:

✓ Exception test is not required

X Development should not be permitted

**Figure 3-1: Extract of PPG outlining the need for the Exception Test**

### 3.3 North Somerset Core Strategy (2017)

3.3.1 The North Somerset Core Strategy was adopted in January 2017 and Policy CS3 relates to environmental impacts and flood risk assessments. It states that:

*“Development in zones 2 and 3 of the Environment Agency Flood Map will only be permitted where it is demonstrated that it complies with the sequential test set out in the National Planning Policy Framework and associated technical guidance and, where applicable, the Exception Test, unless it is:*

- *development of a category for which **National Planning Policy Framework and associated technical guidance** makes specific alternative provision; (our emphasis) or*
- *development of the same or a similar character and scale as that for which the site is allocated, subject to demonstrating that it will be safe from flooding, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

*For the purposes of the Sequential Test:*

1. *The area of search for alternative sites will be North Somerset-wide unless:*
  - *It can be demonstrated with evidence that there is a specific need within a specific area; or*
  - *The site is located within the settlement boundaries of Weston (including the new development areas), Clevedon, Nailsea and Portishead, where the area of search will be limited to the town within which the site is located.*

*Other Local Development Documents may define more specific requirements.*

2. A Site is considered to be 'reasonably available' if all of the following criteria are met:

- The site is within the agreed area of search.
- The site can accommodate the requirements of the proposed development.
- The site is either:
  - a) owned by the applicant;
  - b) for sale at a fair market value; or
  - c) is publicly-owned land that has been formally declared to be surplus and available for purchase by private treaty.

*Sites are excluded where they have a valid planning permission for development of a similar character and scale and which is likely to be implemented."*

### 3.4 North Somerset Local Plan 2039 (Pre-submission Regulation 19 Plan)

3.4.1 North Somerset Council are preparing a new Local Plan and carried out consultation on the Regulation 19 Plan between November 2023 and January 2024. The LDS (August 2023) advises that the Plan is due to be submitted to the Secretary of State in March 2024.

3.4.2 Policy DP9 relates to Flood Risk and states:

*"All development must consider its vulnerability to flooding, taking account of all sources of flood risk and the impacts of climate change, assessing at least 100 years from the completion of development on residential or mixed use sites comprising residential development and 75 years from the completion of development on non-residential sites.*

*Applying the Sequential Test where required in line with the NPPF and the Planning Practice Guidance (PPG), proposals for development must seek to avoid development in areas of greater risk of flooding from all sources unless for compatible uses in line with national policy. In order to pass the Sequential Test, proposals will need to demonstrate that there are no reasonably available alternative sites that could accommodate the proposed development at a lower risk of flooding.*

*Where required, the Exception Test will also be applicable in line with the NPPF and the PPG. Flood resilient construction should be utilised to manage any residual risk.*

*Residential development proposals for less than 10 dwellings within the settlement boundaries of Weston-super-Mare, Clevedon and Portishead will not be required to provide evidence that they have considered the sequential test but will need to demonstrate that the proposal is safe for its lifetime taking account of the vulnerability of the users, without increasing flood risk elsewhere, and where possible, will reduce overall flood risk.*

*Where the tests are required, robust information should be provided with the planning application in order to assist the council in assessing whether the tests are passed. Where either the sequential or exceptions tests are not passed, permission will not be granted. **The search for alternative sites should be district-wide if the proposal is outside the main towns and should not be restricted to sites only capable of accommodating the proposed scale of development, and opportunities to provide development on more than one, sequentially preferable site should be explored where practical.** A more focused search area may be justified taking into consideration the appropriate catchment area for the development proposed. If the proposal is inside one of the main towns, the search area will be the same main town.*

*In all cases, the precautionary principle will be applied when considering development proposals within areas at current and future risk of flooding.*

*The assessment of flood risk in relation to any proposed development, should take into account the North Somerset Strategic Flood Risk Assessment (SFRA) and its mapping in addition to mapping provided nationally within the PPG.” (Our emphasis).*

- 3.4.3 Paragraph 48 of the NPPF advises that Local Planning Authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the plan;
  - b) the extent to which there are unresolved objections to the relevant policies; and
  - c) the degree of the consistency with the Framework.
- 3.4.4 The weight to be afforded to the Pre-submission Plan is considered in the accompanying Planning Statement.

### **3.5 Development and Flood Risk Issues Advice Note (2019)**

- 3.5.1 North Somerset Council published a ‘Development Management Advice Note’ in November 2019 about development and flood risk issues. This articulates government guidance post-dating the 2017 Core Strategy, however pre-dating the August 2022 PPG updates. It was given significant weight by the Inspector in an appeal decision for a site in Portishead, dated February 2022<sup>5</sup> (DN22) however no reliance was placed on it by the Inspector in the appeal decision at Lynchmead Farm, Weston-super-Mare, dated June 2023<sup>6</sup> (DN35).
- 3.5.2 The Advice Note states that the area of search for alternative sites will be North Somerset-wide unless:
- It can be demonstrated with evidence that there is a specific need within a specific area. To avoid delay it is recommended that applicants contact the council early in the process to discuss the area of search and evidence of need. A development that includes a mix of uses may need to apply the Sequential Test using different areas of search for the different uses. For the test to be passed, each use within the proposal must pass.
  - The site is located within the settlement boundaries of Weston-super-Mare (including the new development areas), Clevedon, Nailsea and Portishead, where the area of search will be limited to the town within which the site is located.
- 3.5.3 The Advice Note guides Applicants in what needs to be included in Sequential Tests, as follows:
- The name and location of the site proposed for development and an explanation of why that specific site was chosen.
  - A written statement explaining the area of search.
  - A map identifying all other sites considered within lower areas of flood risk and their planning status.

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<sup>5</sup> PINS ref: APP/D0121/W/21/3279097

<sup>6</sup> PINS ref: APP/D0121/W/22/3313624



- A written statement explaining why the alternative sites listed within lower areas of flood risk are not reasonably available. It is advisable to provide as much evidence as possible regarding statements made on other sites to avoid delays in the planning process.
- 3.5.4 The Note informs that alternative sites can include sites allocated in a Local Plan or Neighbourhood Plan and that suitable sites that have planning permission for the desired use should also be considered. It advises that sites can also be found from the Council's evidence base and background documents to inform the emerging Local Plan, which includes the SHLAA. It states that if alternative sites cannot be identified from such documents, then other sites within the area of search should be considered. NSC recommend that applicants contact them to discuss the availability of sites to be considered in the Sequential Test.
- 3.5.5 The Note gives an interpretation of what is meant by 'reasonably available', linking back to Core Strategy Policy CS3, which limits it to sites that the applicant owns or could acquire and excluding alternative sites that have a planning permission likely to be implemented. The Advice Note recognises that between this policy being written and the Note being produced, the Environment Agency published guidance that considers sites with permission to be 'reasonably available' and that this approach has been supported at appeal. NSC therefore give greater weight to the national guidance than Policy PG3. The Note therefore states that a site is considered to be 'reasonably available' if **all** of the following criteria are met:
- The site is within the agreed area of search.
  - The site can accommodate the requirements of the proposed development. Applicants should consider the potential for splitting the development over more than one site. This will be particularly relevant to sites for housing.
  - The site is either:
    - the subject of a valid planning permission for development of a similar character and scale; or
    - identified as having development potential within the required timescale, either in the SHLAA or in a Local Plan policy or supporting evidence; or
    - in the case of small sites, for sale and not subject to known planning constraints.

### 3.6 Planning Appeals

*Land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare - APP/D0121/W/22/3313624 ("the Lynchmead decision")*

- 3.6.1 North Somerset Council refused outline planning permission on 8<sup>th</sup> July 2022 for a development of up to 75 dwellings at Land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare (20/P/1579/OUT) and this appeal was dismissed on 20<sup>th</sup> June 2023 by Planning Inspector Guy Davies (APP/D0121/W/22/3313624).
- 3.6.2 The Inspector in this case considered the assessment and requirements of the sequential test against Policy CS3 of the Core Strategy which was adopted in 2017 (DN10 to DN22). He then goes onto consider the case in respect of national flood risk policy (DN23 to DN41): the then NPPF updated in 2021 and PPG updated in August 2022.
- 3.6.3 The Inspector acknowledges that against the requirements of Policy CS3 of the Core Strategy, taking the factors together, that there is insufficient evidence to demonstrate that any of the alternative sites proposed as reasonable alternatives by the Council meet all of the bulleted criteria set out in the second section of Policy CS3 (DN22).

- 3.6.4 However, when considering the NPPF and PPG which post-date the Core Strategy, the Inspector states that the second section of Policy CS3 is now inconsistent with the Framework and whilst the wording of national policy is largely the same as when CS3 was adopted, the interpretation of it has been clarified by more recent guidance contained in the PPG (DN23).
- 3.6.5 The Inspector notes that the PPG states that reasonably available sites could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. He states that there is nothing in the PPG that requires smaller sites to be adjacent to one another, as suggested by the Appellant in this case. He states that a series of separate small residential sites would still provide suitable alternative land for equivalent development at a lower risk of flooding (DN25) and concludes at DN36 that there is no need for such smaller sites to be 'contiguous'.
- 3.6.6 The Inspector considers what 'reasonably available' means in the context of local and national planning policy. CS3 allows sites to be excluded from the definition of 'reasonably available' if they meet the criterion in part 2 of the policy, however the Inspector states that there are no exclusions in the PPG relating to sites with planning permission or that publicly owned land must be formally declared to be surplus. Overall, he gives lesser weight to the second section of Policy CS3 than he does to the newer and more up to date Framework as interpreted by the PPG (DN26-27).
- 3.6.7 At DN29, the Inspector considers that the phrase 'type of development' means 'any site that is capable of accommodating residential development, the 'type' of development being 'residential'. He notes that although the Appellant may anticipate the proposal consisting of lower density suburban housing, the application had been made in outline and the only constraint on the type of development proposed is that contained in the description of development, which was for 'a residential development of up to 75 dwellings'.
- 3.6.8 Concerning the meaning of 'at the point in time envisaged for development' and 'available to be developed' the Inspector states that the latter does not mean that development of an alternative site would have to follow the same timescale envisaged for the appeal scheme. They state that it is sufficient that there is a positive indication that the land is available to be developed. He considers that the start date for development and the build out rate could be affected by site-specific factors but that does not alter the fact that the land would be available to be developed (DN31).
- 3.6.9 On this basis, he considers that those alternative sites which have planning permission for residential development, a resolution to grant, are allocated for residential development in the development plan, or which in principle accord with the spatial strategy of the development plan (including suitably sized development on the edge of existing built-up areas) are available to be developed at the point in time envisaged for the proposed development. He considers that those which do not accord with the spatial strategy of the development plan and are reliant on the emerging plan to be allocated, would not be available. He reached this view because at the time of the decision (June 2023), the emerging plan was still at an early stage in its development, it may well have changed, and was unlikely to be adopted before early 2025 (when the Appellants envisaged their development commencing) (DN32).
- 3.6.10 At DN33 he disagrees with the Appellant's argument that housing need is a relevant consideration in the sequential test however also notes in this paragraph that larger schemes outside settlement boundaries are likely to conflict with the Council's spatial strategy.
- 3.6.11 Overall, the Inspector concluded that the sequential test was not complied with and that the development conflicted with Policy CS3 of the Core Strategy and therefore the development plan as a whole.

Land at Little Bushey Lane, Bushey, Hertsmere - APP/N1920/W/23/3314268 ("the Bushey decision")

- 3.6.12 Hertsmere Borough Council failed to determine an outline planning application at Land at Little Bushey Lane, Bushey for a development of up to 310 dwellings which was submitted on 14<sup>th</sup> June 2022. An appeal against non-determination was submitted by the Applicant (Redrow Homes Limited) on 6<sup>th</sup> January 2023 and the Council's putative reasons for refusal were endorsed by the Council's Planning Committee on 23<sup>rd</sup> February 2023. One of the main issues in this appeal was whether the proposed development would be in a suitable location with regard to local and national policies relating to flood risk. The only area of flood risk disagreement between the parties related to the application of the sequential test.
- 3.6.13 In this appeal, the Appellants produced a Flood Risk Sequential Test and considered sites 25% above and below the size and capacity of their site. The Council in this case did not set a clear maximum size parameter however a lower threshold of 80 homes was applied, without particular clear evidence as to how that was reached. The Appellant also considered larger sites of which the proposed development could form a part and smaller sites where they could be grouped, though the focus was on smaller sites being next to or close to one another (DN86).
- 3.6.14 This exercise was carried out following the approach taken for a site in Framlingham, East Suffolk<sup>7</sup> where the Inspector referred to it as a 'standard approach'. However, the Inspector for the appeal in Bushey stated that they could see no reference to a standard approach in either the current PPG (August 2022) or in the previous PPG (March 2014). Overall, the Inspector was 'not convinced' that the Appellant's maximum and minimum site sizes and site capacities were robustly chosen and were consistent with the advice in the PPG on assessment of a series of smaller sites or later sites of which the development could form part (DN87).
- 3.6.15 The proposals at Bushey were for up to 310 homes plus land for a primary school, mobility hub and green infrastructure. The Inspector did not see any reasons why a number of smaller sites could not accommodate all these elements. They referenced the above Lynchmead appeal in North Somerset whereby the Inspector stated that smaller sites would not necessarily need to be contiguous. The Inspector in the Bushey case agreed with Hertsmere Borough Council that a series of sites would potentially indicate three or more sites, and was 'not convinced' that part of a larger site would not represent a reasonable proposition in some circumstances, though considerably larger sites may take longer to bring forward and would not be reasonably available (DN88).
- 3.6.16 The Appellant and Council in this case disagreed on the likely timescales for the first completions on site: 2025 and 2027 respectively. The Inspector had regard to a range of documents and data sources and considered on-site requirements to conclude that first completions were likely to be in 2026 (DN89-90). However, the Inspector stated that even if they agreed with the Appellant's first completions in 2025, they concurred with the Inspector in the North Somerset (Lynchmead) appeal that being available to be developed does not necessarily mean that the development of an alternative site would need to follow the trajectory of start and build out dates set for the appeal scheme and that it is only necessary for the alternative land to be available to be developed.
- 3.6.17 In this case, the Appellants reviewed 244 sites, concluding that the appeal site was the sequentially preferable site, however the Council disputed this and considered that 14 sites were sequentially preferable: 5 of these were larger than the appeal site, 9 were smaller than the appeal site. The Inspector agreed with the Appellant that one of the larger sites was not reasonably available as its development timescale was over 16 years. However, for the 13 other sites, the Inspector considered that it had not been adequately demonstrated that they were not reasonably available and that the proposed development could not be delivered through a series of smaller sites (DN93-99).

<sup>7</sup> PINS reference: APP/X3540/W/20/3250557

### 3.7 Case Law

*R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin) (“the Judgment”).*

3.7.1 The two above mentioned appeal decisions in North Somerset and Hertsmere were subject to legal challenges brought under Section 288 of the Town and Country Planning Act 1990. Hearings were held on 17<sup>th</sup> and 18<sup>th</sup> January 2024 and the Judgement was handed down by Justice Holgate on 12<sup>th</sup> February 2024. It is understood that the Judgement is currently the subject of a prospective appeal.

3.7.2 Parts of the Judgement which are particularly relevant to this Sequential Test and Methodology are set out below.

#### Type of Development

3.7.3 Paragraphs 102 to 104 of the Judgement consider the *type* of development (or housing) being proposed and if there is a specific need or demand for this. The Judgement advises that in line with Paragraph 162 of the NPPF (now Paragraph 168), this is a matter of judgement for the decision-maker to assess the merits of that case, and to decide whether it justifies carrying out the sequential assessment for that specific type or description of development (our emphasis) (para 102).

3.7.4 Paragraph 103 of the Judgement holds that a need and/or market demand case could be based on a range of factors, such as the location, the mix of land uses proposed and any interdependence between them, the size of the site needed, the scale of the development, density and so on. The Judgement states that the decision-maker may also assess whether flexibility has been appropriately considered by the developer and LPA.

3.7.5 At Paragraph 104, the Judgement holds that depending on the merits of the case put forward, this may be relevant to deciding the appropriate area of search and whether other sites in lower flood risk zones have characteristics making them “appropriate” alternatives.

3.7.6 As such, it is for the decision-maker to consider these points if put forward by the Applicant and failure to assess these points as part of the assessment of the Sequential Test would be contrary to planning judgement.

#### Series of Sites

3.7.7 In the Lynchmead decision, the Inspector stated at Paragraph 36 that “there is no need for such smaller sites to be contiguous”. In the Bushey decision, the Inspector stated at Paragraph 88 that they “see no reason why a number of smaller sites could not accommodate all these elements [referring to the development proposed: housing, primary school, mobility hub and green infrastructure]. As in the North Somerset appeal [the Lynchmead decision], smaller sites would not necessarily need to be contiguous.

3.7.8 The PPG<sup>8</sup> states that “reasonably available sites” could include “a series of smaller sites.” At Paragraph 110 of the Judgement, it holds that “the word “series” connotes a **relationship** between the sites appropriate for accommodating the **type** of development which the decision-maker judges should form the basis of the sequential assessment” (our emphasis).

3.7.9 It continues, stating that “This addresses the concern that a proposal should **not** automatically fail the sequential test because of the availability of **multiple, disconnected sites across a local authority’s area**. The issue is whether they have a **relationship** which makes them

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<sup>8</sup> Paragraph: 028 Reference ID: 7-028-20220825

suitable in combination to accommodate any need or demand to which the decision maker decides to attach weight” (our emphasis).

- 3.7.10 The Judgement is critical of the approach taken by the Inspector in the Bushey decision at Paragraph 164 “Instead of looking at sites of around 18.2ha, or down to 13.6ha, and capable of accommodating 310 dwellings, or down to 232 units, she has considered an alternative based on a number of smaller, unconnected sites. She did not address the case advanced by Redrow that that approach could not deliver the range of interconnected benefits which the appeal scheme would deliver and for which there was a need”.
- 3.7.11 As such, when considering whether there are multiple sites that could form a “series” and their sequential preferability, the decision maker must consider Paragraph 110 of the Judgement, which is whether such sites “have a relationship which makes them suitable in combination to accommodate any need or demand to which the decision-maker decides to attached weight” alongside Paragraph 164 of the Judgement: whether these sites could “deliver the range of interconnected benefits which the appeal scheme would deliver and for which there was a need”.

#### Timescales for Development

- 3.7.12 Paragraph 028 of the PPG also states that “reasonably available sites are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development<sup>9</sup>”. Paragraph 168 of the NPPF (previously Paragraph 162) states that “Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”
- 3.7.13 At Paragraph 106 of the Judgement, Holgate J. is clear that Paragraph 162 (now 168) of the NPPF does not require that the availability of an alternative site should always *align closely* with the trajectory of the developer’s proposal (our emphasis)”. The paragraph continues, stating that flexibility on all sides is a relevant consideration. Similarly, Paragraph 121 of the Judgement states, regarding the Lynchmead case and claim, that “*allowing for flexibility, the Inspector was entitled to say that development of an alternative site did not have to follow the same timescale as was envisaged for the appeal proposal. He recognised that the start date and build-out rates can be affected by many site-specific factors*”.
- 3.7.14 The question of this flexibility is referenced again at Paragraph 170 of the Judgement. The Bushey case discounted some sites larger than the appeal site on the basis of timescales to develop. The Inspector in this case was critical of the amount of evidence put forward by Redrow to support this point and whether this would be outside of the expected timeframe for delivery of the proposed development. In relation to this, the Judgement holds that “*In other words, the Inspector did not reject the timescale put forward by Redrow. The flaw in its case was the lack of evidence to show that alternative sites would take materially longer to come forward.*”
- 3.7.15 The Judgement therefore holds that precise or close alignment of expected delivery timescales is not strictly necessary. Instead, it is a matter of whether alternative sites would take *materially* longer to come forward than the application site.

#### Housing Need

- 3.7.16 As stated above, the Judgement holds that a specific need for a particular type of development could inform the catchment of the search area for the sequential test. Paragraphs 173, 174 and 178 of the Judgement are relevant to the relationship between housing need and the sequential test.

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<sup>9</sup> Paragraph: 028 Reference ID: 7-028-20220825



- 3.7.17 At Paragraph 173, the Holgate J. holds that he agrees with the Secretary of State's advocate in that *"that approach describes the type of exercise which is undertaken in the preparation and examination of a development plan (see e.g. para. 026 of the PPG). Where there remains unmet need which cannot be allocated to areas satisfying the sequential test, that factor together with any other constraints, may lead to a policy decision that not all of the identified need should be met. Alternatively, it may be decided that all or some part of that residual need should be met notwithstanding that the sequential test has not been satisfied. Either way, the treatment of unmet need is not an input to the sequential assessment for identifying reasonably available alternative sites. The sequential approach is not modified in those circumstances. Instead, the policy-maker will decide what to do with the outcome of applying the sequential test."* (our emphasis)
- 3.7.18 Paragraph 174 continues, *"A similar analysis applies in the determination of planning applications. Where there is an unmet need, for example a substantial shortfall in demonstrating a 5-year supply of housing land, that shortfall and its implications (including the contribution which the appeal proposal would make to reducing that shortfall) are weighed in the overall planning balance against any factors pointing to refusal of permission (including any failure to satisfy the sequential test). If the total size of sequentially preferable locations is less than the unmet housing need, so that satisfying that need would require the release of land which is not sequentially preferable, that too may be taken into account in the overall planning balance. But these are not matters which affect the carrying out of the sequential test itself. Logically they do not go to the question whether an alternative site is reasonably available and appropriate (i.e. has relevant appropriate characteristics) for the development proposed on the application or appeal site. Instead, they are matters which may, for example, reduce the weight given to a failure to meet the sequential test, or alternatively increase the weight given to factors weighing against such failure."* (our emphasis)
- 3.7.19 Paragraph 178 states that Holgate J. *"can see that if Redrow had submitted to the Inspector that there was a substantial need for housing which could not be met entirely on sequentially preferable sites (and even more so in the next 5 years), so that additional sites with a similar or worse flood risk would need to be developed, that would be a significant factor to be addressed in the overall planning balance. It could reduce the weight to be given to the failure to satisfy the sequential test. Here the Inspector gave that failure "very substantial weight" (DL 100). It would have been arguable that the flood risk implications of satisfying the unmet need for housing land was an "obviously material consideration," such that it was irrational for the Inspector not to have taken it into account (R (Friends of the Earth Limited) v Secretary of State for Transport [2021] PTSR 190 at [116] to [120]). Alternatively, it could have been said that there was a failure to comply with the duty to give reasons in relation to a "principal important controversial issue" between the parties."* (our emphasis).
- 3.7.20 These extracts of the judgement show that a failure to comply with the sequential test is not automatically fatal to a planning application. It shows that other material considerations, such as housing need or a lack of supply, may mean that a failure to comply with the sequential test, or a failure to be **the** most sequentially preferable site within a search area can be outweighed by the planning balance.

### 3.8 Planning Policy Summary

- 3.8.1 The above planning policies and guidance documents, appeal decisions and case law show that there a range of national and local policies and decisions which consider the flood risk sequential test and the varying stances presented. This is summarised in **Table 3.1** below and has been used to inform the methodology of the Flood Risk Sequential Test, set out in **Section 4**.
- 3.8.2 It shows that there is a lack of consistency regarding key components of the Sequential Test which heavily impact on the methodology and quantum of analysis required.



|             | Search Area   | Period of Development:<br>Timescales for Delivery  | Reasonably Available  | Disaggregation of Sites   |
|-------------|---|--|---|---|
| <b>NPPF</b> | <ul style="list-style-type: none"> <li>165: Development should be directed away from areas at the highest risk of flooding.</li> </ul>  |  | <ul style="list-style-type: none"> <li>168: Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.</li> </ul>  |   |
| <b>PPG</b>  | <ul style="list-style-type: none"> <li>027: For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.</li> <li>029: The planning authority will need to determine an appropriate area of search, based on the development type proposed and relevant spatial policies.</li> </ul> | <ul style="list-style-type: none"> <li>028: 'Reasonably available sites' are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.</li> </ul> | <ul style="list-style-type: none"> <li>024: Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites:                             <ul style="list-style-type: none"> <li>Within medium risk areas; and</li> <li>Then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas</li> </ul> </li> <li>028: 'Reasonably available sites' are those in a suitable location for the type of development with a reasonable prospect</li> </ul> | <ul style="list-style-type: none"> <li>028: These [reasonably available sites] could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'.</li> </ul> |



|                                     | Search Area  | Period of Development:<br>Timescales for Delivery | Reasonably Available   | Disaggregation of Sites   |
|-------------------------------------|--|---|--|---|
|                                     |  |   | that the site is available to be developed at the point in time envisaged for the development.   |   |
| <b>North Somerset Core Strategy</b> | <ul style="list-style-type: none"> <li>• The area of search for alternative sites will be North Somerset-wide unless:                             <ul style="list-style-type: none"> <li>○ It can be demonstrated with evidence that there is a specific need within a specific area; or</li> <li>○ The site is located within the settlement boundaries of Weston (including the new development areas), Clevedon, Nailsea and Portishead, where the area of search will be limited to the town within which the site is located.</li> </ul> </li> <li>• A Site is considered to be 'reasonably available' if all of the following criteria are met:</li> </ul> |   | <ul style="list-style-type: none"> <li>• A Site is considered to be 'reasonably available' if all of the following criteria are met:                             <ul style="list-style-type: none"> <li>○ The site is within the agreed area of search.</li> <li>○ The site can accommodate the requirements of the proposed development.</li> <li>○ The site is either:                                     <ul style="list-style-type: none"> <li>a) owned by the applicant;</li> <li>b) for sale at a fair market value; or</li> <li>c) is publicly-owned land that has been formally declared to be surplus and available for purchase by private treaty.</li> </ul> </li> </ul> </li> <li>• Sites are excluded where they have a valid</li> </ul> | <ul style="list-style-type: none"> <li>• A Site is considered to be 'reasonably available' if all of the following criteria are met:                             <ul style="list-style-type: none"> <li>○ The site can accommodate the requirements of the proposed development.</li> </ul> </li> </ul> |

|  | <b>Search Area</b>  | <b>Period of Development:<br/>Timescales for Delivery</b> | <b>Reasonably Available</b>  | <b>Disaggregation of Sites</b>  |
|--|---|---|--|---|
|  | <ul style="list-style-type: none"> <li>○ The site is within the agreed area of search.</li> </ul>   |   | <p>planning permission for development of a similar character and scale and which is likely to be implemented.”</p>  |   |
| <b>North Somerset Draft Local Plan 2039</b>              |   |   |  | <ul style="list-style-type: none"> <li>• The search for alternative sites should not necessarily be restricted to sites only capable of accommodating the proposed scale of development, and opportunities to provide development on more than one, sequentially preferable site should be explored.</li> </ul> |
| <b>Development and Flood Risk Issues and Advice Note</b> | <ul style="list-style-type: none"> <li>• North Somerset wide unless:                             <ul style="list-style-type: none"> <li>○ There is evidence need in a specific area; or</li> <li>○ Site is in the settlement boundaries of Weston-super-Mare, Clevedon, Nailsea or Portishead.</li> </ul> </li> </ul> |   | <ul style="list-style-type: none"> <li>• If ALL of the following criteria are met:</li> <li>• The site is within the agreed area of search.</li> <li>• The site can accommodate the requirements of the proposed development. Applicants should consider the potential for splitting the development over more than one site. This will</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants should consider the potential for splitting the development over more than one site. This will be particularly relevant to sites for housing.</li> </ul>  |

|                                       | Search Area  | Period of Development:<br>Timescales for Delivery   | Reasonably Available   | Disaggregation of Sites |
|---------------------------------------|--|---|--|-------------------------|
|                                       |  |   | be particularly relevant to sites for housing. <ul style="list-style-type: none"> <li>• The site is either:                             <ul style="list-style-type: none"> <li>○ the subject of a valid planning permission for development of a similar character and scale; or</li> <li>○ identified as having development potential within the required timescale, either in the SHLAA or in a Local Plan policy or supporting evidence; or</li> <li>○ in the case of small sites, for sale and not subject to known planning constraints.</li> </ul> </li> </ul> |                         |
| <b>Lynchmead and Redrow Judgement</b> | <ul style="list-style-type: none"> <li>• See Paragraphs 102 to 104 of the Judgement.</li> <li>• The Applicant can put forward a case for specific type of development (or housing) if necessary in planning terms and/or meets market demand. This could be based on location, mix of land uses and interdependence, site</li> </ul> | <ul style="list-style-type: none"> <li>• See Paragraphs 106, 121 and 170 of the Judgement.</li> <li>• The NPPF does not require that the availability of an alternative site should always align closely with the trajectory of the developer’s proposal.</li> <li>• Flexibility on all sides is a relevant consideration.</li> <li>• Development of an alternative site does not have to follow the same timescale as was envisaged for the appeal proposal. Start date and build-out rates can be affected by many site-specific factors.</li> <li>• The Bushey case had a lack of evidence to show that alternative sites would take materially longer to come forward.</li> </ul> | <ul style="list-style-type: none"> <li>• See Paragraphs 110 and 164 of the Judgement.</li> <li>• When considering whether multiple sites that could form a “series” and their sequential preferability, the decision maker must consider whether such sites have a relationship which makes them suitable in</li> </ul>  |                         |

|  | <b>Search Area</b>  | <b>Period of Development:<br/>Timescales for Delivery</b>   | <b>Reasonably Available</b> | <b>Disaggregation of Sites</b>  |
|--|---|---|-----------------------------|---|
|  | <p>size, scale, density and so on.</p> <ul style="list-style-type: none"> <li>• This can then inform the appropriate area of search and whether sites in lower flood risk zones are appropriate to the requirements of the proposal.</li> <li>• Flexibility needs to be shown by both the Applicant and LPA.</li> </ul> | <ul style="list-style-type: none"> <li>• Precise or close alignment of expected delivery timescales is not strictly necessary. It is a matter of whether alternative sites would take materially longer to come forward than the application site.</li> </ul> |                             | <p>combination to accommodate any need or demand and whether these sites could deliver the range of interconnected benefits which the proposals would deliver and their need.</p> |

**TABLE 3-1: PLANNING POLICY AND GUIDANCE, APPEAL DECISION AND CASE LAW SUMMARY**

## 4 METHODOLOGY

### 4.1 Methodology Introduction

- 4.1.1 In accordance with the policy, guidance, appeal decisions and case law set out above, it is necessary to define the parameters of the Sequential Test and it is proportionate to set out a methodology for the undertaking of the Test. The Applicant is required to identify where there are any other 'reasonably available' sites within the search area, that have not already been identified by the planning authority in site allocations or relevant housing assessments.
- 4.1.2 As part of the pre-application enquiry submitted to North Somerset Council, which is discussed in further detail in the Planning Statement, the Applicant requested specifically input into the approach and methodology for the Flood Risk Sequential Test, as the Council has not produced a methodology to assist Applicants. Other than advising that it should be district-wide, no further guidance was provided. In the absence of a timely response from the enquiry, the Applicant presented a draft methodology for comment by North Somerset Council on 12 December 2022. No response has been forthcoming at the time of writing.
- 4.1.3 In the 12 months since the original FRST was produced and submitted to NSC, there have been appeal decisions and case law judgements where the topic of flood risk sequential testing has been a key consideration. As such, it is pertinent to review the methodology of this FRST in light of these decisions and update it to reflect the most relevant decisions and case law. The sites reviewed as part of this FRST have also been reviewed to take account of additional and updated data now available. This is discussed further in **Section 5** of this report.

### 4.2 Geographical Area

- 4.2.1 PPG sets out that the planning authority will need to determine the appropriate area of search, based on the development type proposed and relevant spatial policies. The Core Strategy states that the search area for alternatives sites will be North Somerset-wide unless there is specific need within a specific area, or the site is within the settlement boundaries of Weston, Clevedon, Nailsea and Portishead.
- 4.2.2 This Sequential Test covers the whole administrative area of North Somerset, therefore a thorough and comprehensive assessment has been undertaken.
- 4.2.3 This Report also identifies, in addition to the District-wide analysis, the circumstances specific to Yatton and the need for housing within this parish in particular, with due regard to flood risk.

### 4.3 Sources of Sites

- 4.3.1 The North Somerset Development and Flood Risk Issues Advice Note (2019) provides a list of sources of sites that could be used to inform a sequential test. Whilst this Note has been superseded by changes to national policy, this list is still useful to inform the sources of sites that should make up the sequential test.
- 4.3.2 The Note informs that alternative sites can include sites allocated in a Local Plan or Neighbourhood Plan and that suitable sites that have planning permission for the desired use should also be considered. It advises that sites can also be found from the Council's evidence base and background documents to inform the emerging Local Plan, which includes the SHLAA.
- 4.3.3 The FRST submitted in March 2023 collected sites from the following sources:
- Strategic Housing Land Availability Assessment 2022;

- Allocations in the Sites and Policies Plan, Part 2, Sites Allocation Plan (the 'SAP');
- Draft allocations in the Regulation 18 emerging Local Plan;
- April 2021 housing land supply trajectory;
- Planning applications submitted since April 2021; and
- Neighbourhood Plan allocations

4.3.4 This first iteration of the FRST yielded a total of 364 site entries across North Somerset. Some of these entries appeared twice: for example where a planning application had been submitted on a site allocated in the SAP. However, this approach ensured a thorough search for sites was carried out.

4.3.5 As a year has passed since this submission, as part of the refresh of this FRST, the following sources of data have now also reviewed:

- Strategic Housing Land Availability Assessment 2023;
- Draft allocations in the Regulation 19 emerging Local Plan; and
- Planning applications submitted since December 2022.

4.3.6 This shows that a thorough and comprehensive search for all possible alternative sites has been undertaken. All of the additional sites found as part of this refreshed search were added to the existing list of sites. No sites were removed from the overall list of sites for completeness of the assessment.

#### **4.4 Series of Sites, Disaggregation and Site Capacity**

4.4.1 The Core Strategy states that a site can be considered to be reasonably available if it can accommodate the requirements of the development, whereas the Regulation 19 version of the emerging Local Plan states that the search should not necessarily be restricted to sites only capable of accommodating the proposed scale of development, and opportunities to provide development on more than one, sequentially preferable site should be explored where practical.

4.4.2 PPG also states that 'reasonably available sites' could include a series of smaller sites and/or parts of a larger site, if these would be capable of accommodating the proposed development<sup>10</sup>.

4.4.3 To ensure that all possible sites and series of sites are considered as part of the sequential test, this assessment reviews sites spatially to establish where series could be formed. An example of this is where two adjacent sites are submitted to a call for sites consultation separately due to being under different landownerships or promotional agreements and are therefore registered separately on the Strategic Housing Land Availability Assessment (SHLAA). To ensure that sites are not viewed in silo, site locations are reviewed to establish where sites can be grouped together, so to not prematurely discount smaller sites from the assessment.

4.4.4 The matter of disaggregation of a development across unconnected sites was a key consideration in the Lynchmead and Bushey decisions and the subsequent Judgement. As set out above, the Inspector in the Lynchmead case stated that there was no need for smaller sites to be 'contiguous' and this approach was also adopted by the Inspector in the Bushey case. The Judgment handed down relating to these two appeals also addressed this point. It reads that the word 'series' connotes a relationship between sites; that the decision maker must consider whether such sites have a relationship which makes them suitable in combination to

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<sup>10</sup> PPG Paragraph: 028 Reference ID: 7-028-20220825

accommodate any need or demand to which they attach weight; or whether they would, in combination, deliver the range of interconnected benefits which the appeal would deliver and for which there was a need.

- 4.4.5 This application is for up to 190 homes including 50% affordable homes and other benefits such as 70% of the site being open space. The weighting and relationship to be attributed to these benefits is addressed in the Planning Statement through the planning balancing exercise. For the purposes of this assessment, in summary, the development and its interconnected benefits are required to be delivered on a site or series of sites that have a relationship as they cannot be delivered if disparately spread across sites which are not contiguous.
- 4.4.6 Subsequently, it is therefore necessary to consider the capacity of sites as part of this assessment. In a case such as this, where the development cannot be split across sites without a relationship, the flexibility to be afforded to that series of sites is important, as emphasised in the Judgement.
- 4.4.7 An appeal decision in Framlington, within East Suffolk<sup>11</sup> issued in September 2020 considers the range of sites to be assessed as part of the Sequential Test at paragraph 11, stating that *“The standard approach to these matters is to set a range within a certain percentage of the application site, usually 15 or 20% either way.”* It is noted that the East Suffolk appeal decision pre-dates the August 2022 PPG updates and is for a smaller scheme than that proposed here, therefore should be considered in the context of up-to-date local and national policy and guidance. The Inspector in the Bushey decision was ‘not convinced’ by the adoption of such a ‘standard approach’ (DN87).
- 4.4.8 The application site is 13.79 ha in size and outline permission is sought for up to 190 dwellings. The methodology of the FRST produced and submitted in March 2023 was informed by the Framlington appeal decision and the requirements of the PPG. It was considered that it would be appropriate to assess sites with a 25% allowance above and below the site area and number of dwellings proposed. This takes the Framlington method however affords greater flexibility to it. This would be sites or series of sites between 10.3ha and 17.2ha in size and which can accommodate a quantum of between 143 and 237 dwellings should be considered in the Sequential Test.
- 4.4.9 This methodology for assessing site capacity and size was also adopted as part of the FRST produced for the appeal in Bushey, Hertsmere by Redrow. As set out in **Section 3** above, this methodology was not accepted by the Inspector in that case and was subject to part of the legal challenge. Ground 1 of the challenge against the Bushey decision related to smaller sites with a parameter of 25% smaller than the appeal site and this ground was upheld by Holgate J.
- 4.4.10 As such, this sequential test discounts sites where the capacity is more than 25% smaller than the application proposals. This is sites or series of sites which cannot accommodate 143 dwellings or which are less than 10.3ha in size. This approach shows flexibility by the Applicant in setting out parameters for the site search, as repeatedly required by the Judgement. The justifications for this are also set out in the Planning Statement.

## 4.5 Flood Risk Discounting

- 4.5.1 The Application Site is located in Flood Zone 3a and benefits from flood defences, as shown on **Appendix B**.
- 4.5.2 Sites have been considered on the basis on their flood risk from any sources, as required by the PPG. Sites have also been assessed against the comparative flooding risk at the Application Site.

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<sup>11</sup> PINS reference: APP/X3540/W/20/3250557

4.5.3 Sites with a higher flood risk (i.e. part or all of the site lies within Flood Zone 3b or within Flood Zone 3a and does not benefit from flood defences) have been discounted as alternative sites. They would not present a sequentially preferable scenario in terms of flood risk compared to the application site, which lies in Flood Zone 3a and benefits from flood defences. This is what the Sequential Test strives to achieve.

4.5.4 Sites which present an equal or lesser flood risk than the application site are carried forward to be assessed in greater detail. Sites which are of an equivalent flood risk to the application site (Flood Zone 3a, defended) have not been discounted through this methodology as they do not present a sequentially worse situation than the application site. Instead, these sites are carried forward to allow a more complete assessment to be carried out to ensure a comprehensive judgement is formed on their sequential preferability.

## 4.6 Planning Considerations

4.6.1 The next stage is to assess the filtered sites against strategic planning policies and to consider any planning permissions that could affect the ability of the sites or series of sites to accommodate the proposals. This could include planning policy reasons for the inappropriate nature of sites, such as location in the Green Belt, where extant planning permissions would not comply with the proposed development or where completions reduce available capacities.

## 4.7 Planning Balance

4.7.1 The scope of the Sequential Test focuses on drawing out the key facts of other sites, including their size, location, risk of flooding, planning policy considerations and impacts of extant permissions. Considerations of reasonable availability are discussed in further detail as part of the planning balance exercise in the Planning Statement which brings together the overall sequential test case.

4.7.2 This amended approach to the methodology has been devised following the Judgement handed down by Holgate J. in respect of the Lynchmead and Bushey challenges.

4.7.3 This report and exercise aims to find sites which could accommodate the capacity of the proposals, as set out in the description of development, and where such sites are at equal or lower flood risk than the application site. It does not evaluate whether they would be reasonably available to the applicant. i.e. in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. This assessment is carried out within the Planning Statement.

## 4.8 Summary of Methodology

4.8.1 This methodology therefore sets out the following summarised scope of works for this stage of the Sequential Test:

- It is confirmed that sites across the entirety of North Somerset are considered. Circumstances specific to Yatton are addressed as part of the planning balance.
- Sites and series of sites are assessed to establish where development of at least 143 dwellings and of at least 10.3ha can be delivered. The overall benefits of the components of the planning application are addressed as part of the planning balance.
- Sites are assessed on their risk of flooding in comparison to that of the application site.
- Sites are assessed against strategic planning policy and extant planning permissions.

4.8.2 The following section of this report discusses the undertaking of the sequential test.





## 5 THE SEQUENTIAL TEST

### 5.1 Sequential Test

- 5.1.1 The original Flood Risk Sequential Test submitted in March 2023 considered a total of 364 sites across North Somerset, using information from the 2022 Strategic Housing Land Availability Assessment; the Sites Allocation Plan; the Regulation 18 emerging Local Plan; the April 2021 Housing Land Supply trajectory; planning applications decided since April 2021; and neighbourhood plans. This data provided a thorough review of potential sites for development within the District.
- 5.1.2 This update to the Flood Risk Sequential Test carried out in March 2024 built on this list and collated additional sites from the 2023 Strategic Housing Land Availability Assessment; the Regulation 19 emerging Local Plan; and planning applications decided since December 2022. This search yielded an additional 129 sites so that the total list of sites is 495.
- 5.1.3 As stated in **Section 4** of this report, some of the entries appear twice: for example where a planning application had been submitted on an allocated site. However, this approach shows that a thorough and comprehensive search for all possible alternative sites has been undertaken. All of the additional sites found as part of this refreshed search were added to the existing list of sites. No sites were removed from the overall list of sites for completeness of the assessment.

### 5.2 Spatial Review

- 5.2.1 Following the collation of all sites from the data sources listed above, sites were reviewed spatially to assess where sites could be 'grouped' together to be considered a 'series' of sites, as required by the PPG and as supported by the Lynchmead and Bushey Judgement.
- 5.2.2 The March 2023 FRST of 364 dwellings collated these sites into 195 series of sites. The additional 129 sites collated in March 2024 increased the total number of sites and series of sites to 205.

### 5.3 Site Capacity

- 5.3.1 Of these 205 groups of sites, 140 sites and series of sites had a capacity of 142 dwellings or less so there are 65 sites or series of sites which could, in theory, accommodate a development of 143 dwellings or above. Of these 65 sites, 27 are less than 10.3ha in size. This totals 167 sites which are too small to accommodate the proposals and leaves 38 sites which could accommodate the minimum size and capacity requirements. A schedule of these 167 sites are held at **Appendix C**. The key for the colour coding on the size and capacity columns is red for failing to meet the parameters and green for meeting the parameters. This applies to all appendices with this colour coding.
- 5.3.2 As such, on the basis of the Judgement of the Lynchmead and Bushey cases and given the overall planning assessment of the site, as set out in the Planning Statement, there are 38 out of the 205 sites and series of sites which meet the lower size and capacity threshold parameter.

### 5.4 Flood Risk

- 5.4.1 The flood risk of all sites was considered as part of this sequential test. Of the 38 sites which meet the size and capacity thresholds, there are 12 sites which contain a presence of Flood Zone 3b or an undefended Flood Zone 3a. As this presents a worse scenario than the application site, which is in Flood Zone 3a and benefits from flood defences, these sites are

sequentially less preferable than the application site on flood risk grounds. A schedule of these 12 sites are held at **Appendix D**.

- 5.4.2 This leaves 26 sites which could accommodate the site size and capacity required and do not present a sequentially worse flood risk than the application site.

## 5.5 Planning Considerations

- 5.5.1 The Sequential Test so far has shown that of the 205 sites and series of sites established from the 495 entries sourced from the data set out above, there are 26 sites and series of sites that could potentially accommodate the development in terms of total site size and capacity requirements and which are not at a higher risk of flooding than the application site.

- 5.5.2 The next stage of the sequential test assesses whether there are any planning policy reasons why these sites could not deliver the proposals or if any extant permissions affect whether the development could be delivered on those sites. This part of the test found that 19 of the 26 sites would not be able to accommodate the proposals for reasons relating to planning policy or permissions. A list of these sites is held at **Appendix E** and they are summarised below.

### Planning Assessments – Green Belt and the Mendip Hills National Landscape (formerly AONB)

- 5.5.3 It is necessary to assess planning policy and constraints when establishing whether sites would be reasonably available. Five of these 26 sites are within the Green Belt.

- 5.5.4 Chapter 13 of the NPPF relates to Protecting Green Belt land and states at paragraph 152 that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”* (our emphasis). Paragraph 153 states *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”*.

- 5.5.5 On the basis of this national policy position, it cannot be considered that the 5 Green Belt sites are suitable for the proposals. These sites are:

- 3: Land at Tower Farm, Land South of Cedar Way and Land West of Weston Wood Road (HE2068, HE20133 and HE2067) – Portishead
- 5: Moor Farm (HE20222) – Portishead
- 21: Land East of Backwell and Land at Flax Bourton (HE203035, HE202012 and HE2062) – Backwell
- 94: Land Northeast of Nailsea, Land North of Nailsea and Land off Pound Lane (HE20233, HE20136 and HE20225) – Nailsea
- 197: Land at Barrow Hospital and Barrow Wood (HE201059, HE203009, HE203010, HE203011 and HE203012) – Barrow Gurney

- 5.5.6 The sites at Barrow Hospital and Barrow Wood are located within the Green Belt and parts of this series are allocated for development in the SAP and the Regulation 19 emerging Local Plan. There are 3 allocations in the SAP for 20 dwellings, 66 dwellings and 14 dwellings. The 20 dwelling allocation has been completed and the latter two are proposed to be carried forward in the Regulation 19 emerging Local Plan for 59 and 14 dwellings respectively, which cannot accommodate the proposals.

- 5.5.7 SHLAA sites Land at Barrow Wood c and Land at Barrow Wood d have a combined site area of 6.3ha and are not allocated nor are they proposed allocations in the emerging Local Plan. They are therefore also not suitable to be developed.
- 5.5.8 Similarly, the site at (151) Land South of Elborough (wider WSM) (HE201040) is located almost wholly within the Mendip Hills National Landscape (formally Mendip Hills AONB). The SHLAA data states that c. 2.3ha of the site is not within the AONB.
- 5.5.9 Chapter 15 of the NPPF relates to conserving and enhancing the natural environment. Paragraph 182 states that “*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.*” Paragraph 183 states that “*When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.*”
- 5.5.10 As set out above with the Green Belt sites, this AONB site cannot be considered a suitable alternative and is therefore inappropriate by definition.

Planning Assessment – Capacity after applications, decisions and completions

- 5.5.11 For some sites and series of sites, there is insufficient capacity for the proposals when existing developments and consented schemes are considered. This part of the assessment is supported by the Council’s Housing Land Supply completions data.

- **17: Farleigh Fields and Land North of Church Lane (HE20212, HE203013 and HE20486) – Backwell**

This series of sites has an overall estimated capacity of 286 dwellings. The northern part of the series was granted outline permission in 2022 (21/P/1766/OUT) following an allowed appeal for 125 dwellings. A reserved matters application (23/P/2508/RM) was subsequently submitted in 2023 for 96 dwellings. The applicant for this site is also Persimmon Homes Severn Valley who are committed to delivering this site. As such, the residual capacity of the series is **161 dwellings or 7.98ha** which cannot accommodate the proposals.

- **90: Land at Youngwood Lane, St Mary’s Grove and Land South of the Uplands (HE201080, HE2065 and HE20703) – Nailsea**

This series of sites covers an overall area of 28.58ha and could accommodate an approximate 538 dwellings. The site at The Uplands (HE20703) was granted consent in October 2021 (20/P/2000/R3) for 52 dwellings and is not available for the proposals. To the east of this is the site at St Mary’s Grove (HE2065) which is 0.23ha in size and has a capacity of 6 dwellings. No planning applications have been submitted on this site.

To the south of these is the largest site in the series at Youngwood Lane (east of Netherton Wood Lane) which is 24.37ha in size and with a capacity of 450 dwellings, based on an outline planning application (16/P/1677/OT2). Two reserved matters applications have been approved across this site: 20/P/2347/RM to the north for 168 dwellings and 22/P/1558/RM for 282 dwellings to the south.

The northern part (Phase 1) is under construction and had a residual capacity of 117 dwellings at April 2023. This is therefore not reasonably available. The southern part (Phase 2) was granted consent in March 2024 and is being brought forward by Taylor Wimpey. This is also not reasonably available. At the southern end of this series of sites are two parcels of land north of Youngwood Lane (HE201080) which are 1.98ha in size

with an estimated capacity of 30 dwellings. No planning applications for residential development have been submitted on these sites.

The remaining capacity at this series of sites is from the land at St Mary's Grove to the north and at the land North of Youngwood Lane to the south, which cumulatively is **2.21 ha** which could accommodate **36 dwellings**. Not only are these sites too small to accommodate the proposals, but they are disconnected due to the intervening development to the east of Netherton Wood Lane. This series of sites is therefore not reasonably available for the proposals.

- **112: Land at North End, Chestnut Farm, Moor Road and Yatton Rugby Club (HE20425, HE20630, HE20529 and HE2012) – Yatton**

Chestnut Grove is the northern most site in this series covering an area of 0.8ha and with a capacity of 15 dwellings. This is adjacent to the land at North End which is 6.54ha in size and allocated in the Site Allocations Plan for 170 dwellings. It is a draft allocation in the emerging Local Plan for a residual capacity of 47 dwellings. This part of the series was subject to planning permission (ref: 15/P/0946/O and 19/P/1884/RM) which has commenced and is being built out by the developer Bloor Homes.

To the south of North End lies the Yatton Rugby Club site covering 2.2ha and where a planning application has been submitted (22/P/0455/FUL) for 85 dwellings by the developer Strongvox Homes. This development includes the planned redevelopment of Yatton Rugby Club to a new site at the northern edge of Yatton at Land at Kenn Road. The application was submitted in February 2022 and remains undetermined.

The final element of this series of sites is land at Moor Road whereby full permission for 60 dwellings (19/P/3197/FUL) was allowed at appeal (3285343) in April 2022 on this site of 2.71ha. Persimmon Homes Severn Valley are the developers of this site and it is programmed to be developed as permitted and is therefore not available for alternative proposals.

Cumulatively, whilst the sites are 12.25ha in size and therefore above the site size parameter, there are completions on the central site in the series (North End) which sever the series into two parts. The southern part (Rugby Club and Moor Lane) covers 4.91ha in size, which cannot accommodate the proposals and these sites are subject to other planning considerations: a development already being brought forward by the Applicant and a submitted application awaiting determination and requiring the relation of a sports facility. This series of sites cannot accommodate the proposals.

- **113: Land at Rectory Farm and Biddle Street (HE203 and HE2010112) – Yatton**

Land at Rectory Farm is the application site and the Biddle Street site to the south is subject to a planning permission for 100 dwellings (21/P/0236/OUT) which was allowed at appeal (3286677) in June 2022 and could not accommodate the application proposals.

#### Planning Assessment – Local Plan Considerations

5.5.12 For some sites, consideration should be given to their capacity, availability and deliverability in the context of the Local Plan and emerging Local Plan.

- **91: Land South of Nailsea, Land east of Youngwood Lane, Land north and south of Youngwood Lane and Land near the Perrings (HE20591, HE20612, HE202016, HE203007, HE203016, HE203020)**

This series covers an area of over 40ha with a capacity of 600 dwellings, however all of the sites with the exception of HE2059, HE203016 and HE203007 are within the

designated strategic gap between Nailsea and Backwell. The residual capacity of these sites is 9.09ha which cannot accommodate the proposals. The southern section of the series (part of HE20612) is within the new Green Belt proposed in the emerging Local Plan. This series of sites is therefore not suitable to accommodate the proposals.

- **93: North West Nailsea and The Stables (HE20273 and HE2066)**

The site at The Stables is 2.56ha in size and could accommodate 77 dwellings. This site is located wholly within the Green Belt and therefore by definition, development would be unacceptable in this location.

The North West Nailsea site covers an area of 17.96ha and was allocated in the SAP for 450 homes. An outline planning application was submitted in October 2023 (23/P/2322/OUT) for 150 dwellings by the developer Vistry Group. However, in the Regulation 19 version of the emerging Local Plan, the allocation has been reduced in size and down to 75 dwellings on the basis of flood risk. This draft allocation therefore could not accommodate the proposals.

- **127: Herluin Way (Avoncrest)**

The Avoncrest Site is allocated in the SAP for 750 dwellings as part of a mixed use scheme which would include a site for a primary school, 2.5 ha of employment land, a spine road and a noise buffer. As part of the emerging Local Plan, this site has been de-allocated and it was not included in either the 2022 or 2023 SHLAA. The SAP also states that remediation work would be required to eliminate risk of contamination. This site therefore does not appear to be available or deliverable for the proposed development and the potential need for contamination remediation works casts doubts on the potential timescales for development.

- **128: Land south of Locking Moor Road, Land south of Moor Park, Oaktree Park and Elm Grove Nurseries (HE201037, HE207, HE208) – Weston-super-Mare**

This series of sites has a cumulative capacity of 364 dwellings across an area of 20.1ha. Part of the site is allocated in the emerging Local Plan for 35 dwellings (eastern part of HE207), however the remainder of the site lies within the Strategic Gap in the existing and the emerging Local Plan. These sites are therefore not suitable to the proposals.

- **139: Land to the East of Wolverhill Road, Goding Lane and Orchard Close (HE20603, HE201056, HE201075) – Weston-super-Mare**

This series of sites lies to the east of Junction 21 of the M5. They cover a cumulative site area of 15.4ha and could accommodate 444 dwellings. The Banwell Bypass is proposed to run through the largest site (East of Wolverhill Road) which would sever the series of sites and mean neither part would be able to accommodate the proposals.

#### Planning Assessment – Weston Villages

5.5.13 The Weston Villages are strategic allocations in the SAP for around 6,500 dwellings, split across two key areas: Winterstoke Village (the former Weston Airfield) and Parklands Village (the former RAF Locking site).

- **149: Winterstoke Village (former Weston Airfield)**

There are two outline planning applications across this allocation: 10/P/0756/OT2 for 900 dwellings and 12/P/1510/OT2 for 1,650 dwellings, totalling 2,550 dwellings. Application 10/P/0756/OT2 has reserved matters submitted for 898 dwellings and has now been substantially completed.

The second part of the allocation is under construction and has seen 307 completions to date and a residual capacity of 1,343 dwellings. Persimmon Homes Severn Valley are bringing this site forwards for development and have a committed build programme in place. This development has an affordable housing requirement within the Section 106 agreement of 30% provision across the site which is significantly lower than that proposed as part of this planning application.

On the basis that Winterstoke Village is already being delivered by PHSV and as the commenced permission has a significantly lower affordable housing provision than the proposals, it is considered that this site is not suitable for the proposed application.

- **Parklands Village (former RAF Locking site)**

The Parklands Village allocation covers an area to the west of the M5. It has been split into several development parcels by various developers and there are large outline permissions across the site:

- 143: Locking Parklands - 13/P/0997/OT2 for 1,200 dwellings
- 144: South of Locking Head Drive - 16/P/2758/RG4 for 700 dwellings
- 146: Churchland Way and Mead Fields - 12/P/1266/OT2 for 1,150 and 16/P/2744/OT2 for 250 dwellings

There have been multiple reserved matters applications submitted against these outline applications and there remains residual capacity at the sites. However, each of these outline permissions requires the development to deliver 30% affordable housing. The application proposals include 50% affordable housing, and therefore these sites would not be suitable for the proposals on the basis that they would not be suitable for the type of development proposed. The inclusion of 50% affordable housing is a key component of the application proposals.

## 5.6 Planning Balance

- 5.6.1 This exercise leaves 7 sites which could be capable of accommodating the total residential capacity requirements of the application proposals, are not at a higher flood risk than the application site, where there are not strategic planning policy reasons affecting the buildability of the site or where extant permissions would not prevent deliverability. These sites are listed in **Appendix F** with commentary as to whether they are “in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development”. These sites would therefore need to be considered as part of the overall planning balance exercise.



## 5.7 Yatton and the Sequential Test

- 5.7.1 Submitted with this application is a Local Housing Need Report prepared by Pioneer Property Services Ltd which reviews the market and affordable housing need within the Parish of Yatton.
- 5.7.2 This report identifies that the application scheme, which is for up to 190 dwellings, including 50% affordable housing, will positively contribute to the identified overall housing need in Yatton Parish.
- 5.7.3 In summary, the report sets out that there is a pressing need for the overall housing requirement to be increased in Yatton Parish. The report analysis summarises that unless additional supply sources are identified, the 2024 – 2039 market housing requirement is c.2.6 times the planned supply of market housing and a shortfall of c.399 market homes could accrue in Yatton Parish over the 2024 to 2039 period.
- 5.7.4 Analysis also suggests that if overall planned housing supply remains at the levels proposed through the emerging Local Plan significant shortfalls of up to 565 Affordable Homes could accrue in Yatton Parish 2024 to 2039.
- 5.7.5 On the basis of housing need in Yatton, the sequential test has also been considered for Yatton Parish only. Of the 205 sites and series of sites assessed across North Somerset, 15 of these are in Yatton and Claverham, which is the extent of Yatton Parish boundary. These sites are set out in **Appendix G**. In summary:
- 9 of these 15 sites had a capacity of less than 143 dwellings
  - Of the remaining 6 sites, 3 of these were less than 10.3ha in size
- 5.7.6 As such, there are 3 site which could accommodate the total residential capacity requirements of the application site, one of which being Rectory Farm (North) (the application site). The Planning Statement assesses the individual planning merits of these series of sites and concludes that the application site is the sequentially preferable site. As such, in order to address some of the shortfall in both market and affordable housing in Yatton, the proposed development is needed in Yatton. As per the Lynchmead and Bushey Judgement, this must be a consideration in the decision-making process.



## 6 THE EXCEPTION TEST

### 6.1 The Exception Test

- 6.1.1 Planning Policy Guidance sets out that, notwithstanding the outcome of the Sequential Test, 'more vulnerable' developments proposed within Flood Zone 3a should be the subject of the Exception Test. For a development proposal to pass the Exception Test, it must be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) 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.
- 6.1.2 These criterion are addressed in the Planning Statement and Flood Risk Reports respectively whereby overall conclusions are drawn as part of the planning balance exercise and with a detailed technical review of the flood risk strategy.
- 6.1.3 Notably, Paragraph 031 of the PPG states that "The Exception Test is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. It would only be appropriate to move onto the Exception Test in these cases where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified". This paragraph supports the case presented at Paragraphs 9.7.21 and 9.7.22 of the Planning Statement and in this report.

## 7 CONCLUSIONS

### 7.1 Conclusions

- 7.1.1 This Flood Risk Sequential Test has been prepared by Stantec on behalf of Persimmon Homes Severn Valley (the 'Applicant') in support of an outline planning application for the proposed development of Land at Rectory Farm (North), Chescombe Road, Yatton (the 'Site').
- 7.1.2 This Sequential Test has been prepared in line with national and local policy and guidance and Case Law. The purpose of this report is to address policy requirements in respect of the suitability of the Site for the proposed development in terms of flood risk, having due regard to reasonably alternative sites within North Somerset.
- 7.1.3 The methodology in this Report demonstrates that the Site is one of the most sequentially preferable sites for residential development. The Planning Statement goes onto analyse the site's sequential preferability in comparison to other sites, with respect to the Lynchmead and Bushey Case Law Judgement. The Exception Test is analysed through the Planning Statement and Flood Risk Reports to confirm that both limbs are complied with.
- 7.1.4 In being sequentially preferable, this site can help to fill the 'headroom' between North Somerset Council's supply of housing and its requirement.
- 7.1.5 The proposal will deliver a high quality residential development in a sustainable location with significant community benefits, including 50% affordable housing, public open space, allotments, land for Use Class E, improved connectivity and a biodiversity net gain.

# Appendix A Site Location Plan

# Appendix B Flood Defences in North Somerset

## Appendix C Schedule of Smaller Sites

# Appendix D Sequential Flood Risk Sites

# Appendix E Planning Considerations Sites

# Appendix F Planning Balance Sites



# Appendix G Sites in Yatton Parish