

34505/A5/P1/CF/KV/bc

30th November 2022

RECTORY FARM, YATTON

FLOOD RISK SEQUENTIAL TEST BRIEFING NOTE

1.0 INTRODUCTION

- 1.1 Persimmon Homs Severn Valley ('Persimmon') are intending to submit an outline planning application at Land at Rectory Farm, Yatton, Chescombe Road, North Somerset (the 'Site') for up to 250 dwellings; land for a Doctor's surgery / community building; allotments; substantial on-site open space; with access as the only detailed matter.
- 1.2 The Site lies within Flood Zone 3a (and benefits from flood defences) and therefore, in accordance with the NPPF, a Flood Risk Sequential Test and Exception Test are required to be submitted with the planning application. This Briefing Note sets out the proposed scope of the Sequential Test.

2.0 PLANNING POLICY CONSIDERATIONS

National Planning Policy Framework (NPPF) 2021

- 2.1 The National Planning Policy Framework ('NPPF') sets out that inappropriate development in areas at risk of flooding should be avoided. Paragraph 162 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.
- 2.2 Paragraph 163 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. This depends on the potential vulnerability of the site and development proposed, in line with the Flood Risk Vulnerability Classification. Residential development, such as that proposed, is classified as 'more vulnerable' development in Annex 3 of the NPPF.
- 2.3 Paragraph 164 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

2.4 Both elements of the Exception Test should be satisfied for development to be permitted.

Planning Policy Guidance (PPG)

- 2.5 Planning Policy Guidance ('PPG') was updated on 25th 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.
- 2.6 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 addressed¹.
- 2.7 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 areas²."*
- 2.8 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 location³."*
- 2.9 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*

¹ PPG Paragraph: 004 Reference ID: 7-004-20220825

² PPG Paragraph: 024 Reference ID: 7-024-20220825

³ PPG Paragraph: 027 Reference ID: 7-027-20220825

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).

- 2.10 PPG is clear that *"the absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications⁴."*
- 2.11 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"*.
- 2.12 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"*.

North Somerset Core Strategy (2017)

- 2.13 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; 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*

⁴ PPG Paragraph: 028 Reference ID: 7-028-20220825

- *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."

North Somerset Local Plan 2038 (Emerging)

2.14 North Somerset Council are preparing a new Local Plan and carried out consultation on the Preferred Options Plan in March and April 2022. The consultation statement was published in August 2022. 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, up to 100 years ahead on residential or mixed use sites and 60 years ahead on non-residential sites.

Applying the Sequential Test where required, proposals for development must seek to avoid development in areas at risk of flooding unless for compatible uses in line with national policy.

Where required, the Exception Test will also be applicable. Flood resilient construction should be utilised to manage any residual risk.

Where either of these tests are required, development will only be permitted where it is demonstrated with clear evidence submitted with the planning application, that the tests are satisfied. 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.

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

- 2.15 Paragraph 48 of the NPPF advises that Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the plan; the extent to which there are unresolved objections to the relevant policies; and the degree of the consistency with the NPPF. The emerging Local Plan (2038) is only at the Preferred Options (Regulation 18) stage and we therefore consider that this should not be afforded significant weight in the overall planning assessment or in determining the scope of the Sequential Test.

Development and Flood Risk Issues Advice Note (2019)

- 2.16 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, and was given significant weight in the assessment of the Sequential Test by the Inspector in an appeal decision for a site in Portishead, dated February 2022⁵.
- 2.17 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.
 - 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.
- 2.18 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.

3.0 METHODOLOGY

- 3.1 **Name of Site:** Land at Rectory Farm, Yatton
- 3.2 **Explanation of the reason for the choice of the site**

⁵ PINS ref: APP/D0121/W/21/3279097

- 3.3 In accordance with the policy and guidance outlined in Section 4 of this report, it is necessary to define the parameters of the Sequential Test. The Applicant has 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, such as sites currently available on the open market.

Geographical Area

- 3.4 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.
- 3.5 This Sequential Test will cover the whole administrative area of North Somerset, therefore a thorough and comprehensive assessment will be undertaken.

Flood Risk Discounting

- 3.6 Sites with the same or higher flood risk (i.e part or all of the site lies within Flood Zone 3 / 3a) will be discounted as alternative sites. They would not present a better scenario in terms of flood risk from the application site, which is what the Sequential Test strives to achieve. Therefore, only sites in Flood Zones 1 and 2 will be assessed as part of the Sequential Test. Similarly undefended Flood Sites in 3a will also be discounted given that the Application sites benefits from flood defences.

Site Capacity

- 3.7 The current Core Strategy states that a site can be considered to be reasonably available if it can accommodate the requirements of the development, whereas the Preferred Options 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. As outlined above, limited weight is being attributed to the emerging Local Plan.
- 3.8 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.
- 3.9 The assessment of each site will include:
- Its name and address
 - Whether it has been allocated plan (including for a specific use)
 - Issues which would prevent development and whether these could be overcome.
 - Estimation of capacity
 - Status of Local Plan
 - Supporting documentation about alternative sites.

- 3.10 An appeal decision in Framlington, within East Suffolk⁶ 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.*"
- 3.11 It is noted that the East Suffolk appeal decision pre-dates the August 2022 PPG updates, and therefore has been considered in the context of up-to-date local and national policy and guidance.
- 3.12 The application site is 13.65ha and outline permission is sought for up to 250 dwellings. When considering the parameters outlined in the East Suffolk appeal decision, and that PGG states that smaller or larger sites could be included, we consider it would be appropriate to assess sites with a 25% allowance above and below the site area and number of dwellings proposed. As such, only sites between **10.2ha and 17.1ha in size** and which can accommodate a quantum of between **187 and 313 dwellings** will be assessed in this Sequential Test.
- 3.13 **Availability of the site:** the site is expected to be delivered as follows:
- 3.14 1st April 2023 – 31st March 2025: Obtain full planning permission (outline + reserved matters)
- 3.15 First completions 2025:
- | | |
|---------|------|
| 2025/26 | - 65 |
| 2026/27 | - 60 |
| 2027/28 | - 60 |
| 2028/29 | - 55 |
- 3.15 Thus the site would start in 2025 and be completed in full within 5 years. For the purpose of this assessment we are therefore looking for sites which are available to come forward for development immediately in order to achieve the same development timescales and meet housing need. Sites which are available but not able to come forward are therefore not available at the point in time envisaged for the development mindful that the Applicant is a national housebuilder and is willing to commit to a planning condition requiring the swift submission of reserved matters (within 12 months of the grant of outline planning permission) to ensure this programme is achieved.

4.0 SUMMARY

- 4.1 This scope considers sites against the above criteria.
1. It is confirmed that sites across the North Somerset District will be considered.
 2. Sites will be filtered out based on their Flood Risk status, with only sites in Flood Zones 1 and 2 assessed; and undefended flood zone 3a sites will also be discounted.
 3. Sites which are in the Green Belt, AONB or which are not physically connected to an existing settlement identified in the Adopted Local Plan will be discounted.
 4. Delivering this development on a single site will require land of between 10.2ha and 17.1ha in size, capable of accommodating 187 to 313 dwellings.

⁶ PINS reference: APP/X3540/W/20/3250557

5. The assessment will also need to consider, within reason, where smaller sequentially preferable sites could be grouped together to deliver the same quantum or whether part of a larger site could be used. Sites over 10 dwellings or over will be considered. However when considering this route, the site(s) need to be capable of delivering the scheme as a whole which includes market and affordable housing (affordable housing being provided at 50%); land for a Doctor's surgery / community building; allotments and substantial open space.
 6. The ability to deliver the development on larger sites will be considered however only sites which are available immediately (and where full planning permission can be achieved by 31st March 2025 for the whole scheme) will be considered.
- 4.2 Sites which fall outside of these parameters will be discounted and will not be assessed as part of the Sequential Test. This scope of assessment is in line with national and local policy and guidance.
- 4.3 The assessment of sites within the Sequential Test is based on the January 2022 SHLAA, sites that have been allocated in the North Somerset Local Plan and sites that benefit from planning permission. We consider this approach will form a robust assessment of reasonably available sites, to be analysed as part of the Test and inform the overall conclusions of the Assessment.

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