Development Management Advice Note

Development & flood risk issues

November 2016

This document explains how planning applications will be considered in relation to flood risk issues in North Somerset and in particular examines the Sequential Test, Exception Test and flood risk assessments (FRA). This advice is based upon national policy and guidance, the council's adopted planning policies, and detailed discussions with the Environment Agency.

National policy is contained within the National Planning Policy Framework (NPPF). This is accompanied by the national Planning Practice Guidance. Advice about the planning system in general can be found by visiting www.planningportal.gov.uk.

The advice contained within this document is not exhaustive and may be subject to regular update and amendment in light of relevant appeal decisions and the establishment of case law. Furthermore, the Environment Agency only endorses those aspects of this guidance that are within its own remit. You are therefore strongly encouraged to seek advice directly from the Environment Agency at www.gov.uk/government/organisations/environment-agency.

KEY OBJECTIVES

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary it must be safe without increasing flood risk elsewhere. Additionally, opportunities offered by the proposed development to reduce the causes and impact of flooding in the area should be sought.

In order to appraise the flood risk the correct flood zone has first to be identified. There are four flood zones as follows: zone 1, zone 2, zone 3a and zone 3b. The risk of flooding associated with each flood zone is set out in full at table 1 found on the Planning Practice Guidance website. Please note that the existence of flood defences normally has no bearing upon the designation of the flood zones except in the identification of the functional floodplain (see the note to table 1 of the Guidance). A brief summary of the flood zones is given in the table below.

Table A – Flood zones and the associated flood risk

Flood zone	Associated flood risk (see also table 1 of the Planning Practice Guidance)
Zone 1 (any land not within zones 2 – 3b)	**Low probability** – This zone comprises land assessed as having a less than 1 in 1000 annual probability of river or sea flooding in any year
Zone 2	**Medium Probability** – This zone comprises land assessed as having between a 1 in 100 and 1 in 1000 annual probability of river flooding or between 1 in 200 and 1 in 1000 annual probability of sea flooding in any year.
Zone 3a	**High probability** – This zone comprises land assessed as having a 1 in 100 or greater probability of river flooding or a 1 in 200 or greater probability of flooding from the sea in any year.
Zone 3b	**The functional floodplain** – This land comprises land where water has to flow or be stored in times of flood The Planning Practice Guidance clarifies that areas which would naturally flood but which are prevented from doing so by existing defences and infrastructure or solid buildings should normally be considered as being within flood zone 3a.

To establish which zone a site is within please visit our website where the results of the Strategic Flood Risk Assessment are displayed. Please note the updates that exist for certain areas.

Planning Practice Guidance categorises different types of development according to its vulnerability to the effects of flooding events and the vulnerability of a proposal can be established by referring to table 2 . Table B below provides a brief summary of the different categories.

Table B - Vulnerability classification of development types

Vulnerability classification	Development types included
Essential infrastructure	• Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk. • Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations; and water treatment works that need to remain operational in times of flood. • Wind turbines.
Highly vulnerable	• Police and ambulance stations; fire stations and command centres; telecommunications installations required to be operational during flooding. • Emergency dispersal points. • Basement dwellings. • Caravans, mobile homes and park homes intended for permanent residential use. • Installations requiring hazardous substances consent. (Where there is

	a demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or such installations with energy infrastructure or carbon capture and storage installations, that require coastal or water-side locations, or need to be located in other high flood risk areas, in these instances the facilities should be classified as 'Essential Infrastructure').
More vulnerable	• Hospitals • Residential institutions such as residential care homes, children's homes, social services homes, prisons and hostels. • Buildings used for dwelling houses, student halls of residence, drinking establishments, nightclubs and hotels. • Non–residential uses for health services, nurseries and educational establishments. • Landfill* and sites used for waste management facilities for hazardous waste. • Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan.
Less vulnerable	• Police, ambulance and fire stations which are not required to be operational during flooding. • Buildings used for shops; financial, professional and other services; restaurants, cafes and hot food takeaways; offices; general industry, storage and distribution; non-residential institutions not included in the 'More Vulnerable' class; and assembly and leisure. • Land and buildings used for agriculture and forestry. • Waste treatment (except landfill* and hazardous waste facilities). • Minerals working and processing (except for sand and gravel working). • Water treatment works which do not need to remain operational during times of flood. • Sewage treatment works, if adequate measures to control pollution and manage sewage during flooding events are in place.
Water compatible	• Flood control infrastructure. • Water transmission infrastructure and pumping stations. • Sewage transmission infrastructure and pumping stations. • Sand and gravel working. • Docks, marinas and wharves. • Navigation facilities. • Ministry of Defence defence installations. • Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location. • Water-based recreation (excluding sleeping accommodation). • Lifeguard and coastguard stations. • Amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms. • Essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan.

Once the risk has been appraised it must be managed. The principal way to manage flood risk is to avoid locating development within areas at risk of flooding. To encourage development to avoid flood risk areas the Sequential Test and Exception Test are used. Flood risk assessments (FRA) are used to reduce flood risk at the site level. This document provides guidance on how to undertake these tests and assessment.

If development is considered to be inappropriate for the flood zone within which the site is located then planning permission would normally be refused, in which case it would not be advisable to submit a planning application. The circumstances where development is considered to be inappropriate are listed in table C below and more fully in table 3 of the Planning Practice Guidance.

THE SEQUENTIAL TEST

The Sequential Test is a tool to direct new development first to sites at the lowest probability of flooding (flood zone 1). The flood zones are the starting point for the sequential approach and are shown on our website with flood zone 1 being all the land falling outside zones 2, 3a and 3b. These flood zones refer to the probability of sea and river flooding only, ignoring the presence of existing defences, and are defined in table A above.

When is the Sequential Test required?

Development proposals within flood risk zones 2, 3a and 3b must have gone through a sequential testing process unless any of the following circumstances apply:

1. If the development is considered to be inappropriate for the flood zone of the site. These circumstances are listed in table C below and more fully in table 3 of the Planning Practice Guidance. In such circumstances permission would normally be refused and therefore it is not advisable to submit a planning application.
2. The proposal is for the change of use of land/buildings only*.
3. The proposal is a minor non-residential extension only (i.e. less than 250 square metres)
4. The proposal is development that does not increase the size of the building e.g. alterations to external appearance.
5. The proposal is for householder development (extensions and detached buildings etc) provided that the proposal is not associated with the creation of a separate unit of residential accommodation.
6. We, as part of the Local Development Framework (LDF) or Local Plan process, have already sequentially tested the site**.
7. For a replacement building***.
8. For an ongoing and existing regeneration scheme. Although in such circumstances a sequential approach to the location of development within the application site may still need to be applied.

Table C – Inappropriate development

Flood risk	Development types (see table B above and table 2 of the Planning Practice Guidance)
Flood zone 3a	Highly vulnerable uses
Flood zone 3b	Less vulnerable uses
	More vulnerable uses
	Highly vulnerable uses

* Except for any proposal involving a change of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the Sequential and Exception Tests should be applied as appropriate. For any change of use, if significant operational development (physical works) is proposed then evidence of a Sequential Test is required.

**If the proposed development is not in accordance with the allocations and relevant planning policies then a Sequential Test will need to be submitted with the application. For example, if housing is proposed on a site allocated for a less vulnerable industrial use.

******* Where an applicant seeks to redevelop a property, by demolishing an existing building and erecting a new one, the Sequential Test need not be applied so long as the following criteria are satisfied:

- A flood risk assessment submitted with the application demonstrates that the development would not increase the risk of flooding both on the site and elsewhere.
- The vulnerability of the development is not increased. Examples of an increase in vulnerability would include a) where an existing dwelling is demolished and two new residential units are erected; b) where new basement accommodation is provided; and c) where there would be a significant increase in the number of employees or visitors. This is not an exhaustive list.

What do I need to do to pass the Sequential Test?

It is the developer's responsibility to assemble the relevant evidence in order to allow us to consider whether the Sequential Test is satisfied. This evidence needs to be submitted with the planning application and demonstrate that there are no reasonably available alternative sites within an area of lower flood risk which can accommodate the proposal. If no such evidence is submitted with the application then permission will normally be refused. It is therefore recommended that applicants apply the Sequential Test to site selection early in the process (before the application is submitted) to avoid unnecessary costs.

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.
- 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.

A pragmatic approach to the availability of alternative sites should be taken in considering, for example, planning applications for extensions of existing business premises, such as farm holdings, where it might be impractical to suggest that there are more suitable alternative locations elsewhere. In such cases the developer must submit evidence with their planning application to justify the area of search and any circumstances they would like to be taken into account.

The applicant needs to submit the following evidence to allow us to consider the Sequential Test:

- A written statement explaining the area of search.
- A map identifying all other sites considered within lower areas of flood risk.
- 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.

How can I identify alternative sites?

Alternative sites could be found from the evidence base / background documents that have been produced by the council to inform the emerging Local Development Framework (LDF) or Local Plan. This would include the North Somerset Strategic Housing Land Availability Assessment (which is available on our website). If alternative sites cannot be identified from such documents then other sites within the area of search should be considered. To identify other sites you should contact local estate agents. It is also recommended that applicants contact us to discuss the availability of alternative sites to be considered in the Sequential Test.

What is meant by “reasonably available”?

A site is considered to be “reasonably available” if it is both ‘deliverable’ and ‘developable’ as defined within the NPPF and **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:
    - Owned by the applicant.
    - For sale at a fair market value.
    - 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.

THE EXCEPTION TEST

Once the Sequential Test has been passed there are still some vulnerable types of development, which should not normally be allowed in flood zones 2 and 3 unless there are exceptional circumstances. These circumstances are considered by the council using the Exception Test. The Exception Test should only be considered once the Sequential Test is passed.

When is an Exception Test required?

An Exception Test is required for development that is defined as “highly vulnerable” in flood zone 2, “essential infrastructure” in flood zones 3a and 3b and “more vulnerable development” in flood zone 3a (see table 3 of the Planning Practice Guidance).

Applications for minor development and change of use applications are not required to comply with the Exception Test. A flood risk assessment (FRA) would nonetheless be required.

What do I need to do to pass the Exception Test?

For the Exception Test to be passed:

1. It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk.
2. A site-specific flood risk assessment must demonstrate that 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.

Both elements of the test will have to be passed for development to be permitted.

What are “wider sustainability benefits to the community”?

In the context of development proposals “sustainability benefits” could include environmental, social or economic factors, or some combination of these.

In order to pass the Exception Test the proposal must provide sustainability benefits beyond the application site, for the community. Examples of benefits beyond the application site include:

- Provide affordable housing to meet an identified local need
- Remove pollution
- Assist in the regeneration of an area
- Visually enhance a site to the benefit of the character of an area
- Relocate an existing use closer to public transport thus reducing the amount of traffic on the road.

All these examples provide some benefit to the community beyond the application site.

When do such benefits outweigh the flood risk?

It is not possible to confirm that certain benefits will always outweigh the flood risk. Each case needs to be considered on its own merits taking into account the scale of the benefits compared to the scale of the development and the significance of the flood risk.

It is, however, very unlikely that the following circumstances would be considered as providing, on their own, sufficient benefits to the community to outweigh the flood risk:

1. A new open market dwelling, for example on garden land in a residential area and close to a bus stop. Whilst the location close to a bus stop is desirable it will not normally be sufficient to outweigh the flood risk.
2. An energy-efficient new building.
3. The personal circumstances of the applicant or occupier.

FLOOD RISK ASSESSMENTS

What is a flood risk assessment?

Within flood zones 2, 3a, 3b and where the site is greater than one hectare and within flood zone 1 applicants are responsible for providing a written assessment of whether their proposed development is likely to be affected by flooding or whether it will increase flood risk elsewhere. These written assessments are called flood risk assessments (FRAs).

An FRA should first identify the level of flood risk to your property or site. This will enable you to identify the measures (*if any)* that are necessary to make your property or site safer and ensure that it will not increase the risk of flooding elsewhere. It will also enable us to assess to what extent that risk is a consideration when determining your planning application.

When is an FRA required?

A site-specific FRA is required to accompany planning applications on land:

- in Flood Zone 1, if the site is 1 hectare or greater, or has been identified as having critical drainage problems;
- in Flood Zone 2, 3a or 3b, including minor development and change of use;
- where proposed development or change of use to a more vulnerable class may be subject to other sources of flooding.

Flood zones can be identified by viewing the Strategic Flood Risk Assessment (SFRA) for North Somerset which is available on our website. If you do not have access to the internet or wish to talk about flood risk, you can contact your local Environment Agency office (*see below).*

You must include your FRA with your planning application. Failure to do so may result in your application not being registered or it being refused permission.

What do I need to do?

FRAs can be as simple as a short written statement, or may need detailed hydraulic modelling, depending on the level of flood risk for your site. The level of risk will depend on the type of development, the size of site and its location in relation to flood zones and also the amount of surface water runoff the site will discharge.

Any other sources of flooding (*e.g. groundwater)* that you are aware of and which are not shown in the Strategic Flood Risk Assessment or on the Environment Agency website should also be included in your FRA.

The Environment Agency has published detailed guidance to explain what you need to do for your FRA at www.gov.uk/guidance/flood-risk-assessment-standing-advice. There is also a useful FRA checklist at http://planningguidance.communities.gov.uk/blog/guidance/flood-risk-and-coastal-change/site-specific-flood-risk-assessment-checklist/

Please note the completion of an FRA will not automatically mean that the development is acceptable in flood risk terms. You are therefore strongly advised to agree the content of the FRA with the Environment Agency prior to its submission with the planning application to the council.

Obtaining advice from the Environment Agency

The Environment Agency provides an advice service to help you to prepare your planning application. This includes easy to understand self service standing advice which explains general principles and the key steps you should follow. This standing advice can be found at:

https://www.gov.uk/guidance/flood-risk-assessment-local-planning-authorities

The Environment Agency can also provide advice specifically for your site and proposal. Should you require further information you can contact your local Environment Agency office at:

Bridgwater Office
Environment Agency
Rivers House
East Quay
Bridgwater
Somerset
TA6 4YS

enquiries@environment-agency.gov.uk

Obtaining advice from us

Due to the nature of their work, our planning officers are often out of the office and are unavailable to receive telephone calls directly. However, for site specific written advice we provide a pre-application advice service for which there is a fee. Details of this service can be found on our website.

Contact details

Tel: 01275 888 811

Online: www.n-somerset.gov.uk/contactplanning

This publication is available in large print, Braille or audio formats on request. Help is also available for people who require information in languages other than English.

Please contact 01275 888 811