


Agenda Item No:	17	
Committee:	Planning	
Date:	28 February 2018	
Report Title:	Flood Risk Sequential Test Methodology	

1 Purpose / Summary

To seek Committee approval of informal guidance on the application of the flood risk sequential test. This will simplify the process in a number of locations and give clear advice to developers to help them submit their planning applications.

2 Key issues

- Government and local policy is to generally direct new development to locations where the risk of flooding is lowest
- There is general advice contained within the National Planning Policy Framework and also in the national Planning Policy Guidance.
- More detailed advice is contained within the Cambridgeshire Flood and Water Supplementary Planning Guidance (SPD)
- It is considered beneficial to provide further guidance so that the sequential test has to be undertaken less frequently in certain circumstances and clarify what the extent of the search should be for alternative sites at lower risk.
- The provision of localised guidance will make it simpler for many land owners and developers to submit their proposals where there are flood risk issues.

3 Recommendations

- That Committee:
- Agree that the guidance in Appendix 1 be used to inform the use of the sequential test
- Agree that the use of the guidance be reviewed within 12 months

Wards Affected	All
Forward Plan Reference	Not applicable
Portfolio Holder(s)	Cllr Sutton - Portfolio Holder for Neighbourhood Planning
Report Originator(s)	Nick Harding - Head of Planning
Contact Officer(s)	As above
Background Paper(s)	NPPF, PPG, Fenland Local Plan 2014, Cambs Flood & Water SPD 2016

4 Background / introduction

- 4.1 The national and local objective in relation to new development and flooding is to direct new development to those locations that are least at risk. This is facilitated through what is known nationally as the 'sequential test'. In simple terms, when considering planning applications, regard has to be had to whether there are any alternative sites that are reasonably available at lower flood risk where the development could be accommodated. This brings questions about how wide the area of search should be and whether settlements locations that are shown as being wholly or predominately at high risk of flooding should, have a degree of exemption for the sequential test in order to facilitate sustainable development.
- 4.2 Officers have been working with the Environment Agency and also a local developers and agents to produce informal guidance so that some of the issues can be addressed. Whilst the local agents etc. Welcome the guidance as a more positive way forward, they consider that it does not go far enough. The representation made by the group is reproduced in full in Appendix 2 and discussed in Section 5 of this report.
- 4.3 It is important to note that notwithstanding the development may take place in flood risk areas, the flood risk maps for planning that the Environment Agency Publishes are based on the scenario of there being no flood defences in place. It should also be noted that developments still have to be designed such that in a flood event, the occupants would be safe.

5 Considerations

- 5.1 The proposed guidance is set out in Appendix. Its key features are as follows:

Which flood maps shall be used to establish the flood risk of a site?

- 5.2 This will be the Environment Agency Flood Maps for Planning with the Hazard Maps only being used for sequential test purposes once it has been demonstrated that there are no reasonable alternatives elsewhere.

What should the area of search be for alternative sites?

This varies according to where the proposed development is located. If located in the countryside the area of search will be the whole rural area. If the proposal is within an existing town or village then the area of search will be that settlement.

Site size of alternative sites

- 5.3 The alternative site could be bigger than the development proposed OR the proposed development could be distributed over a number of sites that are smaller than the one proposed.

Do the urban extension sites have to be sequentially tested?

- 5.4 No as the principle of development has already been established.

Special approach for Wisbech

- 5.5 Within the town redevelopment sites last used for Use Classes A, B, C or D don't have to go through the sequential test process.

- 5.6 The agents group that worked on the draft guidance had a number of unresolved concerns with it. These are given in full in Appendix 2 and are summarised below together with an officer response.

- 5.7 Comment - The Environment Agency maps for planning are not always the best tool for establishing flood risk and a level 2 strategic flood risk assessment (Hazard Mapping) should be undertaken for the whole district. Hazard Mapping should be used as a preference.

Response - Whilst it may be desirable to have level mapping for the whole of the district there are no plans to commission this work. There are only Level 2 maps for Wisbech Town. For the current moment in time it is appropriate for the Flood Maps for Planning to be used (but note there is an exception for certain development scenarios in Wisbech). The guidance recognises that as and when a suitable alternative data set is available, this could be used.

- 5.8 Comment - the draft guidance is inconsistent in its terminology when compared to the Flood and Water SPD e.g. the latter refers to 'lowest probability of flooding' and the former 'lowest hazard rating'.

Response - The hazard maps do not show the probability of flooding rather they show what the consequences would be of a flood event e.g. breach or overtopping for a given scenario. The group have requested consistency with the Flood & Water SPD terminology i.e. 'probability of flooding' but at the same time asked that hazard maps be used to define the extent of the flood risk area. It is therefore not clearly understood the revision that is being sought.

- 5.9 Comment - the area of search for villages where the growth threshold has been exceeded should be that village only and not any wider.

Response - Having reflected on the suggested revision, it is agreed that this change should be made.

- 5.10 Comment - It is not practical for alternative sites to come from a combination of many sites no matter how small. It is suggested that possible alternatives should be at least 25% the capacity of the proposed site unless the site is for 4 units or under in which case the search should be restricted to sites of 5 or more. At the same time the groups suggest that for sites of 4 or less, the search should be restricted to sites with planning permission of the same scale.

Response - It is not proposed to revise the guidance as the approach it takes follows the conclusion of an appeal decision regarding the size of sites to be included in the search for sites.

- 5.11 Comment - The area of the urban extensions needs to be mapped so that it is know the area that has been deemed to have been sequentially tested.
Response - To do this risks undermining the approach taken by the local plan in the identification of areas for development. The way forward would be for the site promoter to submit a site extent to the Council and a response will be made regarding its status.
- 5.12 Comment - Is the Council going to sequentially test again the existing urban extensions identified in the local plan?
Response - This would be done only as part of a local plan review
- 5.13 Comment - Wisbech - is reference to the hazard rating in relation to the sequential or the exception test?
Response - Reference to the hazard rating has been removed for this section of the guidance.
- 5.14 Comment - Wish to see the guidance formally adopted as SPD and have is reviewed after 12 months
Response - there would be benefits in having the guidance as part of the development plan but at this time as it will be going through a period testing it is not considered appropriate to give it such formal standing as SPD.

6 Effect on corporate objectives

- 6.1 The proposed guidance is consistent with the objective of promoting and enabling housing growth, economic growth and regeneration across Fenland.

7 Community impact

- 7.1 The proposed guidance will ensure that development is directed to appropriate location in flood risk terms but at the same time recognises that communities must not be blighted by flood risk.

8 Conclusions

- 8.1 The guidance has been produced with the assistance of the Environment Agency and a group of representatives from the development industry. Whilst it has not been possible to reach agreement on the content of all of the document, it is considered that it represents a significant step forward compared to the current approach to the sequential test.
- 8.2 The guidance is therefore recommended to be adopted by the Committee and that a review of its use be undertaken in 12 months.

APPENDIX 1

DRAFT APPROACH TO THE SEQUENTIAL TEST FOR HOUSING

FENLAND DISTRICT COUNCIL

V4

1. What will be used to determine if a site is in Flood Zone 1, 2, or 3?

The EA 'flood risk maps for planning' will be used for the sequential test. If (and only if), there are no alternative sites available in lower risk flood zones, a 'sequential approach' can be taken to differentiate relative flood risks within flood zones 2 and 3. The aim is to steer development that is necessary in flood zones 2 and 3 to the lowest hazard rating locations. This can be informed by using published 'hazard maps' that have the endorsement of the Environment Agency and the District Council as being fit for purpose...

Applicants should refer to the adopted Cambridgeshire Flood and Water SPD for advice on carrying out the Sequential and Exception Tests which is at this link:
<http://www.fenland.gov.uk/article/12288/Cambridgeshire-Flood-and-Water-SPD>.

2. Area of Search

This is determined by considering the proposal's objectives, linked to the spatial policies of the Local Plan. For proposals that demonstrate a clear objective to sustain particular settlements or the countryside, the area of search will be:

- A) Developments in the countryside – The whole of the rural area
- B) Developments in towns & villages – The town/villages that the proposal would sustain.

3. Site Size

When looking for alternative sites under the sequential test, these could be made up from either parts of sites larger than the proposal or from a number of smaller sites.

E.g. if the development proposal is for 100 dwellings and there is an available site of 150 at lesser flood risk then the development proposed can be met on the 150 unit site

e.g. if the development is for 100 dwellings and there are 30 sites available at lesser flood risk ranging from say 10 to 25 units, then the proposed development can be accommodated on the combination of all the smaller sites

3. Urban Extension Sites (including those in Wisbech) identified under Local Plan Policies LP8 to LP11

These sites do not have to go through sequential testing in terms of the principal of development as this was done at the time the sites were identified for inclusion in the adopted Local Plan.

However, site specific flood risk assessments should be undertaken so that the higher risk areas within the sites are avoided as far as possible and these can be made safe from flooding and do not cause flooding elsewhere.

4. Wisbech

About one half of Wisbech currently falls within flood zones 2 and 3. For the re-development of sites for residential purposes (Use Class C3) within these areas it may not always be possible to pass the Sequential Test. The council recognises the need to prevent widespread areas suffering blight from flood risk restrictions, and seeks to ensure that Wisbech retains its constituency and vibrancy.

As a result it will normally be the case that for sites within the existing built up urban area of the town which fall within flood zones 2 and 3 and where the proposal is for the redevelopment of a site last used for Use Classes A, B C or D the council accepts that the Sequential Test will normally be passed.

The council also accepts that normally the first part of the Exception Test will be considered to have been passed if the re-development of an existing site within the urban area will be in accordance with the council's sustainability objectives and be sufficient to outweigh flood risk where pre-development flood hazards in the Level 2 SFRA do not represent danger to most or all.

Development outside of the urban area or involving the redevelopment of sites that were not used for land use Classes A, B, C or D, will be subject to the normal 'full' sequential test process.

END

APPENDIX 2

REPRESENTATION FROM THE AGENT WORKING GROUP

This is a coordinated response on behalf of John Maxey, Peter Humphrey, Ben Hornigold and Geoff Beel, as Agents representatives on the working party considering the Sequential Test issues for Fenland.

Comments are in relation to the V2 draft circulated by Nick Harding to us on 6th October.

Numbering relates to the points on the draft

We need to verify the EA flood risk maps we are referring to as these:

<https://flood-map-for-planning.service.gov.uk/>

These maps also now specify the individual risk areas from tidal and fluvial flooding.

These risk factors do not always mirror the hazard zones as shown on hazard mapping – egg Nene Waterfront has some hazard mapping showing danger for all and yet EA Flood maps do not exceed medium risk. There are other examples.

We question if the EA Flood Risk maps as above are the best and most detailed information. We remain of the view that only a level 2 SFRA for the whole District would give the information actually required to utilise the SFRA alongside the EA Flood maps as the best and most up to date information, as South Holland do.

Going on this would imply that the Sequential Test should be applied twice – once using the EA flood maps, then again using the ‘hazard’ maps. Paragraph 100 of the NPPF states that Local Plans should ‘develop policies to manage flood risk from all sources, taking account advice from the EA and other relevant flood risk management bodies’. With this in mind, the advice available from the EA would include the hazard maps. Therefore I see no reason why the EA flood risk maps are solely required in the first instance. The pragmatic approach would be to use the hazard maps to ascertain the true flood zone and then apply the Sequential (and Exception) test if necessary.

The Cambridgeshire Flood and Water SPD refers at para 4.4.1 to steering development to areas “with lowest probability of flooding”. The draft talks about lowest hazard rating. These are not necessarily the same and it is suggested that whatever wording is used it should be consistent between policy documents.

2/3 The proposals for sections A & B we agree. The proposal for section C we do not agree.

The area of search for the Sequential Test should be contained to the settlement to which the site relates. It seems unreasonable to expect, for example, a Wisbech resident to have to build a dwelling and live in Chatteris when all of their ties are in Wisbech just because there is a windfall plot available in Chatteris in a lower flood zone. Stage A of the Cambridgeshire Flood and Water SPD allows for a reduction in the geographical search area if there is a functional requirement or need for the development. This is as proposed.

With regards to point C, if the community consultation on a village which has breached threshold demonstrates that there is a desire for new residential development in that village then the Sequential Test should be applied to that particular village and not the whole of Fenland. If the Sequential Test was applied to the whole of Fenland and a preferable site is found elsewhere this would go against the community wishes. This would be contrary to paragraph 17 of the NPPF which requires local people to be empowered to shape their surroundings. If consultation supports further growth within a settlement then policy permits numbers to increase, and so sequential testing area of search should continue to focus on that settlement.

4 We agree that when looking for alternative sites at an estate scale, larger sites at lower flood risk can meet the demand. We would stress that these sites need to be available – we would suggest the same criteria as being included in 5 year land supply would be suitable.

However in considering if a combination of smaller sites could be an alternative one must have regard to the selection being practical and economic. For example if a developer is seeking a site for 100 it will be neither practical or economic for them to achieve this by a combination of very small frontage sites where values will be influenced by the self-build market and management of a workforce over that number of sites will be impractical. We would suggest there needs to be some parameters on alternative site search. A suggestion would be sites should be at least 25% in numbers of dwellings of the size being considered, and other for sites of 4 or fewer dwellings, sites should be 5 or more in size such that their availability is recorded in the 5 year land supply report.

For sites of 4 or less the comparison should be with other sites of 4 or less with consent, as a demonstration of their availability. If a developer is seeking consent for a site for 1 or 2 dwellings unless there is evidence that the owner of a site for 100 is prepared to sell 2 plots then we would question if that site is available to that developer. We run the risk of excluding the small / medium developer from market supply if the position is that there are 1550 houses in East Wisbech in flood zone 1 so this provides supply for any size development. These are clearly not reasonably available.

Also if a development were to be spread across a number of smaller sites which were dotted around the settlement, the Council would lose out on financial contributions as it is likely the development would be reduced down to smaller portions which could fall below the S106 thresholds.

5 We agree that allocated sites in the Local Plan are deemed to have passed the sequential test. However a significant part of the proposed development in the major settlements is identified as Broad Areas of Growth, which are not allocations with a defined boundary, but vague areas (e.g. Nene Waterfront, West Wisbech). There is a need to clarify if these areas are considered to be deemed to pass the sequential test, and if so the precise boundaries that are deemed to pass the sequential test. It is appreciated that the intention is that these sites the higher risk areas are avoided but how can the relative risk areas be determined within a defined area, without first determining the extent of the Broad Areas of Growth.

Para 4.3.5 and 4.3.6 of the Flood and Water SPD indicate that where Flood Zone classification has changed even allocations may need Sequential Testing. Certainly remodelling of the Tidal River Hazard zones has revised flood hazard. We are unsure from the guidance and this document if all land within Allocations and Broad Areas of Growth is within the same Flood Zone as at the time of the SFRA that informed the Local Plan, but we suspect not – does that mean such sites need Sequential Testing revisiting.

6 It is welcomed that there is a specific approach for Wisbech. We agree the contents of the first paragraph of this point.

In the second paragraph we would ask for clarification of the use of the word “normally” – under what circumstances would this paragraph not be considered to apply. Specifically please confirm that the reference in the third paragraph to hazards of danger to “most” and “all” are in relation to the Exception test and not the Sequential Test. Given that there appears to be an acceptance of a wish not to blight regeneration sites (such as Nene Waterfront or Sandyland, both of which are within hazard areas “most” or “all”) we assume we are correct in reading that such areas will be deemed to pass Sequential Test, because they are previously developed. Please also confirm that the curtilage of existing dwellings being subdivided or redeveloped will automatically under this guidance be considered to meet the Sequential Test.

In the third paragraph you appear to be dealing with Exception Test rather than Sequential Test. Please confirm we are correctly interpreting that it is only the first part of the

Exception Test that hazard areas “most” and “all” are not deemed to be passed, if previously developed, and will have to demonstrate evidence to pass this part on their merits in other ways, as well as the site specific FRA demonstrating safety. If this is the case it could still blight potential regeneration sites, when we would say this could be overcome by specific engineering solutions. As such please confirm that you are not ruling out the possibility of satisfying the Exception Test part 1 in other ways e.g. living accommodation at raised levels on robust structures

Other matters

We do consider it vital that this guidance has “status”. Please advise whether it will be a formally adopted SPG by the Council. A “working protocol or guidance note” in our view is not sufficient, as no doubt the policy will be subject to scrutiny at appeal / judicial review, and if not given status its weight will be uncertain, or will be so small as to jeopardise the who intent of the process. Can we seek please a commitment to seek formal approval as an SPG.

Finally we believe that it is essential that this policy is tested and utilised to ensure it is workable and fit for purpose, so we also request that adopting it the Council agree to review its effectiveness after 12 months in the light of experience, and refine it if necessary.