

Question xiv) of Issue 12 concerns the application of the sequential and exception tests in relation to flood risk as referred to at paragraphs 100 - 102 of the NPPF. This matter was also discussed in relation to proposed site allocation S3 (Court Lodge) but equally has a bearing on other proposed allocations.

Paragraph 022 of the Planning Practice Guidance (PPG) on Flood Risk gives detail on how these tests should be undertaken. However, it is not apparent to us from the Sustainability Appraisal (SA) or other evidence how the decision making process has been carried out in this respect. In particular has it reflected the principle that development should be steered to sites in Flood Zone 1 but if there are no reasonably available sites then land in Flood Zones 2 and 3 should be considered? Such considerations may be embedded within the SA but there is not a clearly reasoned justification for allocating land either wholly or partly in areas of high flood risk. The PPG refers to demonstrating the sequential test in a freestanding document and the Council should give consideration to doing this and also including, where necessary, the two parts of the exception test.

The Statement of Common Ground with the Environment Agency (ED/03) does not refer to this matter but it may be useful to consult further with them in this respect.

1. The Council is content that within the Local Plan to 2030, allocations for development of vulnerable uses (including residential and access) can be wholly delivered within Flood Zone 1. The single exception is a site that is already allocated for residential development (Policy S11), the context of which is unchanged since allocation, and which has already undergone an Exception Test. Therefore it is the Council's view that the requirements of the Sequential and, where relevant, Exception Tests have been met as will be explained here.
2. In line with legislation and government policy, including the parameters established through the NPPF (Paragraphs 159, 165), as well as Planning Practice Guidance, sites submitted to or identified by the Council for consideration for allocation within the Local Plan were assessed through the Strategic Housing and Employment Land Availability Assessment (SHELAA / SD12) and, as relevant, the Sustainability Assessment (SA / SD02). These assessments were comprehensive, and balanced a number of suitability criteria and evidence to ensure that development would be located in the most sustainable locations to be able to meet need.
3. This analysis was a fundamental part of the preparation of the Regulation 19 version of the Local Plan published for consultation in 2016, and again reviewed with the inclusion of 'Omission Sites' in support of the Main Changes Regulation 19 version published for consultation in 2017.

Site Analysis Process

4. Within the scope of the SHELAA, sites wholly within Flood Zones that could not be adequately mitigated were filtered out. As a result of this, thirty-six sites with minor incursions or partly within Flood Zones 2 or 3 were assessed through the SA process.
5. In support of this, the Council produced its Strategic Flood Risk Assessment (SFRA / NBD01) produced in fulfilment of the requirements of NPPG paragraph 100/166. This provided a substantial data source both to establish the Borough's vulnerability to risks from the water environment, and to be able to test submitted sites against its Sustainability Objective 4, which included consideration to flood risk from multiple

sources; potential for sustainable drainage; and groundwater considerations as part of establishing an overall planning balance.

6. Within the scope of the SA, Objective 4 (Water) was tested through the following questions:

Table 1: SA pro forma

4.1	Is the site wholly or partially in Flood Zone 2 or 3?*	Promotes enhanced flood storage capacity	1
		Flood Zone 1	0
		Flood Zone 2	-1
		Flood Zone 2 & 3	-2
4.2	Is the site at risk from Surface Water Flooding: from the 1 in 100-year event and/or from the 1 in 30-year event?	Not affected/applicable	0
		1 in 100 year flood zone	-1
		1 in 30 year flood zone	-2
4.3	Is the site suitable to use SuDS infiltration systems?	Yes	1
		No	0
4.4	Is the site within a groundwater protection zone?	Yes	0
		No	1
* In accordance with the importance and weight encompassed in the NPPF, SA scoring could be overruled on sites that fall in the AONB, are in areas of highest flood risk, provide a substantial harm or total loss of a heritage asset or are found in a mineral safeguarding area.			

7. Through this process, those sites with the highest flood risk on any part of the site were disadvantaged in the assessment process. To assist in the site assessment process, a focused site specific flood and water information sheet was produced as part of the SFRA (included as Appendix C) for each site with areas at flood risk, which informed the assessment and selection process. These sheets identified comprehensively the nature of flood risk on the whole site.
8. As a result, it was demonstrated that on the majority of sites with some areas in Flood Zones 2 or 3 the most vulnerable uses (including residential) and access to these could be delivered wholly within Flood Zone 1 through the sequential design of the site. As a result of this, it was determined that a free-standing document showing the application of the Sequential and/or Exception Tests (PPG Paragraph: 022 Reference ID: 7-022-20140306) was not required on the basis that the Local Plan does not (save for one site) seek to promote development outside of Flood Zone 1. The only exception to this is site VC4 (Policy S11), which was deemed suitable for allocation for residential development in the adopted Urban Sites DPD (2012) by that plan’s inspector.

Site-Specific SA Results

9. While further explanation as to how site allocations were made with regard to the Sequential and Exceptions tests (PPG) can be found in its Issue 12 (xiv) hearing statement, the analysis of sites through the SA process is summarised here. As noted above, thirty-six sites with minor incursions or partly within Flood Zones 2 or 3 were not filtered by the SHELAA and were therefore assessed through the SA process. Of those sites, nineteen sites were excluded through the SA process as unable at this time to support sustainable development, or became unavailable. Five of these in particular

(NW1, WS33, NO2, WS1 and WE51) suffered particular flood risks. A further site, WY1, was allocated in a 'made' Neighbourhood Plan.

10. Sixteen sites with some part of the site within either Flood Zone 2 or 3 were allocated in the Plan as follows:

Table 2: Allocated Sites

SHELAA Site Ref.	Policy No.	Minor/Part/Whole Site in FZ2/3	Vulnerable Uses in Flood Zones 2/3
VC47	S1	Minor	None – no capacity reduction
KE3	S2	Minor	None – no capacity reduction
WS11	S3	Part	None - capacity reductions / FRA requirement
WE16	S5	Minor	None – no capacity reduction
AG1	S7	Minor	None – no capacity reduction
VC17	S10	Part	None - capacity reductions / FRA requirement
VC4	S11	Whole	Yes – existing allocation; exception test passed.
WE5/6	S14	Part	None - capacity reductions / FRA requirement
WE21	S15	Part	None - capacity reductions / FRA requirement
WE11	S16	Part	None - capacity reductions / FRA requirement
IO2	S26	Minor	None – no capacity reduction
WS37	S32	Part	None - capacity reductions / FRA requirement
WE47	S45	Part	None - capacity reductions / FRA requirement
SS12	S53	Part	None - capacity reductions / FRA requirement
DN2	S56	Minor	None – no capacity reduction
WS38b	S57	Part	None - capacity reductions / FRA requirement

11. Given that the NPPF and guidance is to be read as a whole, there is little scope for the exclusion of a whole site that would otherwise be suitable for housing on the basis that part of it has elements of flood risk, if there is evidence that this can be accommodated or incorporated. In certain cases, for example sites WE5/6 (S14) and WE47 (S45), the whole site was allocated so that the surrounding wetland character could be integrated into the overall design and layout of the area, and could serve to extend Ashford's valued green and blue network for leisure and biodiversity benefit, while vulnerable uses would be located in areas of lowest flood risk. The remaining developable area would be

spatially appropriate in the context of the urban fabric of the settlement. In these cases, therefore, it is clear that both parts of the Exception test have been met.

12. The three non-standard cases were sites WS11 (allocated as site S3); VC4 (allocated as site S11); and WE11 (allocated as site S16). In the case of the mixed-use allocation on WE11 (S16), it was clear that the most vulnerable uses could be located in Flood Zone 1.
13. The issues surrounding the planning of and policy for sites WS11 (S3) and VC4 (S11) are outlined in the Council's Hearing Statement for Issue 12 (xiv) paragraph 127, but to summarise briefly, in the case of WS11 (S3), the full quantum of residential development could be located in Flood Zone 1, but this would not necessarily provide the optimal layout in spatial planning terms. Notwithstanding this, the Local Plan Policy for Site S3 does not require residential uses to be located within flood risk areas, and allows for flexibility in site arrangement. For this site, therefore, there is no need for the application of the Exception Test. In the case of VC4 (S11), it is clear that the Exception Test would in fact be required. However, given that it has already undergone this process and is carried forward as an existing allocation in the Urban Sites DPD (2012).
14. There is no requirement in national policy for an Exception Test to be repeated, and the flood risk on this site remains unchanged. Furthermore, the Environment Agency offers no objection to the allocation of these sites for the uses described, and is content that any residual on-site flood risk for any vulnerable uses could be mitigated on allocated sites.
15. The risk of flooding (from multiple sources), plus climate change projections (through hydrological modelling up to +105%) and the ability to establish safe access are shown to have been taken into account through the site allocation process as per national policy and guidance. In cases where the Sequential Test has not fully been met, in all cases the Exception Test has been met as detailed above.

Appendix 1: Consultation with the Environment Agency

On 1st June 2018, the above document was submitted to the Environment Agency for its view. On 7th June 2018, the following response was received:

Dear Matthew

In answer to the enquiry:

We consider that under NPPF, all sites whether wholly or partly within FZ2/3 should be subject to the Sequential and Exception Tests. However, given that the sequential design of these sites will ensure all 'more vulnerable' development lies within FZ1, we would expect that it would be relatively straight-forward for ABC to justify the ST can be passed - particularly as the chances of passing the Exception Test will be high. Whilst in some instances a full Flood Risk Assessment might not be necessary, the impacts of climate change may need to be assessed as well as the issue of safe access and egress. To simply state that the ST is not necessary where only part of a site is at risk could set an unwanted precedent for sites where flood risk will need to be managed in order to develop the site safely.

Hope this helps

Kind Regards,

Jennifer Wilson
Planning Specialist
Sustainable Places – Kent and South London

In the case of site selection and allocation for this Local Plan, the Council's position with regard to this is that the processes described in the email have been completed. Allocations were made in accordance with Sequential and Exception testing, and the site layout (where applicable) has taken a sequential approach to built footprint. This is outlined in the main body of this paper. The impacts of climate change have been assessed within the scope of the SFRA (NBD01), and the issue of safe access and egress also formed a part of site selection (similarly detailed above).

The above paper clearly details the process through which site selection passed with regard to flood risk and mitigation, which accords with national guidance and the underlying principles of the Environment Agency's comments given here. Furthermore, as highlighted in Table 2 (above), allocated sites with more than minor flood risk incursions have been required in their site policies to undertake a full site-specific Flood Risk Assessment to establish the precise mitigation strategy required for proposed development.

It is the Council's view that, while the wording and format of this document may not be presented in terms exactly to the agreement of the Environment Agency, its exploration of site selection and allocation with regard to the Sequential and Exception tests are sufficiently detailed and transparent, particularly given national guidance that there is no standard format for the presentation of this exercise.