

8th December 2022**Matter 1: Sustainability Appraisal (Q8) – discussed 6th December 2022**

During discussions re the Sustainability Appraisal (Q8), the Inspectors raised concerns as to how the Flood Risk Sequential Test was applied on a settlement-by-settlement basis, as set out in the Inspector's Initial Questions (IIQs).

The Council's initial response, explains the Council's approach to the Flood Risk Sequential and Exceptions Tests (F19, Q17):

The PPG (Flood risk and coastal change) advises that, for plan-making, "the Sequential Test should be applied to the whole local planning authority area" (paragraph 020).

Therefore, if the Sequential Test is exclusively applied, large areas of the Borough would be precluded from hosting new development in view of their overall flood risk status.

Through the SA process it was concluded that application of the Sequential Test alone is not appropriate or reasonable. Therefore, the Exception Test should be applied, requiring *"proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk" (PPG, paragraph 023).*

The SA report (B4, paragraph 4.3.4/ B3, p22) reflects the Exception Test, explaining that *"decisions to allocate sites in those large parts of the Borough which are at a higher risk of flooding, where the need for development to sustain the local community and its services has been judged to outweigh the presumption against development in higher flood risk areas"*. This allows for sequential testing to be undertaken on a settlement-by-settlement basis, comparing potential site options for each settlement.

Application of the Sequential/ Exception Tests through the Sustainability Appraisal

The response explains that the application of the Sequential Test alone, is not an appropriate or reasonable approach. However, this response provides an update in view of the August 2022 PPG update¹.

The updated PPG explains, *"The Sequential Test needs to be applied to the whole local planning authority area to increase the possibilities of accommodating development which is not exposed to flood risk, both now and in the future"* (Paragraph: 025 Reference ID: 7-025-20220825).

The PPG (Diagram 2: Application of the Sequential Test for plan preparation) explains the process in preparing the Local Plan. The staged process requires, if such development is not appropriate in other areas, then there is a need to

¹ <https://www.gov.uk/guidance/flood-risk-and-coastal-change>

“Strategically review need for development using Sustainability Appraisal” (Diagram 2).

This approach was applied in the Sustainability Appraisal (B3/ B4). This explains, with reference to the overall approach, that: “*The situation in relation to the ‘flood risk’ factor is more complex. This also has a relatively high aggregate positive score (57), but against this must be weighed the substantial negative score (of -45). The positive scores come from the choice of sites at lower flood risk. The negative scores reflect the decisions to allocate sites in those large parts of the Borough which are at a higher risk of flooding, where the need for development to sustain the local community and its services has been judged to outweigh the presumption against development in higher flood risk areas.*” (B3, p22).

In other words, the SA has taken an approach whereby allocating sites purely on the basis of the Sequential Test is inappropriate; i.e. **not** justified or a reasonable alternative, following on from PPG Diagram 2. Therefore, in these circumstances the Exceptions Test should be applied. This sets two further tests that need to be passed, whereby: “*It should be demonstrated that:*

- *development that has to be in a flood risk area will provide wider [sustainability benefits to the community that outweigh flood risk](#); and*
- *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.*” (Paragraph: 031 Reference ID: 7-031-20220825).

Policy E1.15 West Lynn - Land at Bankside

The Land at Bankside (former Del Monte Factory), West Lynn, was allocated in the current Local Plan (2016 Site Allocations and Development Management Policies Plan). This was identified in the King’s Lynn Urban Development Strategy (D31) as a priority regeneration site, while waterfront regeneration remains a priority for the Council (e.g. D33).

Notwithstanding, the Environment Agency objected at Regulation 19, on the basis of Local Plan soundness. This prompted meetings between the parties (Environment Agency/ BCKLWN), culminating in the draft Statement of Common Ground (SoCG), A12-1. This also included preparation of a Sequential Test for West Lynn, which concluded there were no suitable alternative sites.

The SoCG between the parties was finalised on 1 December 2022 (F29), but identifies a number of unresolved issues. Although accepting “*that the sequential and exception tests have been carried out for this site*” (F29, p4), the SoCG also states that the “*Environment Agency has not assessed the quality of the test beyond flood risk technical matters*”. The parties also agreed Suggested Main Modifications regarding the Sequential and Exceptions Tests.

Input from the Environment Agency was also incorporated into the draft Sequential Test, which was finalised alongside the SoCG. This also included taking account of the updated PPG.

Overall, it is asserted that a robust approach has been taken to overcome the Environment Agency's initial concerns regarding the continued allocation of E1.15 in the Local Plan. It is considered that the matters have been sufficiently addressed through the SoCG and accompanying Sequential Test, such that this site should be retained as a Local Plan allocation.