

**Inspector Questions in respect of Main Issue 2**

*Whether the proposal would be in a suitable location, with reference to policies concerned with development in areas at risk of flooding.*

**Question 1** - Para 175 of the Framework states that *the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, exception in situations where a site specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising, or other potentially vulnerable elements would be located on an area that would be at risk of flooding from any source.*

Fig 9 of the Flood Risk Assessment (CD 2.3) states that the site access might be susceptible to localised flooding. This is also shown on the relevant plans.

Fig 12 of the Flood Risk Assessment also places the site access in an area at risk of reservoir flooding.

In Paragraph 5.19 of his proof, Mr Greenyer seems to state that a sequential test should be carried.

The Inspector would therefore welcome your views on whether a sequential test should have been undertaken, and any implications if it should have been undertaken, but has not?

The Sequential Test steers development to areas with the lowest flood risk. It compares the proposed site with other available sites to show which one has the lowest flood risk. The LPA may refuse planning permission if other, lower risk sites are identified. Sites are put into 'Vulnerability Classifications' (<https://www.gov.uk/guidance/national-planning-policy-framework/annex-3-flood-risk-vulnerability-classification>). This analysis is used to inform into the Exception Test.

Annex 3 of NPPF states that 'Caravans, mobile homes and park homes intended for permanent residential use' is classified as 'Highly Vulnerable'.

NPPF, **Flood risk and coastal change**, Table 2 (Exception Test) shows:

Table 2: Flood risk vulnerability and flood zone 'incompatibility'					
Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓ *
Key:					
✓ Exception test is not required					
X Development should not be permitted					

The applicant has stated that the site is in Flood Zone 1, which ordinarily would not require an assessment against the Sequential Test and Exception Test. This is accepted.

However, the Environment Agency Surface Water Flood Risk Map (November 2024) shows the site to have a 'Medium Risk' (Between 1% and 3.3% chance of flooding, each year), Figure 1

Whilst the definition of Flood Zone 2 (NPPF) states that this is 'Land having between a 1% and 0.1% annual probability of river flooding', it can be inferred from Figure 1, that surface water flooding is impacted by fluvial flooding. As such there is an argument that the applicant should have demonstrated completion of the Sequential Test and (if necessary) the Exception Test due to the higher risk of flooding.



Figure 1 - Environment Agency Surface Water Flood Risk Map – November 2024

Both the Sequential and Exception Tests are intended to be used, by applicants, to demonstrate to planners that the right site is being developed, from a flood risk point of view. From a technical perspective, we generally assume that the applicant has demonstrated completion of the Sequential, then Exception Test as part of their initial development site due diligence, prior to submitting the planning application that will include the Flood Risk Assessment and/or Drainage Strategies, as applicable. However, it now appears that the Sequential and Exception Tests have not been applied in relation to this development.

Both the EA flood map and the SFRA flood map show that while areas of the site are at risk of fluvial flooding the proposals are located outside of these areas. Therefore, whilst technically the Sequential and (if necessary) the Exception Tests should have been applied, we would accept that, in effect, the Sequential Test has been applied to the site layout with the more vulnerable site uses being situated within Flood Zone 1.

Reservoir flooding is extremely unlikely to happen as shown from EA data:

Other flood risks		<a href="#">More about groundwater and reservoirs</a>
Groundwater	Flooding from groundwater is unlikely in this area.	
Reservoirs	Flooding from reservoirs is unlikely in this area.	

From a flood risk perspective, the current SFRA does identify that a portion of the site is encroached on by the Flood Zone 3 (Functional Flood Plain) from the Dollis Brook but the proposed residential units and access road are situated outside of this zone.

For information Flood Zone 3 is defined as ‘areas of land at risk of flooding, when the presence of existing flood defences are ignored and covers land with a 1 in 100 (1%) or greater chance of flooding each year from Rivers; or with a 1 in 200 (0.5%) or greater chance of flooding each year from the Sea’.

Again, the Council accepts that, in effect, the Sequential Test has been applied to the design of the site (as more vulnerably site uses are being placed away from the flood risk), although it has not been applied to the site selection itself.

The existing flood outlines encroach close to the site entrance but from the information received the entrance does not become fully inundated due to its location on the edge of the zones. Any flood water would be minimal and egress/access (especially in an emergency) should always be achievable. Outline egress can also be achieved from the site by heading north east along Mays Lane.

**Question 2** - Is the exception test in Paragraph 178 of the Framework relevant?

The Exception Test only applies once the Sequential Test has been applied and it cannot be demonstrated that the development can be located in other lower risk areas (paragraph 177 and 178 of the NPPF 2024).

In order to guide the applicant, it should also be noted that the following text is included with every SUDS Review undertaken by London Borough of Barnet:

*The National Planning Policy Framework, paragraph 163 footnote 50 indicates:*

*A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding where its development would a more vulnerable use.*

The above statement was supplied to the applicant as part of both the 19/10/2023 and 16/08/24 review responses. Therefore, the argument initially made by the applicant that London Borough of Barnet did not request that the site pass the 'Exception Test and Sequential Test' is inaccurate.

It is for the applicant to demonstrate, through application of the NPPF guidance, that the site not only passes both tests, but all forms of flooding are considered and mitigated for, both in the temporary state and completed development state. This is essential due diligence that the application site, once developed will not put the end user at risk of flooding.

**Question 3** - If the exception test is relevant, would the proposal pass the two elements of the test (a. and b. in Paragraph 178 of the Framework)?

As above – this is a matter for the applicant to demonstrate.

**Question 4** - Has the evidence before the Inquiry demonstrated that the criteria in Paragraph 181 of the Framework would be met?

In particular, how can safe access and escape routes be included in the scheme given that the access is at risk of flooding (as per the Flood Risk Assessment)?

The site access appears to be located outside the EA and LLFA flood zones and there is easy access to the north along Mays Lane.

**Question 5** - In respect of reservoir flooding, has the Council's Emergency Planner(s) been consulted (what are the implications if they have not?) and should a condition be imposed to require an emergency plan in respect of this matter?

No, the Council's Emergency Planner(s) have not been consulted, but this is not considered necessary as egress can be achieved by heading north. The land is on the edge of the reservoir outline so even if the site becomes inundated flood depths would range from very shallow to none.

**Question 6** - In Paragraph 7.1 of his proof, Mr Greenyer has indicated that *'from a practical point of view, I would have grave concerns about granting permission without the necessary information upfront, not least because I am not confident that, even if the information is provided, the flood risk issue will be resolved'*. This is reiterated in Paragraphs 6.17 – 6.18 of Mr Volley's proof. Why have Mr Greenyer and Mr Volley come to a different view on this matter?

Following the provision of the information which was lacking, I have reviewed the position and consider that this resolves our previous concerns and so the flood risk issue is resolved and my fears that the flood risk issue would not be resolved with the provision of further information has turned out not to be the case.

**Question 7** - The Flood Risk Assessment recommends moving the touring caravans to the south/southeast of where they are proposed. Is it common ground between the Council and appellant that the mobile homes would not need to be sited differently to that shown on the plans?

The latest information suggests that this is no longer required.