



The Red House
Station Lane
Milford
Surrey GU8 5AD

15 October 2014

Dear Sir,

Re Application Number WA/2014/0912

Land South Of High Street Between Alfold Road And Knowle Lane, Cranleigh

We have previously objected to this application on the grounds that the Flood Risk Assessment in support of the application is seriously defective. Our letter of 27 August and supporting report from Wallingford Hydro refers.

Subsequent to receiving that report, the Environment Agency lodged an objection on the grounds that the Applicant had not demonstrated safe access to and from the site. The Applicant subsequently responded with further documentation which purports to show that its Flood Risk Assessment is adequate. We referred this information back to Wallingford Hydro for assessment and have now received their analysis. The volume of information to review was quite substantial so within the time allowed so we have necessarily had to ask Wallingford Hydro to target their review at the EA's point of objection relating to Safe Access and the EA's comments in relation to the absence of an adequate Sequential Test.

For the access element, please see attached report on WSP's Access Appraisal. The overall conclusion of Wallingford Hydro based on the information provided by WSP is that none of the proposed access routes have met all of the EA criteria.

We now wish to lodge a further objection based on the failure of the Applicant to provide a report evidencing that it has failed to provide a satisfactory Sequential Test. In terms of WSP's Sequential and Exception Test Analysis document (October 2014) the analysis supplied to us by Wallingford Hydro (there has not been time to write this up as a full report) is as follows:

1. Sequential Test

Overall the document gives false impression of the application process of both the Sequential and Exception Tests as outlined in NPPF. Most effort is spent on justifying

criteria required for the Exception Test which distracts from the important matter that the justification for the Sequential Test needs to happen first.

In relation to the Sequential Test it is necessary to refer to the following sections of the NPPF

Paragraph 99

“Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Only if, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied”.

Table 3 should not be used in the application of the Sequential Test. See the Note at bottom of Table 3 which clearly states *“This table does not show the application of the Sequential Test which should be applied first to guide development to Flood Zone 1, then Zone 2, and then Zone 3; nor does it reflect the need to avoid flood risk from sources other than rivers and the sea;”*

This is further emphasised in Paragraph 035 of National Planning Policy Guidance *“The Exception Test should only be applied as set out in Table 3 following application of the Sequential Test.”*

Summary - Sequential Test fundamentals and process

The Sequential and Exception Test Analysis document has not determined that there are no reasonably available sites in Flood Zones 1 and 2. In fact the Applicant’s Table 14 and 15 provides some evidence to the contrary. Sites 130, 129, 712 and 763 are top of this list in this context and that is excluding any other available in Waverley as a whole.

Only if the Sequential Test is satisfied can the Applicant apply the Exception Test.

2. Paragraph 14 of NPPF

WSP’s Sequential and Exception Test Analysis document states:

“Paragraph 14 states that at the heart of the NPPF is a presumption in favour of sustainable development which, for decision-taking means:

“Approving development proposals that accord with the development plan without delay; and here the development is absent, silent or relevant policies are out of date, granting permission unless:

- Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or - Specific policies in this Framework indicate development should be restricted.”

What Paragraph 14 **actually** states is as follows – and this is taken directly from NPPF and (importantly) is inclusive of accompanying footnotes:

“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

local planning authorities should positively seek opportunities to meet the development needs of their area;

Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.(9)

For decision-taking this means (10)

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted (9)

Footnote 9: For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; **and locations at risk of flooding or coastal erosion.**” (our emphasis)

3. Summary

Therefore NPPF Paragraph 14 does not automatically “trump” appropriate considerations such as flood risk – including the application of the Sequential Test. The NPPF is certainly not saying that in the absence of a 5 year plan all development should be granted on a first come first served basis without regard to other considerations and it is clear from clear and unequivocal guidance in paragraph 100 as follows:-

“Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;”

And only after this should development be considered (as set out in the NPPF).

Guildford, Woking and Waverley Friends of the Earth are extremely concerned by Waverley Council’s apparent failure to require the Applicant to conduct a full, proper and district wide sequential test as best practice would require. All the Council appears to have done is require the Applicant to conduct an assessment of certain local sites in the Cranleigh area (and that assessment is flawed and incomplete).

PPG 033 states: “... the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.”

The EA letter objection states: “Generally unless otherwise justified, we understand that the scope of site for the flood risk sequential test is borough wide and not restricted to land in the applicant’s ownership”

Wallingford Hydro has told us that, drawn on their experience of how other councils apply the Sequential Test, they agree with the Environment Agency that a borough-wide sequential test would be the normal approach. We acknowledge that the PPG allows for reasonable departures, however none of the reasons/examples provided in the PPG fit in this particular circumstance, especially in the absence of a current Local Plan. That is a view

we share with both the Environment Agency and Wallingford Hydro (who self-evidently have considerably more expertise in this area than we do).

It appears to us that Council officers may simply lack sufficient time or technical knowledge (possibly both) to enable them to adequately assess the WSP information. As a consequence the Council appears to be in danger of abdicating its responsibilities both to require a proper assessment of this site to risk from flooding and also to properly apply the sequential test and consider less risky alternatives. It is clear to us that the Applicant should clearly be required to do this on a borough wide basis and that if it did this site would not 'pass' the test (which is why the Applicant is seeking at all costs to avoid having to do this).

Even if the Sequential Test is applied to Cranleigh sites alone there is still one major error in the further documentation supplied by WSP. In the table included in the WSP report Hewitts Industrial Estate has been disregarded on the basis that it is not going to be brought forward within the next five years (see attached screen shot of relevant page). That does not accord with our understanding of the Council's own updated SHLAA which includes Hewitts as a site likely to provide 145 units within the next 5 years.

The potential consequences of a Council failing to assess site drainage issues adequately are apparent from a large housing development close to Horsham. I have been informed by a recent purchaser on that estate that some newly built houses have inadequate drainage provision which has resulted in flooding of gardens, problems with drains – some of which are having to be dug out and replaced by hand at considerable expense running into thousands of pounds. Also apparently the flow of a local river in certain circumstances is flowing back into the development's own balancing ponds. This development is also a Berkeleys development. So these matters are important and the consequences of getting them wrong, or cutting corners, are potentially very serious.

Accordingly we reassert our view that this outline application should be refused on the grounds that the Applicant has:-

- failed to demonstrate safe access and egress and
- failure to conduct the appropriate sequential test

Yours faithfully,

K E Smyth

On behalf of Guildford, Woking and Waverley Friends of the Earth