

Mid Sussex District Council

District Plan Review

## **Matters, Issues and Questions – Stage 1**

### **Matter 5: Flood Risk**

September 2024



## 55. How has the preparation of the Plan and its policies been informed by paragraphs 159 to 165 of the Framework?

The preparation of the plan has been informed by paragraphs 159 and 165 of the Framework as set out below.

### NPPF, Para 159

*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.*

52.1. Flood risk was considered from an early stage in the preparation of the Submitted District Plan to ensure development is directed away from areas at risk of flooding. This is reflected through the evidence base:

- **The Site Selection Methodology** [SSP1]: criteria 2 of the site selection criteria ensures that sites affected by significant areas of flooding or where historic flood events would affect the developability of the site were excluded at an early stage in the process.
- **The Sustainability Appraisal process** [DP7, DP8, DP9]: SA objective 5 on flooding and surface water flooding assessed the likelihood of proposed allocations to reduce the risk to people, properties, the economy and the environment of flooding from all sources.
- **The Sequential and Exception Flood Risk Test** [ENV12] demonstrates that sites allocated for development in the plan are the most preferable in flood risk terms (i.e. the site with the lowest risk of flooding) and, where necessary, they need to meet the Exception Test which was informed by the Level 2 SFRA [ENV15]. This takes into account all sources of flood risk.

52.2. It has also informed the wording of the proposed policies:

- **Policy DPS4: Flood Risk and Sustainable Drainage** [DP1] directed development away from areas at current of future highest risk and ensure that development is safe across its lifetime without increasing flood risk elsewhere.
- Where relevant, site specific requirements were introduced to allocation policies to mitigate the impact of development.

### NPPF, Para 160

*Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.*

52.3. The preparation of the Submitted District Plan has been informed by a Strategic Flood Risk Assessment to manage flood risk from all sources.

52.4. The 2015 Level 1 Strategic Flood Risk Assessment (SFRA) [ENV10] informed the early preparation of the Plan. Whilst the written report was published in 2015, the mapping has been kept 'live' on the Council's system, utilising the most up-to-date data provided by the Environment Agency (for example, Flood Zones and Surface Water Flood mapping). This up-to-date data was used during the site selection process to determine the impact against the Flood Risk criterion.

52.5. Following advice from the Environment Agency at the Regulation 18 consultation [Comment ID 13256372/1923/2], an updated Level 1 SFRA [ENV11] has been prepared to take account of the updates of the Planning Practice Guidance for Flood Risk and Coastal Change which have occurred since. A Level 2 SFRA [ENV15] was subsequently prepared to support the application of the exception test process.

52.6. The reports have been prepared in accordance with the latest guidance and consulted upon with and supported by the Environment Agency and other relevant authorities as set out in Appendix B of the Level 1 SFRA [ENV11] and Statement of Common Ground [DC16].

#### NPPF, Para 161

*All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change...*

52.7. A sequential, risk-based approach has been applied to the location of development taking account of all sources of current and future flood risk. This is demonstrated in the Sequential and Exception Flood Risk Test for the District Plan 2021-2039 [ENV12] which sets out how the sequential test, and where necessary the exception test, was applied. This has impacted on site selection and site-specific policy requirements where required.

#### NPPF, Para 162

*The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.*

52.8. The Sequential and Exception Flood Risk Test for the District Plan 2021-2039 [ENV12] shows that the Council has considered a number of alternatives [ENV12, Appendix 2, p.17] to ensure that development is directed to areas with the lowest risk of flooding from all sources. The Sequential test draws upon information gathered and detailed within the Level 1 SFRA [ENV11]. It demonstrates that the proposed allocations are the most preferable and therefore are suitable for allocation in flood risk terms, subject to the application of the exception test. The Sequential test was carried out in line with the steps outlined in the NPPF and accompanying technical guidance.

NPPF, Para 163

*If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.*

52.9. As set out in the Sequential and Exception Flood Risk Test for the District Plan 2021-2039 [ENV12], the exception test process was applied to 18 of the proposed allocations which are not exclusively located in areas with a lower risk of flooding. The potential vulnerability of the sites was assessed for each of those sites and is set out under Appendix 4 of the report [ENV12, p.23]. This resulted in the need to apply the exception test to three of the proposed allocations and to demonstrate how the development of the other fifteen proposed allocations will be safe for its lifetime without increasing flood risk elsewhere.

NPPF, Para 164

*The application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:*

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) 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.*

NPPF, Para 165

*Both elements of the exception test should be satisfied for development to be allocated or permitted*

52.10. The Exception test, set out in the Sequential and Exception Flood Risk Test for the District Plan 2021-2039 [ENV12] was informed by a Level 2 Strategic Flood Risk Assessment [ENV15]. Appendix 4 of the report [ENV12, p.23] sets out how the three sites requiring to be subject to the exception test have met both elements of the test. It also sets out how the other 15 sites have met criteria b) of the test in line with the PPG. The application of the exception test process concluded that all sites were suitable for allocation.

**56. Have the strategic policies of the Plan as submitted, including the Plan’s spatial strategy; identification of sites as Sustainable Communities; and other smaller housing sites been supported by up-to-date strategic flood risk assessments, including a Level 2 Strategic Flood Risk Assessment?**

The strategic policies in the Submitted District Plan, including the Plan’s spatial strategy, identification of sites as Sustainable Communities and other smaller housing sites, have been supported by the most up-to-date Strategic Flood Risk Assessments at the time of their assessment in accordance with paragraph 160 of the NPPF.

- 53.1. Sites were assessed against the SFRA (2015) and live mapping [ENV10]. This was updated in 2024 [ENV11] and the results from this updated SFRA do not alter the conclusions reached.

**57. What is the relevance of the geology of the district to flood risk including its mitigation?**

The relevance of the geology of the district to flood risk including its mitigation is set out within the Level 1 Strategic Flood Risk Assessment [ENV11].

- 54.1. More specifically, Section 5 of the report provides an overall picture of the geological context in the district [ENV11, p.51] and how it would influence sources of flooding, namely groundwater and pluvial. Section 6 of the report details the current risk in relation to those sources:

- Pluvial Flood Risk [ENV11, p.67] – higher risk of surface water flooding is generally around the urban areas of the district.
- Groundwater Flood Risk [ENV11, p.71] – the majority of the plan area has a low potential for groundwater flooding with areas of Hassocks Parish at high risk of groundwater flooding.

- 54.2. In summary, the geology of the district has not been a determining factor in the site allocation process. However, this is not to say that the impacts of geology should not be mitigated and therefore **Policy DPS4: Flood Risk and Sustainable Drainage [DP1]**, in line with the findings of the SFRA [ENV11, ENV15], identifies measures that will ensure appropriate mitigations of the impacts of geology on flood risk.

**60. Are all of the relevant policies within the Plan consistent with national policy?**

**Policy DPS4: Flood Risk and Sustainable Drainage [DP1]** is the overarching policy relevant to flood risk. Other policies relevant to flood risk are:

- **DPS1: Climate Change**
- **DPS6: Health and Wellbeing**
- **DPSC1: Land to West of Burgess Hill/North of Hurstpierpoint**
- **DPSC3: Land to South of Reeds Lane, Sayers Common**
- **DPSC4: Land at Chesapeake, Sayers Common**
- **DPSC5: Land at Coombe Farm, Sayers Common**
- **DPSC6: Land to West of Kings Business Centre, Sayers Common**
- **DPSC7: Land at LVS, Sayers Common**
- **DPA7: Land east of Borde Hill Lane, Haywards Heath**
- **DPA9: Land to west of Turners Hill Road, Crawley Down**
- **DPA14: Land at Foxhole Farm, Bolney**
- **DPA18 Land at Byanda, Hassocks**
- **DPI2: Planning Obligations**

**All relevant policies to flood risk within the Plan are consistent with national policy.**

55.1. **Policy DPS4: Flood Risk and Sustainable Drainage** directs development away from areas at the highest risk (existing and future), ensures development is safe across its lifetime and does not increase the risk of flooding elsewhere and therefore clarifies the principles of the sequential approach to development in line with paragraph 159 of the NPPF. The policy enables betterment to be delivered where possible in continuity with the requirements of the exception test set out in paragraph 164 of the NPPF and sets out the type of evidence required to support relevant applications in line with paragraphs 159 to 169 of the NPPF. It provides clarity as to the type of development and mitigation measures that will be supported in line with national guidance.

55.2. **Policy DPS1: Climate Change** requires appropriate design to be integrated to development to minimise vulnerability from the effect of climate change. This is consistent with paragraph 159 of the NPPF which is concerned with areas at **current or future** risk. Policy DPS1 provides a basis to address the impact of climate change in relation to flood risk.

- 55.3. **Policy DPS6: Health and Wellbeing** is concerned with maximising opportunities to enable healthy lifestyles by incorporating measures to provide resilience against the effects of climate change including flood risk. This is consistent with paragraph 153 of the NPPF.
- 55.4. **Policy DPI2: Planning Obligations** provides a non-exhaustive list of mitigation measures that will be sought via planning obligations to mitigate the impact of development, subject to relevant legal tests. This includes the requirements for sustainable drainage systems and flood risk mitigations. This is consistent with paragraphs 55-57 and 131c) of the NPPF.
- 55.5. A number of the site allocation policies include a criterion to ensure that a sequential approach is followed to direct development away from areas at risk of flooding. This is consistent with paragraph 159 of the NPPF.

## **61. Are any main modifications necessary for soundness, if so, why?**

- 56.1. The Council considers the approach to **Policy DPS4: Flood Risk and Sustainable Drainage** [DP1] to be sound. As a result of comments received during the Regulation 19 consultation, the Council is proposing a small number of modifications for the Inspector's consideration for clarity. These are M14, M15 and M16 [DP2].