Avoiding the fudge: taking a consistent approach to applying the flood risk sequential and exception test

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Evolution of the Flood Risk Sequential Test

- Circular 30/92 (1992)
  - ‘Aim to guide development away from flood risk areas’
- PPG 25 (2001)
  - ‘Apply a risk based approach through a **Sequential Test**’
  - In allocating or permitting development in flood risk areas LPAs ‘expected to demonstrate that there are no reasonable options available in a lower-risk category, consistent with other sustainable development objectives’
- PPS 25 (2006)
  - ‘A sequential risk-based approach to determining the suitability of land for development in flood risk areas (i.e. the **Sequential Test**) is central to the policy statement’.
  - ‘If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones of lower probability of flooding, the **Exception Test** can be applied. The Test provides a method of managing flood risk while still allowing necessary development to occur’.
- NPPF (2012/2018)
  - **Sequential** and **Exception Tests** remain.
  - ‘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’.

Flood Zones – Table 1, PPG

- **Flood Zone 1** – Low Probability (1-in-1000 year flood)
- **Flood Zone 2** – Medium Probability (1-in-100 year to 1-in-1000 year flood)
- **Flood Zone 3a** – High Probability (1-in-100 year fluvial flood or 1-in-200 year tidal flood)
- **Flood Zone 3b** – The Functional Floodplain (land where water has to flow or be stored in times of flood. 1-in-20 year flood? Designed flood routes?)

Development vulnerability – Table 2, PPG

- **Essential Infrastructure** – *Transport routes, Power stations*
- **Highly Vulnerable** – *Police/Ambulance/Fire stations, Basement dwellings, Permanent mobile homes*
- **More Vulnerable** – *Residential, Hospitals, Schools, Camping and Caravans, Drinking Establishments*
- **Less Vulnerable** – *Shops, Offices, Retail, Commercial*
- **Water Compatible** – *Docks, Marinas, Water-based recreation, Amenity open space, Outdoor sports*

Table 3: Flood risk vulnerability and flood zone 'compatibility'

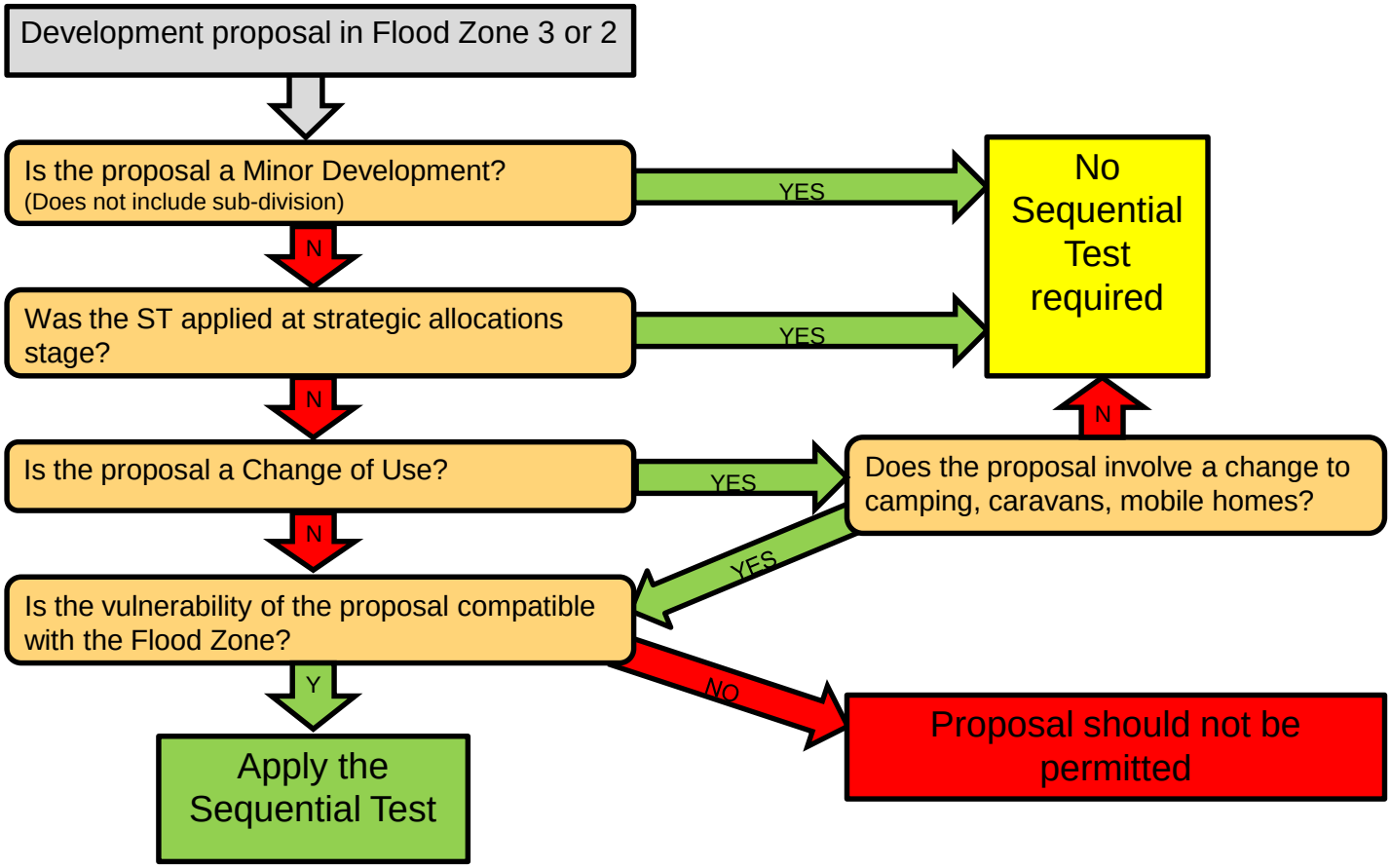
Flood risk vulnerability classification (see table 2)		Essential infrastructure	Water compatible	Highly vulnerable	More vulnerable	Less vulnerable
Flood zone (see table 1)	Zone 1	✓	✓	✓	✓	✓
	Zone 2	✓	✓	Exception Test required	✓	✓
	Zone 3a	Exception Test required	✓	×	Exception Test required	✓
	Zone 3b functional floodplain	Exception Test required	✓	×	×	×

Sequential Test – Responsibilities

- Developer/Applicant
  - Carry out a Sequential Test as part of the Flood Risk Assessment
  - 'The developer should justify with evidence to the local planning authority what area of search has been used'
- Local Planning Authority
  - 'It is for local planning authorities to consider the extent to which Sequential Test considerations have been satisfied'.
  - Advise on area of search for alternative sites and sources of information on alternatives.
- Environment Agency
  - The LPA should take 'advice from the Environment Agency as appropriate'
  - *The Environment Agency only advises on the process of the Sequential Test and does not comment on comparative assessment of land, its availability or suitability for a particular form of development. Similarly we would not comment on the sustainability justifications of development as these are beyond the scope of the Environment Agency role*.
  - Vested interest in the Sequential Test being applied consistently: Avoidance is always best!

Applying the Sequential Test

Stage 1 – Does the Sequential Test need to be applied?



Applying the Sequential Test

Stage 2 – Define the evidence base

- Determine the area to apply the Sequential Test across:
  - Whole LPA area (default).
  - Catchment area for the type of development proposed (e.g. school or health facility).
  - Local plan or other SPD policy (e.g. ‘need for affordable housing within a town centre’ or ‘a specific area identified for regeneration’).
  - Wider than LPA for nationally or regionally important infrastructure
- Sources of information for ‘reasonably available’ sites
  - Adopted/draft Local Plan allocations.
  - Sites with planning permission.
  - ‘Windfall sites’ (e.g. Housing and Economic Land Availability Assessments, pre-application enquiries)

Applying the Sequential Test

Stage 3 – Applying the Sequential Test

- For each site (including the proposal site) the following should be stated:
  - Name and location.
  - Whether the site has been allocated.
  - Any constraints to delivery (e.g. roads, accessibility, other sustainability issues).
  - An estimate of the site's approximate capacity.
  - Flood risk (Flood Map and Strategic Flood Risk Assessment provide the basis but other sources of flooding should also be considered).
  - Any other supporting information about the sites (e.g. HELAA or other evidence base documents).

Applying the Sequential Test

Conclusions & next steps

- Is it possible ‘taking into account wider sustainable development objectives’ for the development to be located in zones with a lower probability of flooding?
- If the Sequential Test is satisfied is the Exception Test required?

Exception Test

159. If it is not possible for development to be located in zones 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 national planning guidance.

160. 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. For the exception test to be passed 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**.

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