

# Morton Neighbourhood Plan



## Evidence Paper 5 – Flooding and Drainage

June 2019

## **1. Introduction**

The purpose of this evidence paper is to provide background information on flooding and drainage to enable this issue to be properly considered in the preparation of the Neighbourhood Plan. The main implications are summarised in the following section, *in italics*. The subsequent sections describe the flood and surface water risk in Morton, examine the national and local planning policies and related guidance in relation to flooding and drainage, followed by a review of the impact of flood risk on recent planning applications and appeals

## **2. Implications of flooding and drainage for the Morton Neighbourhood Plan**

Morton village is in Flood Zone 3 for both fluvial and tidal flooding. This is the highest level of flooding risk and is a real constraint on new development which will have to be considered in the Neighbourhood Plan. The Neighbourhood Plan will need to be in conformity with the strategic policies of the development plan, in order to meet the Basic Conditions, and unless this is the case it will fail at Examination. Therefore, the policies in the Central Lincs Local Plan (CLLP) will be an important point of reference. *Taking this and the analysis in the following sections into account the conclusions of this paper are:*

*Both national and local planning policy requires development to be accommodated in areas of low flood risk as the first preference. Therefore, any sites coming forward for residential development will need to meet the Sequential Test, and if necessary, the Exception Test.*

*The decisions to dismiss three recent planning appeals in Morton village addressed the issue of the scope of the Sequential Test and provide an indication of the Inspector's application of national and local planning policy. In each appeal proposal the Sequential Test was limited to Morton only and the different Inspectors took issue with this and concluded that the Sequential Test should have been applied to a wider area, e.g. Morton and Gainsborough. The failure to meet the Sequential Test therefore formed part of the reasons for dismissing the appeal on the grounds of flood risk as it had not been demonstrated that the development could not be accommodated in an area of lower flood risk.*

*For the small-scale residential planning applications where permission was granted, Sequential Tests were applied only to Morton village and, in one case, only the application site. Each application had specific circumstances which enabled WLDC to be satisfied with the scope of the Sequential Test and with the subsequent Exception Test. However, it could be argued that the approach was not necessarily rigorous or in a manner consistent with national and local planning policy.*

*Therefore, the overall conclusion, particularly based on the recent appeal decisions, is that it is now hard to foresee a situation whereby WLDC, as the decision maker, would decide that the scope of the Sequential Test for any development in Morton should be the village alone. Based upon the appeal decisions the likelihood is that the scope of the Sequential Test for new development in Morton would be both Morton and Gainsborough and that the test would be unlikely to be satisfied as there could well be sequentially preferable sites in areas of lower flood risk available in Gainsborough. This approach would make it difficult for the Sequential Test to*

*be met for sites in Morton and it may be helpful to have discussions with WLDC to ascertain the possibility of a Sequential Test only being applied to Morton for residential development.*

*Even where the Sequential Test could be met, the Exception Test still needs to be applied and in the Morton context the appeal decisions provide the best locally based evidence as to how national and local planning policy has been interpreted. In the three appeals each Inspector looked at this as part of making their decision and each concluded that the Exception Test had not been met. The Exception Test is in two parts both of which need to be satisfied.*

*1 The first part requires that the development would provide wider sustainability benefits to the community that outweigh the flood risk. Each Inspector decided that the appeal proposal they were considering did not deliver the required benefits. The reasoning behind this is set out in more detail in the part of section 7 looking at the appeal decisions. However, the implication of the appeal decisions is that it is clear it is going to be difficult for new residential development to satisfy the first part of the Exception Test and a strong case would need to be made.*

*2 The second part requires that the development to 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 is possible. Based on examination of both planning applications granted planning permission and those refused (including those which were appealed) it is apparent that with the submission of a thorough Flood Risk Assessment the Environment Agency have been satisfied that the second part of the Exception Test can be met with appropriate mitigation measures. The appeal decisions concur on this point.*

*It should also be noted that it is possible for the Exception Test to be met and for a proposal to fail the Sequential Test. **Satisfying the Sequential Test is seen as key to enabling future development.***

*In some instances, part of making development safe, and in order to satisfy the Environment Agency, proposals included measures to mitigate the flood risk. One approach which is acceptable to the Environment Agency is to ensure that finished floor levels are set 0.3 metre above the flood level to provide protection in the event of a breach or over-topping of the flood defences. For example, the proposal for residential development for the land off Granary Close included this requirement and to achieve this would have involved land levels being raised and the floor levels of the dwellings being between 0.8 and 1.7 metres above existing ground levels. However, raising ground and finished floor levels has other potentially adverse implications which e.g. effect on the streetscene, the impact on nearby occupiers and the accessibility.*

*Surface water drainage does not seem to be a specific issue in Morton but the Lead Local Flood Authority (Lincolnshire County Council) should be consulted on this matter.*

***Overall, the analysis strongly suggests that making allocations for larger scale development in the Neighbourhood Plan, based on the (what is in reality theoretical) dwelling requirement in the CLLP, is not appropriate or necessary.***

***However, it may be appropriate to include flood risk in a criteria-based policy aimed at enabling limited new development (also covering character, access, amenity etc.). The***

*intention would be that, where flood risk can be overcome to the satisfaction of WLDC and the EA, small scale residential infill (including the re-use or conversion of unused buildings) would be acceptable.*

### **3. Flood classification of Morton**

The Environment Agency (EA) provides mapping of flood risk arising from sea and river sources. This mapping does not take into account the presence of flood defences nor does it account for the potential impact of climate change, including sea-level rise and extreme weather events.

The majority of the parish of Morton lies within Flood Zone 3 and it is at risk of fluvial and tidal inundation from the River Trent. Flood Zone 3 is the highest level of risk and is defined as having a probability of fluvial flood greater than 1% (under 1 in 100 years) and of tidal flood greater than 0.5% (1 in 200 years). Morton Parish is protected by a combination of earth banks along the River Trent and a flood wall from Morton Corner southwards. The presence of flood defences may significantly reduce the risk of flooding at present, but this is dependent upon the continued maintenance of defences. It is also possible that defences can be overtopped.

Appendix 1 includes an extract of the Environment Agency flood risk map for the Morton area.

### **4. Sewers and surface water flooding**

Flooding can arise from a number of sources in addition to that directly from the river. The main one of these is flooding from sewers and surface water flooding.

The Environment Agency surface water flooding map shows that the majority of Morton village is at very low risk of surface water flooding but there are pockets where the risk rises to low or medium. In a medium risk area flooding could occur to a depth of 300mm-900 mm and in a low risk area to a depth of less than 300mm.

Refer to Appendix 1 for an extract of the Environment Agency surface water map.

### **5. Planning policy context**

The effect of being within a high-risk flood area is that development proposals will need to be considered in the context of both national and local planning policy. The National Planning Policy Framework (NPPF) set out the Government's planning policies for England and the linked planning practice guidance (PPG) provides guidance on many aspects of planning. The NPPF provides a framework within which locally prepared plans can be produced. A summary of the section within the NPPF on Planning and Flood Risk is set out below.

#### ***National Planning Policy Framework***

Flood risk is defined as a combination of the probability and the potential consequences of flooding from **all sources** – including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources.

Paras 155 - 166 of the NPPF deal with planning and flood risk. In summary the main requirement is that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). It continues that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

*Sequential test* The NPPF also requires that a sequential, risk-based approach should be taken to the location of development, taking into account the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property. The way in this is done is by applying a Sequential Test and then, if necessary, an Exception Test. The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding and the NPPF states that 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. A strategic flood risk assessment will provide the basis for applying this test.

If it is not possible for development to be located in zones with a lower risk of flooding 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. For example, new residential development is classified as “more vulnerable” and in a Flood Zone 3 area it would be necessary for new development to meet the Exception Test, if it were proven there were no available sites in an area of lower flood risk. The application of the Exception Test needs to be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at a planning 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.

Both elements should be satisfied for development to be allocated or permitted.

It is also a requirement that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient;
- (c) it uses sustainable drainage systems, unless clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed;
- (e) safe access/escape routes are included where appropriate, in an agreed emergency plan.

## ***Planning Practice Guidance (PPG)***

The PPG provides national guidance on the implications for neighbourhood planning within a flood risk area and this is summarised below.

The overall approach to flooding, as set out in the NPPF, and summarized above, applies to neighbourhood planning. The Planning Practice Guidance sets out that those involved in the preparation of a neighbourhood plan should:

- ensure neighbourhood plans and neighbourhood development/community right to build orders are informed by an appropriate assessment of flood risk;
- ensure policies steer development to areas of lower flood risk as far as possible;
- ensure that any development in an area at risk of flooding would be safe, for its lifetime taking account of climate change impacts;
- be able to demonstrate how flood risk to and from the plan area/development site(s) will be managed, so that flood risk will not be increased overall, and that opportunities to reduce flood risk, e.g. using sustainable drainage systems, are included.

The guidance lists information on flood risk for neighbourhood plan from the following sources:

- Strategic Flood Risk Assessments;
- Interactive flood maps available on the Environment Agency's web site;
- Local planning authorities should make available to qualifying bodies any reports or information relating to the Strategic Flood Risk Assessment, and share any other information relevant to flood risk (such as the application of the Sequential and Exception Tests to the Local Plan);
- Along with other statutory agencies, the Environment Agency has published advice on neighbourhood planning;  
[https://webarchive.nationalarchives.gov.uk/20140328154245/http://cdn.environment-agency.gov.uk/LIT\\_6524\\_7da381.pdf](https://webarchive.nationalarchives.gov.uk/20140328154245/http://cdn.environment-agency.gov.uk/LIT_6524_7da381.pdf)
- May be useful to consult Lead Local Flood Authority for the area.

Where the Strategic Flood Risk Assessment, or other available flood risk maps or information, indicates that the neighbourhood plan area may be at risk of flooding it will be necessary to have regard to the National Planning Policy Framework's policies on flood risk.

If development is proposed it would be necessary to show that this would be consistent with the local planning authority's application of the Sequential Test and if necessary, the Exception Test for the Local Plan. If the Local Plan is inconclusive it is likely that further information will be needed to demonstrate that any development proposed by the neighbourhood plan passes the Sequential Test, and if necessary, the Exception Test.

Local planning authorities should provide advice to those preparing neighbourhood plans on where and how they should demonstrate that policies and any site allocations would satisfy the

Sequential Test and, if necessary, the Exception Test, including the appropriate area to apply the Sequential Test. The guidance advises that this depends on a number of factors, including;

- the size of the neighbourhood planning area;
- the flood risks in the area and/or in its vicinity;
- the nature of the neighbourhood plan policies or Order proposals;
- the degree of conformity with strategic policies of the Local Plan, including site allocations, and whether these have been subject to the Sequential Test.

The guidance states that in providing advice, local planning authorities will have to have regard to flood risk across the whole of their areas. In particular, there may be places outside the neighbourhood planning area at lower flood risk which are suitable and reasonably available for the development proposed.

### ***Central Lincs Local Plan (2017)***

As set out in more detail in Evidence Paper 7 “Policy Context” the Central Lincs Local Plan (2017) (CLLP) is the current adopted Local Plan for the West Lindsey District Council area which provides the basis for decision making for the plan period 2012- 2036. The effect of Morton parish being within a high-risk flood area is that development proposals will need to be considered in the context of Policy LP14: Managing Water Resources and Flood Risk Flood Risk of the CLLP. This is reproduced in full in Appendix 2, together with the supporting text which sets out the background to the policy. **The policy essentially requires development proposals to comprehensively address flood risk and drainage.**

## **6. Other background information**

### ***West Lindsey Strategic Flood Risk Assessment Final Report (2009) (WLSFRA)***

The preparation of this had two key objectives:

- To classify all land in West Lindsey into four categories of actual flood risk;
- Produce an assessment of the actual flood risk for a number of key study areas, including Gainsborough/Morton.

The WLSFRA forms part of the evidence base for Development Plan Documents. The assessment has informed the development of planning policy in the area and can help inform applications for planning permissions and related decisions by providing a better understanding of flood risk in the area, enabling the Council to apply the Sequential Test and, where relevant, the Exception Test throughout the District.

The document can be viewed on line through the following link <https://www.west-lindsey.gov.uk/my-services/planning-and-building/planning-policy/evidence-base-and-monitoring/strategic-flood-risk-assessment-sfra/>

In terms of flooding the report identifies that the main risk of flooding in the study area is from the overtopping or breaching of the earth embankments or flood walls along the eastern bank of the River Trent. The 200-year design water level in the Trent is on average 6.5m AOD, below the crest of the defences and therefore overtopping/breaching should only occur during an event with higher water level than the 1 in 200 year event. It is possible that breaching of an earth embankment or a flood wall could occur during an event lower than the 1 in 200 year. This may be due to the disrepair or deterioration of the structure and maintenance of the defences is therefore essential to minimise flood risk.

This report also uses the term Actual Flood Risk, and this is used to indicate the probability of flooding to those areas of land that have some degree of protection from existing flood defences. The defences will not remove the risk of flooding completely and the standard of protection they provide will vary in different locations. The probability of flooding may therefore be considerably lower for an area behind existing defences than indicated by the Environment Agency's flood zone maps which ignore the presence of flood defences. Following a detailed assessment and modelling maps of flood risk were produced as part of the WLFRA. Appendix 1 shows the areas at risk of flooding in Morton and Gainsborough.

With regard to Morton the report refers to the Morton Warping Drain which flows in a north easterly direction from the River Trent through the centre of Morton. Morton Poor Drain joins Morton Warping Drain at the northern extent of the study area and flows north easterly into the Gainsborough IDB's arterial drainage system. It concludes that there is a minimal flood risk from Morton Warping Drain in the north of the study area. At the time of the preparation of the WLSFRA the culverted section was reported to be in poor repair but despite this during the heavy rainfall experienced in June 2007, the drain did not experience any flooding.

All surface water runoff from the Gainsborough study area discharges directly or indirectly by pumping to the tidal River Trent. The catchment area of the river upstream of Gainsborough exceeds 8300 sq.km and the relative contribution of runoff from Gainsborough to flood flows in the river will be minimal. The report concludes that the impact of Gainsborough runoff on flood risk downstream can therefore be ignored.

At the request of West Lindsey District Council, the report also specifically considered the issue of surface water flooding in Gainsborough. It is not clear whether this included Morton and the issues discussed relate only to Gainsborough town itself.

The report concluded that some brownfield redevelopment can be expected in Flood Zones 2 and 3 and that whilst the actual flood risk (where defences exist) could be considered as acceptable, there is a significant danger from a breach. A flood hazard rating map was produced for Gainsborough as part of the report, but the breach modelling did not include Morton.

The report also includes some useful advice in Chapter 16 for planners and developer's on how to manage flood risk through the design of the development. It is noteworthy that **the advice is that mitigation measures should only be considered after the sequential approach has been**



**applied to development proposals and the location of development should be in areas of lowest flood risk.** Only then, when it has been established that there are no suitable alternative options in lower risk areas, should design solutions be considered to exceptionally allow development to proceed in flood risk areas.

Mitigation measures and options which are considered include; proposing a site layout should be designed so that the most vulnerable uses are restricted to higher ground at lower risk of flooding, with more flood-compatible development (parking, open space etc) in the highest risk areas; raising finished floor levels; modification of ground levels; building design and flood resistance and resilience. On the subject of building design, the report notes that this represents the least preferred option because, although buildings can be designed for reducing the impacts of flooding, hazards still remain, particularly for access and utility supply.

### ***Historic records of floods in Morton***

As part of the preparation of the WLSFRA records of flooding and drainage problems were collated from information provided by West Lindsey District Council, the Environment Agency and the Gainsborough Internal Drainage Board. The information is summarised below.

*West Lindsey District Council* - In June 2007, numerous towns and villages throughout West Lindsey were affected by flooding. This included Morton where 3 properties were affected, and the source of the flooding was attributed to the local drainage system and run off from fields.

*Environment Agency* - In addition to the widespread flooding in 2007 the Environment Agency identified the flood in March 1947 in which fluvial flooding from the River Trent caused extensive flooding throughout West Lindsey. The Trent bank at Morton breached bringing relief to the flood levels in Gainsborough. The breach was 80m wide and after the event it was found that the scour hole was up to 9m deep in places and extended 75m inland. The 1947 flooding event occurred before the construction of the latest flood alleviation scheme from Morton Corner southwards through Gainsborough.

In February 1977 flooding also occurred from the River Trent but no flood outline or any details were able to be provided by the Environment Agency and it is therefore not known if Morton was directly affected. The Environment Agency also provided a list of drainage incidents that had been reported in West Lindsey since 2000 but none involved Morton parish

*Gainsborough Internal Drainage Board (IDB)* - Gainsborough IDB stated that prior to events at the end of June 2007 there had not been any recent history of significant flooding in that part of West Lindsey that lies within the District. During the event at the end of June 2007 many roads within the Board's District became impassable and land was flooded. Gainsborough IDB does not consider any areas to have excessive drainage problems due to the drains being regularly maintained by the Board.

## 7. Flood risk and recent planning applications and related appeal decisions

The impact of flood risk on decisions on planning applications specifically for residential development in Morton has been reviewed in some detail using Evidence Paper 2 “Planning records” as the basis.

During the period 1<sup>st</sup> January 2012 to 31<sup>st</sup> December 2018 a total of 9 new dwellings on six separate sites were granted planning permission. Closer examination of these has revealed that each application was accompanied by a Flood Risk Assessment and a Sequential Test. In each case it is noteworthy that the Sequential Test was applied only to Morton, followed by the application of the Exception Test. With the exception of application ref. 132958 at Black Bird Hill Farm for 2 dwellings, where the planning officer’s report is not available on the West Lindsey District Council website, it is evident that there were very specific circumstances applying to each application which were weighed into the balance in making the decision to grant planning permission. The table below summarises how flood risk issue was addressed by WLDC in making the planning decision.

Ref. No.	Address	Date	Flood
134109	10 Walkerith Rd 1 dwelling	16.05.16	Sequential and Exception Tests passed. WLDC granted planning permission on basis that the principle of the development is acceptable due to its sustainable location, the need for housing growth in Morton, the previously developed status of the site and the passing of the sequential test. Note that the Exception Test was not fully addressed in the submission or in the officer’s report.
132264	Land adj. to 2 Morton House. 3 dwellings	11.08.16	Sequential Test applied only to Morton House on basis proposal would release funds to enable needed repairs to Morton House, a listed building. Exception Test also agreed on this basis and flood risk acceptable, with mitigation.
135456	14 Walkerith Rd 1 dwelling	12.01.17	Appeal decision allowed in 2010. Previous permission for 1 dwelling in 2013. In 2010 appeal decision Inspector acknowledged Sequential Test had not been met but suggested more pragmatic approach should be adopted. Considered site well defended from flooding and it unlikely that flood defences would not be maintained in the future. WLDC agreed that due to appeal

			history exception to Sequential Test acceptable and no objection from Environment Agency.
130646	2 Field Lane 1 dwelling	05.06.14	Sequential Test limited to Morton as special circumstances and Exception Test met (for an individual requiring support).
128838	Laughton Wood Equestrian Centre, Laughton Lane 1 dwelling	20.12.12	WLDC agreed Exception Test met on functional need for an equestrian worker and demonstrated sustainable benefit to the local community as a business in rural area.
132958	Blackbird Hill Farm, Laughton Lane 2 dwellings	12.10.15	Planning Officer report not available on WLDC website. Sequential Test applied over 5 km radius of Morton village. Argued Exception Test satisfied as Morton needs development to remain sustainable, and in terms of flood risk would be safe for its' lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

During the same time period 6 applications for new residential development on 4 sites were refused planning permission. The key planning considerations for each planning application and appeal are set out on Evidence Paper 2 "Planning Records". The purpose in this paper is to specifically review the flooding and drainage issues.

**1. Land off Granary Close.** Three planning applications (refs 132760, 133918 and 135482) were submitted on this site between 2015 and 2017. The first two were for outline planning permission for up to 37 dwellings. Ref. 134582 was an outline application for 9 dwellings. Appeals were lodged on the second and third of these applications and both were dismissed.

*Application ref 133918 and Planning Inspectorate ref. APP/N2535/W/16/3152072).*

The Sequential Test submitted with the planning application argued that it should cover only Morton parish as the scheme would deliver local homes, aid the local economy and help the future sustainability of the village. The Exception Test was applied as there were no other sequentially preferable sites available in Morton village and the planning officers agreed that the test was met on the basis that the proposal would provide new housing (including social housing) and public open space. The planning officer recommended that planning permission be granted but this recommendation was overturned by Planning Committee and planning permission refused partly on the grounds of flood risk. Appendix 3 contains the relevant extract of the Planning Committee minute.

An appeal was subsequently lodged with the Planning Inspectorate, and it was dismissed. The key points in relation to flood risk assessed in the Inspector's decision were:

- The site and village of Morton is within Flood Zone 3. The river has maintained flood defences which would in practice protect the site from a 1 in 200 year flood event. However, the effectiveness of the defences cannot be guaranteed and in the event of a breach the site would be inundated to a depth of at least 0.5 metre.
- NPPF requires the application of a Sequential Test to steer new development to areas with the lowest probability of flooding. The Planning Practice Guidance advises that 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. He noted the identified local need for the proposed affordable housing but concluded the scale of the proposed development is such that the Sequential Test should be applied over a wider area than just the parish of Morton. Therefore, the requirements of the Sequential Test were not met.
- Environment Agency advised for the purposes of flood risk mitigation that finished floor levels should be set 0.3 metre above that flood levels which would necessitate that land levels would be raised, and the floor levels of the dwellings would be between 0.8 and 1.7 metres above existing ground levels.
- The proposed flood mitigation measures would safeguard against the dwellings being inundated but the external areas including the means of access would be under water in the event of a breach of the flood defences. Although the mitigation measures demonstrated a reasonable degree of safety for the future occupants this did not overcome the requirement imposed by the Sequential Test to direct development away from areas at high levels of flood risk.

*Application ref. 135482 and Planning Inspectorate ref. APP/N2535/W/17/3172910*

The planning application was for a reduced scale of development of 9 dwellings on approximately the same site as the previous application. Planning permission was refused, in part, due to flood risk and an appeal was lodged with the Planning Inspectorate and was dismissed. The key points in relation to flood risk assessed in the Inspector's decision were:

- The appellant's argued in respect of flood risk that the reduced scheme of 9 houses would be the modest amount of housing development permitted under Policy LP2 of CCLP and part of the 15% increase of some 72 further dwellings allowed in Morton up to 2036 by Policy LP4 and that applying the Sequential Test for this modest amount of housing to an area wider than Morton would serve to frustrate the 15% growth level set in the CLLP.
- The Inspector referred to Policy LP4 which provides a strategic steer for the appropriate level of growth in Morton over the plan period. This is set at 15% to reflect the presence of key facilities within the village and its proximity to the wider range of services in the nearby main town of Gainsborough. However, he noted that

the 15% housing growth allowed remains dependent upon overcoming the flood risk constraints in Morton. The Inspector concluded that although this proposal is for a substantially lower number of dwellings it seeks residential development for an area of land only slightly less than that considered in the last appeal. He therefore found no reason to depart from the conclusion of the previous Inspector that the scale of the proposed development is such that the Sequential Test should apply to a wider area than the parish of Morton and it was therefore not satisfied.

- Exception Test also needed to be met. As “More Vulnerable development”, housing in Flood Zone 3 should pass both parts of the Exception Test to be allowed. In respect of part one, the Inspector considered the contribution made to the supply of family-sized housing in a reasonably sustainable location was insufficient to demonstrate that the development provided wider sustainability benefits to the community that outweighed the flood risk. Part two requires that a Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This Inspector agreed with the previous Inspector that that the mitigation proposed would provide a reasonable degree of safety for future occupiers in the event of a flood. In principle, he was persuaded that, with the flood-volume compensation area, the permeable ground conditions, the use of sustainable drainage systems and flood resilient construction methods, the proposal could adequately manage residual flood risks and not increase the flood risk to adjacent properties.
- The proposal included plans indicating the raising of the existing site levels by 0.8 – 1.7m in the same way as set out in the Flood Risk Assessment for the previous scheme which would meet the Environment Agency advice.

## **2. 17 South Street**

*Application ref 137164 and appeal ref APP/N2535/W/3203787* This planning application, submitted in 2018, was for outline permission for 3 dwellings (net increase of 2). Planning permission was refused, and an appeal subsequently lodged and dismissed. The key points in relation to flood risk assessed in the Inspector’s decision were:

- Inspector referenced the two “Land off Granary Close” appeal decisions. With regard to the Sequential Test he agreed with previous Inspectors that to restrict the scope of this to Morton was unnecessarily and inappropriately restrictive. He did draw a distinction however, between this proposal for only two dwellings as compared with the previous appeal proposals. He concluded that the previous Inspectors’ concerns about the relationship between search area and scale of proposal were not directly comparable. He referred to CLLP policy LP4, in which it is stated that medium villages such as Morton are capable of accommodating growth of 10% - 15% over the plan period. As a medium village, the CLLP therefore anticipates more than the small-scale growth and he therefore

concluded that the scope of the Sequential Test should extend to an area wider than just Morton. As a “medium” village within the settlement hierarchy the village serves more than just a parochial base. On this basis concluded Sequential Test had not been met.

- Exception Test also had to be met in full. With regard to part one the Inspector concluded the proposal failed to satisfy it. In his view the contribution two additional dwellings would make to housing supply would be limited, the Council had no reliance on the delivery of housing from this site to meet housing supply targets and the contribution that the proposal would make in economic and social terms, although a consideration would be modest. In relation to the test’s second element he noted that the Environment Agency had no objection to the proposal subject to mitigation measures as the majority of the site lies above the critical flood level of 5.3mAOD.

### **3. Land to rear of 7 Mill Lane**

*Application ref 137020 and appeal ref APP/N2535/W/3202824* This planning application to erect a dormer bungalow was refused in 2018 and an appeal was subsequently lodged and dismissed. The key points in relation to flood risk assessed in the Inspector’s decision were:

- Sequential Test had not been satisfied as there might be sequentially preferable sites within a reasonable area for the application of the test. He commented that the decision by the appellant to limit the scope of this to Morton only without compelling reason was an artificial and arbitrary approach. He also expressed the view that whilst a district wide approach would seem excessive there was no explanation why the test should not consider other nearby settlements, including the town of Gainsborough which is contiguous with Morton.
- Exception Test also had to be met. In line with the appeal decision at 17 South Street the Inspector concluded that second part of the test was likely to be satisfied with appropriate mitigation measures. However, he considered the delivery of one dwelling would represent only an extremely modest benefit that would not outweigh the flood risk and Exception Test therefore not met.

### **4. 11 Dog and Duck Lane**

*Application ref 128325* A planning application was submitted in 2012 for the conversion and change of use of an existing dwelling at 11 Dog and Duck Lane to 4 self-contained apartments and a 2-storey rear extension to provide aided living for residents of the adjacent nursing home. WLDC concluded that a Sequential Test was not necessary as the application was to meet a specific need in this particular location. The Environment Agency objected to the application.

In summary planning permission was refused for the following reasons.

- The site falls within Flood Zone 3 as identified on the Environment Agency Map and the Technical Guidance to the National Planning Policy Framework aims to steer new development to Flood Zone 1.
- The development would result in an intensification of 'more vulnerable' development in an area which could be subjected to significant levels of flooding. The Flood Risk Assessment did not include a breach analysis which is required to demonstrate the potential flood depths and velocities at the site in the event of a breach and how the development and its occupants would be safe over the lifetime of the proposal.
- The FRA did not include appropriate application of sustainable drainage systems as required in the policy aims for developments in Flood Zone 3.

## **APPENDICES**

**Appendix 1** Maps relating to flood and surface water

**Appendix 2** Central Lincs Local Plan (2017) Policy LP14: Managing Water Resources and Flood Risk and supporting text

**Appendix 3** Planning Committee minute of meeting held on 25.04.2016 for application ref 133918, Land off Granary Close



## APPENDIX 1 Maps relating to flood risk and surface water

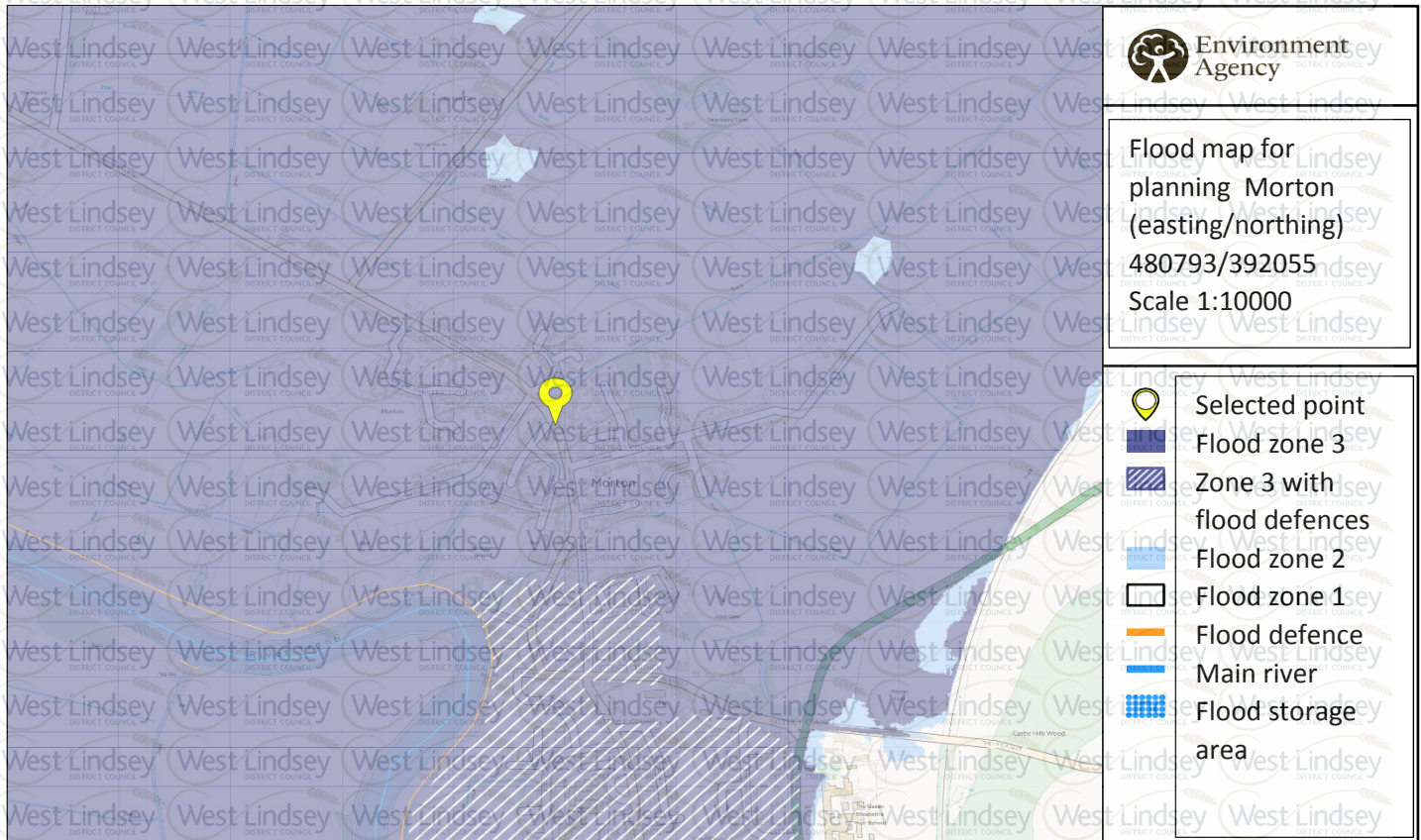
Environment Agency - flood risk from river or sea.

EA Notes - The location (Morton) is in Flood Zone 3, a high probability of flooding. This means:

- a flood risk assessment for development in this area must be completed.
- the EA standing advice for carrying out a flood risk assessment must be followed.

[www.gov.uk/guidance/flood-risk-assessment-standing-advice](http://www.gov.uk/guidance/flood-risk-assessment-standing-advice)

The flood map for planning shows river and sea flooding data only. It does not include other sources of flooding. It is for use in development planning and flood risk assessments. This information relates to the selected location and is not specific to any property within it. The map is updated regularly and is correct at the time of printing.



# Surface Water Flood Risk (EA)

Basic view Detailed view

Location Enter a place or postcode in England

Flood risk from rivers or the sea  
Extent of flooding

Flood risk from surface water  
Extent of flooding

Flood risk from reservoirs  
Extent of flooding

Flood risk

High

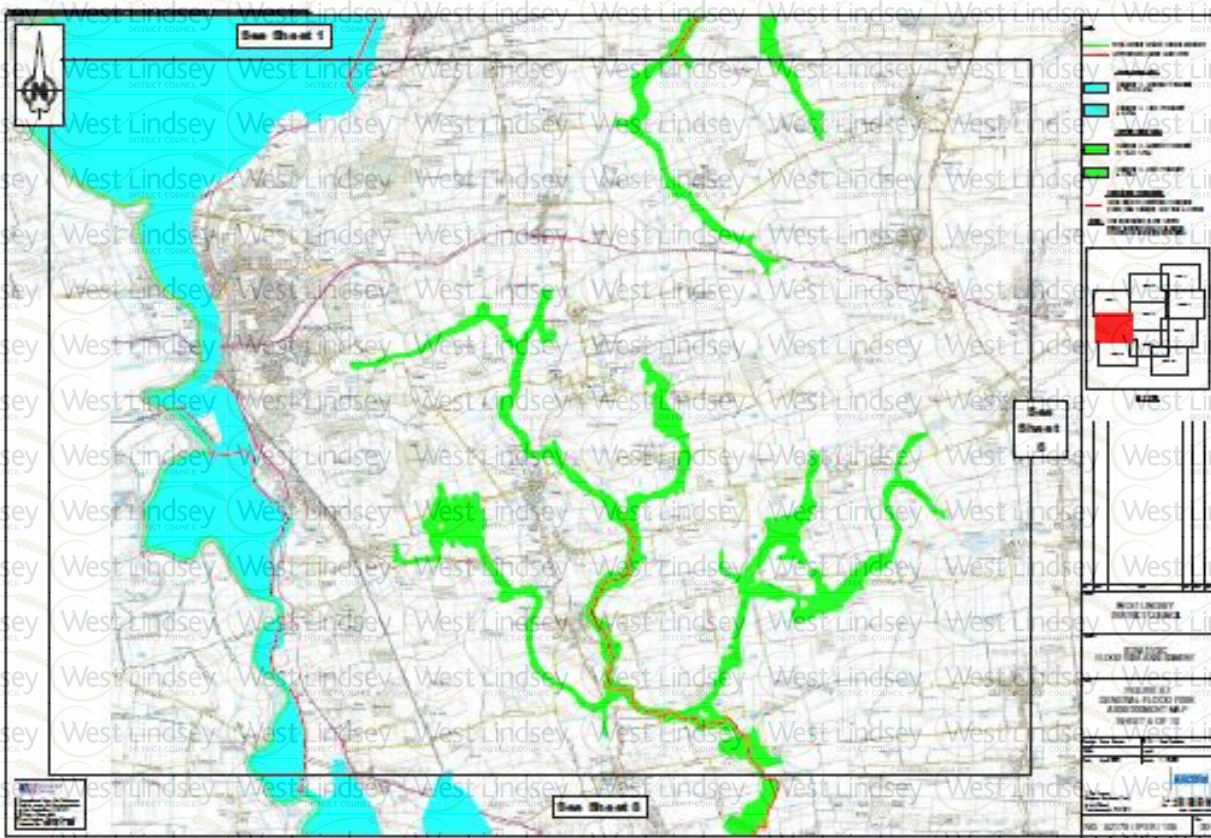
Medium

Low

Very low

Location you selected

## West Lindsey Strategic Flood Risk Assessment (2009) General flood risk assessment



# From Invest Gainsborough website – Flood Risk



- KEY**
- FLOODING
  - Flood Zone 3
  - Flood Zone 2
  - Area benefiting from flood defences

## Appendix 2

### Central Lincs Local Plan: Policy LP14: Managing Water Resources and Flood Risk

4.8.5 Many of Central Lincolnshire's settlements were originally established adjacent to rivers or other water bodies. Over time these same settlements have grown into the main centres of population in Central Lincolnshire and now represent, in terms of wider sustainability criteria, the most sustainable locations for future development. A careful balance therefore needs to be struck between further growth in these areas to ensure their communities continue to thrive and the risk of flooding.

4.8.6 To support the planning process and provide a better understanding of flood risk in the area, Strategic Flood Risk Assessments (SFRAs) have been prepared for Central Lincolnshire. SFRAs have been produced for West Lindsey, North Kesteven and the wider Lincoln area, supplemented by additional flood risk information data from the EA, LLFA and IDBs. Other documents that inform the Local Plan include: Catchment Flood Management Plans for the River Witham, River Trent and Grimsby and Ancholme; Anglian and Humber River Basin Management Plans; The Joint Lincolnshire Flood Risk and Drainage Management Strategy; and Water Cycle Studies for Central Lincolnshire and the Gainsborough area.

4.8.7 With the increased likelihood of more intense rainfall combined with further development in Central Lincolnshire, there will be an increase in the incidence of surface water runoff, placing greater pressure on existing drainage infrastructure. The discharge of surface water to combined sewer systems should be on an exceptional basis only. This will ensure that capacity constraints of existing systems are not put under severe pressure by placing unnecessary demands on existing sewage works and sewage systems which in turn could compromise the requirements of the Water Framework Directive. The discharge of surface water to combined sewer systems can also contribute to surface water flooding elsewhere.

4.8.8 Sustainable Drainage Systems (SuDS) are used to replicate, as closely as possible, the natural drainage from a site before development without transferring pollution to groundwater. Developers should ensure that good SuDS principles consistent with national standards are considered and incorporated into schemes as early on in the development process as possible.

4.8.9 Protecting the water environment: The Central Lincolnshire authorities work closely with water companies, the EA and other relevant bodies to ensure that infrastructure improvements to manage increased waste water and sewage effluent produced by new development are delivered in a timely manner, and to ensure that, as required by the Water Framework Directive, there is no deterioration to water quality and the environment.

4.8.10 Groundwater Source Protection Zones (SPZs) are areas of groundwater where there is a particular sensitivity to pollution risks due to the closeness of a drinking water source and how the groundwater flows. They are used to protect abstractions used for public water supply and other forms of distribution to the public such as breweries and food production plants. Development in the SPZs will be expected to comply with the EA's guidance document, 'Groundwater Protection: Principles and Practice (GP3)' or any subsequent replacement.

4.8.11 Parts of Central Lincolnshire are currently constrained by the capacity of water recycling infrastructure and will require coordinated timing between development and new or improved infrastructure provision. The predominantly rural nature of the area means that there are developments without mains drainage connection that will require careful design and management.

4.8.12 Central Lincolnshire lies within the East Midlands area of serious water stress where drought is a cause for concern. This is a major challenge in the context of Central Lincolnshire's planned growth and will require careful conservation and management of water resources to ensure that demand for water can be achieved in a sustainable manner. It also provides the justification to require, via this Local Plan, a higher water efficiency standard of 110 litres/day.

4.8.13 The River Trent as it skirts the edge of Central Lincolnshire and runs adjacent to the main town of Gainsborough, from Cromwell Weir to the River Humber, is tidal and flows into the internationally important Humber Estuary. The River Witham passing through Central Lincolnshire and the City of Lincoln flows into the Wash, also of international importance. As such, any proposals that affect or might affect the marine area should make reference to and be guided by the Marine Policy Statement or any subsequent replacement. The Marine Policy Statement provides a shared UK vision for clean, healthy, safe, productive and biologically diverse oceans and seas by ensuring a consistent approach to marine planning across UK waters.

4.8.14 All relevant development proposals, where appropriate, should be discussed with the Local Planning Authority in liaison with the EA, Water Services Provider, IDBs and the LLFA at the earliest opportunity, preferably at pre-application stage. This should ensure flood risk and drainage solutions, particularly where required on site, can be factored into the development process as early as possible.

#### **Policy LP14: Managing Water Resources and Flood Risk Flood Risk**

All development proposals will be considered against the NPPF, including application of the sequential and, if necessary, the exception test.

Through appropriate consultation and option appraisal, development proposals should demonstrate:

- a. that they are informed by and take account of the best available information from all sources of flood risk and by site specific flood risk assessments where appropriate;
- b. that there is no unacceptable increased risk of flooding to the development site or to existing properties;
- c. that the development will be safe during its lifetime, does not affect the integrity of existing flood defences and any necessary flood mitigation measures have been agreed with the relevant bodies;
- d. that the adoption, ongoing maintenance and management of any mitigation measures have been considered and any necessary agreements are in place;

- e. how proposals have taken a positive approach to reducing overall flood risk and have considered the potential to contribute towards solutions for the wider area; and
- f. that they have incorporated Sustainable Drainage Systems (SuDS) into the proposals unless they can be shown to be impractical. Protecting the Water Environment Development proposals that are likely to impact on surface or ground water should consider the requirements of the Water Framework Directive. Development proposals should demonstrate:
- g. that water is available to support the development proposed;
- h. that development contributes positively to the water environment and its ecology where possible and does not adversely affect surface and ground water quality in line with the requirements of the Water Framework Directive;
- i. that development with the potential to pose a risk to groundwater resources is not located in sensitive locations to meet the requirements of the Water Framework Directive;
- j. they meet the Building Regulation water efficiency standard of 110 litres per occupier per day;
- k. how Sustainable Drainage Systems (SuDS) to deliver improvements to water quality, the water environment and where possible to improve amenity and biodiversity have been incorporated into the proposal unless they can be shown to be impractical;
- l. that relevant site investigations, risk assessments and necessary mitigation measures for source protection zones around boreholes, wells, springs and water courses have been agreed with the relevant bodies (e.g. the Environment Agency and relevant water companies);
- m. that adequate foul water treatment and disposal already exists or can be provided in time to serve the development;
- n. that no surface water connections are made to the foul system;
- o. that surface water connections to the combined or surface water system are only made in exceptional circumstances where it can be demonstrated that there are no feasible alternatives (this applies to new developments and redevelopments) and where there is no detriment to existing users;
- p. that no combined sewer overflows are created in areas served by combined sewers, and that foul and surface water flows are separated;
- q. that suitable access is safeguarded for the maintenance of water resources, flood defences and drainage infrastructure; and
- r. that adequate provision is made to safeguard the future maintenance of water bodies to which surface water is discharged, preferably by an appropriate authority (e.g. Environment Agency, Internal Drainage Board, Water Company, the Canal and River Trust or local council).

**APPENDIX 3 Extract of Planning Committee minute of meeting held on 25.04.2016 for application ref 133918, land off Granary Close.**

**Item 4 - 133918 - Morton** Outline application for residential development - up to 37 dwellings, including 10 affordable homes - access to be considered - resubmission of 132760.

The Principal Development Management Officer read out a letter which had been received from Sir Edward Leigh MP on behalf of a resident who was concerned about the proposed development. George Machin, agent for the applicant addressed the Committee, stating that it would be difficult to find a better location in terms of size and scale for the development. Officers were best placed to understand applicable Planning Policies; the need to deliver affordable housing where there was an identified need; and the flood constraints of the site in question. This was a sustainable location for 37 houses with a number of facilities close by. Although there were some objections from residents there was general support. The development included public open space; a flood compensation zone; and a capital contribution towards education. There were no alternative sites at a lesser risk of flooding.

Jeffrey Jackson and David Crystal-Kirk spoke in objection to the proposals representing over 40 local residents. Previous applications for this site had been refused and the grounds for refusal had not been addressed. In the last Local Plan, the site was outside the development boundary, and was not allocated for housing in the emerging Central Lincolnshire Local Plan, and the plan was in favour of small development of up to nine houses. The last refusal suggested that there were more suitable sites in the area such as land to the north of Morton which included land in Flood Zone 2. There was no need to develop on greenfield land. The infiltration tests carried out in 2015 were not conclusive and there were fears of flooding. The S106 would not compensate for the damage that would be caused. It was queried as to the support for the development which was not known about. Residents were not against growth and whilst there may be an identified need, the proposed site was not considered suitable. Accessibility was not good, and the provision of services such as health and education were already under a strain.

Councillor Pat Mewis, Ward Member, spoke at length in opposition to the application, at the request of residents. Councillor Mewis reiterated many of the concerns raised by the previous speakers relating to flood risk and access to facilities. It was acknowledged that the whole of Morton village was in Flood Zone 3, so it was not possible to avoid this. The proposal to elevate part of the site had given rise to further concerns, and the presence of a pond would create dangers in itself. The number of houses proposed was considered excessive when Morton was designated as a Medium village. North of the village, closer to the facilities of Gainsborough would be more acceptable. Vehicular access to the development was considered problematic, particularly during construction. The Principal Development Management Officer indicated that it was not possible for the Committee to consider alternative 'preferable' sites – it must determine the application before it, and should only consider the application of the flood risk sequential test – 'were there sites at a lower risk of flooding?' The Officer advised that the search area for the test rested with the decision-maker, but that there were no lower risk sites

within Morton. In response to points raised it was verified that 18 objections had been received. Construction traffic was to be covered by conditions, and although there were sites available closer to Gainsborough the housing was identified as needed in Morton. The Members of the Committee debated the points that had been raised by all parties and gave consideration to the concerns put forward. It was acknowledged that the application was for Outline Planning Permission and the layout was indicative. The emergency services and highways departments had raised no concerns with the proposed access. Clarification was sought on the impact of surface water run-off from the elevated land, however the Environment Agency had raised no objections. The Committee needed to be satisfied regarding the sequential test. It was considered that there was likely to be available land at a lower risk of flooding outside Morton, but not within the Parish. Concerns were raised with the exceptions test and whether wider public benefits would arise that outweighed flood risk. The Committee felt that the previous reasons for refusal were still applicable:-

1. The development is proposed within an area identified as Flood Zone 3 (high probability). The submission has not adequately demonstrated a Sequential approach to steer development to areas with the lowest probability of flooding and it is considered that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The development does not meet the Sequential Test and is therefore contrary to saved policy STRAT1 of the West Lindsey Local Plan First Review; and is contrary to the provisions of the National Planning Policy Framework and does not meet the presumption in favour of sustainable development. and it was moved and seconded that the same reasons be given for a further refusal, along with policies STRAT12 and STRAT9 and NPPF paragraph 102 (Exceptions Test). **On being voted upon it was AGREED that permission be REFUSED for the reasons set out below.**

1. Development would take place on a green field site in the open countryside, contrary to the National Planning Policy Framework aims to encourage the effective reuse of previously developed land and to recognise the intrinsic character and beauty of the countryside, and development would be directly contrary to saved policies STRAT9 and STRAT12 of the West Lindsey Local Plan First Review.

2. The development is proposed within an area identified as Flood Zone 3 (high probability). The submission has not adequately demonstrated a Sequential approach to steer development to areas with the lowest probability of flooding and it is considered that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The development does not meet the Sequential Test and is therefore contrary to saved policy STRAT1 of the West Lindsey Local Plan First Review; and is contrary to the provisions of the National Planning Policy Framework and does not meet the presumption in favour of sustainable development. It has not been demonstrated that the development provides wider sustainability benefits to the community that would outweigh flood risk, and development would not therefore meet the NPPF Framework Exception Test (paragraph 102).