

Draft Policy LP22 Sites in Areas of Flood Risk (previously DM21)

Link to draft policy and comments in full received from the draft consultation stage:

<https://west-norfolk.objective.co.uk/portal/lpr2019/lpr2019?pointId=s1542883589798#section-s1542883589798>

Consideration of issues:

The main issues raised by consultees were:

- Anglian Water commented that the Policy is focused on the potential for fluvial flooding and surface water flooding. They recommend that it includes reference to both surface water and foul sewerage systems and the potential risk of flooding from these sources. They also recommend that it includes a requirement to demonstrate that a surface water connection to the public sewerage network is a last resort only once the applicant has demonstrated they have followed the surface water hierarchy as outlined in Part H of the Building Regulations and the NPPG.
- The EA suggest the Policy should state that the development must not increase the risk of flooding within the development site or in the surrounding area. Some wording is also required to ensure that development will be resistant and resilient to flooding for its lifetime. An assessment of access and egress is also needed. Comment regarding consideration of the impact of climate change is needed.
- The need to define how the exception test will be applied and whether the flood risk assessment should be limited to the site or should include access to the site.
- Natural England wish to see the inclusion of text to ensure the protection of internationally and nationally designated sites in addition to other natural environment assets such as the AONB. They also advise that reference should be made to multifunctional SUDS.

The resulting changes recommended to the policy and supporting text are set out below.

Officer Recommendations to Task Group:

The Task Group is recommended to:

Include the changes to the policy as recommended by Anglian Water, the Environment Agency and Natural England.

Policy Recommendation:

Strategic Policy

Where sites are at risk of flooding as in flood risk Zones 2 and 3 identified by the Council's Strategic Flood Risk Assessment or more recent Environment Agency mapping and there are no other reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding:

1. These will be subject to (and no relevant planning permission will be granted before):
 - a. a site specific flood risk assessment that considers flood risk from all sources and demonstrates that satisfactorily demonstrating the proposed development will be safe for its lifetime, taking climate change into account, and with regard to the vulnerability of its users, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. And The flood risk assessment will need to consider:
 - Climate change in line with allowances detailed in the latest national guidance.
 - The vulnerability of the users of the proposed development.
 - Safe access and egress to an area of safe refuge in line with the Flood Risk Assessment Guidance for New Development (FD2320) document
 - b. satisfactory demonstration that any design or development features necessary to address flood risk issues are compatible with heritage assets in the vicinity (including conservation areas and listed buildings), local visual amenity and (where relevant) to ensure the protection of internationally and nationally designated sites in addition to other natural environment assets such as the landscape and scenic beauty of the Norfolk Coast Area of Outstanding Natural Beauty.
2. For allocated sites the sequential test set out in the National Planning Policy Framework (NPPF) policy 158 is deemed to be met by the allocation process, as set out in the Planning Practice Guidance - Flood Risk and Climate Change, so that development is, as far as reasonably possible, located where the risk of flooding (from all sources) is lowest.
3. In relation to the exceptions test set out in the NPPF policy 159:
 - a. the first part (demonstration of wider sustainability benefits) is deemed to be met by the allocation process; and

- b. the second part (site specific flood risk assessment, etc.) is not deemed to be met by the allocation process, and shall remain the responsibility of the prospective developer. No relevant planning permission shall be granted unless and until this second part of the test is met, as set out in section 1 of this policy, above;
4. The design of new dwellings will be in accordance with the Environment Agency/Borough Council Flood Risk Design Guidance (Appendix B).
5. The Borough Council will take into account advice from the Lead Local Flood Authority and the King's Lynn and West Norfolk Settlements Surface Water Management Plan to ensure that where a serious and exceptional risk of surface water flooding exists adequate and appropriate consideration has been given to mitigating the risk.
6. Mitigation measures should minimise the risk of flooding on the development site and within the surrounding area.
7. **Development proposals should demonstrate:**
 - **The use of multifunctional Sustainable Drainage Systems (SuDs) unless it can be demonstrate that it is not feasible;**
 - **That adequate foul water treatment and disposal already exists or can be provided in time to serve the development;**
 - **That no surface water connections are made to the foul system and connections to the combined or surface water system is only made in exceptional circumstances where it can be demonstrated that there are no feasible alternatives (this applies to new developments and redevelopments);**
 - **That foul and surface water flows are separated where possible.**

LP22 Sites in Areas of Flood Risk (previously DM21)

Introduction

6.9.1 Because of the number and small size of many of the potential allocations, particularly in rural parts of the Borough, it is often not practicable to obtain a site specific flood risk assessment and a detailed examination of its implications in advance of allocation. A Surface Water Management Plan (SWMP) was prepared by the Lead Local Flood Authority (LLFA), Norfolk County Council, for King's Lynn and West Norfolk Settlements (Stage 1 2010, Stage 2 2012). This identified areas which are particularly vulnerable to surface water flooding. The SWMP defines Local Flood Risk Zones which led to Critical Drainage Catchments (catchment areas feeding into these flood-vulnerable areas) being identified. Any development within them is likely to increase the risk of flooding in the most vulnerable areas if no mitigation takes place.

6.9.2 In 2017 a consortium of Norfolk local planning authorities commissioned new Level 1 SFRA to inform strategic planning decisions, the preparation of local plans and to inform development management decisions. The new SFRA for the Borough was finalised in November 2018. A Level 2 SFRA will also be completed early in 2019. These documents form the basis of the Borough's approach to the Sequential and Exception tests and inform the Sustainability Appraisal of the plan.

Relevant Local and National Policies

- National Planning Policy Framework: Meeting the challenge of climate change, flooding and coastal change
- National Planning Practice Guidance
- Strategic Policies:
 - LP14 Development in Coastal Areas
 - LP16 Sustainable Development
- Joint Protocol (2012) on Strategic Flood Risk Assessment and Tidal River Hazard Mapping, Environment Agency and Borough Council
- The Wash Shoreline Management Plan (SMP) (Nov 2010)
- Marine Policy Statement/East Marine Plan Policy CC1 Climate Change

Policy Approach

6.9.3 In order to comply with the full requirements for the Exception test in advance of any development in such areas, such allocations are explicitly made subject to the requirements still outstanding. This is done by linking those allocations to a specific development management policy on the topic, as follows. In relation to surface water flooding the policy provides for the advice of the LLFA and findings of the SWMP to lead to a requirement for appropriate mitigation measures. The Government introduced a requirement in April 2015 for sustainable drainage systems to be provided as part of all major development (i.e. residential developments of 10+ houses; equivalent non-residential and/or mixed developments) with drainage implications.

6.9.4 When development is proposed in, or nearby to areas of flood risk, opportunities should be taken to reduce the existing risk of flooding. Development proposals should promote flood risk reduction, enabling opportunities identified in the SFRA. This may include reducing surface water discharge rates and volumes, providing increased flood storage or conveyance capacity, setting aside green space that could be used for water storage in future, or integrating or retrofitting surface water measures to replace and/or augment existing drainage infrastructure.

The development must not increase the risk of flooding within the development site or in the surrounding area. It will need to be demonstrated that development will be resistant and resilient to flooding for its lifetime. An assessment of access and egress is also needed.

In relation to the consideration of the impact of climate change the allowances considered must be in accordance with the latest national guidance.

6.9.5 Internal Drainage Boards (IDBs) are local public authorities that manage water levels. They are an integral part of managing flood risk and land drainage within areas of special drainage need. IDBs input into the planning system by facilitating the drainage of new and existing developments within their districts and advising on planning applications as non-statutory consultees.

Sustainability Appraisal:

LP22 Sites in Areas of Flood Risk

This policy is very similar, to the equivalent policy considered in the SADMP process and the sustainability appraisal of that. The proposed policy was assessed as having a positive effect.

LP22: Sites in Areas of Flood Risk																							
Policy	SA Objective:																					Overall Effect	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	+		-
LP22	0	0	0	0	0	0	0	++	0	0	++	+	0	0	0	0	0	0	0	+	+6	0	Likely Positive Effect +6
Draft LP22	0	0	0	0	0	0	0	++	0	0	++	+	0	0	0	0	0	0	0	+	+6	0	Likely Positive Effect +6
No Policy	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Likely Neutral Effect

Appendix 1: Summary of Comments & Suggested Response:

Consultee	Nature of Response	Summary	Consultee Suggested Modification	Officer Response/Proposed Action
Anglian Water Services Ltd	Object	Policy LP22 as drafted is focused on the potential for fluvial flooding and surface water flooding. We would recommend that Policy LP22 includes reference to both surface water and foul sewerage systems and the potential risk of flooding from these sources. In addition we would recommend that the policy include a requirement to demonstrate that a surface water connection to the public sewerage network is a last resort only, with applicant having demonstrated they have followed the surface water hierarchy as outlined in Part H of Building Regulations and the NPPG.	Therefore it is suggested that Policy LP22 includes the following additional text: 'Development proposals should demonstrate: <ul style="list-style-type: none"> • 'Use of Sustainable Drainage Systems (SuDs) unless it can be demonstrate that it is not feasible; • That adequate foul water treatment and disposal already exists or can be provided in time to serve the development; • That no surface water connections are made to the foul system and connections to the combined or surface water system is only made in exceptional circumstances where it can be demonstrated 	Agree – include the suggested wording.

Consultee	Nature of Response	Summary	Consultee Suggested Modification	Officer Response/Proposed Action
			<p>that there are no feasible alternatives (this applies to new developments and redevelopments);</p> <ul style="list-style-type: none"> • That foul and surface water flows are separated where possible; 	
<p>Planning Advisor Environment Agency</p>	<p>Object</p>	<p>The wording regarding opportunities to reduce existing risk of flooding is positive, but some comment to state that the development must not increase the risk of flooding within the development site or in the surrounding area is needed to strengthen the point.</p> <p>Some wording to state that it will need to be demonstrated that development will be resistant and resilient to flooding for its lifetime is required.</p> <p>An assessment of access and egress is also needed.</p> <p>Comment regarding consideration of the impact of climate change is needed. This should state explicitly that climate change allowances considered must be in accordance with the latest national guidance.</p> <p>There is potentially a large amount of information to be covered here and it may be more appropriate to split into bullet point sections for clarity.</p>		<p>Agree – amend wording accordingly.</p>

Consultee	Nature of Response	Summary	Consultee Suggested Modification	Officer Response/Proposed Action
Planning Advisor Environment Agency	Object	Strategic Policy There is no reference to the sequential test. The first consideration appears to be applying the exception test without assessing whether development could be located in areas at lower risk of flooding. This also only makes reference to Flood Zones 2 and 3. There may be areas within the THM outlines that are outside FZs 2 and 3. The design guidance relates solely to the exception test. The flood risk policy should consider the sequential test first. Given the complexity of flood risk within the borough, a policy position which clarifies the NPPF position would be beneficial.	Consider rewording to: 'Where sites are at risk of flooding as identified by the Council's SFRA or more recent Environment Agency mapping, and there are no other reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'.	Agree – amend policy accordingly.
Planning Advisor Environment Agency	Object	6.9.2 - ...The new SFRA for the Borough was finalised in November 2018. A Level 2 SFRA will also be completed early in 2019. These documents form the basis of the Borough's approach to the Sequential and Exception tests and inform the Sustainability Appraisal of the plan. Some commentary on the outputs from the SFRA would be beneficial – e.g. SFRA indicates risk of flooding in areas by establishing flood zones. When will the Level 2 SFRA be available?	If sites are already allocated in the plan in advance of the outputs of the Level 2 SFRA how has it been demonstrated that the sites represent sustainable development from a flood risk perspective?	Disagree - The draft Level 2 SFRA was available to the Council when sites were being considered. It was published in its final form in July 2019.
Planning Advisor Environment Agency	Object	Strategic Policy More detail is required under point 1a. to make reference to detailed requirements of flood risk assessments (FRA).	Consider rewording to: 'A site specific FRA that considers flood risk from all sources and	Agree – amend wording accordingly.

Consultee	Nature of Response	Summary	Consultee Suggested Modification	Officer Response/Proposed Action
			<p>demonstrates that the proposed development will be safe for its lifetime without increasing flood risk elsewhere and, where possible, reducing flood risk overall. The FRA will need to consider:</p> <ul style="list-style-type: none"> • Climate change in line with allowances detailed in the latest national guidance. • The vulnerability of the users of the proposed development. • Safe access and egress to an area of safe refuge in line with the Flood Risk Assessment Guidance for New Development (FD2320) document’. 	
Norfolk Coast Partnership (AONB)	Support	We support LP22.		Support is noted and welcomed.
Elmside Ltd	Object	With regard to Policy LP22 3. a. it is considered that the application of the sequential test should not be confined to the “allocation process”.		Disagree - the policy is not confined to the allocation process.

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Parish Clerk Holme-Next-The-Sea Parish Council	Object	Please define clearly how the exception test will be applied by the BC and whether the flood risk assessment should be limited to the site or should include access to the site.		Agree – this will be clarified in line with the EA comment/response above.
FK Coe & Son	Object	<p>The policy requires that, where sites are in Flood Zones 2 and 3, and are identified by the Council’s SFRA and more recent mapping, they will be subject to:</p> <p>a) a site specific Flood Risk Assessment, satisfactorily demonstrating that the development will be safe for its lifetime, taking climate change into account, and with regard to the vulnerability of its users, without increasing flood risk elsewhere, and where possible, reducing flood risk overall; and</p> <p>b) satisfactory demonstration that any design or development features necessary to address flood risk issues are compatible with heritage assets in the vicinity (including conservation areas and listed buildings), local visual amenity and (where relevant), the landscape and scenic beauty of the Norfolk Coast Area of Outstanding Natural Beauty.</p> <p>Our client’s sites are all in Flood Zone 1, the area at least risk of flooding, with the exception of part of Land east of Church Close, Vong Lane, Grimston, the eastern part of which has been identified as lying within fluvial flood risk zone 3 on the Environment Agency’s maps.</p> <p>However, a site specific Flood Risk Assessment (FRA) and Flood Risk Model has been commissioned by our clients, to verify the</p>		This is a comment promoting a particular site(s) in Grimston and does not suggest changes to the policy wording. Noted but no change required.

Consultee	Nature of Response	Summary	Consultee Suggested Modification	Officer Response/Proposed Action
		Environment Agency findings. The FRA concludes that there is a very small area of the eastern part of the site which lies in Fluvial Flood Zone 2. The FRA also finds that the eastern part of the site is vulnerable to surface water flooding. However, the FRA confirms that the majority of the site lies in Flood Zone 1, the area at the lowest risk of flooding.		
Consultations Team Natural England	Mixed		We support Policy LP22 to manage flood risk but request that point 1b includes additional text to ensure the protection of internationally and nationally designated sites in addition to other natural environment assets such as the AONB. We advise that reference is made to multifunctional SUD's.	Support noted and welcomed. Agree – include wording as suggested as amendment to point 1b. Agree – include reference to multifunctional SUDS.