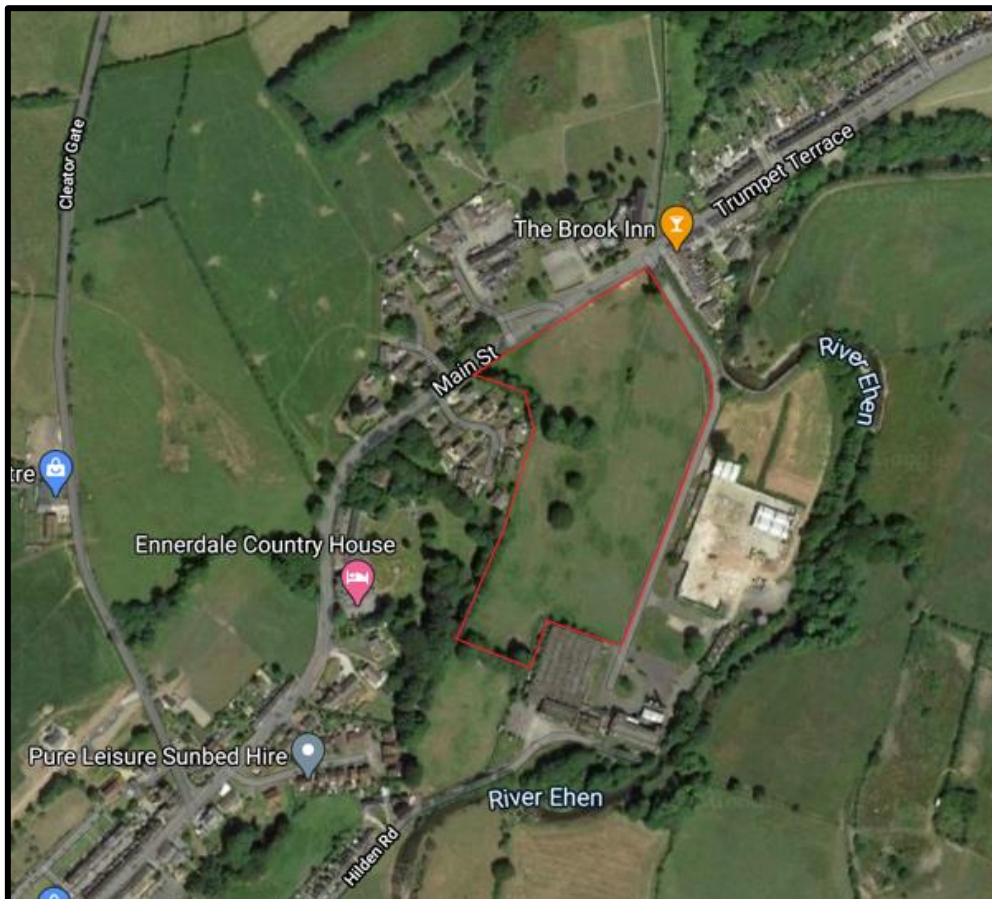


Sequential Test Report – Land to the North of Cleator Mills, Cleator, Cumbria

Proposal: Full Planning Application for residential development consisting of 115 dwellings



Applicant:

homes by
gleeson
builders for generations

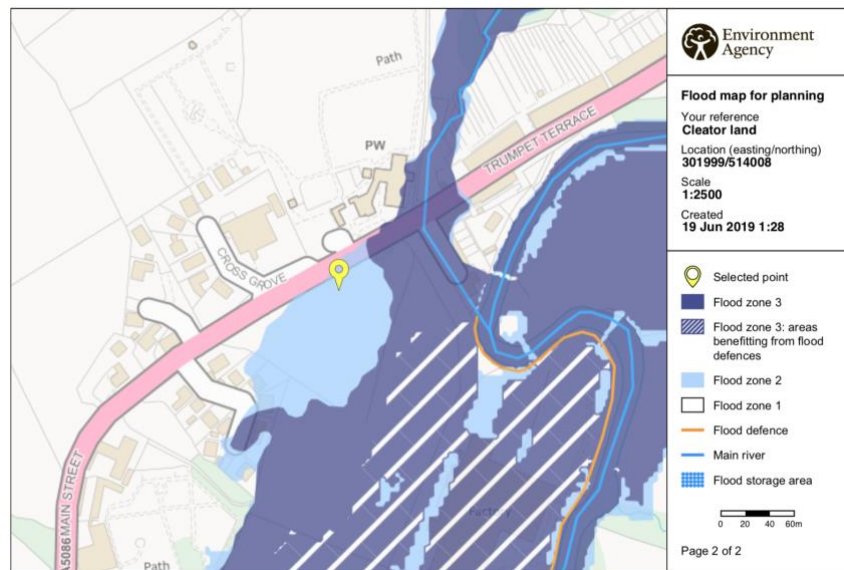
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1.0 Introduction

- 1.1 This sequential test report has been prepared on behalf of Gleeson Homes in support of a planning application for a residential development on land to the North of Cleator Mills, Cleator, Cumbria.
- 1.2 The planning application is submitted in full, with full details supplied for all parts of the proposal. The proposed site was the subject of a previous planning application for a residential development, which was approved in 2016, following the cessation of the long-established former use of the whole Kangol/Cleator Mills site.
- 1.3 The existing site consists of a single block of grassed agricultural land.
- 1.4 A copy of the Environment Agency's Flood Map covering the site is included below:



2.0 Planning history

- 2.1 A previous planning application for residential redevelopment of the site was approved in 2016 by Copeland Borough Council, as mentioned above:
- 4/14/2190/001 – Outline application for erection of 79 dwellings and associated infrastructure/landscaping – Land to the north of Cleator Mill, Cleator - approved
- 2.2 The following applications are also on parts of the Kangol/Cleator Mills site and therefore considered relevant to the proposal:
- 4/14/2191/001 – Outline application for site redevelopment for the erection of new office accommodation – Former Kangol Site, Cleator Mills, Cleator – Approved
 - 4/14/2192/0F1 – Extensions alterations and conversion of former mill buildings into office accommodation – Former Cleator Mills, Cleator - Approved
 - 4/14/2480/001 – Outline for the erection of offices (B1) – Approved
 - 4/18/18/2312/0F1 – Creation of a 600 Space Car Park, Former Kangol Factory - Approved

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3.0 Policy Background

3.1 The National Planning Policy Framework (NPPF) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. When considering new development, the NPPF is clear in stating that a sequential, risk-based approach to the location of development should be taken to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impact of climate change, by:

- Applying the Sequential Test;
- If necessary, applying the Exception Test;
- Safeguarding land from development that is required for current and future flood management;
- Using opportunities offered by new development to reduce the causes and impacts of flooding.

3.2 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding, The NPPF is clear in stating that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The starting point for the application of the test is the Strategic Flood Risk Assessment, a sequential approach should be used in areas known to be at risk from any form of flooding. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate.

3.3 For the Exception Test to be passed it must be demonstrated that:

- the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and,
- a site-specific flood risk assessment must demonstrate that 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 of the test will have to be passed for development to be allocated or permitted.

3.4 Finally, specifically when determining planning applications, the NPPF states that LPA's should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- 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; and

- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, and it gives priority to the use of sustainable drainage systems.

The Development Plan

- 3.5 The following policies from the Core Strategy and Development Management Policies DPD (December 2013) (“Local Plan”) are considered relevant to this proposal: -
- 3.6 **Policy SS1** seeks to improve the housing offer of the borough by, amongst other things, enhancing the surrounding residential environment. The site is within the vicinity of a number of residential properties. The proposed residential use built to a high standard will have less impact on local amenity and improve the borough’s housing stock.
- 3.7 **Policy SS2** aims to have a development density suitable to the character of the surrounding area, which it is considered that the proposed scheme relates well in density terms to the immediate vicinity and wider Cleator area.
- 3.8 **Policy ST2** aims to restrict development outside the Council’s defined settlement boundaries to that which has a proven requirement for such a location or to land use characteristically located outside settlements. The proposed development site is located in the settlement boundary for Cleator.

Principle – National Planning Policy Framework (“NPPF”) (as revised February 2019)

- 3.9 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF states that sustainable development has three objectives social, economic and environmental.
- 3.10 The social and economic are as follows:
- “a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being. “*
- It is noted in the above that a central aim of the NPPF is to ensure that the right type of land is available in the right areas, to ensure that the correct housing is available to meet the needs of present generations. As previously mentioned in the above text, the site has previously received planning permission and therefore has been considered the correct location for housing development.
- 3.11 Paragraph 11 covers the issue of the application of the presumption in favour of sustainable development.

“For decision-taking this means:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

- 3.12 Paragraph 49 in the revised NPPF now states “in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission.”
- 3.13 Paragraph 61 states that “*Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).*”
- 3.14 At present, Copeland Borough Council is unable to demonstrate a five-year supply of housing land. Paragraph 67 of the NPPF states that Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:
- a) specific, deliverable sites for years one to five of the plan period; and b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.

Therefore, housing applications should be considered in the context of sustainable development and relevant policies for the supply of housing are considered to be out-of-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- 3.15 Paragraph 73 of the NPPF covers maintaining supply and delivery of housing. This states Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:
- a) 5% to ensure choice and competition in the market for land; or
- b) 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted plan³⁸, to account for any fluctuations in the market during that year; or
- c) 20% where there has been significant under delivery of housing over the planned supply.

- 3.16 Therefore it is not enough to state whether the proposed development complies with the Council's Local Plan, specifically **Policy ST2**, but whether there is significant and demonstrable harm caused by the development that outweighs the benefit of the proposed scheme.
- 3.17 Paragraph 102 is regarding promoting sustainable transport, which is relevant to this proposal. *"Opportunities to promote walking, cycling and public transport use are identified and pursued."* This continues in paragraph 103 stating *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*
- 3.18 Ultimately when assessing the proposal there is a need to balance any harm caused by the proposed development with the contribution to the supply of housing, and the provision of housing which will meet the needs of the local demographic. The contribution to the supply of housing would be relatively significant in terms of overall numbers, especially measured against the identified need and significant shortfall in housing supply. It is also considered that the principle of development is in accordance with local and national policy on the supply of housing.

4.0 The Sequential Test

- 4.1 The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The flood zones are identified within the Strategic Flood Risk Assessment (SFRA) for the area, which provide the basis for applying the Test.
- 4.2 As identified within the National Planning Practice Guidance (NPPG), the aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

The Sequential Test and the Proposed Development

- 4.3 The proposed site is shown on the government web-based Flood Map for Planning (see page 3) to lie within all three Flood Zones, with the southern half of the site within Flood Zone 3, as also outlined in the FRA which supports the planning application. Flood Zone 3 is the area described as having a 1% or greater annual probability of fluvial flooding or a 0.5% or greater annual probability of tidal flooding. Flood Zone 1 (low risk) is shown towards the north corner of the site.

- 4.4 The sequential test, the aim of which is to steer new development to the areas with the lowest probability of flooding, is required to be passed for developments proposed in Flood Zones 2 and 3. Although the existing site is partly within Flood Zone 3, as shown by the modelling work undertaken as part of the submitted FRA, this document also demonstrates that the site would not be at risk of flooding with recommendations.
- 4.5 As the site lies partly within Flood Zones 2 and 3, and in accordance with the NPPF, development should not be permitted if there are reasonably available sites appropriate for the proposed development in Flood Zone 1. As outlined within the NPPG, the first stage in carrying out the sequential test is to define a search area. As this proposal is for sustainable housing development, designed for the location it is within, the catchment area for this type of development is centred on Cleator itself and examines sites of a similar size on the edge of the village, immediately adjoining the development framework boundary, and which are located in Flood Zone 1 and available for housing development. Cleator itself has been specifically chosen as it has got a settlement boundary as designated by the Copeland Local Plan.
- 4.6 This is in accordance with the approach outlined within the NPPG. Specifically, para 33 states that:
- “For individual planning applications.....the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.”*
- 4.7 The next stage is to identify ‘reasonably available’ alternative sites that could meet the functional requirements of the proposed development, at a lower probability of flooding. Paragraph 33 goes on to say that, “when applying the Sequential Test, a pragmatic approach on the availability of alternative should be taken”.
- 4.8 In terms of reasonable alternative sites, it is important to consider two elements of the design proposals. Firstly, the scheme is located on the edge of the existing built-up area of the village, close to the village church and existing services and amenities, including the village pub, hotel and bus route services. Therefore, the area to consider in terms of alternative sites should only relate to sites on the edge of the settlement itself.
- 4.9 The plan below highlights sites that have been identified adjacent to or within the settlement boundary of Cleator that could provide housing development and are generally comparable in terms of size.



Site Ref.	Location	Suitability
1	Land to the South of Trumpet Terrace	No obvious point of access from Trumpet Terrace; detached from the main part of the settlement and settlement boundary; Also adjacent to the River Ehen, and within a Flood Zone 3.
2	Land at The Flosh	Land already with planning permission for a self-build site and therefore not for sale as a whole; Significantly smaller site than the application site, not possible to be extended following planning refusal for additional land to north by Copeland Borough Council. No progress has been made with regards to a commencement in the current ownership since approval in 2015.
3	Land north of The Ennerdale Hotel	Small-scale site with no possibility to extend; adjoins designated Heritage Asset (Grade II Listed Building The Ennerdale), which is likely to severely constrain development; Not favoured by Copeland Borough Council – In the 2012 SHLAA document as Site Ref S341, the comments for the site are ‘Only Local Plan site because Inspector put it in’.
4	Land adjacent to A5086	Backland site in multiple land ownerships – access likely difficult onto A5086 without acquiring further property or frontage onto Jacktrees Road due to visibility; smaller site than that as proposed, will not have same capacity; Opposite designated Heritage Asset (Grade II Listed Building The Ennerdale), which is likely to constrain development.
5	Land adjacent to Hilden Road	Poor access from Kiln Brow onto Main Street (A5086); Also adjacent to the River Ehen, and within a Flood Zone 3.

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6	Land adjacent to Church Street	Approved self-build site under construction; Small scale development, further development to the north west will likely cause landscape impact.
7	Land south of United Utilities site, A5086	Detached from main area of residential development and settlement boundary; Adjacent to the Waste Water Treatment Works, so likely to adversely impact any adjoining residential development.
AS	Land adjacent to Cleator Mills	Application site – current proposal for 115 dwellings.

4.10 In accordance with this thorough analysis of all alternative sites located next to the built up area of the village, the application site has been proven to be the next most appropriate location for a residential development in Cleator, given that many of the alternative sites already have planning permission on a small scale and are likely to be developed in the near future. The analysis also demonstrates that there are no sequentially preferable, available sites in Flood Zone 1 adjacent to the village development framework boundary.

5.0 The Exception Test

5.1 The 'exception test' is also required to be passed for certain types of development proposed in Flood Zone 3. The first part of the 'exception test' should consider whether the sustainability benefits of the proposals to the local community outweigh the flood risk. The second part of the 'exception test' needs to demonstrate that the development will be safe for its lifetime, taking into account the vulnerability of its users, and that it will not increase flood risk elsewhere.

5.2 The FRA that has been submitted as part of the planning application deals with the second part of the exception test, showing the proposed development will be safe for its lifetime and will not increase flood risk elsewhere.

5.3 In terms of the first part of the 'exception test', it is considered that there are significant economic and social benefits to the proposals. In the short term, the economic benefits would include the creation of jobs in the construction industry as well as the multiplier effect in the wider economy arising from increased activity (all covered in the Economic Benefits Statement). The provision of housing in this location would increase the proportion of sustainable travel to the Sellafield site, which is the area's largest employment source. This is based upon the adjacent Park and Ride site.

5.4 The proposed development would also provide a clear public benefit in helping to meet the current housing shortfall in the Copeland Borough. The site would deliver 115 dwellings, 10% of which would be affordable (12 dwellings), in accordance with the Council's proposed housing policies. The full planning application that has been submitted is by an established national housebuilder, who fully intends to build-out the development as soon as a commencement can be made once planning permission is granted, the section 106 agreement has been signed and the pre-commencement conditions have been cleared. Significant weight should be afforded to this benefit in the decision making process.

5.5 The site is located within 500 metres of the Main Street and is within walking and cycling distance of many of the services and facilities in Cleator Moor including the local primary

schools, employment sites and a supermarket. Within Cleator itself is a pub, shop, Church two hotels and a cricket club.

- 5.6 It is therefore considered that the proposals include significant positive elements which will enhance sustainability. It is therefore considered that the proposals achieve the definition of sustainable development as set out in the NPPF, and that provided the development can be made safe from flooding and will not increase flood risk elsewhere, as anticipated by the FRA, then the exception test can also be considered to be passed.

6.0 The Proposed Development

- 6.1 The application is accompanied by a detailed Flood Risk Assessment (FRA), following flood modelling work by RWO Associates Ltd (included with the planning application), the site is identified as being within Flood Zones 2 and 3 but benefits from existing Flood Defences.
- 6.2 The proposed development is for residential use – 115 dwellings – and applying the Flood Risk Vulnerability Classification in Table 2 of the NPPG, the proposed use of the land and buildings falls within the “more vulnerable” uses of land, as outlined in the NPPG.
- 6.3 The site is shown on the government web based Flood Map for Planning to lie within Flood Zones 2 and 3 (medium and high risk). Flood Zone 3 is the area described as having a 1% or greater annual probability of fluvial flooding or a 0.5% or greater annual probability of tidal flooding. Flood Zone 1 (low risk) is shown towards the south of the site.
- 6.4 The Sequential Test, the aim of which is to steer new development to the areas with the lowest probability of flooding, is required to be passed for developments proposed in Flood Zone 3. The existing site is partly in Flood Zone 3, but is also considered to be defended from the defences on the adjacent land, however, there are no alternative sites at lower risk of flooding and the proposals will ensure that the site is safe.
- 6.5 The alternative site analysis undertaken in section 2 of this report, demonstrates that there are no suitable alternative sites available at a lower risk of flooding, and that therefore the Sequential Test is considered to be passed. The Exception Test is also required to be passed for certain types of development proposed in Flood Zone 3. The FRA that forms part of the planning application deals with the second part of the Exception Test showing the proposed development will be safe for its lifetime.
- 6.6 The site is therefore appropriate for residential development in accordance with the FRA submitted with the application and has previously been considered suitable for residential development by Copeland Borough Council.

7.0 Conclusion

- 7.1 In relation to the Sequential Test, the FRA that has been prepared to support the planning application for 115 dwellings on the site at Cleator Mills in Cleator confirms that the test is passed. In addition, the FRA also confirms that the proposed development would be safe for its lifetime and not increase flood risk elsewhere, providing that the mitigation measures described in the FRA are implemented.

- 7.2 This report considers the Sequential Test in terms of alternative sites located in Flood Zone 1 on the edge of the village, and concludes that, given most of these sites already have planning permission for housing or are the subject of current proposals for housing development, it is not possible for the proposed development to be located in zones with a lower probability of flooding. In addition, the proposed development clearly provides wider sustainability benefits to the community that outweigh any flood risk.
- 7.3 The Borough Council cannot currently demonstrate a five year supply of deliverable housing land. In these circumstances, a balancing exercise should therefore be carried out as part of any decision making process. As part of that balance, in the absence of a five year housing land supply, considerable weight and importance should be attached to the benefits a proposal brings in terms of the delivery of new homes. It is only when the conflict with other development plan policies is so great, such as to significantly and demonstrably outweigh the benefits, that planning permission should be refused.
- 7.4 The absence of a continuing supply of housing land has significant consequences in relation to people finding homes and is in direct opposition to the thrust of the NPPF, which seeks to ensure that everyone should have the opportunity of a wider choice of housing. Housing land supply, therefore, is not just related to a mathematical calculation, it is about ensuring that land for housing development comes forward early enough to meet the real needs of people.
- 7.5 There are significant economic and social benefits to the proposals. It is considered that the proposals include significant positive elements which will enhance social sustainability. These include the provision of a delivery of low cost housing within the development and a significant amount of public open space. It is therefore considered that the proposals achieve the definition of sustainable development as set out in the NPPF, and that the development can be made safe from flooding, as detailed in the FRA.
- 7.6 For all of the above reasons, the proposed development therefore successfully passes both the sequential test and the exception test.

Simon Blacker MRTPI