

18/05597/OUT

**Consultations and Notification Responses received since the Committee decision of 22 August 2019**

**Environment Agency (south-east)**

Comments: Sequential test

This is my advice to you on the sequential test.

Has the sequential test for this development and planning application been carried out? Has the developer supplied this information in discussion with yourselves?

Paragraph 158 of the National Planning Policy Framework says:

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

And Paragraph 163 says that:

“When determining any 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....”

Have sites at lower risk of flooding been considered?

If the sequential test is passed you will need to apply the first part of the exception test and the second part which is about flood risk. You need to be satisfied that the sequential test is passed before considering the details of the development in terms of flood risk.

**Environment Agency position**

**In my response dated 16 August 2018 our position is clear on planning application 18/05597/OUT which is that we remove our objections subject to conditions being imposed on any planning permission granted. (Bold added by the planning case officer to highlight the position rather than the advice)**

Conditions

Regarding our River Wye ecological buffer condition you have amended this in your email dated 23 August 2018. I'm not clear as to what the trigger is for the submission of the details of this condition? The following wording is missing: “No development shall take place”

You have mentioned the reserved matters landscaping but not the layout. I think this will be important when it comes to agreeing the details of the 10 metre buffer zone.

I refer to the following condition draft from your email dated 23 August 2018 about floodplain modelling:

The submitted details of layout shall include design flood plain modelling for the proposed layout. The modelling should be in the form of an addendum to the Flood Risk Assessment and shall include a

model log with all model files documented and clearly referenced. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the full extent of the flood risk is modelled accurately to ensure that proposals are based on the best possible information. This is to ensure that development will not be built in areas of flood risk and that flood risk is not increased due to the development proposals.

### **Bucks County Council Education Department**

Comments:

I have considered the details of the above application for 150 dwellings and I can confirm that we would require a financial contribution to provide additional primary school facilities arising from the above development in accordance with BCC's adopted S106 policy.

Primary schools across the area are currently at capacity with projections indicating a need for additional capacity. I have included the education infrastructure costs per dwelling type to allow an assessment to be made of the scale of contributions which would be required on the scheme.

Provision Type	Flats			Houses			
	1 Bed	2 Bed	3+ Bed	1 Bed	2 Bed	3 Bed	4+ Bed
Primary	£403	£1,298	£2,640	£1,715	£3,296	£5,787	£6,965

### Representations

Two letters have been received stating they are on behalf of Bourne End Residents Association, Hawks Hill & Widmoor Residents Group & Keep Bourne End Green. These letters make the following observations:

- Despite five-months passing a formal grant of planning permission has yet to be made for this application
- Earlier this year (January 2019) the Council published an interim housing supply position statement which confirms a five-year supply. This is a material change in circumstances and it would be contrary to the Council's statutory duty to make a formal grant of permission for this application without reconsidering the planning merits.
- concern is raised over factors they claim were omitted or misrepresented in the Officer Report that was submitted to the Planning Committee, these are set out as:-
  - The report did not refer to the housing supply as set out in the emerging Local Plan instead it relied upon aged data.
  - The report gave significant weight to the lack of a five year supply of housing and subsequently applied a 'presumption in favour of sustainable development' with reference to NPPF (2018) policy 11 bullet d).
  - The report, while acknowledging footnote 6, draws the wrong conclusions when considering its trigger and the EA objection was contingent on their advice concerning the Sequential Test
  - The report does not take into account the March 2018 report forecast for the five-year housing supply which was validated in the January 2019 Interim report and disagrees with the position set out in the case officer report.
  - the Council had testified in the new local plan Public Hearings, and submitted a Topic Paper and Matter Statements to the Inspector (all at a date prior to the Officer Report) that it is able to demonstrate a five-year supply in every period from 2018 through to the end of the plan period in 2033;
  - the case officer should have taken into account the information provided to him by the objectors to the scheme about windfall sites in the area that were completed, under construction or with planning permission but not yet started but capable of development

that were not included in the 2018 monitoring report or the five-year supply position statement.

- The officer should not have placed significant weight upon the delivery of 150 houses at Slate Meadow without having undertaken a sequential test to see if those houses could have been delivered somewhere with less risk of flooding.
- The officer should have made the Planning Committee aware that the lack of a sequential test should be a matter of concern and that the council had failed to establish if the sequential test has been passed.
- The officer should not have proposed a mitigation approach to dealing with the sequential test as this is contrary to the NPPF, policy DM17, the 'Watermead' case and EA advice.
- Why did the developers not submit a different plan if they wanted to show that none of the dwellings would be in the potential areas of flood as suggested by the case officer
- The site is in the flood plain and therefore new houses will have great difficulty with insurance.
- The Planning Committee were perhaps misled by the Officer Report, potentially in an unlawful manner.
- The Officer Report made no mention (or other inferences) of an intention to depart from national policy, and neither was such departure raised by the lead Planning Officer at the Planning Committee meeting when considering the outline application
- A Planning Performance Agreement (PPA) between Wycombe District Council and Avant Homes and Croudace Homes provided the timetable for legal obligations to be agreed "in full (without prejudice) ahead of any determination by Planning Committee to allow a permission to be issued in a timely manner". All parties committed to the PPA in October 2015 yet all parties failed to secure the legal obligations ahead of the Planning Committee meeting in August 2018 and a further 6-months have passed since the Planning Committee 'in principle' decision. This amounts to over 3-years in which to agree legal obligations for this site.
- There was limited time to check the officer report prior to planning committee.
- The decision in *Hallam Land v. SSCLG* [2018] EWCA Civ 1808 suggest that the case officer applied too much weight to the delivery of houses on this site.