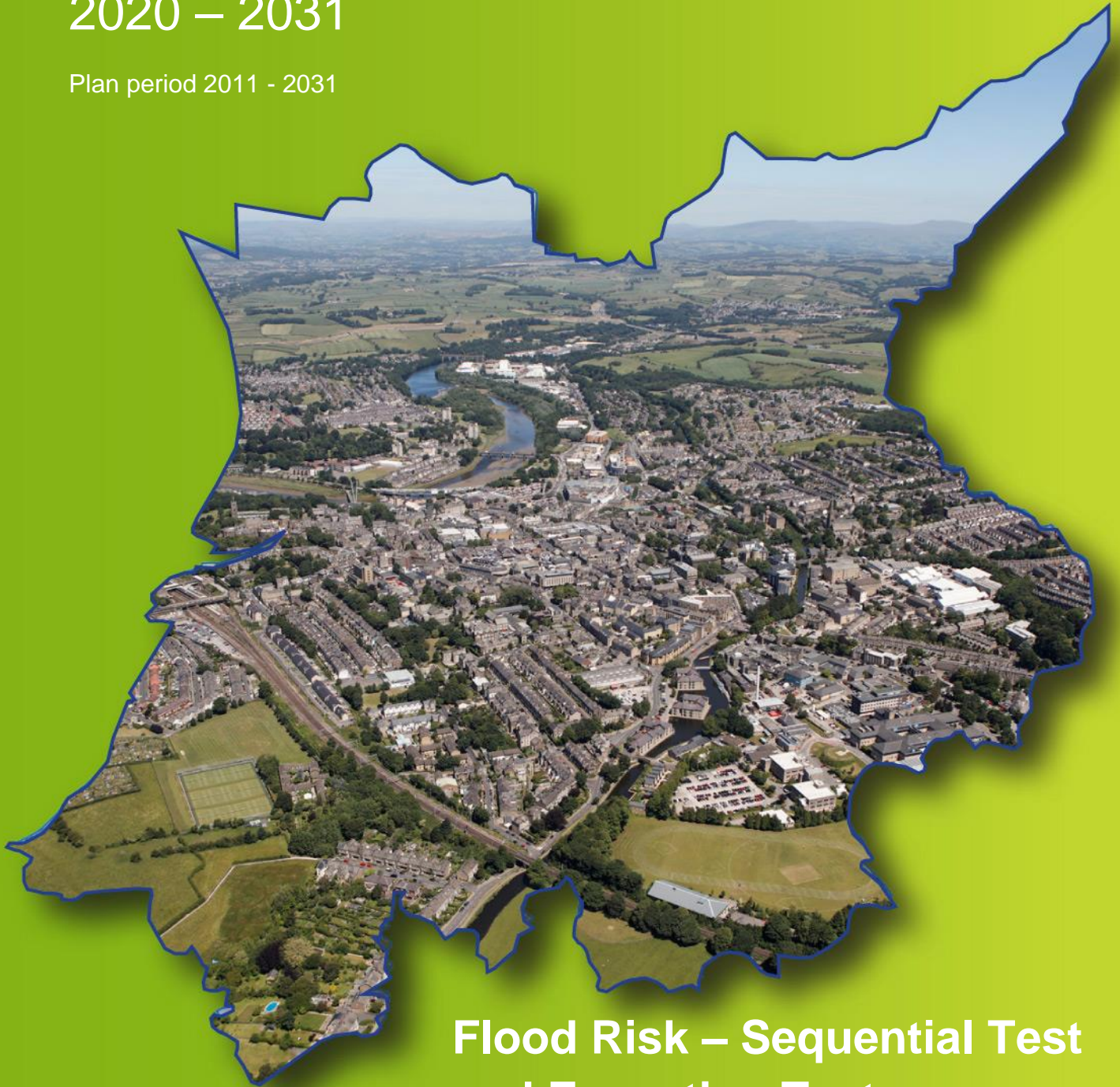


A Local Plan for

# Lancaster District

2020 – 2031

Plan period 2011 - 2031



## Flood Risk – Sequential Test and Exception Test Supplementary Planning Document

March 2022

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## Summary

The purpose of this Supplementary Planning Document (SPD) is to provide guidance on the implementation of Policy DM33 of the Climate Emergency Review Development Management DPD, in relation to the application of the Sequential and Exception tests in terms of flood risk. This SPD provides guidance about how the City Council will apply the Sequential and Exception Tests, particularly in relation to the geographical scope of the test in the context of differing types of residential development. Applicants should also consult the online advice available at: [Flood risk assessment: the sequential test for applicants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-assessment-the-sequential-test-for-applicants)

The SPD sets out what Sequential and Exception Tests are, when they are required and what they involve. It provides links to other sources of information and guidance.

## Introduction

- 1.1 National planning policy on managing flood risk is set out in the National Planning Policy Framework (NPPF)<sup>1</sup>. This is supported by more detailed guidance in the form of the National Planning Practice Guidance (NPPG) and National Guidance<sup>2</sup> on Flood Risk and Coastal Change. The NPPG is referred to throughout this SPD, please use the link in footnote 2 to access this information.
- 1.2 Both documents state that inappropriate development in areas at flood risk should be avoided by directing development away from areas of highest risk through the application of the ‘Sequential Test’. This requires local planning authorities to refuse new developments if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flood risk. The aim is, to keep development out of areas at medium and high flood risk (Flood Zones 2 and 3) and areas affected by other sources of flooding.
- 1.3 In terms of the decision-making process, the Sequential Test is the first stage in addressing flood risk where this is an issue in the determination of a planning application. Where a Sequential Test is passed, an Exception Test will also need to be carried out if the site falls within certain flood zones and vulnerabilities (further information is available in section 9). An Exception Test ensures that wider sustainability benefits and the safety of users of a development are taken into account in the decision-making process.
- 1.4 The Sequential and Exception Tests are separate to a site-specific Flood Risk Assessment (FRA) and Sustainable Drainage Strategy. An FRA is a technical assessment which assesses whether a development can be implemented without exacerbating flooding on the site or elsewhere and contributes to reducing flood risk and ensuring that the development will be safe for its lifetime.

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<sup>1</sup> NPPF (2021) Chapter 14: ‘Meeting the challenge of climate change, flooding and coastal change’  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>2</sup> National Guidance on ‘Flood risk assessment: the sequential test for applicants’ [www.gov.uk/guidance/flood-risk-assessment-the-sequential-test-for-applicants](https://www.gov.uk/guidance/flood-risk-assessment-the-sequential-test-for-applicants) & ‘Flood risk and coastal change’  
[www.gov.uk/guidance/flood-risk-and-coastal-change](https://www.gov.uk/guidance/flood-risk-and-coastal-change)

- 1.5 The Environment Agency (EA) will comment on most applications where FRAs are required and the Local Lead Flood Authority (LLFA) will comment on drainage. They will not assess the Sequential and Exception Test information submitted with an application. That is the role of the local planning authority. As the reasons for the FRA, Sustainable Drainage Strategy and the tests serve different purposes, it may be that the EA and LLFA concludes the FRA show that the proposal demonstrates that it will not affect flood risk and will be safe for its lifetime and raise no objection. This does not mean that a proposal will pass a Sequential and Exception test.
- 1.6 Potential applicants are urged to provide sufficient evidence to support their Sequential and Exception tests. The Local Planning Authority will assess the information submitted and determine whether the tests have been passed.
- 1.7 The SPD does not include additional policies or requirements but provides additional guidance on the Sequential and Exception Tests required by national policy and draft CELPR policy DM33. The SPD is being produced in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Once adopted, this SPD will be afforded weight in decision making.
- 1.8 All links within this document were correct and actionable at the time of publication.

## The Sequential Test

### 2. What is a Sequential Test?

- 2.1 A Sequential Test is a tool which is used to ensure that development is steered towards areas which are at low probability of flood risk (Flood Zone 1) and is only approved in areas of higher flood risk where an applicant demonstrates that there are no reasonable alternative sites within areas at lower flood risk. The NPPG<sup>3</sup> states:

*'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.'*<sup>4</sup>

### 3. When is a Sequential Test Required?

- 3.1 A Sequential Test is required for all sites which include land within Flood Zones 2 and 3 (a and b). For the purposes of the Sequential Test, the 'site' is the area within the application boundary (the red line), and not only the proposed built form.

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<sup>3</sup> Planning Practice Guidance [Flood risk and coastal change - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-and-coastal-change)

<sup>4</sup> Planning Practice Guidance Paragraph 019 Reference ID: 7-019-20140306

### 3.2 The NPPG states:

*'The flood zones as refined by the Strategic Flood Risk Assessment for the Area provide the basis for applying the Test'<sup>5</sup>*

and the Sequential Test is not normally necessary for development in Flood Zone 1,

*'unless the Strategic Flood Risk Assessment for the area, or other more recent information, indicates there may be flooding issues now or in the future (for example through the impact of climate change'<sup>6</sup>*

It is therefore necessary to consult the Strategic Flood Risk Assessment (SFRA)<sup>7</sup> which identifies flood risk now and in the future and whether a Sequential Test is required.

### 3.3 A Sequential Test is therefore required for sites:

- Which fall within Flood Zone 2 and 3 at the present time, as identified by the most up to date Environment Agency Flood Maps<sup>8</sup> or the Strategic Flood Risk Assessment;
- Sites where the SFRA identifies that the risk will increase and will move from Flood Zone 1 to Flood Zone 2 or 3 as a result of climate change.

### 3.4 There are the following exceptions to this requirement:

- Minor development. The NPPG and NPPF define 'minor' development as:
  - a) Minor non-residential extensions: industrial / commercial /leisure etc extensions with a footprint of less than 250sqm.
  - b) Alterations: development that does not increase the size of the buildings (e.g. alternations to the external appearance).
  - c) Householder Development: for example, sheds, garages, games rooms etc within the curtilage of the existing dwelling, in addition to physical extensions to the existing dwelling itself. This definition excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling (e.g. subdivision of houses into flats).<sup>9</sup>
- Applications for changes of use except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site or where extensions/built development is required to facilitate the change of use.
- Development in Flood Zone 1, unless the SFRA or more recent information, indicates there may be flooding issues now or in the future (for example, through the impact of climate change).
- Sites allocated within an adopted Local or Neighbourhood Plan and the proposal is for the same type of develop for which the site was allocated.

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<sup>5</sup> Planning Practice Guidance Paragraph 019 Reference ID: 7-019-20140306

<sup>6</sup> Planning Practice Guidance Paragraph 033 Reference ID: 7-033-20140306

<sup>7</sup> CELPR SFRA Update (2021) - <https://www.lancaster.gov.uk/planning/planning-policy/evidence-monitoring-information>

<sup>8</sup> Flood Map for Planning - <https://flood-map-for-planning.service.gov.uk/>

<sup>9</sup> Planning Practice Guidance Paragraph 046 Reference ID: 7-046-20140306 and footnote 56 of the National Planning Policy Framework

- 3.5 The Sequential Test for schemes for more than one use (i.e. mixed use schemes) will be dealt with on a case-by-case basis. In doing so the City Council will consider:
- Whether or not the proposal includes 'minor' development as defined above or a change of use; and
  - Whether or not the proposed uses must sit together on the same site or whether or not they should be disaggregated for the purposes of identifying alternative sites.
- 3.6 A Sequential Test may not be required in the following cases, but this should be confirmed with the Council prior to submission:
- Where all development on a site, including access/egress, gardens, recreational areas, is contained within Flood Zone 1.
  - Replacement dwellings where there is no substantial increase in the footprint of the building/s (whether there is a substantial increase will be compared to the potential size of the building if available permitted development rights were to be used). Where there are areas of land at lower level of flood risk within the site, re-siting the dwelling/s in these areas should be explored and measures to reduce the flood risk and improve flood resilience should be included within the scheme. If additional dwellings are proposed, including replacement of a dwelling with flats, a Sequential Test will be required.
- 3.7 It is important to note that where a development proposal falls within Flood Zone 1, in some circumstances the Sequential Test (plus the Exception Test) may still need to be addressed, for example where there are other sources of flooding (as defined in the table above) within the site.
- 3.8 In some cases the 'red-edged' boundary of a proposed development site may include areas within Flood Zones 1 and Flood Zones 2 and/or 3. Where this is the case, the application of the Sequential Test will depend on the nature and layout of the development proposed. In such cases, the whole site will be subject to the Sequential Test. The location of all development likely to affect, or be affected by, flooding should be justified. When an outline application is submitted for a site that includes Flood Zone 1 and Flood Zones 2 and/or 3, the City Council will expect an applicant to submit sufficient detail, for example through a site layout, to allow a judgement to be made on the application of the sequential approach. It is important that access arrangements to sites are not located in areas of Flood Zone 3 to ensure that new development is not isolated / cut off during times of flooding.
- 3.9 If you have any doubt over whether or not your proposals falls within this definition you are strongly advised to make use of the City Council's pre-application advice service, further information on this can be found at <http://www.lancaster.gov.uk/planning/planning-advice/will-i-get-permission>. The use of the pre-application process will save you the possibility of incurring additional or unforeseen costs and delay should you submit a planning application for a development which is subsequently judged to require a Sequential Test.

## 4. Identifying Flood Risk

4.1 For the purposes of applying the sequential test, the definition of ‘flood risk’ is taken from the NPPG and refers to:

*‘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, lakes and other artificial sources.’<sup>10</sup>*

4.2 The Environment Agency (EA) provides mapping of flood risk arising from sea and river sources and is available at <https://flood-map-for-planning.service.gov.uk/> and for rivers, seas, surface water, reservoirs and some ground water at [Check the long term flood risk for an area in England - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

4.3 This mapping does not take into account the presence of flood defenses, nor does it account for the potential impact of Climate Change, including sea-level rise and extreme weather events. Flood risk is mapped according to the probability of flooding which is expressed in three different flood zone. For the purposes of the Sequential Test and Flood Risk Assessment, flood defenses are not taken into account and these maps should be utilized.

FLOOD ZONE	DEFINITION
<b>Zone 1</b> (Low Probability)	Land having less than 1 in 1,000 annual probability of river or sea flooding. (Shown as ‘clear’ on the Flood Map – all land outside Zones 2 and 3).
<b>Zone 2</b> (Medium Probability)	Land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding; or Land having between a 1 in 200 and 1 in 1,000 annual probability of sea flooding. (Land shown in light blue on the Flood Map).
<b>Zone 3a*</b> (High Probability)	Land having 1 in 100 or greater annual probability of river flooding; or Land having 1 in 200 or greater annual probability of sea flooding. (Land shown in dark blue on the Flood Map).
<b>Zone 3b*</b> (The Functional Floodplain)	This zone comprises land where water has to flow or be stored in times of flood. (Not separated distinguished from Zone 3a on the Flood Map).

**Table 1:** Definition of Flood Risk Areas

\* Zones 3a and 3b can distinguished by using the SFRA Flood Mapping which is available on the Council website.

4.4 The NPPG states that the SFRA provides the basis for applying the Sequential Test and that development in Flood Zone 1 will not normally require a sequential test, unless the SFRA indicates there may be flooding in the future. The SFRA must therefore be consulted to determine the flood risk and whether this will change in the future as a result of climate change.

4.5 The SFRA identifies flood risk at a point in time. To determine the level of flood risk for sequential tests purposes, the flood risk level should be based on whichever maps/document identify the higher risk.

<sup>10</sup> Planning Practice Guidance Paragraph 002 Reference ID:7-002-20140306

## **5. Development Vulnerability**

5.1 The NPPG identifies the vulnerability of different types of development and sets these into the following categories:

- Essential infrastructure;
- Highly vulnerable
- More vulnerable
- Less vulnerable
- Water-compatible<sup>11</sup>

5.2 Table 3 of the NPPG identifies the compatibility of development within these categories within each flood zone. It identifies some uses as being so vulnerable that they should not be permitted within Flood Zone 3<sup>12</sup>. Applicants should ensure that their proposals do not involve these uses before undertaking the Sequential Test.

## **6. Who is Responsible for the Sequential Test?**

6.1 Where a proposal requires a Sequential Test, the applicant must provide evidence to demonstrate that the test can be passed.

6.2 The Council will consider the evidence submitted to determine whether it can be concluded there are no reasonably alternative sites available in areas of lower flood risk. This will include an assessment of all types of development within the site to ensure that development is sited in the areas at lowest flood risk. The submitted sequential test should satisfactorily demonstrate that there are no reasonable available alternative sites suitable for the proposed development, and the LPA will consider the extent to which Sequential Test considerations have been satisfied and whether this has passed, taking advice from the EA as appropriate.

## **7. What does the Sequential Test Involve?**

7.1 In applying the Sequential Test, the NPPG establishes the following principles:

- The geographical area across which the Sequential Test should be applied will be defined by local circumstances relating to the catchment area for the type of development proposed.
- Where there are large areas of Flood Zones 2 and 3 and development is needed in those areas to sustain the existing community, sites outside of them are unlikely to provide reasonable alternatives.
- When applying the Sequential Test, a pragmatic approach to the availability of alternative sites should be taken.

7.2 There are three basic elements to applying the Sequential Test within Lancaster district:

- The geographical area across which the Test is applied.
- The range of alternative sites to be considered.
- The definition of 'reasonably available'.

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<sup>11</sup> Planning Practice Guidance Paragraph 066: Reference ID: 7-066-20140306

<sup>12</sup> Planning Practice Guidance 067 Reference ID: 067-20140306



### Defining the Geographical Area

- 7.3 For developments that have a sub-regional, regional or national significance, the Sequential test area of search will include the whole district and areas outside of the district boundary in line with the anticipated catchment area for the proposed development.
- 7.4 For all other applications the normal area of search is the whole of the district.
- 7.5 Any departure from the 'district-wide' approach which seeks to apply a reduced geographical area in the search for alternative sites must be clearly and rigorously justified by reference to one or more of the following:
- a. The functional requirements of the proposed development as a whole or in part;
  - b. For affordable housing schemes or housing exception sites which are intended to meet the needs of a specific community, the Strategic Housing Market Assessment (Part II) which provides an assessment of need based on parish / sub-area basis or an update to date Parish/Town Housing Needs Survey.
  - c. The proposal is located in an area which is in specific need for regeneration as identified in the Local Plan.
  - d. The development is directed to a particular area by policies within the Local Plan.
- 7.6 It is strongly recommended that applicants agree the geographical area to which the Sequential Test applies with the Council before submitting a planning application which makes use of the relevant guidance contained in the NPPG. For the avoidance of doubt, the strategic local planning position is set out in the CERLP Strategic Policies & Land Allocations DPD, and, in the context of flood risk, supplemented by Policy DM33 of the CELPR Development Management DPD. The City Council views residential development of all sizes as a strategic matter which will be considered on a district-wide basis.
- 7.7 In all cases where a reduced area of search is accepted by the City Council, the remaining elements of the Sequential Test need to be addressed and, if possible, agreed with the Council.

### The Range of Alternative Sites to be Considered (Comparator Sites)

- 7.8 In order for applicants and the Council to be able to consider whether or not there are reasonably available alternative sites appropriate for a proposed development, comparator sites need to be identified and their availability assessed.
- 7.9 It is strongly recommended that prior to the Sequential Test being undertaken applicants agree with the City Council a reasonable comparator site threshold as part of the pre-application process.
- 7.10 For residential schemes, this may be based on site area or capacity. The Council will normally apply a +/- 10% buffer to create a range within which comparator sites can be identified. For example, if site capacity is used as the basis for determining comparability, a residential scheme of 20 dwellings would generate a comparator site threshold of 18-22 dwellings.

- 7.11 On the same basis on 0.6ha of land this would generate a comparator threshold of 0.54ha to 0.66ha. The method used will depend on the circumstances of the site and the proposal. For higher density developments, for instance flats, the size threshold should be normally used. For lower density developments, for instance large detached houses, the site capacity should normally be used. For residential development, in some cases, the City Council may wish to apply both site capacity and site size parameters.
- 7.12 For non-residential schemes, the City Council will make a case-by-case judgement, having regard to the site area and the type/scale of development proposed.
- 7.13 In all cases, the Council will consider whether or not the site size agreed should represent the net or gross developable area of the proposed scheme.
- 7.14 Comparator sites should be capable of accommodating the general objective of the proposed development (for example, the provision of housing) within the agreed thresholds but not necessarily the form or layout.
- 7.15 Where the City Council considers that a comparator site is sequentially preferable, this does not necessarily imply that a planning permission for the development in question would be forthcoming on that site.
- 7.16 Applicants can use the following sources to identify comparator sites:
- Check the Local Plan<sup>13</sup> for sites which have already been allocated for development and could be suitable for the development being proposed.
  - Look at sites that have not been allocated in the Local Plan but have been granted planning permission<sup>14</sup> for a development that is the same, or is similar, to the development being proposed.
  - Check for windfall sites within the search area. Windfall sites are sites which have not been allocated for development in the Local Plan and do not have planning permission but could be available for development.
  - Make use of the most up-to-date Council evidence, including the Strategic Housing and Employment Land Availability Assessment<sup>15</sup> to understand land availability within the district.
- 7.17 Please note that in all cases, up-to-date Environment Agency mapping of flood risk should be used to identify the potential flood risk associated with comparator sites. The most up to date SFRA should be used to determine the future flood risk as a result of climate change and where land is in Flood Zone 3 the SFRA should be used to determine whether land is within Zone 3a or 3b.

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<sup>13</sup> Strategic Policies and Land Allocations DPD [About the Local Plan & Planning Policy - Lancaster City Council](#)

<sup>14</sup> View Planning Applications and Decisions [View planning applications and decisions - Lancaster City Council](#)

<sup>15</sup> Strategic Housing and Employment Land Availability Assessment [Evidence, monitoring and information - Lancaster City Council](#)

7.18 To ensure a comprehensive approach is taken to the identification of comparable sites, applicants will normally be required to consult professional property agents with demonstrable knowledge and understanding of the local land and property market within Lancaster district. It is recommended that a minimum of three agents who individually or collectively cover the agreed area of search are used. Where this is not possible, the applicant should evidence that the number of agents used provides appropriate coverage of the agreed area of search and provides a comprehensive view of the market in question. In any event, applicants should provide written evidence (for example e-mails or letters that include company and contact details) detailing the nature and outcome of the contact with agents. The City Council will not accept the use of web-only site search as the sole means of meeting this requirement.

7.19 In some cases, it may be necessary for the applicant to undertake a bespoke survey of potentially available land within the agreed parameters of the Sequential Test.

#### [The Definition of 'Reasonably Available'](#)

7.20 In accordance with national planning policy, for a proposed development to pass the Sequential Test it must be demonstrated that there are no reasonable available alternative sites appropriate for the proposed development in areas with a lower risk of flooding.

7.21 The City Council views reasonably alternative sites as those that are available and deliverable (as defined by the NPPF<sup>16</sup>, for the uses proposed and:

- Lie within the agreed area of search; and
- Are within the agreed comparator sites threshold; and
- Can accommodate the general requirements of the development; and
- Are in principle, in conformity with the objectives and policies of the Adopted Development Plan and the objectives and policies of the NPPF and its associated NPPG, including those relating to flood risk and relevant aspects of Climate Change.

7.22 The City Council would normally accept that a site is not reasonably available if:

- It contains an existing operational or business use unless a planning approval for development proposes to extinguish that use; or
- It has a valid planning permission for development of a similar type and scale which is likely to be implemented.

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<sup>16</sup> NPPF Glossary – Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular: a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years

- 7.23 Evidence that a planning permission is likely to be implemented can include:
- The discharge of conditions (or the submission of an application to discharge conditions); or
  - Indication from the landowner(s), applicant or developer that a development is being brought forward; or
  - The approval of reserved matters (or an application for reserved matters).
- 7.24 Where contact has been made with a landowner, applicants should detail the nature and timing of this contact and where possible provide the name of the owner in question. If a landowner is unwilling to make the site available for the use in question, then written evidence of this should be provided where possible. The Council reserve the right to adopt due diligence in such cases and may contact the landowners to verify site availability.
- 7.25 Applicants are advised to submit as much detail as possible on the search for alternative sites to avoid delays in the planning process. The following information should be submitted as a matter of course:
- A map and statement identifying and justifying the area of search;
  - A map of all sites considered; and
  - A statement detailing known relevant information on each site. This may include matters such as size, ownership and constraints. This may be presented in a tabular format with a statement outlining the conclusions.
- 7.26 Statements on the non-availability or unsuitability of a comparator sites for whatever reason, including the presence of constraints or viability issues will need to be justified and evidenced in writing.
- 7.27 Applicants are reminded that this is not a test of relative sustainability between different sites. The fact that a comparator site is considered to be less sustainable by reference to factors such as location and proximity to local services, is not in itself a justification to support development in a site in an area at risk of flooding. It is clear from the NPPF that avoiding development in areas at risk from flooding is itself an important aspect of sustainability. Evidence should be as comprehensive as possible where the presence of a constraint is being used to discount a site from the search process. The Environment Agency provides guidance on the nature of constraints that may render a site unsuitable as a comparator site. These include:
- Physical problems or limitations;
  - Potential impacts of development; and
  - Environmental conditions that would be experienced by potential residents.
- 7.28 Local Plan designations may also be a constraint to development.
- 7.29 The Council will take a proportionate and reasonable approach to the need for supporting evidence. However, it must be borne in mind that it is for the applicant to provide sufficient information to allow the Council to make a reasoned judgement as to whether or not the sequential test has been passed. The Council may refuse applications where this information is considered to be deficient.
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### Applying a Sequential Approach to Site Layout and Design

- 7.30 The location of development within a site must also be subject to a Sequential Test. Where the site includes areas at differing levels of flood risk, either at the present time or in the future because of climate change, the development should be located in the areas at lowest flood risk. The same approach to the Sequential Test as described above must be taken.
- 7.31 The most vulnerable uses should be steered to the parts of the site that are at the lowest risk. This approach should take into account the flood risk from all sources. Habitable spaces should be placed on upper floors where possible and the layout should be designed to ensure that safe access and egress is provided.

### The Test of Impracticality

- 7.32 As noted above, the NPPG states that when applying the sequential test a pragmatic approach to the availability of alternative sites should be taken. It gives an example of a planning application for an extension to an existing business premises and suggests that it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.
- 7.33 Not all development is stand-alone or involves a cleared site. As the NPPG suggests, in some cases developments may involve an extension to an existing use. A development proposal may also involve the intensification or partial re-development (in whole or part) of an existing use. There may also be cases where the development of previously developed land supports the Councils aims for regeneration.
- 7.34 In such circumstances, particularly where the proposal involves an existing business premises or operation, or where the development of a specific previously developed site will result in regeneration, it may be impractical to identify comparator sites. Where possible, and by reference to appropriate evidence, this should be agreed with the Council prior to the submission of a planning application. Where the Council does agree that it is impractical to identify comparator sites, applicants should still address this issue under the heading 'Sequential Test', with appropriate evidence, such as a statement of operational circumstances and landownership arrangements, or regeneration priorities. Even where it is accepted that the identification of alternative sites is impractical, applicants are reminded that consideration of the Exception Test may still apply.

### Conversions, Changes of Use and Alterations

- 7.35 The NPPG states that the Sequential Test does not need to be applied for minor development or changes of use (exception for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site). Conversions are not specifically considered although the NPPG states that the creation of a separate dwelling within a curtilage of an existing dwelling (for instance the sub-division of a house into flats) cannot be considered 'minor development'.
- 7.36 The NPPF excludes changes of use from the need to undertake a Sequential Test and there is a need to allow flexibility within the existing stock of dwellings and other buildings to allow their efficient and effective use. Conversions and changes of use are therefore exempt from the need to undertake a Sequential Test unless the proposal includes extensions or built development to facilitate the conversion or change of use. This exemption includes the sub-division of dwellings.

7.37 It should be noted that in applying this guidance the Council will have regard to the scale of any proposed alterations. The NPPG makes clear that only alterations which do not increase the size of a building can be classed as 'minor development'. Householder development that consists of a physical extension is an exception to this general rule and falls within the definition of minor development.

#### [Applications for Residential Development – The 5 Year Land Supply Position and the Sequential Test](#)

7.38 NPPF paragraph 11 states that applications should be considered in the context of the presumption in favour of sustainable development. It goes on to state that where policies are considered out of date, planning permission should be granted unless policies in the NPPF provide a clear reason for refusal. Paragraph 14 sets out circumstances where policies for the supply of housing may be considered out of date, these include where a local planning authority cannot demonstrate a 5 year supply.

7.39 Paragraph 11d)ii. of the NPPF highlights policies which are of particular importance and are an exception to the indication that planning permission should be granted. Footnote 7 of the NPPF specifically recognises that policies in respect of flood risk are exempted and therefore the sequential approach to steer development away from flood risk areas in the NPPF still has considerable weight even in the absence of a 5 year land supply. The Council will therefore not accept a lack of five year supply as an argument for disregarding the need to address the Sequential Test to development in an area of flood risk.

#### [Outcome of the Sequential Test](#)

7.39 If the Sequential Test has demonstrated that there are reasonably available sites at a lower risk of flooding, the application will be contrary to national and local policy and planning permission should not be granted. Where a Sequential Tests has been failed, the Exception Test will not be applied.

7.40 Where a Sequential Test is passed, this will not automatically result in planning permission being granted, the development must be safe and not affect flood risk elsewhere, it will also need to accord with other national and local policies.

## **Exception Tests**

### **8. What is an Exception Test?**

8.1 The Exception Test is a tool used to ensure that, where a Sequential Test is passed, the development provides wider benefits which outweigh the flood risk and the development is designed to be safe.

8.2 Paragraph 164 of the NPPF sets out the requirements for an Exception Test to be passed. It must 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 into account of the vulnerability of its users, without increasing the flood risk elsewhere, and, where possible, will reduce flood risk.'*

8.3 Both parts of the Exception Test must be passed for a development to be permitted.

## 9. *When is an Exception Test Required?*

9.1 The Exception Test will be required where a proposal passes a Sequential Test or where the flood risk of an allocated site has increased since it was allocated, and the site is:

- Located in Flood Zone 2 and is considered highly vulnerable;
- Located in Flood Zone 3a and is considered either a more vulnerable use or essential infrastructure; or
- Located in Flood Zone 3b and is considered essential infrastructure.

The flood risk vulnerability categories are set out in the NPPG<sup>17</sup>

## 10. *Who is Responsible for the Exception Test?*

10.1 Where a proposal requires an Exception Test, the applicant must provide evidence to demonstrate that the test can be passed.

10.2 The Council will consider the evidence submitted to determine whether the development will provide wider sustainability benefits to the community that outweigh the flood risk and whether it will be safe.

## 11. *What does the Exception Test Involve?*

11.1 Applicants should start with part 'b' of the Exception Test. If a development cannot be demonstrated to be safe for its lifetime without increasing flood risk elsewhere, it will not be possible to pass part 'a'.

[Demonstrating the development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing the flood risk elsewhere, and, where possible, will reduce flood risk](#)

11.2 To demonstrate that a development can pass Part 'b', a site specific Flood Risk Assessment will be required. Further information about Flood Risk Assessments and designing development to be safe from flood risk can be found in the Council's Flood Risk and Sustainable Drainage SPD and in the national guidance for 'Flood Risk Assessments if you're applying for planning permission'<sup>18</sup> and in the NPPG.<sup>19</sup>

11.3 In cases where the Sequential Test has been passed for development in Flood Zones 2 or 3, compensatory storage for displaced ground and surface water flood water will be required. Applicants will also be required to demonstrate that the development will contribute to reducing flood risk from all sources of flooding both on and off the site in accordance with policies DM33 and DM34 of the DMDPD.

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<sup>17</sup> Planning Practice Guidance Paragraph: 067 Reference ID: 067-20140306

<sup>18</sup> [Flood risk assessments if you're applying for planning permission - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-assessments-if-youre-applying-for-planning-permission)

<sup>19</sup> Planning Practice Guidance Paragraph: 054 Reference ID: 7-054-20150415

Demonstrating that the development would provide wider sustainability benefits to the community that outweigh the flood risk

- 11.4 Part 'a' requires that applicants demonstrate the proposal will provide wider sustainability benefits that outweigh the flood risk. The Council's Sustainability Assessment Report<sup>20</sup> includes sustainability objectives for the Local Plan. These objectives can be used to inform an explanation of how the proposal will provide wider sustainability benefits to the community.
- 11.5 The provision of measures to reduce the flood risk for existing communities will contribute to wider sustainability benefits. Such measures will need to provide a demonstratable and significant reduction in flood risk to existing communities and will be expected to incorporate on-site storage and natural flood management components which contribute to reducing flood risk reduction, amenity and biodiversity enhancement and pollution control. The reduction in flood risk to existing communities may not itself be provide sufficient sustainability benefit. A range of opportunities should be explored and provided.

**12. Outcome of the Exception Test**

- 12.1 Where either part of the Exception Test is failed, the Council is likely to refuse the application. Where an Exception Test is passed, this will not automatically result in planning permission being granted. The proposed development must also accord with other national and local policies.

**Further Advice**

- 13.1 It is strongly advised that prospective applicants seek pre-application advice in regard to the need to conduct a Sequential Test and Exception Test and to agree the scope and parameters of the tests. Pre-application advice is offered by the Council, details of which can be found on the Council website at <http://www.lancaster.gov.uk/planning/planning-advice/will-i-get-permission>. The Council will charge for this service.

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<sup>20</sup> Sustainability Appraisal report (SA) AECOM  
<https://storymaps.arcgis.com/stories/c42ddcc4f12a454e8538f8b42470cc29>