

Waverley Borough Council

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEALS

APPEAL A

by Mr Barney Doherty against the Council

Pitch 1

LPA ref WA/25/02625. PINS ref APP/R3650/W/22/3313865

1 GYPSY/ TRAVELLER PITCH

APPEAL B

By Mr Levi Williams against the Council

Pitch 2

LPA ref WA/2025/02766. PINS ref APP/R3650/W/23/3314447

1 GYPSY / TRAVELLER PITCH

**PROOF OF EVIDENCE OF MARK SMYTH C ENG MICE ON BEHALF OF
WAVERLEY BOROUGH COUNCIL**

3rd February 2026

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1.0 Introduction

- 1.1 This Proof of Evidence (PoE) has been prepared by Mark A Smyth, representing Waverley Borough Council.
- 1.2 I am a Chartered member of the Institute of Civil Engineers (ICE). I have been Registered with the Engineering Council as a Chartered Engineering since 2007, and I hold a Degree in Environmental Engineering.
- 1.3 I have over 26 years of experience in development management as a Civil and Environmental Engineer, including Flood Risk and Drainage, across the South East of England. This experience has encompassed all types and scales of development, including major residential and commercial developments for both Public and Private Sectors.
- 1.4 I am currently employed as a Director at Stuart Michael Associates Limited of Thatcham Berkshire, where I lead the Environmental Department. My department specialises in Flood Risk, Drainage Design, Hydraulic Modelling and other environmental services.
- 1.5 The team I manage regularly provides Flood Risk Assessments associated with residential and commercial development.
- 1.6 Prior to this I have worked at a nuclear facility, where I held a position as a Suitability Experienced and Qualified Person (SEQP) in the Facility Design Authority covering Civil Engineering and Drainage (SEQP role requirement of Nuclear License holders).
- 1.7 Although I act on Behalf of Waverley Borough Council, I understand my professional duty is to assist the inspector by providing evidence which is true and has been prepared and is given in accordance with guidance. In this regard the opinions expressed are my true and professional opinions.
- 1.8 I am instructed by the Council to make this statement. I make this statement in support of the council's case for rebutting these appeals.

2.0 Scope of Evidence

- 2.1 I was appointed by Waverley Borough Council in 2025, to advise on flooding matters in connection with this appeal for non determination and to provide evidence at this inquiry. My appointment was subsequent to my initial review of the evidence base, during which I was satisfied that I could support the Council's case that appeals should be dismissed due to flood risk.
- 2.2 I visited the appeal sites and some of the surrounding land on 17th July 2024, facilitated and accompanied by Victoria Choularton of Waverley Brough Council. Chris Ward, the Council's planning witness was also present.
- 2.3 My Proof of Evidence describes
- Planning policy, guidance and existing appeal decisions.
 - Baseline conditions of the appeal sites prior to development, as far as can be ascertained from the limited evidence available; and modifications to the drainage infrastructure that has occurred as part of the development.
 - Review of key issues relative to flooding.
 - Review of the location and flooding information presented as part of the planning applications.
 - Impacts of the development particularly with regard to flooding and flood risk.
- 2.4 Each Appeal Site is considered individually, although there are some common themes with the Appeal Sites which are clustered together.
- 2.5 I conclude that each of the two unconsented developments have caused the loss of a pre-development watercourse, which previously drained the local area. The loss of this watercourse will increase flood risk to the development and the wider area. The development sites have been constructed over a surface water flooding flow path, and there are areas of High, Medium and Low surface water flood risk associated with the individual sites. The lack of adequate topographical survey work and lack of a site-specific Flood Risk Assessment impeded a full and proper assessment of flood risk.

- 2.6 The development does not adequately address the need for a site-specific Flood Risk Assessment, which is required to assess the flood risk associated with the development. This point alone requires both appeals to be dismissed
- 2.7 A Sequential Test (ST) must be undertaken for this highly vulnerable development in accordance with National Planning Policy Framework, NPPF and its supporting technical Planning Practice Guidance, PPG. This point also requires each appeal to be dismissed.

3.0 Details of the site

Appeal Site A (Pitch 1)

- 3.1 The site consists of a rectangular caravan pitch with a boundary that connects the plot to the Lydia Park Access Track, and in turn to Stovolds Hill. The site is also located to the north of the Lydia Park access road and is the most southern of four separate plots arranged consecutively fronting the access road. The southern plot boundary directly abuts the Lydia Park access road. The land naturally slopes from the rear to the front, north to the south. The pitch is located directly over the ordinary water course.
- 3.2 A site access track is paved and to the east of the pitches. The watercourse at the frontage of the plot has been infilled.
- 3.3 The site is located directly over the route of an ordinary watercourse.
- 3.4 A manhole was inspected to the east of the area, and a culverted pipe has been installed under the frontage of the site in the approximate alignment of the watercourse.
- 3.5 The levels have been adjusted on the site, and the surface has been changed to now be predominantly paved with hard a surface.
- 3.6 Perimeter fencing encloses the pitch area.

Appeal Site B (Pitch 2)

- 3.7 The site consists of a rectangular caravan pitch and has a site boundary that connects the plot to the Lydia Park Access Track, and in turn to Stovolds Hill. The site is also located to the north of the Lydia Park access road and is set immediately north and adjoining to Appeal Site A. It is the second most southerly of four separate plots arranged consecutively fronting the access road. The land naturally slopes from the rear to the front, north to the south.
- 3.8 The pitches all have access north of the Lydia Park Access Track via a site accessway that passes through Appeal Site A.
- 3.9 The site access way is paved, and the watercourse has been infilled.
- 3.10 The levels have been adjusted on the site, and the surface has been changed to now be predominantly paved with a hard surface.

Setting of Sites A&B

- 3.11 The drawing information presented in the application was presented separately.
- 3.12 See Figure 1 labelling the two appeal sites, and their position relative to each other, the access track and the existing pond. The plan is also referenced in the appendices as a scaled drawing. [**Appendix 1**]
- 3.13 The application boundaries for Appeal site A and B include boundaries that overlap and connect both the plot sites to Stovolds Hill A dashed red line shows the areas of overlap in application boundaries in Figure 1. This overlap is the site access way.

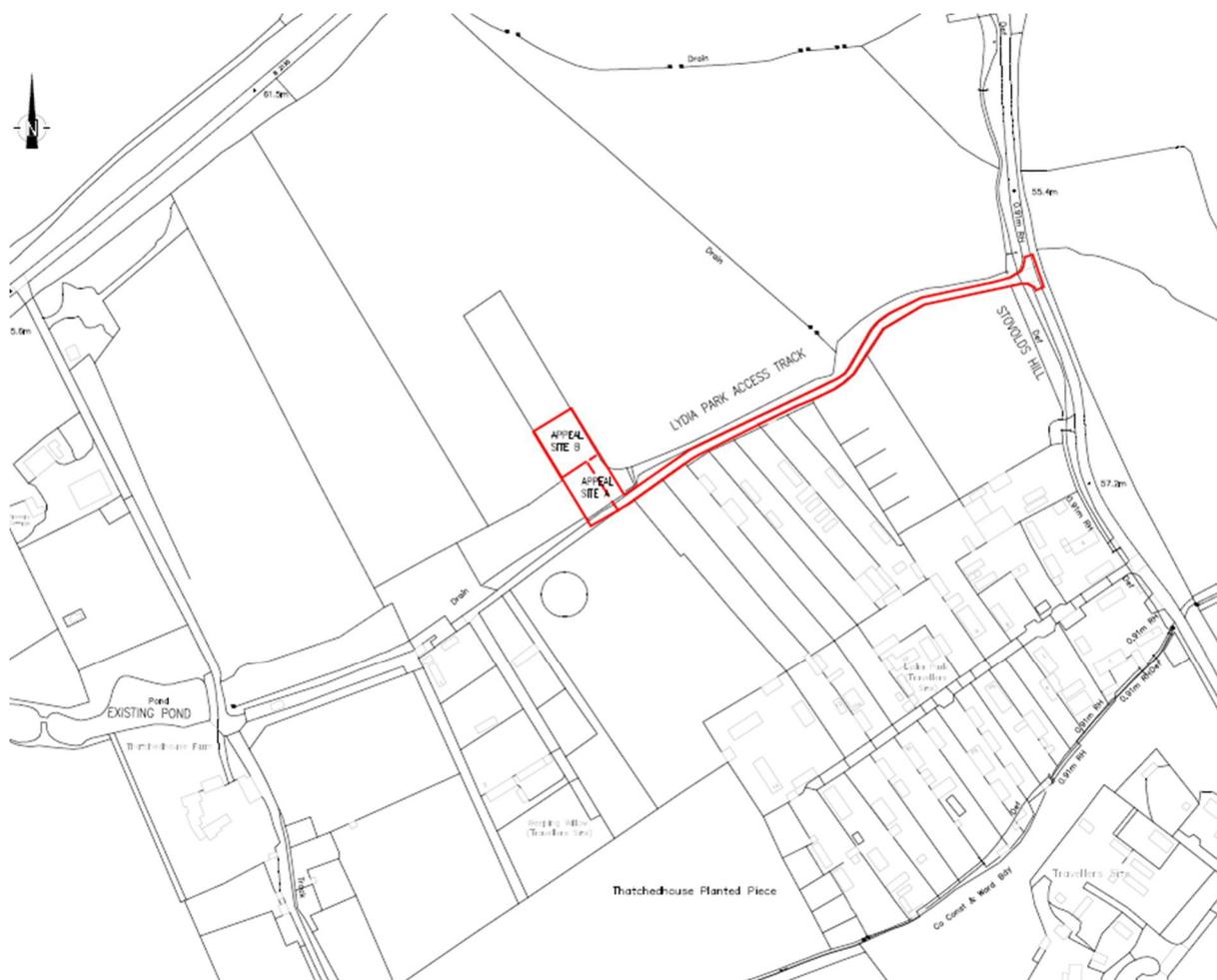


Figure 1 Site Location Plan combined

Ordinary Watercourse

- 3.14 There is an existing ordinary watercourse on the sites that conveys flows from the large established pond to the west across the frontages of all appeal sites, through a piped culvert. Downstream of the appeal sites the watercourse is an open ditch located to the north of the Lydia Park access road. The watercourse is noted as an open flowing ditch arrangement in the section adjoining Stovolds Hill. The watercourse is culverted under Stovolds Hill and continues to the east to the Wey and Arun Canal and Cobblers Brook. Cobblers Brook is a designated main river, as designated by the Environment Agency (EA), and is a tributary of the River Wey.
- 3.15 The unnamed watercourse is the natural drainage flowpath for both the adjoining area of Lydia Park and the agriculture field to the north of Lydia Park, as well as historically providing drainage to the Lydia Park Access Track.
- 3.16 The watercourse has been removed for a length of approximately 150m over the length of unauthorised development. The previously open channel has been infilled without consent and land levels raised over the route of the watercourse.
- 3.17 A culvert has been installed under the appeal sites, which was inspected on site, but no additional details such as size or gradient are provided in the application information.
- 3.18 The infilling of the watercourse has been undertaken without the benefit of an Ordinary Watercourse Consent (OWC). This is a mandatory process in Surrey required by the Lead Local Flood Authority (LLFA) and ensures that changes and alterations to watercourses are designed, considered, reviewed and checked to ensure watercourses are only modified where absolutely necessary and only if the works do not increase flood risk to others, or inherently change the behaviour of the watercourse. The required OWC guidance information is included in **Appendix 2 and section 5.34**. This ensures that any modifications to a watercourse are only undertaken without increasing flood risk elsewhere, and respecting the Land Drainage Act, as outlined in section **5.33**.

- 3.19 The infilling of a watercourse is contrary to the Land Drainage Act 1991 and the prescribed duty of Riparian Owners who own land adjacent to existing watercourses.

Fluvial Flood Risk

- 3.20 The sites are located over 1km from the nearest designed main river, Cobblers Brook, a tributary of the River Wey. Fluvial flood plain associated with the flooding of main river is also approximately 1km downstream of the appeal sites. The Fluvial flood zoning of the appeal site is Flood Zone 1 and therefore is the lowest risk from fluvial flooding. This does not mean that there is no flood risk associated with this watercourse just that the Environment Agency (or others) has not undertaken a detailed assessment of the Ordinary Watercourse to assess any associated risk.

Pluvial Flood Risk, Surface Water Flooding

- 3.21 Both appeal sites include areas of potential surface water flooding attributed to the ordinary watercourse that flowed through the two sites. Pre-development the watercourse was an open channel which has been infilled as part of the unconsented development works.
- 3.22 The Environment Agency (EA) Flood Maps Risk of Flooding from Surface Water (RoFSW) dataset has been reviewed and are presented below for the two appeal sites in Figure 2, with a key for flood risk also provided as Figure 3. High risk is shown in the darkest blue and represents risk associated with a 1 in 30 year rainfall event, medium risk is shown in the medium blue and represents risk of a 1 in 100 year rainfall event and low risk represents risk from a 1 in 1000 year rainfall event and is shown in the lightest shade of blue. Climate change allowances are not represented in Figure 3.
- A scaled drawing is provided in **Appendix 3**.

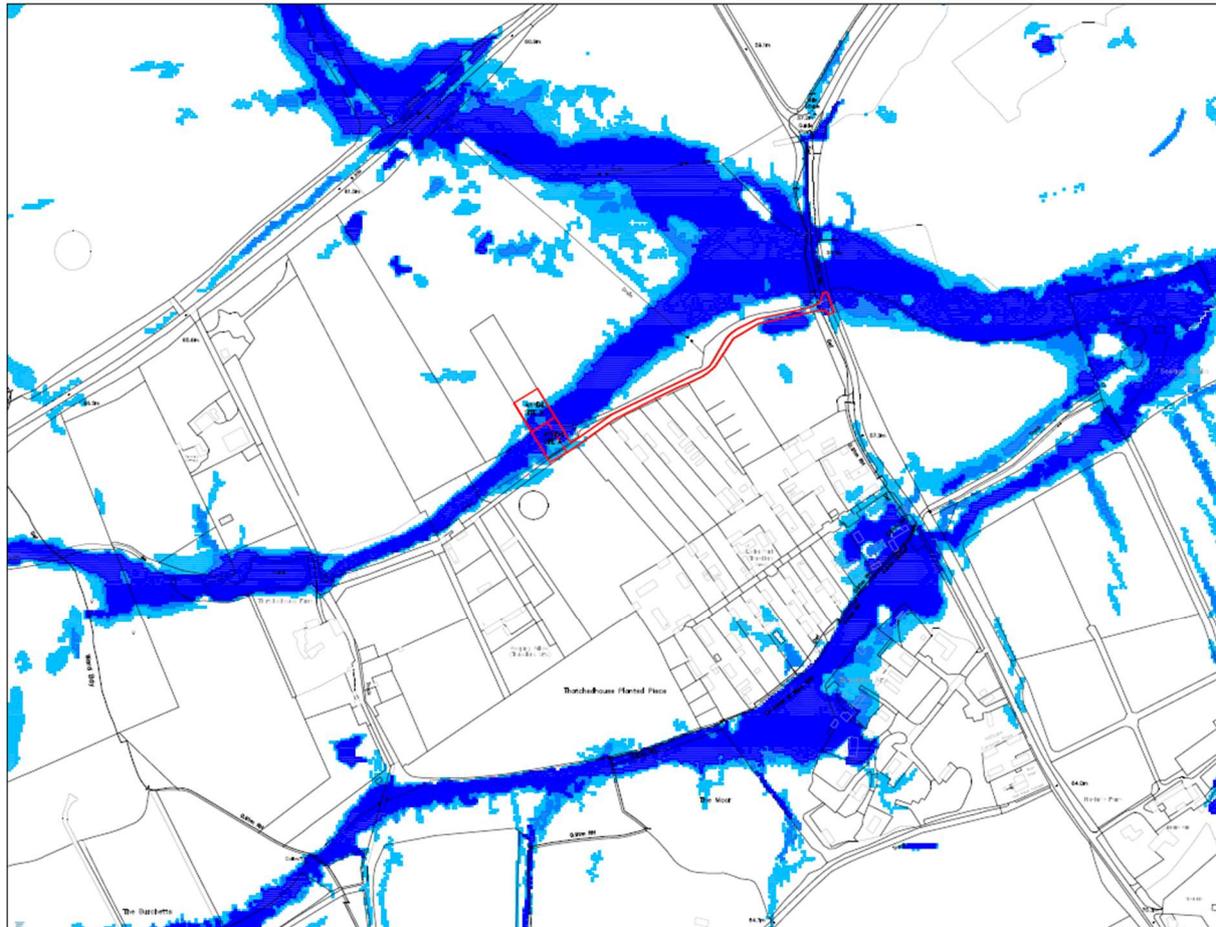


Figure 2 Pluvial Flood Extent Plan (combined)

Source EA mapping

KEY:

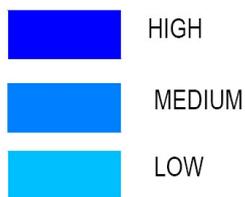


Figure 3 Pluvial Flooding legend

- 3.23 The current mapping shows a clear corridor of high risk surface water flooding across the development sites.
- 3.24 This mapping is different to the mapping shown in the adjoining appeal sites, which show out of date flood mapping.
- 3.25 The high risk flood area across the site shown in figure 1 indicates areas with a flood frequency of 1 in 30 years return period.

- 3.26 The high risk surface water flooding is shown flowing across both applicant sites. It cannot be shown how safe access or egress can be provided when there is shown to be an area of high risk flooding that directly crosses both the appeal sites. The access and egress of the appeal sites are shown to be severely impeded by the flooding, and the NPPF requires consideration of safe access and egress when accessing the suitability of any development.
- 3.27 An enlarged plan is shown below in Figure 4. It can be clearly seen that a significant proportion of the Appeal Sites are at a High Risk of Flooding, shown by the dark blue, which represents the 1 in 30 year return period.

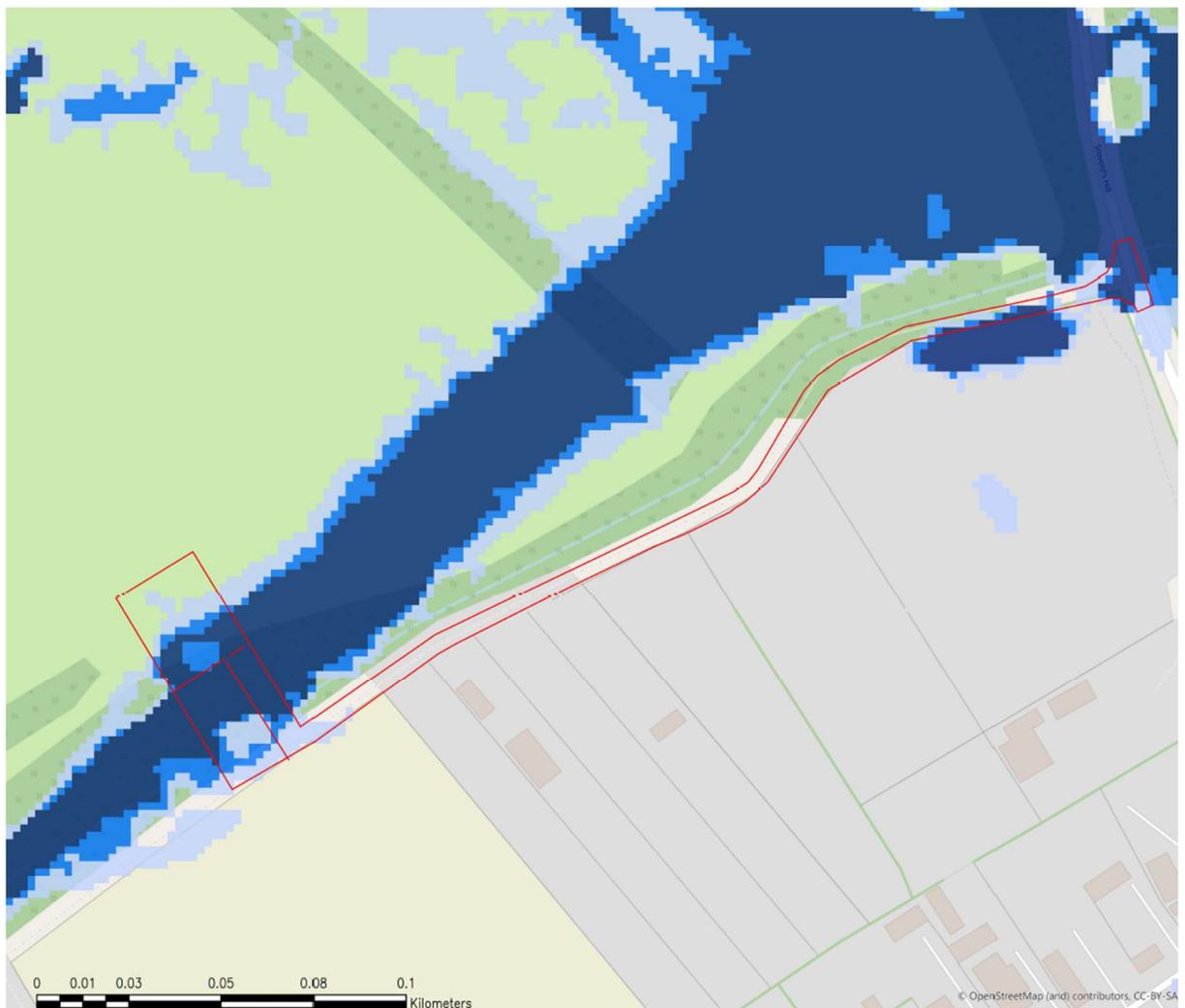


Figure 4 Surface Water flood map, enlarged view flood extents

3.28 The PPG, states that **Highly Vulnerable** development (caravans and park homes) should not be permitted in the zone of High Risk (flood return frequency 1 in 30 year return period). The high risk of surface water flooding is representative and represents the same level of risk as the flood zone 3b (flood return frequency 1 in 30 year return period).

3.29 This clearly shows this area is not safe for the proposed development, which cannot be shown to comply with national flood policy. It is my opinion that these two appeals should be dismissed on this basis.

Climate Change Allowances

3.30 The NPPF and PPG require a climate change allowance be considered to ensure flood risk is considered for future generations.

3.31 The Strategic Flood Risk Assessment, SFRA [**Appendix 4**] states in paragraph 3.48 that when climate change allowances are not readily available for the surface water flood assessment, then the 1 in 1000 year flood extent could be used with caution as a suitable dataset for the implications of climate change on the 1 in 100 year surface water flood extents.

3.32 Current Environment Agency data (from September 2025) provides mapping for the effect of climate change. The flood mapping for the climate change allowances is presented in **Appendix 3ii**. An enlarged view is presented below in Figure 5. It can be seen that the climate change flood extents are greater than the non climate change flood extent area. More areas within Appeal Site A and B are at risk of flooding.



Figure 5 Surface Water flood map, enlarged view flood extents with climate change allowances

Hazard Rating

- 3.33 The EA have produced multiple datasets with the RoFSW information including the hazard rating datasets.
- 3.34 These hazard rating datasets have been overlaid with the appeal site application boundaries and are shown below for key hazard rating bandings. A set of plans are included with **Appendix 5**.
- 3.35 In the absence of a site-specific flood risk or surface water flood model, the EA hazard mapping can be used to determine the hazard rating for the locality. Climate change allowances have been used in line with the PPG regarding the consideration of the design flood.
- 3.36 The hazard ratings area are calculated by the EA based on the HR Wallingford hazard ratings calculation. Reference is made to **Appendix 6**

for the determination of flood hazard rating. This methodology is adopted by the EA and is used nationally to inform flood risk.

3.37 The EA flood hazard rating table is shown below, refer to **Appendix 6**.

Flood hazard estimates are used in the risks to people methodology to estimate numbers of injuries and fatalities in individual flood zones. The following flood hazard classes, for a situation without significant debris present, provide a guide to the degree of flood hazard for people in floodwater.

Table 1 Flood hazard classes

$d \times (v + 0.5)$	Degree of Flood Hazard	Description
<0.75	Low	Caution "Flood zone with shallow flowing water or deep standing water"
0.75 – 1.25	Moderate	Dangerous for some (i.e. children) "Danger: Flood zone with deep or fast flowing water"
1.25 - 2.5	Significant	Dangerous for most people "Danger: flood zone with deep fast flowing water"
>2.5	Extreme	Dangerous for all "Extreme danger: flood zone with deep fast flowing water"

Figure 6 Flood Hazard Classes

3.38 The EA hazard datasets are grouped into bandings of 0.0, 0.05, 0.75, 1.25 and 2.0. Full suite of plans for the respective bands are shown in

Appendix 5.

3.39 Flood Hazard Degree – Low Level

The below extract presents EA mapping of the 0.5 flood hazard class, which represents the Caution level, and is considered a low degree of flood hazard, with shallow flowing flood water or deep standing flood water.

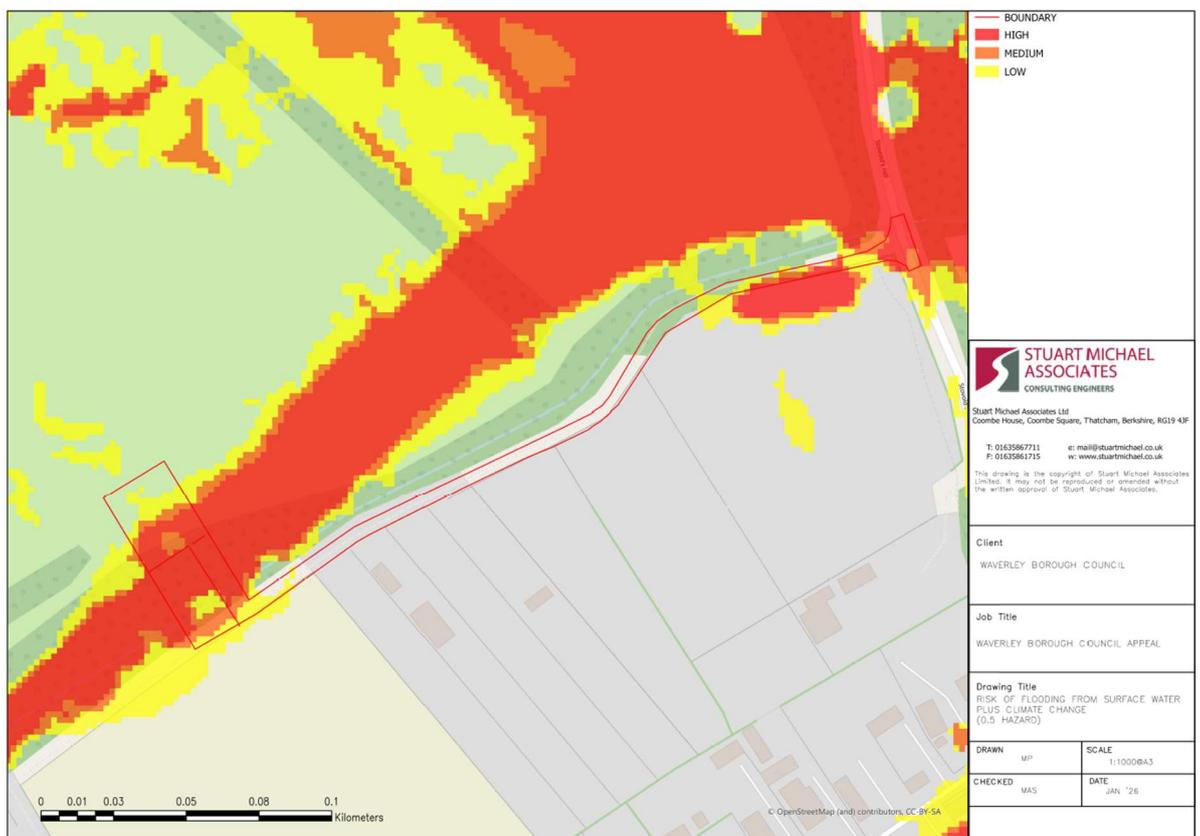


Figure 7 Flood Hazard class rating 0.5, CAUTION

3.40 Flood Hazard Degree – Moderate Level

3.41 Figure 8 shows mapping of the 0.75 flood hazard class, which represents the moderate degree of flood hazard. This is described as **Danger to Some – Deep or fast flowing flood water** presents risks to children and those that might be elderly, disabled or unwell.

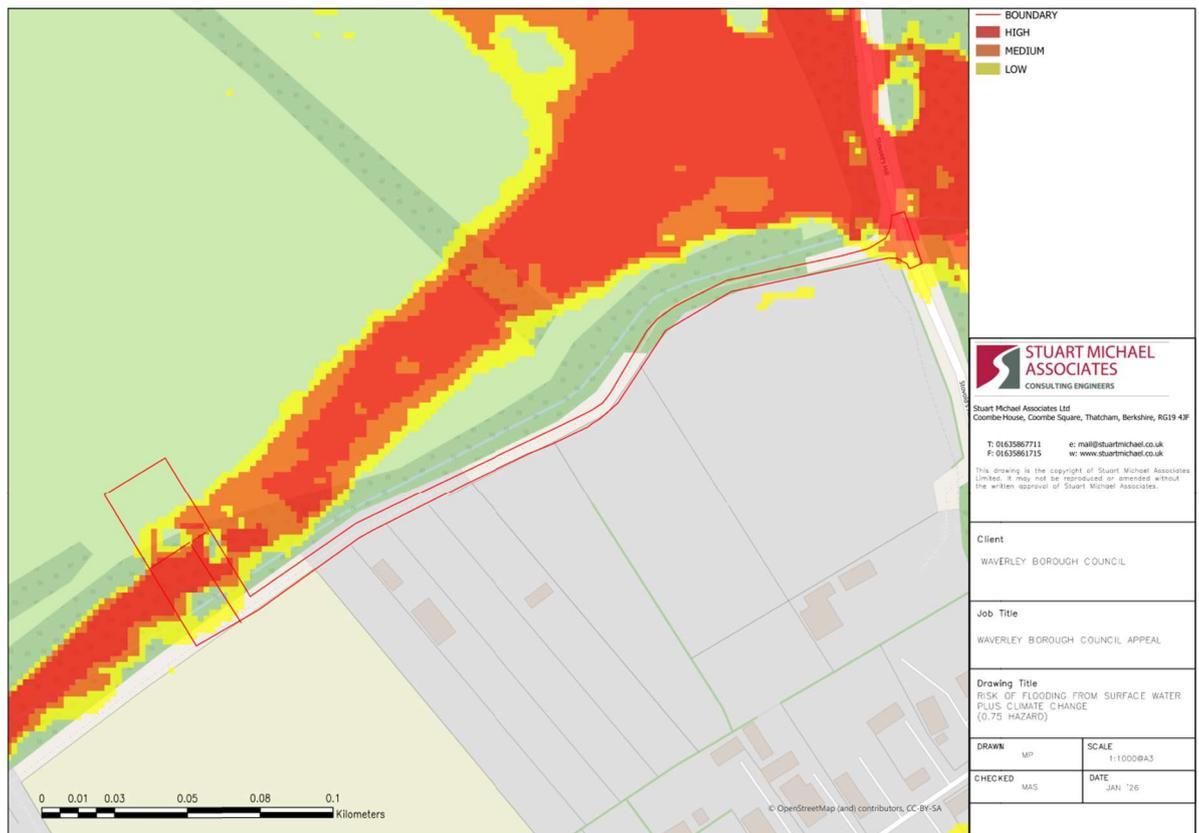


Figure 8 Hazard class rating 0.75, Danger for Some

3.42 Flood Hazard Degree - Significant Level

The below extract presents mapping of the flood hazard class 1.25, which represents the significant degree of flood hazard. This is described as **Danger for Most People** flood risk with **deep and fast flowing** flood water which represents risk to the general public, and healthy able-bodied adults.

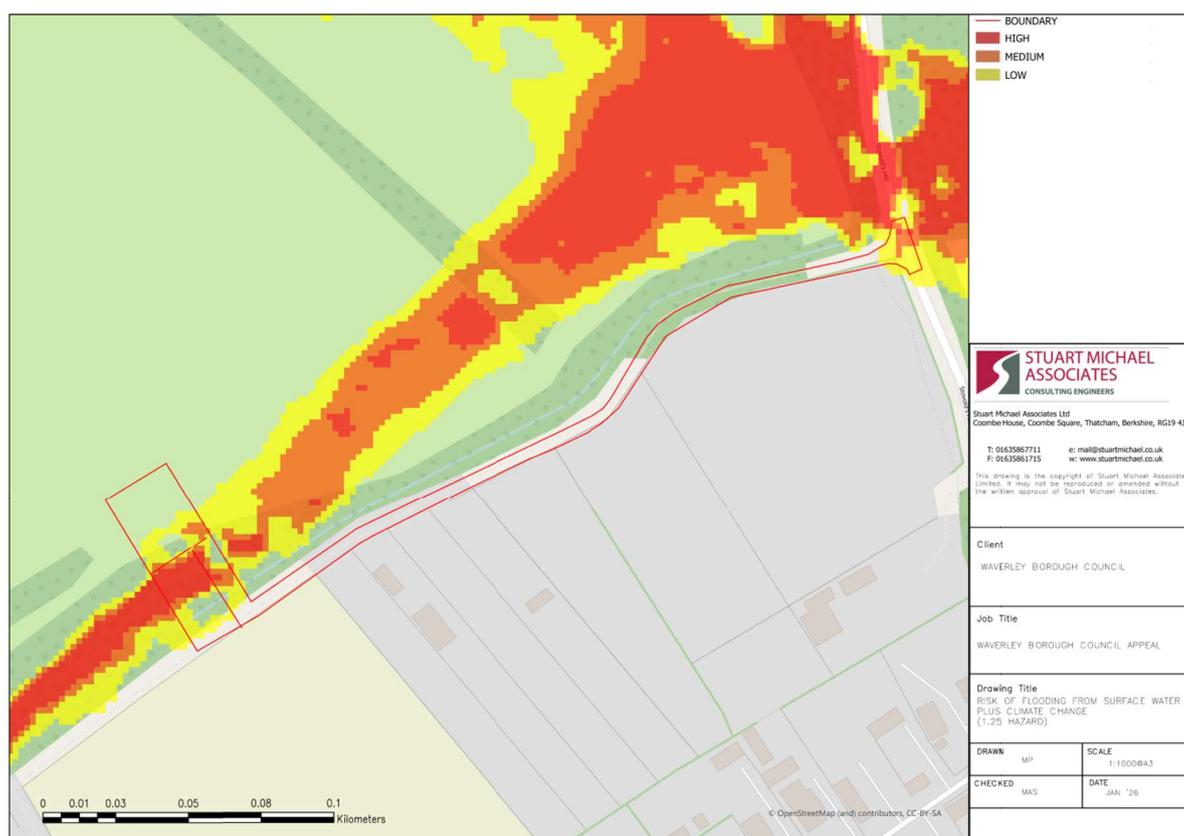


Figure 9 Hazard class 1.25 Danger for most

3.43 The next flood hazard rating is 2.5 and over, extreme danger. The EA hazard map data banding do not extend above a rating of 2.0. See **Appendix 5** for full hazard banding plans.

3.44 The fact the dataset does not present the 2.5 hazard band does not mean this highest hazard level, which represents **Extreme Hazard - Danger for All** is not present, only that it is not available in the data. This is normally determined by detailed hydraulic modelling by the applicant.

- 3.45 The flood hazard mapping shows a clear danger to most, which is a risk to human life. The occupants of these appeal sites are therefore shown to be at significant flood risk. The hazard rating does not just represent a risk to human life., It also applies to property and there is also a significant risk of property, possessions and vehicle or equipment damage and or destruction with such a hazard rating. This is particularly concerning for these highly vulnerable developments.
- 3.46 It is also noted that the landform has changed, and the ditch has been removed, levels have been adjusted and raised. Therefore, the flood hazard ratings for this location will have been altered for this location. The location and severity of the flood hazard rating will have changed as a direct result of the development.
- 3.47 NPPF 170 requires development be safe for its lifetime, a fundamental principle of the planning framework. These appeal sites are shown unsafe and should be dismissed on that basis.

Groundwater Flood Risk

- 3.48 The Waverley Strategic Flood Risk Assessment (**Appendix 4**) includes an assessment of the groundwater flooding for the borough.
- 3.49 The sites are located in an area at low risk of groundwater flooding [**Appendix 4, figure 9**].
- 3.50 It is noted that groundwater flooding does not present the same danger to life as the surface water flooding for the site, but it requires consideration as the NPPF requires all sources of flooding to be considered for when appraising a development.

4.0 Details of the Planning Application

4.1 The planning application references, are shown below in Figure 6.

	Appeal ref	Planning Ref	Appellants	Site
Appeal A	APP/R3650/W/25/336793	WA/2025/00495	Mr B Doherty	Pitch 1, Land north of Lydia Park
Appeal B	APP/R3650/W/23/3366387	WA/2025/00578	Mr L Williams	Pitch 2, land north of Lydia Park

Figure 10 Planning Applications and references

Flooding Information

4.2 Flood Risk Assessment (FRA) information is required for the planning applications [LP CC4] for the respective development sites.

4.3 The planning applications were not accompanied by Flood Risk Assessments.

4.4 However, reference is made within the statement of case and draft Statement of Common Ground to the Flood Risk Assessments for the adjoining sites, also at appeal stage.

4.5 The submitted FRA documents are reviewed in the proof of evidence for the adjoining appeal sites.

4.6 Documents referenced for the adjoining planning application were:

4.7 Report submitted: Flood Risk Assessment, Ref 1325, by Flume Consulting Engineers dated March 2023 [**Appendix 7**] which considered Appeal Site A of the neighbouring planning appeal APP/R3650/W/22/3313865.

4.8 Report submitted: Flood Risk Assessment, 92834-ImageonDesign-StovoidsHill, by Unda Consulting Limited, dated July 2023 which considered Appeal Site B, C & D of neighbouring planning appeals APP/R3650/W/22/331447, APP/R3650/W/22/3322400 and APP/R3650/W/22/33231 [**Appendix 8**].

4.9 The reasons for refusal issued to the adjoining sites is assumed applicable to appeal sites A and B.

Appeal Site A and B

4.10 Suggested Reason for refusal No.4:

In the absence of a site-specific flood risk assessment, it is not possible to conclude that the proposed development would be safe for future occupiers nor that there would be no increased surface water flood risk elsewhere. Furthermore, it has not been demonstrated that the proposal would pass the sequential test. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and requirements of the NPPF 2024.

5.0 Relevant Planning Policy and Documentation.

- 5.1 This section sets out the relevant planning policy issues, primarily in relation to the Waverley Local Plan, the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (PPG).
- 5.2 Also included herein are the relevant national codes standards regulations, policy and guidance that provide additional guidance and referencing.

Local Planning Policy

- 5.3 The Waverley Local Plan (LP) is current, and was adopted in February 2018, and should be afforded full weight. It will guide and direct development in the Borough for the period up to 2032.
- 5.4 Policy CC4 of the Local Plan, appears within Chapter 14: Climate Change and Flood Risk Management. Text within has been emboldened by me.

'Flood Zones in Waverley are defined as contained within the National Planning Practise Guidance and the Councils Level 2 Strategy Flood Risk Assessment (SFRA)

In Order to reduce the overall and local risk of flooding in the Borough

1. Development must be located, designed and laid out to ensure that it is safe; that the risk of flooding is minimised whilst not increasing the risk of flooding elsewhere; and that residual risks are safely managed. In locations identified as being at risk of flooding, planning permission will only be granted, or land allocated for development, where it can be demonstrated that:

- a. **Where the sequential and exception tests have been undertaken and passed**, any development that takes place where there is a risk of flooding will need to ensure that flood mitigation measures, including site specific flood elevation plan, are integrated into the design both on site and off site to minimise the risk to property and life should flooding occur;*
- b. through a sequential approach, it is located in the lowest appropriate flood risk location in accordance with the NPPF and the Waverley Strategic Flood Risk Assessment (SFRA); and*

c. It would not constrain the natural flood plain either by impeding flood flow or reducing storage volume

*2. Sustainable drainage systems (SuDS will be required on major Developments (10 or more) dwellings or equivalent) and encouraged for smaller schemes. A Site-Specific Flood Risk Assessment will be required for sites within or adjacent to areas at risk of surface water flooding as identified in the SFRA. There should be no increase in either the volume or rate of surface water runoff leaving the site. Proposed development on brownfield sites should aim to reduce run off rates to those on greenfield sites where feasible. **There should be no property or highway flooding, offsite for up to 1 in 100 year storm return period including an allowance for climate change.***

National Planning Policy Framework NPPF 2024

5.5 The National Planning Policy Framework was published in March 2012 and revised in December 2024. It sets out the government's Policy for England and how these are expected to be applied.

Paragraph 172 of the NPPF Framework states

5.6 *'All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:*

- a) applying the sequential test and then, if necessary, the exception test as set out below;*
- b) safeguarding land from development that is required, or likely to be required, for current or future flood management;*
- c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management);*

and

d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.'

The paragraph sets the context of the sequential risk based approach to development, while considering all sources of flooding and the need to consider future climate change in assessments.

Paragraph 173 of the NPPF States

5.7 *'A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps outlined below.'*

This paragraph was added in December 2024 to clarify the sequential approach, and the steps that must be taken when considering flood risk and development.

Paragraph 174 of the NPPF States

5.8 *'Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. 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.'*

This paragraph outlines the aim of the sequential approach, where development should not be permitted where there are reasonably available sites in areas at lower risk of flooding.

Paragraph 175 of the NPPF States

5.9 *'The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development*

within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).'

This paragraph was added in December 2024 to clarify the application of the Sequential Test, which must consider built development within the site boundary including access or escape routes, land raising or other potentially vulnerable elements.

Paragraph 176 of the NPPF States

5.10 *'Applications for some minor development and changes of use⁶² should also not be subject to the sequential test, nor the exception test set out below, but should still meet the requirements for site-specific flood risk assessments set out in footnote 63'*

This paragraph was updated and renumbered in December 2024 and includes reference to footnote number 62 and footnote number 63. The update clarifies the application of the Sequential Test, which must consider built development within the site boundary including access or escape routes, land raising or other potentially vulnerable elements.

Footnote 62

62 'This includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate'

Footnote 63

'63 A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land

which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.'

Paragraph 177 of the NPPF States

5.11 *'Having applied the sequential test, if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.'*

This section outlines the Exception Test (ET) and highlights the need to consider the potential flood risk vulnerability of the development in the application of the ET. The section cross references to Annex 3 where a vulnerability matrix is provided.

5.12 Annex 3 NPPF states that

Annex 3: Flood risk vulnerability classification

Information on flood risk vulnerability classification.

Essential infrastructure

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; including electricity generating power stations, grid and primary substations storage; and water treatment works that need to remain operational in times of flood.
- Wind turbines.
- Solar farms.

Highly vulnerable

- Police and ambulance stations; fire stations and command centres; telecommunications installations required to be operational during flooding.
- Emergency dispersal points.
- Basement dwellings.
- Caravans, mobile homes and park homes intended for permanent residential use.
- Installations requiring hazardous substances consent. (Where there is a demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or such installations with energy infrastructure or carbon capture and storage installations, that require coastal or water-side locations, or need to be located in other high flood risk areas, in these instances the facilities should be classified as 'Essential Infrastructure'.)

This section of the framework lists the differing categorisations of development and sets the vulnerability classification of each. Caravans and mobile park homes developments are categorised as **Highly Vulnerable**. This is the categorisation of the appeal sites.

paragraph 178 of the NPPF states

- 5.13 *'The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:*
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.'

This states that for planning applications, a Flood Risk Assessment is necessary to consider the Exception Test. It is noted that no Flood Risk Assessment was provided for either of the appeal sites.

This section lists the two key questions posed by the Exception Test.

Paragraph 179 of the NPPF states

5.14 *'Both elements of the exception test should be satisfied for development to be allocated or permitted.'*

This section clarifies that both elements of the exception test must be satisfied for the ET to be passed and development permitted.

Paragraph 181 of the NPPF states

5.15 *'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^[63]. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'

This section of the framework sets out the fundamental requirements of Flood Risk Assessments that planning authorities must be presented with to allow informed decision making regarding developments. The section also highlights the need to consider flooding elsewhere, vulnerability of developments and the need locate the most vulnerable in the areas at lowest risk of flooding. The section requires all developments to incorporate sustainable drainage systems unless there is an overriding reason otherwise. Flood resilience and safe access are also stated as necessary considerations.

National Planning Policy

- 5.17 The National Planning Policy Guidance (PPG) was last updated in September 2025 and provides guidance for the application of the National Planning Policy Framework. The relevant statements to flood risk, the sequential test and surface water management are drawn out below.

Paragraph: 020 Reference ID: 7-020-20220825

- 5.18 *'Site-specific flood risk assessment*

What is a site-specific flood risk assessment?

A site-specific flood risk assessment is carried out by (or on behalf of) a developer to assess the flood risk to and from a development site and should accompany a planning application where prescribed in footnote ⁵⁵ of the National Planning Policy Framework. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users (see National Planning Policy Framework Annex 3 – Flood Risk Vulnerability).

Developers can use the Environment Agency guidance on flood risk assessments when considering the scope of the assessment.

The objectives of a site-specific flood risk assessment are to establish: whether a proposed development is likely to be affected by current or future flooding from any source;

whether it will increase flood risk elsewhere;

whether the measures proposed to deal with these effects and risks are appropriate;

the evidence for the local planning authority to apply (if necessary) the Sequential Test, and;

whether the development will be safe and pass the Exception Test, if applicable.'

See further information on the detail needed in a flood risk assessment.

Footnote 55 of the NPPF

- 5.19 *'Contained in the National Design Guide and National Model Design Code.'*
This cross references the now current and renumbered footnote 63 of the NPPF.

Paragraph: 023 Reference ID: 7-023-20220825 states

- 5.20 *'What is the aim of the sequential approach?*
The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Application of the sequential approach in the plan-making and decision-making process will help to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so, and developers do not waste resources promoting proposals which would fail to satisfy the test. Other forms of flooding need to be treated consistently with river and tidal flooding in mapping probability and assessing vulnerability, so that the sequential approach can be applied across all areas of flood risk.'

Paragraph: 027 Reference ID: 7-027-20220825

- 5.21 *'How should the sequential test be applied to planning applications?*
See advice on the sequential approach to development and the aim of the sequential test.
The sequential test should be applied to 'Major' and 'Non-major' development proposed in areas at risk of flooding, as set out in paragraphs 173 to 174 of the National Planning Policy Framework. Paragraphs 175, 176 and 180 set out exemptions from the sequential test.

In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.

The absence of a 5-year housing land supply is not a relevant consideration in applying the sequential test for individual applications. However, housing considerations, including housing land supply, may be relevant in the planning balance, alongside the outcome of the sequential test.

See also advice on who is responsible for deciding whether an application passes the Sequential Test and further advice on the Sequential Test process available from the Environment Agency (flood risk standing advice).'

Paragraph: 027a Reference ID: 7-027a-20220825

- 5.22** *'How should the area of search for the sequential test be identified? For individual planning applications subject to the sequential test, the area to which the test needs to be applied will be governed by local circumstances relating to the catchment area for the type of development proposed and the needs it is proposing to address. The catchment area should always be appropriate to the nature and scale of the proposal and the settlement it is proposed for. For some developments this may be clear, for example, the catchment area for a school. For a non-major housing development, it would not usually be appropriate for the area of search to extend beyond the specific area of a town or city in which the proposal is located, or beyond an individual village and its immediate neighbouring settlements.*
- A pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional*

space in an alternative location. Equally, where there are large areas in Flood Zones 2 and 3 (e.g. coastal towns and settlements on major rivers) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.

The sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need.

For infrastructure proposals of regional or national importance the area of search may reasonably extend beyond the local planning authority boundary. It may also, in some cases, be relevant to consider whether large scale development could be split across a number of alternative sites at lower risk of flooding, but only where those alternative sites would be capable of accommodating the development in a way which would still serve its intended market(s) as effectively.

Paragraph: 043 Reference ID: 7-043-20220825 states

5.23 *'When are emergency plans needed?*

One of the considerations to ensure that any new development is safe, including where there is a residual risk of flooding for flood risk management infrastructure, is whether adequate flood warnings would be available to people using the development. An emergency plan will be needed wherever emergency flood response is an important component of making a development safe. Emergency plans will be essential for sites at risk of flooding used for holiday or short-let caravans and camping and for any site with transient occupancy (e.g. hostels and hotels).'

Paragraph: 044 Reference ID: 7-044-20220825

5.24 *'What are the important considerations for emergency plans?*

Emergency plans will need to take account of the likely impacts of climate change, e.g. increased water depths and the impact on escape routes. In consultation with emergency planners and services, the local planning authority will need to ensure that agreed emergency plans are secured

and implemented through appropriate planning conditions or planning agreements.

The emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe. Even with defences in place, if the probability of inundation is high, safe access and escape should be maintained for the lifetime of the development. The practicality of safe evacuation from an area will depend on:

the type of flood risk present, and the extent to which advance warning can be given in a flood event;

the number of people that would require evacuation from the area potentially at risk;

the adequacy of both evacuation routes and identified places that people from evacuated places use/are taken to (and taking into account the length of time that the evacuation may last); and

sufficiently detailed and up to date multi-agency flood plans being in place for the locality that address these and related issues. These are prepared by local resilience forums.'

Paragraph: 073 Reference ID: 7-044-20220825

5.25 *Table 2: Flood risk vulnerability and flood zone 'incompatibility'*

Table 2: Flood risk vulnerability and flood zone ‘incompatibility’

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓ *

Key:

✓ Exception test is not required

X Development should not be permitted

Notes to table 2:

- This table does not show the application of the [Sequential Test](#) which should be applied first to guide development to the lowest flood risk areas; nor does it reflect the need to avoid flood risk from sources other than rivers and the sea;
- The Sequential and [Exception Tests](#) do not need to be applied to those developments set out in [National Planning Policy Framework footnote 56](#). The Sequential and Exception Tests should be applied to ‘major’ and ‘non major’ development;

- *Some developments may contain different elements of vulnerability and the highest vulnerability category should be used, unless the development is considered in its component parts.*

"+" In Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood.

"" In Flood Zone 3b (functional floodplain) essential infrastructure that has passed the Exception Test, and water-compatible uses, should be designed and constructed to:*

- *remain operational and safe for users in times of flood;*
- *result in no net loss of floodplain storage;*
- *not impede water flows and not increase flood risk elsewhere.'*

Paragraph 078 Reference ID: 7-078-20220825

5.26 This section defines the flood zones in table 2.

Flood Zone	Definition
<i>Zone 1 Low Probability</i>	<i>Land having a less than 0.1% annual probability of river or sea flooding. (Shown as 'clear' on the Flood Map for Planning – all land outside Zones 2, 3a and 3b)</i>
<i>Zone 2 Medium Probability</i>	<i>Land having between a 1% and 0.1% annual probability of river flooding; or land having between a 0.5% and 0.1% annual probability of sea flooding. (Land shown in light blue on the Flood Map)</i>
<i>Zone 3a High Probability</i>	<i>Land having a 1% or greater annual probability of river flooding; or Land having a 0.5% or greater annual probability of sea. (Land shown in dark blue on the Flood Map)</i>

Flood Zone	Definition
Zone 3b The Functional Floodplain	<p><i>This zone comprises land where water from rivers or the sea has to flow or be stored in times of flood. The identification of functional floodplain should take account of local circumstances and not be defined solely on rigid probability parameters. Functional floodplain will normally comprise:</i></p> <ul style="list-style-type: none"> <i>• land having a 3.3% or greater annual probability of flooding, with any existing flood risk management infrastructure operating effectively; or</i> <i>• land that is designed to flood (such as a flood attenuation scheme), even if it would only flood in more extreme events (such as 0.1% annual probability of flooding).</i> <p><i>Local planning authorities should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in agreement with the Environment Agency. (Not separately distinguished from Zone 3a on the Flood Map)</i></p>

Note: The Flood Zones shown on the Environment Agency’s Flood Map for Planning (Rivers and Sea) do not take account of the possible impacts of climate change and consequent changes in the future probability of flooding. Reference should therefore also be made to the [Strategic Flood Risk Assessment](#) when considering location and potential future flood risks to developments and land uses.’

Water Framework Directive

5.27 The Water Framework Directive (WFD) (2000/60/EC) introduced a comprehensive river basin management planning system to help protect and improve the ecological health of waterbodies such as rivers, lakes, estuaries and coastal and groundwaters. It is transposed into regulations through The Water Environment (Water Framework Directive) Regulations 2017. The WFD has two principal objectives, to prevent deterioration of the status of all water bodies and to protect, enhance and restore those water bodies. The development will be assessed in terms of the key aim of the WFD to achieve ‘good ecological and chemical status of all water bodies with a deadline set for 2027’.

Other Regulations, Codes, Standards & Guidance

- 5.28 Flood Risk Assessment – Climate Change Allowances guidance, May 2022, by the Environment Agency, is produced as national guidance and referenced by the PPG.
- 5.29 Waverley Strategic Flood Risk Assessment (SFRA) is the Authority Strategic assessment of flood risk for the borough and is part of the evidence base for the local plan. [**Appendix 5**] Within section 3.3.13 titled

'Climate Change

The RoFSW mapping does not include a specific scenario to determine the impact of climate change on the risk of surface water flooding. However, a range of three annual probability events have been undertaken, 1 in 30 (3.3%) AEP, 1 in 100 (1%) AEP and 1 in 1000 (0.1%) AEP and therefore it is possible to use with caution the 0.1% AEP outline as a substitute dataset to provide an indication of the implications of climate change.'

- 5.30 CIRIA SuDS Guidance C753, December 2015 is the current SuDS manual and sets instructions and guidance for how Sustainable Drainage Systems (SuDS) form part of new developments and is included in **Appendix 9**.
- 5.31 Flood Risk Assessment – Standing Advice, October 2025, by the Environment Agency, provides the guidance for content and basis of Flood Risk Assessments and is included in **Appendix 10**.
- 5.32 Land Drainage Act 1991, sets out the Riparian Drainage Rights and responsibilities for landowner who have watercourse flowing through their land.

Responsibilities within the act are

- To ensure that water is allowed to flow without obstructions.
- To keep the bed and banks clear from obstructions.
- To manage vegetation within the channel and on the banks.
- To keep any structures, such as trash screens and culverts, clear from debris, silt and rubbish.

5.33 Flood and Water Management Act 2010

5.34 Surrey County Council Ordinary Watercourse Consent (OWC) Application Form and Guidance Document, is published by Surrey County Council and outlines the procedure, guidance and application forms for modifications to a watercourse. This guidance information is included in **Appendix 2**; the application is via an online process as below.

<https://www.surreycc.gov.uk/community/emergency-planning-and-community-safety/flooding/more-about-flooding/ordinary-watercourse-consents>

Appeal Decisions

5.35 Ref APP/W3520/w/22/3307078 Land North of Old Bury Road, Stuston, Diss, IP21 4AB

The appeal was dismissed. The appeal is included in **Appendix 11**, The Inspector stated in reason 16,

Whilst I acknowledge the proposed dwelling would not be sited within the areas shown at risk from surface water flooding on the SWFM, a sequential test (ST) must be applied when any part of the appeal site is at risk of flooding from all sources of flooding, including surface water.

5.36 Ref APP/Z3635/C23/3335127 Land at Priory Stables, Shepperton TW17 9NU

The appeal was dismissed. The appeal is included in **Appendix 12**, The inspector recounts NPPF paragraphs 174 and 175 of the current NPPF and states under the conclusion for Flood Risk in reason 66

Residential mobile homes are highly vulnerable to flood risk and national policy requires careful consideration of flood risk and safety issues. While an FRA has been submitted, it does not address the sequential test and does not demonstrate that the development can be made safe. I therefore conclude that the site is not an appropriate location for a residential use of

this kind, having regard to flood risk considerations, and find conflict with Local Plan Policy LO1, Policy E3 of the emerging Spelthorne Local Plan and the advice set out in the Framework and the PPG.

5.37 Ref case number:CA-2023-00087 Court of Appeal, Case of Substation Action Save East Anglian.

The court of appeal finding is included in **Appendix 13**,

The inspector stated in reason 43 of the case, that any source of flood must be considered as part of the sequential test, but also introduced uncertainty through the differentiation of the sequential approach from the sequential test.

This court of appeal decision created great uncertainty in my industry, with a lack of clear guidance as to when the Sequential Test would be applied in instances of surface water flooding.

The updated and current NPPF paragraph 175 removes the uncertainty resulting from that case, and the industry welcome the clearer guidance, which was further clarified in the September 2025 update of the PPG. The Sequential Test is defined clearly under 175 as applicable to areas known to be at risk from any form of flooding, which includes surface water flooding.

6.0 Baseline and Removal of Watercourse

- 6.1 To enable a true and accurate picture of flood risk and the impact to others, it is necessary to understand the baseline. An applicant needs to consider the pre and post development situations to determine an accurate picture of flood risk for the development area.
- 6.2 A flood assessment or flood model of the pre and post development scenarios would be compared to determine how the development proposals have impacted and changed the flood extents.
- 6.3 Such an assessment for these sites would define the impact of removing the watercourse and allow the development to be assessed against the specific criteria of NPPF paragraph 170 *development should be safe for its lifetime* and NPPF 181, local authorities should ensure that flood risk is not increased elsewhere.

Pre-Development Situation

- 6.4 The site was not inspected prior to development, but historical information has been reviewed including historical satellite information. The April 2020 arrangement in this location was an access road and a narrow tree belt on the north site of the Lydia Park Access Track. There was also an open watercourse in this location, also evident on historical mapping, shown to flow from the west to east. [**Appendix 14**]
- 6.5 There were (2020 imagery) also open fields on the opposite southern side of the Lydia Park Access Track.
- 6.6 The surface water drainage arrangement prior to development was that the surrounding fields of the catchment would have shed water to the natural low point of the area, which pre-development was the established watercourse. The rainfall for the area would fall onto the undeveloped vegetated fields, some of this would infiltrate into the ground via the topsoil and some be taken up by the vegetation (evapotranspiration). Some rainwater would be expected to flow as surface flow over the fields and directly enter the ditch from the north, from the south the surface overland rainfall flow would shed through the vegetation to the Lydia Park

Access Road. From the track water would shed over the hard paved and into the ditch.

- 6.7 The presence of a vegetated margin between the Lydia Park roadway and the watercourse provided a filter strip before runoff entered the watercourse.
- 6.8 The watercourse drains the road and the surrounding land.
- 6.9 The previous drainage infrastructure, namely a roadside watercourse, was considered appropriate for a countryside access road.

Post Development Situation

- 6.10 The landform has been changed as part of the unconsented development works. The band of trees as a woodland edge to the north of the access road was removed circa July 2021 (satellite imagery **Appendix 14**) and by this date there is hardstanding noted on the north of the Lydia Park Access track, hard standing is noted on Appeal Sites A & B, and the adjoining pitches. It is concluded that from this date the watercourse was infilled and culverted.
- 6.11 The ground level has been increased where areas have been built up to provide access over the route of the watercourse into the rectangle of development including Appeal sites A & B.
- 6.12 The ditch appears to have been infilled by this time.
- 6.13 Parking of vehicles was also evident on Appeal Site A by July 2021, and some earthworks and infilling may have occurred at the time, however screening of site satellite imagery was provided by mature trees.
- 6.14 Further review of later imagery, March 2022, shows further development had progressed on the appeal sites.
- 6.15 Figure 11 below shows a drone photograph from May of 2022, and the watercourse can be seen clearly, at the commencement of development as hardstanding material has been installed to appeal sites A and B to the left of the photograph. Water can be seen in the watercourse adjacent to the Lydia Park Access Track in this photograph.



Figure 11 Drone photograph view east appeal site A & B to left watercourse shown adjacent to the Lydia Park Access Track.

- 6.16 Further imagery from July 2022 shows more hard surfacing had been installed around the appeal sites.
- 6.17 The surface water drainage mechanism for the area would be different at each stage of the development, but most noticeable following the removal of the ordinary watercourse, which previously drained the section of Lydia Park Access Track along the frontage of Appeal Sites A & B.
- 6.18 The change in drainage regime in this vicinity has significant implications on the mechanisms of surface water flooding behaviour in the area.
- 6.19 The mapping presented in **Appendix 3**, Surface Water Flood Risk, is a representation of flood risk in the pre-development scenario. It is known from the recent 2024 flood that even in the 1 in 1.67 year flood event the access road is flooded. Therefore, the removal of the watercourse has widened the area of flooding beyond that shown in the RoFSW mapping. This makes it more difficult to quantify risk, but we know from the hazard mapping that danger exists across both appeal sites.
- 6.20 See Figure 12 below showing the landform of the development based on 2022 data. The contours are shown at 1m centres from 2022 EA Lidar (light detecting and ranging) Data. It is noted the last national LiDAR survey is not frequently updated and the base data is likely from an earlier

date. A scaled drawing is provided in **Appendix 15**. It is not clear if this reflects the post development topography, but it appears some development had occurred on appeal sites A & B.



Figure 12 Lidar Contour mapping

Surface water flood risk

- 6.21 The natural surface water flow path in the vicinity of Lydia Park is to shed rainfall to the lowest point in the landform, this is the local unnamed watercourse located in a natural shallow valley to the north of the Lydia Park access track.
- 6.22 The surface water flow path can be seen in the Environmental Agency Risk of Flooding from Surface Water (RoFSW) flood maps which clearly shows a potential surface water flood risk across both appeal sites (**Appendix 3**).
- 6.23 The landform shown in Figure 12 above was not validated during a site walkover and the lack of topographic survey information with the application site does not allow for a comparison with National LiDAR Programme information, a topographical survey should have been

undertaken across the appeal sites and should have been included with the application to enable a proper assessment of flood risk to be undertaken. However, this was not provided, nor was any assessment of the flood risk.

- 6.24 It is believed the flood mapping shows the pre-development scenario. Without an assessment of the modification work, including an accurate definition of the surface water flood risk which corresponds to the post development scenario, the surface water potential flooding extents cannot be accurately determined.
- 6.25 Based on **Appendix 3**, Appeal sites A & B have High, Medium and Low Surface Water Flood risk associated with the sites.
- 6.26 In the event that climate change allowance is considered in line with the LP CC4, then the extent of flooding is more severe (**Appendix 3ii**) that that shown in **Appendix 3**.

7.0 Sequential Test - The case of the LPA

- 7.1 The LPA would refuse planning permission on the two sites as outlined in section 3.11 and 3.12, firstly on the basis there is no site-specific flood risk assessment presented for the site.
- 7.2 No flood risk Information was presented in support of the individual sites. However, it is suggested by the appellants that the appeal sites are informed by the previously submitted flood risk work undertaken for the adjoining sites considered under separate neighbouring planning appeals.
- 7.3 It is noted that the Flood Risk information for the adjoining sites is not site specific for the two appeal sites.
- 7.4 The two appeal site are shown to be at high risk of surface water flooding with the EA RoFSW information, and it is known and evidenced herein that the sites have also flooded in November 2024.

Sequential Test

- 7.5 The NPPF, PPG and LP policy sets out the requirements for a sequential approach to the location of development where development is guided by policy to position development in areas at lower risk of flooding.
- 7.6 The steps to be taken for individual applications such as these appeal sites are defined in NPPF paragraphs 173-175.
- 7.7 Paragraph 174 outlines the aim of the Sequential Test is to steer development to areas with the lowest risk of flooding from any source. The SFRA is referenced as providing a basis for the test.
- 7.8 It is noted in the SFRA, [**Appendix 4**] flooding is identified in this location, and further assessment and analysis is therefore required in this area to consider the developments properly.
- 7.9 The NPPF and PPG was updated in December 2024 and September 2025 respectively to ensure that all sources of flooding were considered when applying the sequential approach to the location of development. All sources of flooding including surface water and groundwater flooding which must be considered when considering the Sequential Test. This

approach is also ratified by Planning Inspectors in previous Appeal decisions [APP/W3520/w/22/3307078, APP/Z3635/C/23/33335127].

- 7.10 The appeal applications do include, river, groundwater and surface water flood risk, however these forms of flooding are not properly considered for the sites.
- 7.11 Paragraph 175 makes clear the need to consider land raising in the application of the sequential test, which can have a profound impact on the behaviour of flood waters by diverting floodwater to other areas, or channelling floodwaters into narrower flowpath corridors, which would increase floodwater velocities, and consequently increase flood hazard ratings.
- 7.12 The Sequential Test defines the need to consider flood risk now and in the future. The climate change flood extents are available from the EA and are shown in **Appendix 3ii**.
- 7.13 The surface water flooding is shown to be high risk for these nor is the requirement for a Sequential Test to be undertaken as discussed in the framework [NPPF 172 & 175].
- 7.14 When considering NPPF paragraph 175 and the built development within the site boundary, as defined by the application redline plans, there has been land raising operations.
- 7.15 The Sequential test must also consider access and escape routes, such that occupant and the surrounding community must be provided with a safe and passable access or escape route.
- 7.16 This safe route is also important to ensure that emergency services can attend and access area in times of emergency without getting injured or trapped by flooding. Such an occurrence would place them out of service in times of emergency when there is the greatest for emergency services.
- 7.17 Paragraph 175 also references the need to consider other vulnerable elements of a development.

8.0 The Exception Test – The Case for the PLA

- 8.1 Should the ST be considered and passed, then the exception test may only be considered in line with the framework NPPF 177 and the NPPF Annex 3 Vulnerability Classification of the development.
- 8.2 To pass the exception test a site must first pass the sequential test.
- 8.3
- 8.4 Table 2 of the PPG shall be used to determine whether the exception test is compatible with the associated flood probability and development vulnerability.
- 8.5 PPG Table 2 is shown below, with the flood probabilities and surface water flood risk levels also included to the left of the table to aid usage.

Table 2: Flood risk vulnerability and flood zone ‘incompatibility’

SW risk	Probability	Flood Zones	Flood Risk Vulnerability Classification				
			Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Very Low	Over 1:1000 return period	Zone 1	✓	✓	✓	✓	✓
		Zone 2	✓	Exception Test required	✓	✓	✓
Low	1:1000 return period						
Medium	1:100 return period	Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
High	1:30 return period	Zone 3b *	Exception Test required *	X	X	X	✓ *

Key:

- ✓ Exception test is not required
- X Development should not be permitted

Figure 3 PPG Table 2 Flood Risk Vulnerability Table

[Paragraph: 079 Reference ID: 7-079-20220825]

Figure 13 Enhanced PPG Table 2 with Surface Water probability mapping shown

- 8.6 The PPG, paragraph 023, updated in September 2025 clearly states that Other forms of flooding need to be treated consistently with river and tidal flooding in mapping probability and assessing vulnerability. This clearly confirms that when assessing probability of flooding, and assessing flood class vulnerability of the development, then surface water flood is to be treated consistently with river and tidal flooding. This consistent probability is clearly shown in section 7.5 above and shown in Figure 13.
- 8.7 The PPG references users to Table 2 of the PPG for the circumstances where the exception test will be required, where it will not be required and where development will simply not be permitted. It is noted that highly vulnerable development is not permitted on the appeal sites which have high risk of surface water flooding, this probability of flooding is the same as Flood Zone 3b.
- 8.8 If an Exception Test were permitted for highly vulnerable development such as this, NPPF 178 states that to pass, it must be demonstrated that two key parameters are met.
- 8.9 The first parameter relates to wider sustainability benefits to the community that outweigh the flood risk; and the second parameter states the development will be safe for its lifetime taking account of the vulnerability of the users, without increasing flood risk elsewhere, and where possible reduce flood risk overall.
- 8.10 This second parameter has three key elements, safety, not increasing flood risk elsewhere and thirdly where possible reducing flood risk overall.
- 8.11 The development on Appeal Site A and Site B cannot be shown to be safe for its lifetime, nor can the development be shown not to increase flood risk elsewhere.

Exception Test

9.0 The requirement not to increase flood risk elsewhere

Case for the LPA Appeal Site A

- 9.1 NPPF 182 for the Exception Test (b) element states the development will proceed without increasing flood risk elsewhere.
- 9.2 To consider flood risk to others, the impact of the infilled watercourse is considered first below, then safety for the lifetime of the development is discussed.

Flow capacity of watercourse

- 9.3 The area and capacity of the watercourse was noted during a site visit. A visual inspection of the open ditch downstream of the appeals sites identified it to be approximately 1.80m wide and 0.6m deep with approximately 1 in 1 side slopes. No conveyance calculations have been presented by the applicants to determine the capacity of the watercourse and therefore the size of culvert that should have been installed.
- 9.4 During my site inspection drainage covers were lifted and inspected, and a new pipe has been installed on the alignment of the unnamed water course. The pipe appears to be 300mm diameter.
- 9.5 It is noted that the cross sectional area of the pipe is 0.07m²
- 9.6 It is noted that the cross sectional area of the ditch is 0.72m²
- 9.7 Noting the topography of the location, and the longitudinal gradient of the features, the ditch is determined to have a far greater flow capacity than the pipe installed as part of the development [**Appendix 16**].
- 9.8 The culverting of the watercourse to facilitate development has reduced the capacity of the ordinary watercourse by approximately 91% [**Appendix 16**].
- 9.9 The difference in area is (0.72 – 0.07) 0.65m². Across a 1m length of ditch such a volume of water represents 650 litres of water. This volume, being 0.65 of a ton of water in weight. is no longer able to flow in the watercourse and is thus displaced. The displaced flow will flow as

floodwater over the surface of the land if there is no longer a ditch to convey the water.

- 9.10 When considering the full length of watercourse that has been culverted, including the neighbouring appeal sites, estimated to be a 150m, then this equates to $150\text{m} \times 0.65\text{m}^3 = 97.5\text{m}^3$. As 1m^3 of water = 1 metric ton, this equate to 97.5 tonnes (t) of water, that would otherwise been present in the watercourse ditch, that is displaced. The displaced water is therefore present on the surface of the local area. My displaced volume assessment considers the water as stationary over the 150m length of infilled watercourse. This is not the case; the floodwater is dynamic and is moving with a speed downstream to the river.
- 9.11 At a typical flowrate of 0.5 metres per second (m/s), there is $(0.5\text{m/s} \times 97.5\text{t})$ 48.75 tonnes of water every second passing over the surface, as a direct impact of the infilling of the watercourse.
- 9.12 Any more extreme rainfall events, where water would not be contained in the previous open ditch (typically anything greater than the 1 in 1 year event) would result in a far greater extent and volumes of floodwater flowing over these sites and the surrounding area.

Infilled Watercourse

- 9.13 The Land Drainage Act 1991 requires that a watercourse be maintained by its Riparian Owner in such a condition that the free flow of water is not impeded.
- 9.14 The assessment of channel flow and culvert flow clearly shows an impeded surface water flow, with a 91% impediment to surface water conveyance.
- 9.15 An OWC is required [Appendix 2], and associated detail and information should have been provided to satisfy the requirement and allow a proper assessment.
- 9.16 The pipe was noted as being provided across the frontage of appeal sites A & B. There is an incoming pipe from the direction of neighbouring separate appeal sites, however access was not available, and the inlet pipe was not visually confirmed during the inspection. However, this report proceeds on the basis that a piped culvert is installed under the

neighbouring appeal sites, and the culvert conveys the flow of surface water previously accepted by the open watercourse.

- 9.17 Local Plan section CC4 part 1C states that development will only be considered when it would not constrain the natural flood plain either by impeding flood flow or reducing storage volume. The infilling of the watercourse and reduction in flow capacity has impeded surface water flood flow.
- 9.18 No information has been provided by the applicants which considers the displaced water that previously flowed along the ditch.
- 9.19 The infilling of the watercourse has made flooding worse elsewhere due to the displacement of the water from the ditch, which had a much higher volume capacity compared to the culverted pipe.
- 9.20 This has compromised the safety of both those living on and off site as demonstrated by the photographs of the 1 in 1.67 year flood event discussed in the next section.

Exception Test

10.0 Safety for its lifetime

Hazard Rating

- 10.1 The other element of the Exception Test is that development must be safe for its lifetime taking account of the vulnerability of its users. Irrespective of the Exception Test, it is fundamentally important that a development is shown to be safe.
- 10.2 Development in an area of high flood risk must include appropriate assessment of the risk to the occupants. Such an assessment must consider the culverted watercourse and details of the culvert size level and gradient would be required.
- 10.3 Such an assessment should model and determine the impact of changes such as infilling the watercourse. Hydraulic modelling may also be used to fully understand the impact of the development. No such model or assessment has been provided.
- 10.4 The climate change requirements of the NPPF must also be included and a climate change allowance (assuming medium term) would be applied to the rainfall for the assessment of the developed site. [CC4, NPPF]
- 10.5 The appeal site has both medium and high risk surface water flooding on the two sites. Therefore, according to Table 2, development should not be permitted in these areas.
- 10.6 The applications should provide a clear extent of the medium risk surface water flooding area, the 1 in 100-year flood event including a climate change allowance often termed the design flood. This information was not provided but I have produced it in **Appendix 3ii**. This flood extent defines the medium risk area of for the development, and no development should be located in this flood extent. No dwelling or property should be positioned within the area of flooding, no land raising or adjustment of levels should occur in this area. Safe access and egress routing would be routed around or outside of the area shown to be flooded.
- 10.7 The flood mapping with and without climate change scenarios represent the 2019 topography dataset. It is known that the topography has changed due to the unconsented development works, so therefore the

flood mapping does not accurately show flood risk for the post development scenario.

- 10.8 The surface water modelling should also be used to define the accurate depth and velocity of surface flood waters and allows consideration of safe access and egress for the development. [PPG Paragraph: 043 Reference ID: 7-043-20220825PPG, Paragraph: 044 Reference ID: 7-044-20220825] Without this information an accurate picture of hazard and risk from surface water floodwater cannot be made, and a robust emergency plan [NPPF Paragraph 173] is not provided.
- 10.9 In the absence of a site-specific flood risk or surface water flood model, the EA hazard mapping can be used to determine the hazard rating for the locality. Climate change allowances have been used in line with the PPG regarding the consideration of the design flood.
- 10.10 The hazard ratings area calculated by the EA based on the HR Wallingford hazard ratings calculation. Reference is made to **Appendix 6** for the determination of flood hazard rating. This methodology is adopted by the EA and is used nationally to inform flood risk.
- 10.11 The EA flood hazard rating table is shown in section 3.0.
- 10.12 The hazard mapping in the vicinity of Appeal sites A and B clearly shows a **Danger for Most** hazard area to the north of the Lydia Part Access Track. This represents fast and deep flowing floodwater, and is a danger to most, which includes able bodied adults and the general public.

Historic Flooding

- 10.13 This section provides a record of a recent flood incident at the development site.
- 10.14 On the evening of the 26th of November 2024 there was a heavy rainfall event in the locality of the appeal sites.
- 10.15 An officer inspection was undertaken on the morning of the 27th of November 2024, and photographic records of the event were captured and recorded by the officer. These records are included under cover of **Appendix 17**.
- 10.16 The record photographs show there was flooding on the access track at Stovolds Hill, and the roadway is shown to contain flood water up to the

level of the kerbstones on the access road. The area to the north of the access road is also shown flooded.

- 10.17 The area around the access points to the appeal site Pitch 1 and Pitch 2 were noted to be holding flood waters in the photographs. The depth of which varies up to 300mm in flood depth.
- 10.18 The extent of the flooding appears similar to the extent of flooding shown on the flood maps for the area, with flood waters recorded in the localised valley around the access road and the area immediately north of the access road.
- 10.19 It is noted in the photographs that the access road appears to have been upgraded since the spring of 2024, with a new macadam surface noted and kerbstones having been installed on the edge of the roadway.
- 10.20 The rainfall records have been reviewed to determine the severity of the flood event that day, and a national rainfall measurement station was found at Elmsbridge, some 1-1.5km northeast of the appeal sites.
- 10.21 The rainfall measurement station is operated by the Department for the Environment, Farming and Rural Affairs (DEFRA), and the information is freely available on the national hydrological database.
- 10.22 The rainfall data is presented in **Appendix 18** of this document and recorded 28.08mm of rainfall over a period of 8.5 hours.
- 10.23 The rainfall depth and duration were used along with the Flood Estimation Handbook (FEH22) software to determine the event frequency of the flood event on that day, and the findings are presented in **Appendix 18** of this document.
- 10.24 The rainfall event recorded on the 26/27th November 2024 at Elmsbridge is shown to have a return period of 1 in 1.67 years. Approximately a 1 in 2 year event frequency return period, when rounding to the nearest whole year.
- 10.25 The flood frequency of the event is relatively low considering the definition of the high risk flood areas, are areas that experience flooding under the 1 in 30 year flood event.
- 10.26 It would typically be expected that the rainfall from a 1 in 1 year event would be contained within the capacity of the existing ditch system.

However, as noted above the infilling of the ditch system has displaced the water that previously flowed through the pre development ditch.

10.27 The visual severity and extent of flooding recorded for a 1 in 1.67 year flood event supports the information presented in this document and in my previous appeal work for the adjoining developments also at appeal.

The impact of infilling of the ordinary watercourse has increased flood risk that results from such an action.

10.28 See Figure 14 and Figure 15 which show the flooding, extracted from

Appendix 17.



Figure 14 View from Lydia Park Access Track looking NW towards appeal sites A and B

10.29 Flood water is shown flowing through Appeal Site A and the shared accessway to the other pitches including Appeal Site B.



Figure 15: Photograph View looking NE towards appeal site A.

10.30 Flood water is shown flowing through appeal site A and encompassing the roadway corridor.

10.31 This record of flooding is different from the EA RoFSW data, which shows the centralised flowpath of the floodwater to be more north of the road corridor.

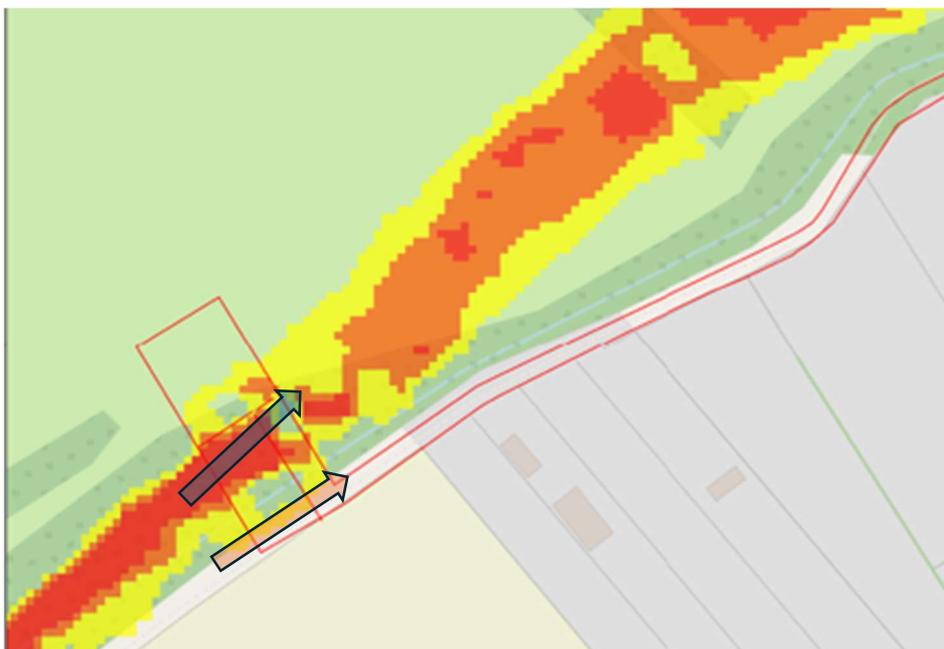


Figure 16 Hazard rating 1.25 extract -danger for most, with flood flowpaths indicated.

10.32 Figure 16 shows the most hazardous part of the flood to be routed through the pitch area, as shown by the blue arrow in the graphic. This is also shown on the flood mapping, where the darkest shade of blue is shown north of the Lydia Park Access Track.

10.33 The light orange arrow shows the flow path recorded in the flood events of November 2024, a 1 in 1.67 year event which would likely have previously been contained in the removed ditch, where the floodwater is noted as flowing across the front of Appeal sites Pitch 1 and 2.

10.34 This provides clear evidence that the flooding, and associated hazard to people and property is no longer only concentrated in the fields to the north of the Lydia Park Access track, instead now the flow of floodwater in a 1 in 1.67 year event is shown to be along the road corridor that is also shared with the surrounding community at Lydia Park.

10.35 I believe there has been worsening of the surface water flood risk in the area, due to be infilling of the previous watercourse, the raising of levels on the appeal sites and the introduction of paved areas. This can be seen to have changed the flood response behaviour in the locality and worsened the flood risk to others as a result.

10.36 It is my opinion that the development has increased flood risk both to those on site and to others as a direct result of infilling the watercourse

which previously allowed the surrounding land and access road to freely drain to the watercourse.

10.37 This work has ignored the appropriate codes, standard and legislation which is in place to ensure to ensure safety of people and fundamentally ensures works are not undertaken that increase flood risk to others.

10.38 This has extended the flood hazard zone from the field area previously north of the access track, to now include the hazardous movement of floodwater, even during a 1 in 1.67 year event along the access track, introducing a flood safety risk to all user of the Lydia Park Access Track.

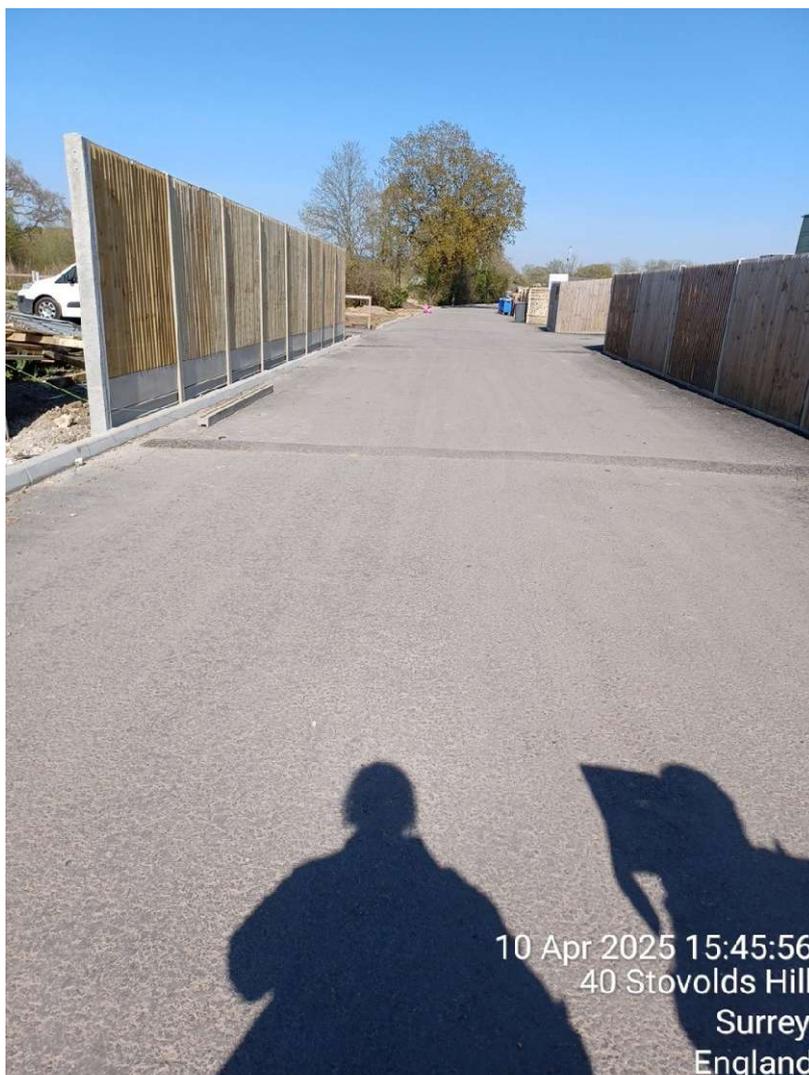
Current Setting

10.39 This section provides a record of recent modifications to the site locality.

10.40 During an officer walkover inspection of the site, it was noted and recorded with photographic evidence that close boarded fencing was being installed to land directly south of Appeal site A, Pitch 1.



Photograph 12: Close board fencing being constructed around appeal site A, noting this is over the watercourse



Photograph 13: Close board fencing view looking northeast, appeal site A Pitch1, is on the left, noting the fencing is constructed over the watercourse

- 10.41 The fencing was under construction in the April 2025 photographs, and it is noted that the location of these works is to the southern boundary to Appeal site A, which abuts the Lydia Park Access Track.
- 10.42 It is noted that this fencing is being installed on land that was shown to be flooded in the event November 2024.
- 10.43 It is my opinion that this installation of close board fencing will further impede the flow of flood water and exaggerate the extent of flooding elsewhere as a result.
- 10.44 The flood water shown in the historic flood record was shown flowing through open post and rail timber fencing. This flood water in a 1 in 1.67

year event could now be channelled through the narrow section of the Lydia Park Access Track, and flood water velocity and hazard generally across the area would have increased as a direct result.

10.45 It is determined that this development has now resulted in the worsening of flood conditions that have recently occurred on the site (Nov24) which I believe will increase flood risk to both the appellants and the other residents of the park home.

10.46 The fencing, and any other apparatus or materials, that impedes the flow of flood water or introduces hazard from debris being washed downstream should be removed and cleared.

Exception Test

11.0 Reduce Flood Risk Overall

SuDS Design

- 11.1 The design of appropriate SuDS measures can reduce flood risk overall by reduce and attenuating rainfalls reducing flow to watercourse and reducing the response period with rising water levels
- 11.2 The appeal sites A and B contain significant areas of hardstanding, and there is no Flood Risk information considered; however, it is noted that the construction detail information [CD1A.6] includes a hardstanding surfacing detail with Type 3 granular fill, which is a common porous paving material having at least 30% void ratio. SuDS design features are not demonstrated to be feasible in the application information, no plan is provided of the usage or layout of the paving, and no control or discharge features were presented. SuDS are fundamental part of developments and ensure that attenuation and treatment of surface water occur as part of development.
- 11.3 It is noted that there is a groundwater flood risk at the location as defined in the SFRA. The risk is noted as low risk. This presents a challenge to SuDS design measures.
- 11.4 The construction detail presents potential SUDS measures with the Type 3 sub base; however, it is unclear how this will operate if the site is largely flooded out as shown in the EA flood maps (**Appendix 3**). It is not clear if these have been installed on the development and the solution has not been considered against the challenges of surface and ground water flood risk at the site.
- 11.5 The positioning of flood attenuation measures should be outside of the zone of flooding, normally defined as the medium risk with an appropriate allowance for climate change, this area is defined as the medium shaded blue in **Appendix 3ii**. SuDS measures must be outside the zone of flooding to be effective, measures inside the flooded areas will be inundated with flood water and will not be effective.

- 11.6 It is not demonstrated how the development sites can accommodate the required attenuation nor SuDS measures.
- 11.7 The surrounding water catchment, the adjoining area Lydia Park, is a park home facility. There is a high degree of hardstanding provided in the siting of mobile park homes. The surfacing of the site is highly impermeable, with large areas of hardstanding.
- 11.8 The hardstanding prevents rainfall from making contact with the underlying ground, and instead water flows rapidly over the hard surface in a downstream direct or via drainage conduits such as gullies, drains and pipes.
- 11.9 The surface water characteristics of areas with large areas of hardstanding are very different to the behaviour of natural green fields, where the rainfall is allowed time to percolate in the topsoil and slowed down by field vegetation.
- 11.10 It is unlikely that the EA mapping and any other commercially available flood maps take account of the high degree of hardstanding around the appeal site, and the associated rapid mitigation of surface water flow paths, thus flash flood occurrences could be more pronounced than if the development was surrounded by fields.
- 11.11 The behaviour of the receiving water course and the drainage catchment area has now changed with increased hard surfacing and impermeability, and it has become more susceptible to rapid hydrological responses, i.e. flash flooding instances are increased in highly paved areas.
- 11.12 The design intent of the CIRIA Manual C753 [**Appendix 9**] in section 1.2 managing surface water flow highlights this fact and seeks to ensure new developments mitigate this flash flooding response behaviour by designing development surfaces to behave as a natural catchment.
- 11.13 The natural low point of the surface water drainage in the area of the watercourse is on the north side of the concrete access road, and within the appeal sites. The watercourse provides a fundamental drainage asset to the catchment in collecting the localised runoff and surface flow through the green and paved areas, before conveying the water to the west towards the Stovolds Hill and the River Wey. Development located to the north of the access road; Appeal Sites A is located directly in the surface

water flood corridor that flows on the alignment of the infilled watercourse. Appeal site B is located within but slightly to the northern side of the surface water flood corridor, and this impedes safe access and egress to the access road.

- 11.14 The removal of this open watercourse will modify the surface water flow behaviour in this locality, as well as the surface water flooding behaviour. The application information presented does not consider this important modification and therefore does not accurately define the impact of the development.

Case for the LPA Appeal Site B

- 11.15 The development for both Appeal Site A and Appeal Site B does not reduce flood risk, rather it makes it significantly worse.

12.0 The case for the Appellants

Appeal Site A The Appellants case

12.1 Review of the application form information notes that the applicant does not consider the site requires an FRA. This is not the case, an FRA is required and the appeals should be dismissed on the absence of an assessment.

12.2 The application form information includes a question regarding whether the site is within 20m of a watercourse, the applicant states no to this question. This is incorrect, and a watercourse flows through the application site.

12.3 A statement of case is provided by Mr Angus Murdoch. The SoC includes a section on Flood Risk. Within this statement the following text is included:

Extract from SoC by Mr Agus Murdoch

Under section 10.0 Mr Murdoch states.

'RR4 for each application refers to the lack of information in relation to Flooding.

separate flood risk assessments have since been provided. That from UNDA addresses sites B, C, and D, and that from Flume Consulting Engineers addresses site A.

The appellants consider the reporting undertaken to appropriately display that the developments would be safe in terms of flood risk, owing to appropriate planning conditions, and would not harmfully increase risk of flooding elsewhere.

The LPA dispute the findings of the Flood Risk Assessments, and conclude that they can not establish if and how the developments would result in increased flood risk, danger to life, damage to property or harm to the local water course and surrounding community.'

12.4 The SoC recognises the requirement for a FRA, which was also highlighted in the enforcement notice issue prior to the planning application.

- 12.5 Reference is made in paragraph 10.2 to the Flume and Unda FRA reports for the adjoining Appeal sites A-D.
- 12.6 It is noted that the referenced Flume FRA documents [**Appendix 7**] contain out of date flooding information and do not represent the site conditions, nor consider climate change allowances.
- 12.7 The Flume FRA considers a neighbouring site some 150m from the Appeal site A.
- 12.8 Plans are provided in the Unda report [**Appendix 8**]. These show the position of Appeal Site A. However, the labelling within states the pitches are under separate ownership, and the Appeal site A (nor B) are not discussed or considered in the Unda FRA report.
- 12.9 The Unda Consulting report presents a site-specific flood risk assessment for the combined appeal sites known as pitches 3, 4 and 5. Appeal sites A and B are pitches 1 and 2 and are shown within some of the plans within the UNDA report, although the UNDA report is site specific for the other pitches 3-5.
- 12.10 The three neighbouring sites are adjacent to each other and are covered in the single report. Pitches 3 and 4 in the UNDA report are directly north of Appeal sites A and B and share the same access arrangements.
- 12.11 When considering the Appellants referencing of the neighbouring appeal site FRA reports, the Unda Report is assumed to be of most relevance to the applicants, and is therefore considered here, although it is noted the Unda Report does not specifically cover the Appeal site A and B.
- 12.12 The Unda FRA report starts with a key facts summary and includes flood mitigation measures for the development including anchor points and chains to stop the caravans from floating away.
- 12.13 The report states on p6 of the mitigation measures that 'The applicant is fully aware of their responsibilities to ensure the drainage ditch is kept clear of any vegetation or debris to ensure it continual free flowing'. This statement is reiterated several times through the content of the report. However, the statement is incorrect as the drainage ditch has been completely removed and infilled as part of the development.
- 12.14 The introduction sets the planning context and references the NPPF and associated technical guidance and states

'The assessment should demonstrate to the LPA and EA how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its potential users'

- *whether the proposed development is likely to be affected by current or future flooding from any source;*
- *whether it will increase flood elsewhere;*
- *whether the measures proposed to deal with these effect and risk are appropriate. '*

12.15 The report presents a summary of topography using information from LiDAR, and geology from The British Geological Society (BGS).

12.16 Section 3.5 of Unda FRA [**Appendix 8**] is titled Riparian Ownership, and includes a summary of the statutory responsibilities, including maintaining riverbeds and banks, allowing the flow of water to pass without obstruction, controlling invasive alien species. The final sentence of the section states *'a unnamed drainage ditch is located along the front of the site. The applicant is fully aware of their responsibilities to ensure the drainage ditch is kept clear of vegetation or debris to ensure continual free flowing'*. As stated within this document the drainage ditch has been completely removed in the development area, and this is an erroneous statement.

12.17 Section 3 on page 11 shows the location of the development parcels in figure 5, but positions the plot locations inaccurately on the landscape, being shown 20-30m south west of their true location. The site boundaries of Appeal site A and B are not consistent with the application boundary. The assessment of flood risk must consider all the application area in the assessment of flooding. It is shown in **Appendix 3**, that Appeal Sites A and B include areas of High and Medium Risk surface water flooding in the application boundary of sites A and B.

12.18 The UNDA report considers surface water and identifies there is a flood risk associated with the development, and a plan, Figure 9, is shown presenting the flood extent, however the sites are not shown accurately on the plan, instead a point marker is shown outside the surface water flood extent. The plan should show the accurate position, and full red line

- boundary of, the three appeal site boundaries relative to the surface water flood extents, and the correct location.
- 12.19 An additional plan figure 10 is provided showing the surface water flood depths, the flood depth banding is provided 0-0.15m, 0.15m-0.3m, 0.3-0.6m and upwards. Flood depths 0-0.3m are present around the application areas, however the access boundary area to Appeal sites A and B are not shown on the plan assessing flood depth.
- 12.20 P18 of FRA includes a figure number 11 of the medium risk event, without consideration of climate change, and shows flood depth relative to the incorrect plot locations.
- 12.21 Groundwater flooding is covered in section 5.4 on p19 of Unda FRA and the report highlights the SFRA which shows the area to be in an area with a less than 25% chance of flooding from groundwater [**Appendix 4, figure 9**].
- 12.22 The SFRA does not highlight groundwater flooding historically in the location.
- 12.23 The next section of the report titled flood risk mitigation pages 22-25 covers design mitigation measures.
- 12.24 The section starts with reaffirming the developments highly vulnerable classification under the NPPF and PPG.
- 12.25 The subsequent section presents design measures such as chains and anchors to stop of the caravans floating away, and flood resilience measures such as high level electrical points and anti syphon waste as well as early flood warning systems and emergency plans. These three pages of the report indicate a strong concern for the safety of residents of this highly vulnerable development.
- 12.26 Section 6.4 covers Safe Escape and Flood Action and references the NPPF information relative to 'safe escape usually defined as being slow moving fluvial or tidal flood water no deeper then 25cm.' The report lacks an accurate assessment of flood depths, has inaccurate site boundaries for two of the sites and does not assess flood water velocity so cannot accurately determine velocity and this hazard assessment of flood water flow is not adequately considered.

- 12.27 The document then states 'However, given the site is located entirely within Flood Zone 1 and the proposed application is for a minor extension to the existing building property safe escape is not required'. This appears to be an erroneous statement as the application is neither a minor extension nor involves an existing building. This is entirely inconsistent with the recommendation for anchor chains to prevent surface water flooding washing the caravans away.
- 12.28 Section 6.5 is titled Flood Plan, and provides a page of recommendations and states 'to prepare a flood plan for the applicant and future owners to protect life and property during a flood event'.
- 12.29 The plan includes several bullets noted recommended actions: before flood activities; during a flood event and after the flood event. The advice is sound and applicable to the highly vulnerable developments that would experience the surface water flooding and is a reasonable strategy to protect life and property should the development be allowed.
- 12.30 Section 6.6 addresses off site impacts and provides a paragraph regarding fluvial floodplain storage, which provides little merit as the site is not near a fluvial floodplain.
- 12.31 The following section 6.6.2 covers surface water drainage and lists the SuDS hierarchy of measures. The section states that due to the scale of development the level of detail is not required at this stage of planning. The site will continue to utilise the existing method for surface water disposal post development. However, the existing method is not described. It is also noted that significant sections of the sites are within the surface water flood extent, and at risk of groundwater flooding, both serious factors that can prevent the attenuation or treatment function of any proposed Suds measure. For example, a porous pavement will not work if the area is in an area flooded with surface water. The Suds should be shown to be feasible in the proposed development site to ensure that risk of surface and groundwater water flooding is mitigated, and measures can be provided. Treatment will also need to be shown feasible due to presence of parked vehicles and fuel, and the need to protect water quality under the Water Framework Directive.

- 12.32 Section 6.6.3 outlines a foul water strategy and states a cesspit or sewerage treatment and holding tank will be located on plot 5. No details are provided. The intent is unclear whether there is an intent discharge to ground or the ordinary watercourse, this should be clarified to ensure the watercourse is adequately protected and the necessary consents are secured.
- 12.33 Section 7 of Unda FRA covers the sequential and exemption test. It is noted again that the development is highly vulnerable, and a risk matrix table is replicated. A statement is made
'Using the table above, the proposed application is considered to be suitable within Flood Zone 1'.
- 12.34 The statement fails to address the requirement of the then 2021 NPPF, and later revisions to consider other non-fluvial sources of flooding, and no consideration of surface or ground water flooding is given in section 7. When these other factors are considered, it shows the site requires the consideration of the sequential test.
- 12.35 The report ends with a section on discussion and conclusion, where the above points are repeated. A key point made is that the development is Highly Vulnerable and surface water flood risk is low or very low. However, the basis of the report and assessment for Appeal Sites C and D show inaccurate application boundaries, and inaccurate positions are drawn for Appeal site B-D. When accurate plot boundaries are considered and accurate positions are also considered then the findings are not correct. Appeal site C and D both include areas at low medium and high risk of surface water flooding; Appeal site B includes areas with low risk of surface water flooding. When climate change is considered, [SFRA **Appendix 4**] then all sites have a minimum medium risk of surface water flooding, Sites C and D include areas at high risk of flooding, as these sites include the access road and Stovolds Hill junction within their respective redline boundaries.
- 12.36 The Unda FRA states that to stop the caravans from potentially floating away the caravans will be secured/tethered to hardstanding by a number of mounting points and chains. There is obviously clear concern that the

highly vulnerable development is at risk of surface water flooding and substantial mitigation measures are presented in the report.

- 12.37 The Unda FRA covers pitches 3-5 which are located further away from the area shown to be at high risk of surface water flooding; Appeal sites A & B pitches are shown more at risk than pitches 3-5, being located directly over the high risk flooding flowpath. The suggestion of chains and tethers to prevent these homes being washed away in a flood scenario is not something that can be supported by myself or the local Authority, and these appeals should be dismissed.
- 12.38 An additional section is provided titled 'The applicant has confirmed that', and 8 bullet points are provided reiterating the content of the report, which indicate the applicant has been briefed on the site-specific flood risk assessment and is accepting of the recommendations made, including the maintenance of the open watercourse. The watercourse has been infilled, nevertheless.
- 12.39 The report closing statement reads:
'assuming accordance with these flood risk management measures Unda Consulting Limited consider the proposed application to be suitable in flood risk terms'.
- 12.40 I strongly disagree with this statement for the reasons set out above. The sequential test has not been properly considered, and the appeal should be dismissed on that basis alone.
- 12.41 It is noted already that appeal sites A and B have high risk of surface water flooding.
- 12.42 It is also noted that ground levels have changed and fencing and other development features have been placed in the flood flow path. This development in the flood flow path will displace and re route floodwater into other areas and increase flood risk to others.
- 12.43 Of particular concern is the narrow corridor of the Lydia Park Access Track, shown in Figure 12 photograph. The displaced floodwater will be directed through this narrow gap, which will concentrate the flooding, increasing both depth and velocity, thus increase the associated hazard. This has created a significant hazard to anyone on the neighbouring community attempting to use the Lydia Park Access Track during a flood event. This

will clearly increase flood risk to others and is contrary to Policy CC4 as well as the NPPF.

12.44 The flood risk has increased to occupants and neighbours outside the application boundaries through the infilling of the ordinary watercourse and reduction in flow capacity associated with the works.

12.45 The flood hazard rating information clearly shows a **Danger to Most** hazard rating. The site is fundamentally unsafe, and adequate safety from flood risk for its occupants has not been considered or demonstrated for the appeal sites. It is not possible to proceed to agreement of planning conditions until the site is shown to be viable and safe for the occupants and the surrounding community.

Appeal Site B The Appellants Case

12.46 Review of the application information notes that the applicant does not consider the site requires an FRA. This is not the case. A FRA is required and the appeals should be dismissed on the absence of an assessment.

12.47 The application form information includes a question regarding whether the site is within 20m of a watercourse, the applicant states no to this question. This is incorrect, as a watercourse flows through the application site.

12.48 Mr Phil Rowe has issued a Draft Statement of Common Ground [CD2A.2] which makes reference to flooding as follows: -

'RR4 Flooding RR4 for each application refers to the lack of information in relation to Flooding.

2 separate flood risk assessments have since been provided. That from UNDA addresses sites B, C, and D, and that from Flume Consulting Engineers addresses site A.

The appellants consider the reporting undertaken to appropriately display that the developments would be safe in terms of flood risk, owing to appropriate planning conditions, and would not harmfully increase risk of flooding elsewhere.

The LPA dispute the findings of the Flood Risk Assessments and conclude that they cannot establish if and how the developments would result in increased flood risk, danger to life, damage to property or harm to the local water course and surrounding community.'

- 12.49 The statement is similar to that presented for appeal site A and reference is made to the above section for the case for Appeal A.
- 12.50 As with Appeal A, flood risk has increased to occupants and neighbours outside the application boundaries through the infilling for the ordinary watercourse and reduction in flow capacity associated with the works, as well as the installation of close board fencing within the storm water flood flowpath.
- 12.51 The flood hazard rating information clearly shows a **Danger to Most** hazard rating. The site is fundamentally unsafe, and adequate safety from flood risk for its occupants has not been considered or demonstrated for the appeal sites. It is not possible to proceed to agreement of planning conditions until the site is shown to be viable and safe for the occupants and the surrounding community.
- 12.52 It has been suggested on page 14 of his Proof of Evidence that the mechanism for drainage for Appeal site B is infiltration. Mr Rowe suggests this arrangement for the neighbouring appeal sites, and describes the ground as moderately permeable, with the great majority of surface water soaking into the ground.
- 12.53 This is not the case. A review of publicly available Geological information indicates the site is underlain by clay, and impermeable subsoil such that infiltration may not be viable for this site.
- 12.54 Within **Appendix 19** two local boreholes are provided which show the ground immediately below the surface topsoil is clay. Clay is a cohesive material that is very impermeable, in that it does not allow water to soak into it, instead water is held above the clay or runs over the ground surface.
- 12.55 Geological mapping information is also provided in **Appendix 19**, which shows a bedrock of clay in and around the area. There is a band of superficial deposits around the site, this appears to approximately follow

the surface water flood route corridor. The superficial deposits are defined as alluvium, and can be a mix of the bedrock clay, silt and gravels. The area mapped as superficial deposits also approximately corresponds with the area at risk of groundwater flooding.

12.56 The ability of this underlying material to accept soakage is not demonstrated in the applicant information, it is also at risk from groundwater flooding, possibly because the water is perched above the impermeable clay bedrock. These facts indicate to me soakage is unlikely to be suitable at this site. Therefore, an infiltration or soakage drainage solution cannot be relied upon to provide a solution for these developments.

13.0 Summary and Conclusions

- 13.1 This proof of evidence has been prepared by Mark Smyth, a Chartered Civil Engineer of 26 years experience. The proof is prepared on behalf of Waverley Borough Council.
- 13.2 The proof is provided in support of the Waverley Borough Councils case for refusing planning permission for the change of use from agriculture land to residential caravan sites, namely appeal sites A and B all located at Lydia Park, Stovolds Hill.

Surface Water Flood Risk

- 13.3 The Risk of Surface Water Flooding mapping provided by the Environment Agency has been mapped across the location of the development sites and confirmed there is a surface water flood path across the two developments sites.
- 13.4 The precise extent of the surface water flood extents of surface water flood plain is shown in **Appendix 3** and shows flooding to both sites. This mapping represents the pre development scenario.
- 13.5 Due to the changing landform associated with the development and the modified topography, the risk of surface water flooding would have increased due to the reduction in capacity of the watercourse, and the reviewed EA flood maps may present a favourable flood extent compared to the modified arrangements, whereas in fact the flood extent has increased due to the development. These modifications are not defined for the post development scenario in the presented information, and it cannot be determined that flood risk elsewhere does not increase as a result of the development.
- 13.6 The application information does not consider climate change allowances for surface water flooding as is required in the LP CC4 and NPPF.
- 13.7 Climate change flood mapping is shown in **Appendix 3ii** and shown to be of greater extent than the non climate change flooding extents.
- 13.8 The Appendix 3 information shows all the Appeal Sites against the current EA flood mapping and shows Appeal Site A and B have **High, Medium** and low risk surface water flooding.,.

13.9 When climate change is considered as per NPPF and CC4, and the low risk flood extent used to indicate the medium risk surface water flood extents including climate change allowances [SFRA], then all sites include greater extent of high and medium risk surface water flooding.

14.0 Flood Risk Assessment

14.1 A site specific flood risk assessment is essential for these applications, and no information has been provided. Information is referenced from neighbouring sites (also at appeal) and the associated flood risk assessments for the adjoining sites. This referenced information does not specifically cover the appeal sites. The referenced information has been reviewed under separate appeal and found to be deficient.

Sequential Approach

14.2 The sequential approach directs the more vulnerable usage sites away from areas most at risk of flooding. The sites propose development that is classified as Highly Vulnerable [NPPF Annex 3]. The developments are all located over a surface water flood route and are at medium and high risk of surface water flooding. The EA RoFSW data shows a significant flood hazard risk across the two sites. The NPPF stated highly vulnerable development cannot occur in medium or high risk flood risk areas.

Sequential Test

14.3 The development has not demonstrated that the site adequately considers the sequential test, which must consider all sources of flooding including surface and ground water flooding. This is requirement of the NPPF, PPG and LP CC4. The Court of Appeal Substation Action [**Appendix 11**] created great uncertainty in my industry regarding the application of the Sequential Test, this uncertainty was removed with the December 2024 update to the NPPF.

14.4 The requirement for the Sequential Test has been reiterated by Planning Inspector Decisions [APP/W3520/W/22/3307078, APP/Z3635/C23/3335127] and is reason for dismissal of this appeal.

Infilling Watercourse

- 14.5 The development sites have been constructed over an ordinary unnamed watercourse, which conveys surface water from a large established pond to the west to the Cobblers Brook and ultimately the River Wey.
- 14.6 Pre-development the watercourse was present as an open free flowing ditch north of the Lydia Park access road. Post development the water course has been infilled and piped culvert installed to convey flows. No assessment has been undertaken to show modifications are acceptable. It has been determined that the infilling of the watercourse would have reduced the flow capacity by an order 91%, which would significantly reduce the ability of the watercourse to convey water downstream and this has increased flood risk elsewhere in the vicinity. This action contravenes the planning framework [Paragraph 181 NPPF] which requires planning authorities to ensure that flood risk is not increased elsewhere. The development should be dismissed on this basis.
- 14.7 Appeal site A and B are accessed to the north of the Lydia Park Access Road, and the previously present watercourse has been infilled and culverted. The drainage outfall for this location has been impeded, and consequently surface water flood risk has increase in the neighbouring location which also includes highly vulnerable development.

Safe Access, Emergency

- 14.8 Safe access and egress are a fundamental consideration of the NPPF. Noting there is a surface flood risk across the sites, it is paramount that this is considered. There has not been an adequate assessment of the risks posed by floodwater to and around the development sites.
- 14.9 The EA flood hazard data has been reviewed for the appeal sites, and it is shown that **Danger for Most** flood hazard risk is present across the appeal sites with deep and fast flowing floodwater.
- 14.10 Consideration to future occupants including safe access and egress for occupant and emergency service is a fundamental requirement of any application that includes areas of flood risk within the boundary of the site which would impede free access.

14.11 The modification to the water course and increased areas of hardstanding associated with the developments may also have increased flood risk to the surrounding area, potentially increasing surface water flooding on the access road and the junction of Stovolds Hill and Lydia Park Access Road, thus impeding access and egress for other residents on Lydia Park.

Surface Water Design

14.12 The CIRIA Manual C753, require schemes to provide treatment and attenuation of surface water on new developments. Information has not been presented to demonstrate how these functions can be shown feasible on the development site.

14.13 The lack of appropriate sustainable drainage measures, as per CIRIA C753, does not provide confidence that the development can support SuDS measures. The developments include a high degree flooding, and it cannot be seen how measures could work effectively when the site is flooded.

Conclusion

14.14 Given the vulnerability classification of the proposed development and the associated flood risk, the appeal should be refused in respect of development that:

- Is located in an area at high risk of flooding from surface water, and includes development work that has significantly altered the surface water drainage regime in the area;
- The flood hazard data shows **Danger for Most** across the appeal sites.
- No site specific flood risk assessment has been undertaken;
- Referenced separate FRA information for neighbouring sites do not specifically cover the appeals site, neither does it accurately define the post development surface water flood extent at the site, does not quantify the extent of medium and high risk flooding relative to the development;
- Has modified and impeded the flow of an established watercourse, contrary to the OWC process and the Land Drainage Act 1991;

- Has erected panel fencing in the flood flow path which has modified the flood extents and increased flood risk and flood hazard elsewhere.
- Has removed the drainage provision to the Lydia Park Access Road, thus impeding surface water drainage of the neighbouring area;
- Does not address the impact of climate change on the surface water flooding;
- Does not demonstrate safe access and egress during surface water flood events;
- The historic 2024 flood event represents a frequent flood event, shown to have a return period of 1 in 1.67 years. The NPPF and PPG requires consideration of the 1 in 100 year flood event, including climate change. Such a flood event would be far worse than that shown in November, with significantly more floodwater flowing over the appeal sites, with a wider flood corridor. During the November 2024 flood significant parts of appeal sites A and B were shown flooded, the severity of the flooding extents is considered a direct result of the infilling of the watercourse in the appeal location. This clearly shows increased flooding elsewhere through the movement of flood water into the Lydia Park Access Track, impeding safe access for the adjoining Lydia Park Community.

14.15 Without the required proper information, it is not possible to establish precisely what level of increased flood risk, danger to life, damage to property or harm to the local water course and surrounding community is currently being caused by the unconsented or likely to be caused by the proposed development.

14.16 The applications are contrary to Local Plan Policy CC4 and the National Planning Policy Framework and supporting National Planning Guidance.

14.17 These applications should be dismissed on this basis.

Appendix 1 Combined Site Location Plan

Appendix 2 Ordinary Water Course Consent by Surrey County Council

Appendix 3 Combined Surface Water Flooding Extents plan

**Appendix 3ii Combined Surface Water Flooding
Extents plan with EA Climate Change shown.**

Appendix 4 Waverley Strategic Flood Risk Assessment Pt 1 & Pt 2

Appendix 5 Flood Hazard Mapping (RoFSW)

Appendix 6 HR Wallingford Flood Hazard Mapping Document

Appendix 7 Flume Flood Risk Assessment

Appendix 8 Unda Flood Risk Assessment

Appendix 9 CIRIA C753 SuDS Manual

Appendix 10 Preparing a Flood Risk Assessment, Standing Advice, by EA August 2024

Appendix 11 Appeal Decision
APP/W350/W/22/3307078

Appendix 11 Appeal Decision

Shepperton

APP/Z3635/C23/3335127

Appendix 12 Court of Appeal Decision

Substation Action

CA-2023-00087

Appendix 14 Historic mapping and aerial photography

Appendix 15 Combined Site Contour Plan

Appendix 16 Calculation, comparison of open channel flow to culverted pipe

Appendix 17 Historic Flood Event, Rainfall and Hydrology data

Appendix 18 Historic Flood Event, Photographs

Appendix 19 Local Geological Data