

Supplemental Proof of Evidence (Planning)

Stuart Slatter

CD5.8

Appeal against refusal at Land to the east of
Lodge Road, Hurst

Reference: APP/X0360/W/25/3364304

On behalf of Mactaggart and Mickel
Strategic Land



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1. Introduction

- 1.1. In accordance with the Case Management Conference (CMC) timetable, the Inspector has allowed evidence in relation to Issue 4: Flooding, to be submitted no later than 10 days prior to the start of the Inquiry – being the 29th July 2025.
- 1.2. As my Proof of Evidence (submitted on the 15th July – **CD5.1**) did not cover matters in relation to flooding and drainage (Issue 4), it is necessary to prepare this Supplemental Proof of Evidence (SPoE). This SPoE should be read alongside my main PoE.
- 1.3. The Inspector is aware that detailed site specific modelling has been undertaken (post determination of the application by WBC), as was requested by the Environment Agency (EA) and to assist the parties in considering the impacts of flooding in relation to this Appeal.
- 1.4. This modelling was originally submitted to the EA (and copies provided to Wokingham Borough Council (WBC)) on the 25th April 2025. Subsequent to this, the Appellant and the EA continued dialogue (full details set out in **CD5.5**), but on the 27th June 2025, the EA formally responded with a number of queries that needed to be addressed. The consequence of which was that further modelling was needed.
- 1.5. The Appellant has fully considered the EA's concerns and matters raised, has updated the modelling and provided appropriate responses where needed. This was issued to the EA in early July 2025. Copies of all the material submitted to the EA was also provided to WBC and the Inspector (11th July 2025), as was requested at the CMC.
- 1.6. For the avoidance of doubt, the material issued to all Parties includes:
 - Information Cover Note (**CD9.13**)
 - Non-Real time Hydraulic Model Review – SLR response to issues raised by the EA (**Annex A, CD5.5**)
 - Flood Estimation Calculations Review – SLR response to issues raised by the EA (**Annex A, CD5.5**)
 - Updated Hydrology Report addressing issues raised by the EA (**CD9.10**)
 - Updated Hydraulic Modelling Report addressing issues raised by the EA (**CD9.9**)
 - Survey information requested by the EA (**CD9.11**)
 - Updated Digital Hydraulic Model Files
 - Updated Flood Risk Assessment to reflect results of updated hydraulic model (**CD9.15**)
 - Surface Water Flood Map comparing the updated model results with the Flood map for planning (**CD9.14**)
 - Fluvial Flood Map comparing the updated model results with the Flood map for planning (**CD9.14**)
- 1.7. The purpose of this revised modelling, additional submission and responses is to allow the EA to be satisfied that the Appeal Proposals are acceptable in flood risk terms and remove their objection.
- 1.8. It is my understanding, from an email dated 14th July 2025 sent to the Inspector from Mr Croucher, and as per para 10.3 of Mr Croucher's Proof of Evidence (**CD4.1**), WBC are also reviewing this material in their capacity as the LLFA – in relation to flooding.
- 1.9. I am aware that the SoC provided by the EA (**CD2.3**) set out concerns at paras. 3.6-3.8 regarding ecology and the culverted section of Hatchgate Ditch, and this is further referenced in Mr Croucher's PoE (10.2 of **CD4.1**). These matters are dealt with by Mr Walton and Miss Major.
- 1.10. 'Issue 4: Flood Risk' has been set out by the Inspector as a main matter for this Appeal, and is in response to RfR5, which states:
 - In the absence of a satisfactory Flood Risk Assessment and the Environment Agency objection, the proposed development has failed to demonstrate it would have an acceptable flooding and drainage impact contrary to Core Strategy policy CP1 and CP3, MDD Local Plan Policy CC09 and CC10 and Section 14 of the NPPF

- 1.11. At the time of writing, the Appellants have not received a response from either the EA or the LPA on the above matters, and as such, it is therefore necessary to formally respond to RfR 5 (Issue 4). Detailed technical evidence on flooding has been prepared by Mr Ian Walton (**CD5.5**). I have read his evidence, which I understand and agree with.
- 1.12. In this SPoE, I will look at the matters of planning policy and judgement only, in so far as they are material to the consideration of Issue 4, and I will revisit my overall planning balance and conclusion on the Appeal, as they were set out in my Main PoE (**CD5.1**).

CONTEXT

2. Context

- 2.1. When the Planning Application (to which the Appeal relates) was submitted and determined by WBC, the EA requested, through their review and Consultee Response (**CD9.1**), that Site Specific Modelling be prepared to allow them to better and fully consider the proposals.
- 2.2. It was however not possible to resolve this concern prior to the determination of the application, and as such, RfR5 was given in the Decision Notice (**CD1.1**).
- 2.3. The requirement to undertake a Sequential Test was not raised during the application, but more importantly, because one was not required to be undertaken. The reason for this being that according to the published EA Flood Maps (for planning) at the time, the site was not considered as anything other than Low Risk (Flood Zone 1).
- 2.4. However, the EA published revised Flood Maps on the 25th March 2025, which was post the determination of the application by WBC.
- 2.5. This revised Flood Mapping now shows the site is at greater risk to flooding, and it was for this reason the Sequential Test was raised by the WBC in their SoC (**CD2.2**).
- 2.6. The Inspector will be aware that the published Flood Maps are mapped on a national scale – and are thus at best, a guide or indication of flood risk to inform planning policy and decisions. Detailed and technical flood and drainage matters are fully dealt with through the proper application and preparation of a site specific Flood Risk Assessment.
- 2.7. The parties agree that the site specific Modelling which has been prepared and submitted will supersede the EA's published Flood Maps, if approved by the EA (**CD3.1**, para 4.6).
- 2.8. The EA have also confirmed (their email of the 27th June 2025 from Oliver Murray (**CD9.6**)) that whilst they require certain matters to be reviewed and update, the submitted FRA (at the time) was generally acceptable. It was made clear that all that was needed for the EA to remove their objection, was to provide an acceptable model.

3. Flood Risk at the Appeal Site

- 3.1. The appeal proposals are supported by a detailed Flood Risk Assessment. As discussed, additional detailed flood modelling has been undertaken, and is currently being reviewed by the EA, and WBC.
- 3.2. I am informed by Mr Walton, that in so far as flood matters relate to planning, the Appellants' detailed modelling shows that the appeal site is at risk of flooding. When compared on a like for like basis (with the published EA Flood Map methodology), the appeal site includes small areas of Flood Zone 2, very limited areas of Flood Zone 3 in the Hatchgate Ditch and isolated pockets of surface water flooding – none of which exceed 170mm in depth when considering the 1% (1 in 100) AEP flood event allowing for the impact of climate change. This can be seen in the overlay comparison drawings that have been provided.
- 3.3. When using the EA's approach to categorisation of the surface water flood risk, and with reference to the 'check your long term flood risk' website, these isolated pockets could be considered to be at high risk of flooding.
- 3.4. However, this position is rather simplistic and Mr Walton considers the different flooding aspects in far greater detail within his PoE (**CD5.5**). Nevertheless, for the purposes of planning, I have had regard to the Framework and the PPG, and I conclude (taking a cautious approach) that the site is at risk of flooding, such that a Sequential Test, and possibly Exception Test, would need to be undertaken.
- 3.5. The Sequential Test is provided at **CD9.20**.
- 3.6. Mr Walton goes on to describe the more technical aspects of the FRA and modelling, the real-world position and consequences, and what this means for the Appeal Proposals on a technical basis and the detailed hydrology design.
- 3.7. Although the Appellants are awaiting the outcome of the EA and LPA's review of the position, there is no reason to think at present that the main site access onto Lodge Road (the details of which form part of the application) are affected by any form of flooding or hydrology that would necessitate changes to the Appeal Proposals.
- 3.8. As noted above, the EA have requested that a section of Hatchgate Ditch is deculverted. The Appellants have resisted doing so on the basis that there are no technical or flood risk reasons to require the watercourse to be deculverted (Mr Walton PoE), nor have any ecological concerns been raised (Miss Majors PoE) and the Appellant has set out that the appropriate levels of gain (for watercourse units) can be achieved without this.

4. Flood Risk and Planning

4.1. Beyond the published Flood Maps, the Framework, PPG, and local policy set out how planning decisions should assess flood risk.

4.2. The Framework includes the following paragraphs:

“173. 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 set out below.

174. 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.

175. 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).”

4.3. The Framework continues:

“177. 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.

178. 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.*

179. Both elements of the exception test should be satisfied for development to be allocated or permitted.”

4.4. Having regard to the PPG, this provides further guidance on the approach and need for the Sequential Test, setting the study area, the consideration of reasonably alternate sites and the proportionality of the approach. It goes on to require, in certain circumstances, the application of the Exceptions Test.

4.5. I note that the PPG advises that a “reasonably available” site is;

“Reasonably available sites’ are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.

These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’.

The absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications.

Paragraph: 028 Reference ID: 7-028-20220825”

4.6. With regard to the Exception Test, as set out in the Framework, Mr Walton has dealt with para 178b) in his evidence (CD5.5), and the Exception Test para 178a) is dealt with below. These elements should be read together.

5. Detailed Modelling and Technical Conclusions

- 5.1. Mr Walton's PoE sets out a detailed consideration of the specific matters raised by the EA. He informs me that he expects the EA to now be satisfied and to remove their objection. The Appellants are not aware of any objection raised on Drainage grounds by either the EA or WBC.
- 5.2. I am further advised that the updated hydraulic modelling shows that only a small part of the Appeal Site is at risk of fluvial flooding. However, Mr Walton's analysis confirms, despite the risk of flooding, that the Exception Test is met.
- 5.3. Mr Walton goes on to note that the Appeal Site is at risk of pluvial (surface water) flooding. However, this is only in isolated areas where there are locally low-lying areas of land. He concludes that flood risk from these areas can be managed as part of the sustainable drainage strategy for the development.
- 5.4. Mr Walton's conclusion is, subject to the application of the Sequential Test (and passing the Exceptions Test), that all reasons related to refusing the application (the appeal) in so far as they relate to RfR5, have been properly, fully and satisfactorily addressed.

6. The Sequential Test

- 6.1. As noted, the Appellant has undertaken a Sequential Test (**CD9.20**) to support the Appeal.
- 6.2. Whilst it has not been possible to agree the full extent and methodology, we asked WBC on their view on the area of search and they advised the Appellants that this should be Borough wide. We have therefore used this parameter.
- 6.3. It is not felt necessary to set out the full details contained within the Sequential Test (including methodology and process) in this proof of evidence, as these are fully set out in the document itself, but it is worth summarising the following;
 - The search area was set Borough wide but scoped out sites that were not immediately adjacent to the settlement hierarchy of the Limited, Moderate or Major Development locations. A single field boundary was used as a cut off around these settlements, as these sites further than a field would be disaggregated from an existing settlement. Any site would need suitable access from an adopted highway.
 - The Appellants initially identified c420 sites (through their own mapping, WBC's own Sequential and Exception Test (September 2024) and the HELAA database), that were subject to further review.
 - If any site was subject to a clear and obvious policy restriction (such as AONB, Green Belt, SSSI, RAMSAR, SAC, SPA, Notified Safety Zone, etc), they were scoped out.
 - The initial mapping and sifting exercise produced 257 sites (including the Appeal Site) – that were then assessed by SLR on flood risk % and then ranked all the sites.
 - In terms of sequentially better sites, and in so far as matters of flood risk was considered, 224 sites were identified as being sequentially better than the Appeal Site. This created a 'Long List' of 225 that needed to be considered further as to whether any sites could be considered 'reasonably available'. A further sifting was undertaken to scope out any of these 225 sites that were still in the list, but a duplicate, or draft allocation in the Emerging Plan, or unable to meet a minimum site size threshold of 2ha, or not have the ability to accommodate at least 60 units.
 - This exercise produced a list of 35 sites that were considered to be reasonably available – and became our 'Short List'.
 - The Appellants undertook a further assessment of these 35 sites, to ascertain if any could be considered 'deliverable' (as per the NPPF) and this is discussed below.
- 6.4. What the Sequential Test indicates is that there are reasonably available alternative sites and accordingly the Sequential Test is failed. I go on to consider the impacts of this failure below.
- 6.5. The Appellants are of the view that the Sequential Test that was undertaken is credible, proportionate, and adopted a cautious approach.

7. Exception Test

- 7.1. NPPF177 sets out that where it has been necessary to carry out the Sequential Test, should it not be possible to direct the development towards areas of lower risk of flooding, then having regard to the Flood Risk Vulnerability Classification, the Exception Test may have to be applied.
- 7.2. Mr Walton tells me that based on his assessment of the risk of flooding to the Appeal Sites, the Exception Test needs to be satisfied. The Appellants have therefore undertaken an Exception Test, alongside this evidence, which I address below.
- 7.3. There are two parts to the Exception Test, set out in NPPF 178, and both parts must be satisfied. For ease, the two parts are:
- 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.*
- 7.4. Dealing with the second part first, Mr Walton concludes in his evidence (at section 5) that the Appeal Proposals will be safe for the life time of the development (taking account of the vulnerability of its users), it will not increase flood risk elsewhere, and that it will reduce flood risk overall.
- 7.5. Thus, 'part b)' is satisfied.
- 7.6. Returning to 'part a)', it must be demonstrated that wider sustainability benefits (to the community) would outweigh the flood risk.
- 7.7. As was set out in my main evidence (**CD5.1**, Section 9) the Appeal Proposal put forward a range of local sustainable benefits, including:
- Creation of jobs through construction
 - Tax revenue and increased local spend – supporting local businesses
 - Delivery of much needed housing, with a significant quantum of affordable housing, both of which are in critical need
 - S106 and CIL monies
 - New accessible open space, allotments and community orchard, alongside Green Infrastructure, and biodiversity gains
 - Local footpath and highway improvements
 - Delivery of a significant portion of LCWIP and on site mobility hub
 - Improvements to facilities at Twyford Station, comprising bus stop improvements and additional safe and secure cycle parking facilities
- 7.8. This, in combination with what is set out in Section 9 of my main PoE (**CD5.1**), clearly demonstrates that there is a wide range of sustainable benefits (which I believe are substantial) to the local community, that would outweigh the flood risk, and as such, 'part a)' has been addressed.
- 7.9. I am of the view that the Exception Test has been passed, is robust and credible.

8. Decisions and Judgements

- 8.1. Before looking at the consequences of the above, I am aware that a number of recent Court Judgements and Appeal decisions have changed the context of considering the impact of flooding (where this exists) in the overall planning balance. These are set out below.

Mead Realisations Ltd

- 8.2. The sequential approach was discussed recently in the courts through the Mead Realisations Ltd judgment (Mead) (**CD9.21**), in relation to two appeals. Both appeals raised questions on the correct interpretation and application of the flood risk sequential test.
- 8.3. Conflict between the NPPF (then, Paragraph 163) and the PPG (Paragraph 028) were raised, and the judgement found that both the NPPF and the PPG are material considerations.
- 8.4. The judgement further addressed the issue of “*reasonably available alternative sites*” and concluded that availability of two sites does not require detailed alignment, and it is a matter of judgement for the decision-taker.
- 8.5. The case also responded to the matter of whether smaller sites, that are unconnected, could deliver the proposed housing. The issue at hand is that, with several smaller sites, the benefits delivered alongside one larger scheme cannot be realistically achieved. The Judges aligned themselves with this view and therefore it is a consideration when assessing a combination of alternative sites that benefits that can be delivered alongside.
- 8.6. The judgement considered the debate of whether alternative sites should be restricted to the same or similar form of development proposed, in this case – low density suburban housing. The judgement concluded that the scope of the Sequential Test should consider both the quantum and site area.
- 8.7. In a wider context, the Mead judgement addresses the weight associated with the Sequential Test when granting planning permission in relation to housing need.
- 8.8. The absence and shortfall in a five-year housing land supply within a local authority can reduce the weight applied to failing the Sequential Test and should not prejudice the capability of a local authority to grant planning permission.
- 8.9. In other words, failure of the Sequential Test is not to be considered fatal to the determination of any planning application or appeal.

Yatton

- 8.10. A recent appeal decision (ref: APP/D0121/W/24/3343144) in Yatton, North Somerset Council was allowed for the development of 190 new homes (**CD9.22**).
- 8.11. In that case, a Sequential Test was required due to the site’s location in Flood Zone 3a but it was failed. The Inspector judged that there were 12 sites within the search area that were sequentially preferable, and as such, afforded significant weight to the failure.
- 8.12. However, the Inspector found that the failure of the Sequential Test did not amount to a strong reason to refuse permission due to the evidence presented that demonstrated that meeting the housing needs of North Somerset over the plan period would require the allocation of sites that are at risk of tidal flooding, and that the proposed dwellings would not be at risk of flooding in the design flood event, and would not increase flood risk elsewhere. Permission was granted by applying the tilted balance.
- 8.13. The appeal decision provides further assessment of the methodology applied. At paragraph 42 of the decision, the Inspector states, “*The appellant’s FRST applied a capacity threshold of 143 dwellings for a site (or series of sites), being a margin 25% below the appeal scheme capacity of 190 to allow for flexibility. That seems to me to be a reasonable approach*”.¹

Faversham

- 8.14. A further appeal decision (ref: APP/V2255/W/24/3350524) in Faversham, Swale Borough Council was allowed for the development of up to 250 dwellings (**CD9.23**).
- 8.15. In the Faversham appeal, a Sequential Test was required to be undertaken due to the site’s proximity to the coast, as well as surface water across the site. The appellant however did not undertake the Sequential Test.

¹ Paragraph 42, Appeal ref: APP/D0121/W/24/3343144, Persimmon Homes Severn Valley Vs North Somerset Council

- 8.16. The Inspector judged that the lack of a Sequential Test did not give rise to real world harm, Paragraph 25 of the decision states, *“Overall, therefore, there is no real world harm from either the failure to undertake a sequential test for tidal flooding or the failure to properly undertake a sequential approach. This is because it has been satisfactorily demonstrated that mitigation measures can make the proposed development safe for its lifetime from tidal flooding. There are also reasons other than flooding that result, although likely only in part, in the land levels changing mitigation measures. There would also be no real world surface water flood risk to the finished and occupied development proposal.”*²
- 8.17. Paragraph 101 of the decision states, *“Footnote 7 confirms that areas at risk of flooding are counted as assets of particular importance. Although the proposal has failed to perform the required sequential tests, there would be no real world effects after mitigation is taken into account. A ‘strong’ reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy. I do not, therefore, view this as a strong reason for refusing the development proposed.”*³
- 8.18. Paragraph 101 demonstrates that for a conflict to be strong enough to amount to a reason for refusal, there has to be substantive risks, not just theoretical risks.

Colestocks Road

- 8.19. The recently allowed Appeal Decision (APP/U1105/W/24/3357849) in July 2025 (**CD9.24**), further demonstrates that despite failing the Sequential Test, planning permission is capable of being granted. The Appeal Inspector noted in para 48 of his decision that as he had no substantive basis to find that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, the proposed development failed the Sequential Test and would be in conflict with the Framework in that respect.
- 8.20. He goes on in para 49 to note (with my emphasis added):
- “I shall consider my findings on this main issue further in the planning balance, taking account of the High Court judgement relating to Mead Realisations Limited v SSLUHC [2024] EWHC279 (Admin) (Mead) which clarifies that a failure of the sequential test is not automatically fatal to a planning application and clarifies that any such failure does not obviate the need to weigh this in a planning balance. That broad approach is also taken in two other appeal decisions presented as evidence, those comprising the Faversham case referred to previously⁴, and that for a development including housing in Yatton⁵. I do not have the full details of those other two cases to enable a proper comparison, albeit they appear to involve different flood risk issues to that of the appeal at hand, and they are also in different parts of the country from this appeal case. Furthermore, I have determined this appeal on its own merits. Nevertheless, they remain as material considerations particularly in terms of that broad approach relating to the sequential test referred to above in relation to Mead.”*
- 8.21. In para 84, he notes that the proposals would result in a betterment relating to off-site flood risk, in the context of making the development safe without increasing flood risk elsewhere, and thus, this lessened the weight afforded to the failure of the Sequential Test, and associated Development Plan Policy.
- 8.22. In para 95 the Inspector confirms that despite the harms that he had set out, and despite specifically failing the Sequential Test, this would not amount to a “strong reason” for refusing the development – in the context of NPPF para 11d)i) and Footnote 7.

Summary

- 8.23. In summary, whilst clearly there are case specific differences between the above (in terms of location and forms of flooding) and the Appeal Proposals, it is clear that the failure to undertake a Sequential Test or where a Sequential Test is failed, is not automatically fatal to the determination of the application (or Appeal).
- 8.24. Any harms that may arise, must be afforded weight by the decision maker, and play its’ role in the overall planning balance.

² Paragraph 25, Appeal ref: APP/V2255/W/24/3350524, Gladman Developments Ltd Vs Swale Borough Council

³ Paragraph 101, Appeal ref: APP/V2255/W/24/3350524, Gladman Developments Ltd Vs Swale Borough Council

9. Consequence of the Results of the FRA, Modelling, Sequential Test and Exception Test

- 9.1. I do not propose to repeat the results of the Sequential Test, which can be fully appreciated from its' review, but what it concludes, is that 35 'reasonably alternate' sites have been identified which have the potential to be considered 'available' for the purposes of the Sequential Test. The Sequential Test has thus been failed. I note that there is no degree of failure set out in either the Development Plan Policy, the Framework or the PPG.
- 9.2. Having regard to the Appeal Site's specific circumstances, the Judgement in Mead and other recent Appeal Decisions, I conclude that this failure of the Sequential Test is not automatically fatal to the determination of this Appeal. However, I accept that harm arises from this conflict with the Development Plan Policies and Framework in this regard. This will be a material consideration for the Inspector.
- 9.3. Mr Walton advises me that the concerns raised by the EA and the modelling are expected to be resolved ahead of the Inquiry, allowing the EA to be satisfied and remove their objection and that the updated FRA will be found acceptable. Further, I am not aware of a drainage objection having been raised by either the EA or WBC.
- 9.4. Mr Walton concludes as regards the 'real world impacts' that, whilst only a small portion of the Appeal Site is at risk of fluvial flooding, this can be readily managed through setting a minimum floor level for the dwellings. The surface water flood risk associated with the isolated locally low-lying areas of land can be properly managed as part of the sustainable drainage strategy for the development.
- 9.5. The Appellants have set out and established that the Exception Test (both elements) can be passed.
- 9.6. Turning to the Sequential Test failure, it is my view that there are mitigating factors that exist which would serve to lessen the weight of this harm. WBC are in an unfortunate position where (as agreed between the parties) they can only demonstrate a 1.7 year housing land supply (as is fully set out in their Five Year Housing Land Supply Statement **CD12.7**). This means that in the 5 year housing need period, 7,014 new homes are needed (including the 5% buffer). WBC can only identify and deliver 2,321 new homes, leaving a significant shortfall of 4,693.
- 9.7. Alongside this, I have raised the concern in my main PoE that the Emerging Plan is only proposing to deliver 56% of the annualised need going forward, and even if this is found sound, and adopted, will be subject to immediate review on the basis of the NPPF transitional arrangements.
- 9.8. Simply put, the question I am faced with is: can the 35 sites identified in the Short List deliver the 4,693 home shortfall needed, within this housing need period? As set out, the Appellants' Sequential Test has further assessed if any of the 35 sites could be said to be 'deliverable' under the terms of the NPPF.
- 9.9. I am of the view that 17 of reasonably available alternate sites which have been identified would meet the definition of Deliverable under the NPPF, which for ease, is:

"Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

 - a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
 - b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."*
- 9.10. I am of the view that even with the contribution that these 17 sites make, the accompanying Sequential Test estimates that these 17 sites could be capable of "delivering" 1,553 units within the 5 year period. In order to estimate the capacity of these sites, where there is no HELAA or planning application history information available, I have adopted an average density of 35dph for all of the identified sites, but used a net density ratio calculation 65% of the site area on those measuring between 2ha and 4ha, and 50% of site area on those exceeding 4ha. I have had regard to the guidance set out in National Model Design Code (NMDC) (**CD8.16**) and discussed

this with the Appellants design team. Accepting the simplicity of this density range, even if a 25% sensitivity uplift was applied, this would still only amount to 1,942 units.

- 9.11. It is clear to me, that even with the above, this would still not meet the significant level of unmet need (and still leave a shortfall of 2,751), and as such, must further lessen the weight afforded to this harm. This 2,751 shortfall does not account for the beneficial contribution that the 99 new homes that would arise from this Appeal would make, should it be allowed.
- 9.12. It is my view that the starting point for the weight to be afforded the harm identified, in the context of the above, should be significant.
- 9.13. However, in the same way that other recent decision makers have assessed this matter elsewhere, I would suggest that the weight to this harm should actually be lessened. This is because of the mitigating factors I have set out and the lack of real world impacts, compared to a mere technical breach, and the significantly low housing land supply position that WBC find themselves in. Further, I am of the view that even though there are other reasonably available alternate sites, not all of these are deliverable, and many sites will clearly be needed to overcome this significant shortfall. As set out in Section 5 of my Main PoE (**CD5.1**) it will also be many years until WBC have a Development Plan that seeks to fully meet its housing need.
- 9.14. I conclude therefore, that the weight to be afforded to this harm is lessened to be moderate.

10. Planning Balance

- 10.1. Turning to the overall balance, I concluded in my main PoE (10.10 and 10.11 of **CD5.1**) that in my opinion, the harms which may arise from the development would not significantly and demonstrably outweigh the benefits (which are significant).
- 10.2. I identified in 10.12 of **CD5.1** that I would return to consider this conclusion in light of Issue 4.
- 10.3. I remain of the view that the tilted balance, set out in NPPF 11d), is engaged.
- 10.4. I have found that in relation to this Issue (Issue 4), considering technical flood matters, failing the Sequential Test but passing the Exception Test only results in moderate harm.
- 10.5. Even adding this additional harm to those set out in my main PoE (10.3, 10.13 **CD5.1**), I remain of the view that the harms which may arise from the Appeal Proposals would still not significantly and demonstrably outweigh the benefits (which are significant), when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 10.6. It remains my view that the appeal should be allowed, and planning permissions should be granted.

11. Summary and Conclusions

- 11.1. I concluded in my main PoE (**CD5.1**) that the appeal should be allowed, and the development of this logical and sustainable site should be brought forward to allow for the delivery of significant and much needed housing, which includes a significant provision of affordable housing and a wide range of benefits to be delivered alongside the development
- 11.2. This Supplemental Proof of Evidence has further considered Issue 4: Flooding (RfR5).
- 11.3. Alongside Mr Walton's evidence, it has concluded that in terms of flood risk, all concerns have been addressed, and the Appellants' Modelling has shown that for the purposes of planning, the site is subject to flood risk such that a Sequential and Exception Test needed to be undertaken. This has been done.
- 11.4. Having gone through this process, the Sequential Test has been failed, but the Exception Test has been passed.
- 11.5. Mitigating factors have been set out to assess the weight to be afforded to the harm that arises. I am of the view that this is not automatically fatal, and should be considered in the overall planning balance, and the weight I afford to the harms arising from Issue 4: Flooding, should only be moderate.
- 11.6. I have revisited my overall planning balance, considering all the Appeal matters.
- 11.7. It remains my conclusion that any harms that may arise from the Appeal Proposals, do not significantly and demonstrably outweigh the benefits, and as such, the Appeal should be allowed and planning permission should be granted.