



Jaywick Sands – Approach to betterment, sequential and
exception test.

Technical Guidance for builders and developers.

21 April 2022.

1. Introduction

All new development within Flood Zone 3 should demonstrate that it has passed the sequential and the exception tests where required and as set out in the National Planning Policy Framework and Planning Practice Guidance 3.

The National Planning Policy Framework (paragraph 159) states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

The sequential test is a method to test if a suitable alternative location for the development is available. The exception test is a method to test if a proposal will provide wider sustainability benefits to the community that outweigh the flood risk; and be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both tests may need to be passed in order for the proposal to comply with the NPPF. Planning Practice Guidance sets out the process for applying the sequential and exception tests, in order to comply with the National Planning Policy Framework position.

This note advises on the application of the sequential and exception tests in the specific circumstances of Jaywick Sands.

2. Applying the sequential test and the first part of the exception test

Jaywick Sands is identified as a Priority Area for Regeneration under Policy PP14 of the adopted Tendring Local Plan. Policy PP14 states that Priority Areas for Regeneration will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure, and that the Council will support proposals for new development which are consistent with achieving its regeneration aims.

Jaywick Sands has a high proportion of poor quality homes which are also at risk of flooding, now and in the future. Actual flood risk today includes flood depths of 700mm (0.7m) for some homes along the seafront in the design (0.5% AEP) flood event, and rises to depths of 3m and above over the next 100 years. Therefore, improving the safety of residents in a flood event, and the flood resistance and resilience of homes, is an important part of meeting the aims of Policy PP14.

All of the Priority Area for Regeneration, as shown on the adopted Policies Map, falls within Flood Zone 3. For proposals which can demonstrate that they meet the regeneration aims of PP14, sites outside the identified policy area boundary are unlikely to provide reasonable alternatives, so the sequential search area would reasonably be set as the boundary of the policy area. Although the whole of this area is in Flood Zone 3, some areas within Jaywick are at greater risk due to increased depths, velocities and other factors. The sequential approach should be applied to consider whether there are suitable

lower risk alternative sites within the policy area. This reflects the approach to the sequential test identified in Diagram 2 in paras 020 and 021 of the Flood Risk and Coastal Change section of the PPG as well as the advice given in para 033. If the sequential test was passed, the first part of the Exception Test would also be passed as wider sustainability benefits would be demonstrated.

However, for development proposals which would not be consistent with achieving the regeneration aims of PP 14, the sequential search area may need to be set wider and applicants will need to demonstrate wider sustainability benefits to the community which outweigh flood risk. In practice, if proposals are not consistent with achieving the regeneration aims of PP14, demonstrating these sustainability benefits, and demonstrating that there are no available sites at lower flood risk, may be challenging.

3. Applying the second part of the exception test

In order to satisfy the second part of the Exception Test, applicants must provide evidence to show that the proposed development would be safe and that any residual flood risk can be overcome to the satisfaction of the local planning authority, taking account of any advice from the Environment Agency.

Jaywick Sands benefits from flood defences but there is a present day flood risk for a 0.5% AEP event in seafront areas, with inundation depths of up to 0.7m. The Shoreline Management Plan has a 'Hold the Line' policy position for the coastal defences protecting Jaywick Sands, which states that an appropriate flood defence for the community will be maintained into the future, although the standard of protection is not defined. This is an unfunded aspiration for the future flood management of the frontage, and its delivery will require continued partnership working, and significant partnership funding. While uncertainties regarding funding and viability exist, it is important that any new development is designed to be both resilient to flooding (should there be any delay to the delivery of improved coastal flood defences) as well as being safe for the future occupants.

To meet the NPPF requirement for 'safe development', the Environment Agency typically look to ensure that internal habitable space for 'more vulnerable' development (which includes residential uses) should have floor levels set above the design flood level, plus the appropriate 'freeboard' allowance. This is to ensure that future residents are not placed in danger from flood hazards and the development is appropriately flood resistant and resilient in the event of a flood (reflecting aims of para 167 of the NPPF). The design flood level for tidal flooding is typically the level of inundation for an 0.5% AEP event plus an allowance for climate change over the lifetime of the property (which for residential is typically set at 100 years). It may be considered acceptable for 'more vulnerable' development types, which include residential development, to flood on the ground floor in a residual risk scenario, provided there is refuge above the flood level, and the development is protected by flood defences for the lifetime of the development.

It is the preferred approach of TDC and the EA for new properties not to flood internally in a design flood event, given that it may be many years before the defences are renewed and raised. However, it is recognised that, due to the unusual plot pattern and land ownership in Jaywick Sands, that replacing a single dwelling on-plot is highly challenging to achieve, without detrimental impacts on future residents and neighbouring occupiers, as demonstrated in the draft SPD. In effect this means that replacing existing individual dwellings on the smallest plots, if required to have all habitable space above the design

flood level, would not be possible without consolidating multiple plots into a single property holding. This could act as a barrier to improving housing quality and flood resilience in Jaywick Sands and would therefore work against the aims of Policy PP14 of the Tendring Local Plan, and NPPF paragraphs 152, 153 and 161c.

The Environment Agency have indicated that a holding objection will not be raised for proposals in the areas of Jaywick Sands which lie within Flood Zone 3, which are for on-plot replacement dwellings and involve no net increase in bedspaces, if the following criteria are met in full by the applicant:

- Floor levels for habitable space must be higher than the floor levels of the property being replaced;
- Floor levels for habitable space should be set, if possible, above the present day 0.5% AEP flood level. If this is not possible without contravening the other design guidance within the SPD regarding parking, internal and external space standards, amenity, daylight, sunlight and overlooking, floor levels should be set so that internal flooding in a 0.5% AEP present day event would be no greater than 0.3m (the FD2320 matrix threshold for 'danger to some').
- Flood resistant and/or flood resilient construction measures (as appropriate) are used to minimise damage to the property in a flood event, and to allow the re-occupancy of the building quickly;
- A secure and accessible area of refuge is provided above the flood level of a 0.1% AEP event, plus the appropriate climate change allowance and freeboard;
- Buildings and their foundations are designed to withstand the hydrostatic and hydrodynamic pressures of flood water so that they will remain standing **during flood conditions** when refuge is relied on.
- An escape window or hatch is provided from the refuge level to facilitate communication with neighbours and emergency response authorities and to provide options for rescue should this become necessary.

A full site-specific flood risk assessment will be required for all applications and this must cover the approach to other related matters, including but not limited to flood warning and evacuation, access and egress, and resident awareness.

For proposals which would result in a net increase in the number of bedspaces on the site, and therefore increase the number of people living within Flood Zone 3, the Environment Agency will raise a holding objection unless the normal requirements for 'safe development' are followed in full and all habitable floorspace is raised above the design flood level, with the appropriate climate change and freeboard allowances.

It is important to note that while the Environment Agency provides comment, which can include a holding objection, to proposals, it is for the Local Planning Authority to weigh the planning balance and reach a decision on whether the response to flood risk within the design represents a safe and appropriate response to site specific circumstances, and therefore the second part of the exception test will be passed.

4. Summary – decision tree

To view and comment, visit the [Jaywick Sands Sequential and Exception Test Miro board](#).

