



Department for Levelling Up,
Housing & Communities

Lee Rowley MP

*Minister of State for Housing, Planning and Building
Safety*

2 Marsham Street
London
SW1P 4DF

Our reference: PO2024/09666

Rt Hon Sir Liam Fox MP
House of Commons
London
SW1A 0AA

17 May 2024

Dear Sir Liam,

Thank you for your email of 16 April, regarding opposition to a planning application in Yatton, North Somerset. I am replying as the Minister responsible for this policy area.

I am grateful for you getting in touch and thank you for sharing your concerns.

To ensure you receive a substantive response, I have instructed officials in the Department to provide an update on your specific concerns, which is appended.

Thank you again for writing on this important matter and I hope this information clarifies the position.

Yours ever,

LEE ROWLEY MP



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Dear Rt Hon Sir Liam Fox MP,

Thank you for your email to ministers dated 16 April 2024, regarding a planning application in Yatton, North Somerset.

As I am sure you will understand, due to the role of Ministers in the planning system, neither they nor their officials can comment on individual cases. I have nevertheless sought to address each of your points below.

In relation to the role of Local Plans, the Government sets the legislative and policy framework within which the planning system operates. Local planning authorities (LPAs) are responsible for plan preparation and local decision-making, in doing this they interpret national policy and guidance, within the legislation and according to local circumstances.

National planning policy expects local authorities to deliver, where practicable, the amount, type and tenure of new homes our communities need. Each authority is expected to assess and plan how to meet its local housing need over the Plan period. In this, a balance has to be struck between enabling necessary development and growth, including housebuilding, while continuing to protect and enhance the natural environment, including Green Belt and other greenfield land. It is for local authorities, in consultation with their communities, to set out the most appropriate strategy to meet their housing needs.

Local development plans are at the core of the land-use planning system in England. Local Plans should set a vision for the sustainable growth of local communities and identify the areas within a district where new development should be allowed, and where it should be constrained. Plans are produced in partnership with local communities, with technical input from expert bodies such as the Environment Agency and water and sewerage companies.

Local Plans should be informed by an up-to-date Strategic Flood Risk Assessment (SFRA). The SFRA should take account of climate change in levels of flood risk by applying allowances for increases in peak river flow and sea level rise as set out in guidance provided by the Environment Agency. The SFRA should inform the strategic identification of land for development in the Local Plan.

The National Planning Policy Framework (NPPF) sets out that Local Plan policies to manage flood risk should consider the cumulative flood risks which could result from the combined impacts of a number of new but separate developments in (or affecting) areas identified as susceptible to flooding. The NPPF clarifies that the appropriate place to identify such areas and risks susceptible to cumulative flood risks is in the Strategic Flood Risk Assessment which should inform the

development of Local Plan policies to manage flood risk from all sources, taking account of advice from flood risk management bodies.

The NPPF sets out a clear, over-arching policy on flood risk: Inappropriate development in areas at risk of flooding (whether existing or future) should be avoided, and where possible, alternative locations at lower flood risk should be identified. This is known as the “sequential test”. Where development is necessary, and where there are no suitable sites available in areas with a lower risk of flooding, the proposed development should be made safe without increasing flood risk elsewhere. This is the “exception test”.

The policy recognises that it is unrealistic to ban development in flood risk areas, as around 10 per cent of England (land, people, and buildings) has a high probability of flooding (before taking account of flood defences), including large parts of major towns and cities (e.g., London, Hull).

Flood prevention measures, like robust flood and coastal defences, can make development acceptable where it would otherwise not be. Mitigation measures, such as raised thresholds and re-arranging the internal uses of buildings, can sometimes also make development acceptable in flood risk areas. Such measures can be made a requirement of any planning consent.

We expect LPAs to apply the sequential and exception tests, as appropriate, to protect people and property from flooding. Where these tests are not met, new development should not be allowed.

LPAs should apply the Sequential Test to steer development to areas of lower flood risk as far as possible, through the policies and allocations in their Plan. The NPPF also states that for individual developments on sites allocated in development plans through the sequential test, applicants for planning permission need not apply the sequential test. However, it is important that the requirements set out in the exception test are still met for these developments, where applicable.

Where necessary, they should then apply the Exception Test to demonstrate that:

- The proposed development(s) will provide wider sustainability benefits to the community that outweigh the flood risk;
- The development will be safe for its lifetime and not increase flood risk elsewhere.

When preparing their Local Plan, the NPPF is clear that LPAs should not allocate land for development if it is clear that both strands of the exception test, when considering the potential vulnerability of the site and the proposed development is not capable of being met. In other words, when a planning application comes forward accompanied by a site-specific flood risk assessment, the applicant will need to demonstrate that the development passes both strands of the test.

LPAs are expected to consider applying the exception test to their allocations, having regard to wider flood risk and safety issues in the context of the development plan, as informed by the Strategic Flood Risk Assessment. This may include, for instance, the likely impacts on flood risk from other Plan allocations and policies, the protection provided by flood defences and, where appropriate, emergency and evacuation planning.

Planning law requires the Local Planning Authority to determine planning applications in accordance with the adopted development plan for the area (including the Local Plan) unless material considerations indicate otherwise. These considerations include national planning policy, the

planning views of local people and advice received from the Environment Agency and other flood risk management authorities.

I appreciate that this reply does not (and cannot) directly answer all your questions.

Thank you for taking the time to write to us.

Yours sincerely,

Michael Bingham
Deputy Director, Planning Policy Division