Urgent action needed to safeguard new development from flood risk

A briefing by the Town and Country Planning Association November 2026

1 Summary

The confused policy approach to flood risk in the English planning system is exposing people to climate impacts and financial harm. This has resulted from regressive planning policy reforms and the outcome of a recent Court decision which have left the sequential test, the cornerstone of the precautionary approach to flood risk in planning, unfit for purpose.

This briefing outlines the series of recent events that have led to this situation, explains why England's planning policy is insufficient to protect people from flooding in the context of a climate crisis, and calls for urgent changes to planning policy to:

1. Clarify that failure of development sites to apply and pass the sequential test qualifies as a 'strong reason for refusal' in national policy.
2. Safeguards must be applied regardless of a local authority's status in relation to housing supply. Policy must be amended to clarify that development in Flood Zones 2 and 3 are not subject to the presumption in favour of sustainable development.
3. To clarify that the requirement for development to be 'safe for its anticipated lifetime' refers to the safety of the development site, not just to the people within the site.

These changes could be made urgently, for example through a Written Ministerial Statement, to secure the long-term economic viability of new development and prevent households being built that will be uninsurable in future.

2 Background

Since the adoption of the National Planning Policy Framework (NPPF) in 2012, planning policy for flood risk in England has been founded on a risk-based approach to the location of development. This has centred on the application of the 'sequential test' - the purpose of which is to steer new development to areas with the lowest risk of flooding from any source. Put simply, the sequential test demands that if sites at lower risk of flooding are available for development, planning permission should be refused on higher risk sites.

However, in the last two years the effectiveness of the sequential test has been significantly weakened by court decisions, planning appeals, and planning policy reform. The result is that England is currently in the midst of a worsening climate crisis without an effective policy to safeguard new development and its future residents from flooding.

While national policy still provides checks and balances to ensure that development is safe from flooding, the effect of allowing developments to bypass the sequential test results in more building on higher risk sites which is more expensive to flood proof, more exposed to residual flood risk, and at much higher threat from the impacts of a changing climate. The weakening of the sequential test may not cost lives, but it will impoverish residents through high insurance and maintenance costs. This message is reinforced by the increasingly vocal warnings from the insurance industry that the future insurability of new homes built in flood risk areas is being called into question in the context of increasing flood risk exposure.[1]

3 How has flood risk policy been weakened?

3.1 In the Courts

In early 2024, a significant ruling was handed down by the High Court in *Mead Realisations / Redrow v Secretary of State*.[2] Although the High Court dismissed the two claims heard in the case, the judgment included interpretation on the application of flood risk policy, which characterised the sequential test as an aspect of the planning balance, whereby a decision maker may reduce the weight given to a failure to pass the sequential test against other considerations, such as unmet housing need. This interpretation of the sequential test has proved to be significant, effectively demoting the flood risk policy from a 'stop / go' gateway test, to one of many factors to be weighed up in the 'planning balance' by a decision maker.

Two significant cases have been influenced by this court judgement:

- A successful planning appeal by Persimmon Homes for 190 homes in Yatton was recently challenged in the courts by North Somerset Council on flood risk grounds. The review was dismissed by the Court, which agreed with the Planning Inspectorate in finding that the failure of the sequential test and a 'residual risk' of flooding to the site did not represent a strong reason for refusal when considered in the planning balance.

- A similar Court challenge was made against a planning consent in Faversham, also granted at appeal, where the developer did not complete a sequential test at all. The Courts agreed with the Inspector who concluded that there was '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.'[3]

A significant factor in these court rulings was a subtle change in wording made to the NPPF in December 2024. The 'presumption in favour' policy in the Framework directed planning applications to be granted where there is no up-to-date development plan, unless certain policy protections 'provide a strong reason for refusing the development.' In December 2024, the wording of this paragraph was altered slightly, from 'provides a *clear* reason for refusing the development', to 'provides a *strong* reason for refusing the development' (emphasis added).

[1] *Warning more homes will become uninsurable due to flood risk.* BBC News, 29 September 2026. https://www.bbc.co.uk/news/articles/c60qxk288e57o

[2] The court judgement is available here: https://caselaw.nationalarchives.gov.uk/ewhc/admin/2024/279

[3] The judgement can be found here.

This wording is also reflected in the latest version of the NPPF which was published in August 2025.

In her judgement on the Faversham case, Mrs Justice Lieven states that: '*The change in footnote 7 to [11] of the NPPF from clear reason to strong reason was for the obvious purpose of making it more difficult to disapply the tilted balance. This is a further indication that there was nothing unreasonable in the Inspector taking the view that in circumstances where there was a lack of "real world harm" there was no strong reason for refusal'.*[4]

3.2 Planning reform

A further update to the NPPF was published in August 2026 which has further weakened the sequential test in the following ways:

- The 'tilted balance' is further strengthened in the NPPF update and no longer makes specific reference to flood risk as an issue of 'particular importance' (as per the previous Footnote 7). There is no clear status given to the failure of the sequential test as a 'reason for refusal' for speculative development applications.
- Policy F5 states that the sequential test 'should be used' in areas known to be at risk of flooding,[5] but this language is weakened in comparison to the previous NPPF which stated that: '*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.*'[6] The current NPPF contains no comparable instruction to refuse planning applications that have failed to apply the sequential test.
- Policy F7 allows development to take place in areas at risk of flooding so long as a series of conditions are met. Development in flood risk areas therefore becomes an issue of planning judgement, which is heavily weighted in favour of housing development. The policy does not act to direct development to safe areas, as per the original intention of the sequential test.
- Despite concerns raised by the TCPA, environmental NGOs and insurers during the consultation on the NPPF, the government moved ahead with changes to the sequential test so that it no longer applies to sites where surface water is the sole source of flood risk.

4 What are the implications of the weakening of the sequential test?

There are three significant consequences arising from the confused approach to flood risk policy in planning and the weakening of the sequential test.

- The first is that the planning system's ability to apply a precautionary approach to flood risk - by directing development to sites which are inherently at least risk of flooding - has been fundamentally undermined. This places significant emphasis on site and property

[4] Ibid.

[5] *National Planning Policy Framework.* MHCLG, 2026. https://www.gov.uk/guidance/national-planning-policy-framework

[6] *National Planning Policy Framework.* MHCLG, 2024. https://webarchive.nationalarchives.gov.uk/ukgwa/20250225172715/https://www.gov.uk/government/publications/national-planning-policy-framework--2

level flood mitigation measures, which evidence suggests are hard to secure and enforce in practice,[7] and often (as in the cases outlined above) cannot entirely remove all risk of flooding.

- The second relates to the consequence of the Mead Realisations judgement which established that failure to comply with the sequential test 'is not automatically fatal to a planning application.'[8] This enables planning applicants to bypass one of the principal mechanisms for ensuring the long-term safety of communities from flooding. Recent events have drastically disincentivised developers to correctly apply flood risk policy for speculative development sites, of which there are likely to be many over the coming years due to the high number of 'out of date' local plans and the strengthened presumption in favour.
- The third is the negative economic consequences of building uninsurable homes. In a system where developers have no financial responsibilities for new homes which may flood, and where homes built after 2009 are not covered by Flood Re, it is homeowners that will carry the cost of future flood damage, risking being locked into mortgages on uninsurable assets. This is already happening, such as in Blyth in Northumberland where new homes are uninsurable and owners are paying out high costs after their homes were flooded twice in six months.[9]

5 What needs to change?

These decisions demonstrate that national planning policy on flood risk requires urgent strengthening and clarification to reinstate the precautionary approach to flood risk and avoid unnecessary development in areas at high risk of flooding.

To address the incremental weakening of flood risk policy outlined above, the TCPA recommends that a Written Ministerial Statement on the NPPF is published as a matter of urgency. This must achieve the following:

1. We need an effective sequential test to direct development away from the highest flood risk areas. This should be done by urgently clarifying that failure of development sites to apply and pass the sequential test qualifies as a 'strong reason for refusal' in national policy and guidance.
2. To establish the principle that the safeguarding of communities from flood risk must be applied regardless of a local authority's status in relation to housing supply. Policy must be amended to clarify that development in Flood Zones 2 and 3 are not subject to the presumption in favour of sustainable development.
3. To clarify that the requirement for development to be 'safe for its anticipated lifetime' refers to the safety of the development site, not just to the people within the site. This is to secure the long-term economic viability of new development sites and prevent households being built that will be uninsurable in future.

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[7] *Delivering Flood Resilience through the Planning System in England.* TCPA, 2024. https://www.tcpa.org.uk/resources/delivering-flood-resilience-through-the-planning-system-in-england/

[8] Planning Inspectorate Appeal Decision Ref: APP/D0121/W/24/3343144

[9] *Flooded new-build homes in Blyth left uninsurable as owners face bill for repairs.* ITV News, 21 October 2024. https://www.itv.com/news/tyne-tees/2024-10-21/flooded-new-builds-left-uninsurable-as-homeowners-face-repair-bill

These measures would go some way to addressing the problem in the short term, but systemic change is needed to flood risk policy to create a strong gateway test to prevent development in vulnerable areas. This should include the adoption of the Welsh Assembly Government policy on flood risk set out in TAN 15.

6 About the TCPA

The TCPA's vision is for homes, places and communities in which everyone can thrive. Our mission is to challenge, inspire and support people to create healthy, sustainable and resilient places that are fair for everyone. We do this by shaping policy and practice internationally, nationally, locally and through working with communities.

6.1 Contact

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