



Your Ref: PL2025/06615

Our Ref: CP0110

29 October 2025

Mr A Thomas
Planning Department (Development Management)
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Dear Mr Thomas

**RE: PL2025/06615 (4 FLEXIBLE B8 STORAGE/ OR CLASS E COMMERCIAL BUSINESS AT UPPER SEAGRY HOUSE)
FUTHER LETTER OF REPRESENTATION
(OBJECTION)**

I have been asked to comment on the FRA addendum provided by the applicant's engineer in response to technical changes and the application of the NPPF with regard to flood risk and sequential testing.

This letter focuses on the application of the NPPF as National Policy which, in the FRA addendum, is plainly incorrect. This email responds to this aspect of the FRA Addendum. It evidences the conclusion that at the very least the sequential test remains applicable.

In the first instance, the applicant does not challenge that the site access is in an area affected by flooding the addendum confirms:

"The FRA has already considered the risk of surface water flooding using the most up to date information available"

It is fact the entrance is therefore at risk of flooding. The FRA Addendum does not challenge that the level of risk in medium having regard to the Environment Agency Flood Maps for Planning (FMfP).

The FRA Addendum does however say:

Copperfield
Suite 2,
Leigh Court Business Centre,
Pill Road,
Bristol,
BS8 3RA
info@copperfieldltd.co.uk

Registered Office:
Eden Business Park
61 Macrae Road
Ham Green
Bristol
BS20 0DD
Registered in England and
Wales No. 13002386

“Given that the surface water flow path is along a road that is served by highway drainage, the likelihood of the flood depth being greater than 300mm is considered to be very low. Furthermore, no build development within the site is affected by flooding. The proposals are for commercial development which is classified as a low vulnerability land use. Emergency access and egress would remain available via Henn Lane”

Firstly, what evidence and modelling has been provided to show the depth of floodwater to make the above statement and in an evidenced bases system on a matter of such importance as flood risk, ‘likelihood’ and ‘considered to be low’ do not present any level of certainty about this risk.

Secondly, the access road for the purposes of the Planning Act is built development. Moreover, the Environment Agency also treat roads as built development and paragraph 175 of the NPPF explicitly refers to:

“...no built development within the site boundary, including access roads”

The classification of the proposed land use as low vulnerability are not tests set out in either the NPPF or NPPG (as updated in Sept 2025) to determine whether a sequential Test should be applied.

The reference to an emergency access off Henn Lane is noted, although this does not appear to be secured within the any redline application boundary which extends to the adopted road. However, again what is not considered is the full extent of the updated NPPG advice about how Paragraph 175 of the NPPF is applied. Paragraph 027 of the NPPG states:

“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.”

At no point has the FRA addendum proven that surface water flood risk would not be increased on my client’s land at Oak Hill House within their private garden. The absence of Wiltshire Council highlighting the need for a Sequential Test is not a material consideration of any weight for two reasons. It cannot override national policy and is provided on a without prejudice basis to the determination of planning applications. The matter has been brought to officers’ attention, and it is necessary to give it full and proper consideration now.

It is not clear if the FRA Addendum seeks to apply the exceptions test or not. It does however suggest there is a benefits case:

“Sustainability benefits can be defined as the practice of meeting present human needs without compromising the ability of future generations to meet their own needs, balancing environmental, social, and economic factors for long-term well-being. The drainage strategy incorporates a detention basin, filter drain, permeable paving,

geocellular storage and a rainwater harvesting system. In addition to managing the surface water runoff, this would result in benefits to water quality, biodiversity, landscape, and to recreational amenity.

In addition to the sustainability benefits to drainage and flood risk, the proposed development is a redevelopment of an existing but dilapidated building. The socio-economic benefits are detailed in other reports supporting the application and include the redevelopment of contaminated previously developed land, farm and estate diversification, inward investment and direct and indirect job creation”

The presentation of a benefits case does not achieve the requirements of the exceptions test as set out in paragraph 178 of the NPPF and therefore further confirms the need to sequentially test. The exceptions test is:

“...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.” (Paragraph 178 of the NPPF)*

Addressing criterion a) the following is observed in the FRA Addendum.

Detention basin, filter drain, permeable paving, geocellular storage and rainwater harvesting: these are not sustainability benefits to the community. They are all engineered measures aimed at addressing the impacts of developing this site. Mitigation cannot be double counted as a benefit, a principle which applies across planning.

This leaves the following proposed sustainability benefit for the community, which are commented on as follows:

Redevelopment of contaminated previously developed land: the majority of the site is Priority Woodland Habitat and is not previously developed. Its loss to commercial development is clearly not a sustainability benefit to the community

Likewise, if the land is contaminated and poses a risk to the community, then the owner has a duty to manage it under the Environmental Protection Act 1990. Cleaning up contaminated land is not therefore a sustainability benefit for the community that can be prescribed to this application.

Farm and Estate Diversification: this is a commercial benefit to the estate, not to the community. There is no evidence to show the estate needs to diversify in order to remain commercially viable either and is not therefore a sustainability benefit for the community.

Inward Investment: There is no evidence to show that Upper Seagry has a higher index of depravation that elsewhere in Wiltshire and therefore community sustainability depends on this proposal. This would not meet the requirement of NPPG para 178 a).

Direct and Indirect Job creation: this could represent a sustainability benefit, but the weight to be attached to it must be aligned with quantifiable local need within Upper Seagry to represent a sustainability benefit to the community. In the absence of this, the facility would encourage increased travel. Direct and indirect job creation could be achieved on any site locally that is not impacted by flood risk.

Turning back to the exceptions test, on any reasonable review of the above list of suggested benefits, it cannot be concluded that criterion a) has been met. Moreover, when it comes to criterion b), it has already been demonstrated that:

- The applicant has not proven there will be no increased flood risk elsewhere and at best that the FRA Addendum concludes “, *the likelihood of the flood depth being greater than 300mm is considered to be very low*”.
- Whilst Henn Lane is presented as an emergency access route, it does not appear to be within the application redline and it is understood there are title restrictions which may prevent its use. There does not appear to be any technical evidence that the access onto Henn Lane is suitable.

Both Criterion a) and b) must be met for the exceptions test to apply and based on the information provided to the Council, neither have been. This leads back to the necessary application of the sequential test which based on a fair application of the updated NPPG and NPPF would be required in this case. To avoid any doubt about its necessity, my client has obtained a legal assessment from No5 Chambers (see attached). This leaves no doubt the approach taken in Copperfield’s original assessment or the response provided in the letter, is correct. As such the local planning authority should now insist on a sequential test before this application is determined or refuse it on the basis that one was not provided.

This letter focuses on responding to the FRA Addendum, but it is equally relevant to apply the issues raised by qualified independent assessors in respect of access, ecology, and trees to the determination of the application.

Yours sincerely,

COLIN DANKS MRTPI

Director

on behalf of Copperfield L&P Ltd

T: +447891817035

E: colin@copperfieldltd.co.uk

cc. Oak Hill House

enc. Appendix 1

