

LAND EAST OF FROGHALL ROAD, CHEADLE

**NOTE ON MEAD REALISATIONS LTD V SSHCLG AND NORTH SOMERSET
COUNCIL ON BEHALF OF THE APPELLANT**

1. On the 30th January 2025, the Appellant delivered its closing submissions at an inquiry into proposed development on land East of Froghall Road, Cheadle.
2. At paragraph 39.11 - 14 of its closing submissions, the Appellant set out why a sequential test is not required in respect of surface water flood risk. Submissions were also made orally in relation to these issues at the inquiry. In those submissions, the Appellant referred to the Judgment of Holgate J in the case of *Mead Realisations Ltd v Secretary of State and North Somerset Council and others* [2024] EWHC 279 (Admin) (ID4).
3. On 30th January, the Court of Appeal handed down its Judgment in the appeal in that case: *Mead Realisations Ltd v SSHCLG and North Somerset CC* [2025] EWCA Civ 32 – attached. The Appellant became aware of this on 31st January 2025. It is appropriate that it is brought to the Inspector’s attention. These short submissions summarise key elements of the case and its implications, having regard to the points raised by the Appellant at the inquiry. The case supports the Appellant’s submissions to the inquiry (which are not repeated here – but the comments below should be read in the context of those submissions).
4. The Court of Appeal has confirmed:
 - (a) The legal status of the Government’s planning policies in the NPPF and its guidance in the PPG is the same. They are both statements of national policy issued by the Secretary of State (§33).
 - (b) The NPPF is a comprehensive framework of national planning policy, in which the Government sets out its general policies for decision – making and plan preparation. The PPG is national guidance for planning practice, which can reinforce the NPPF. The Policies in the NPPF will generally state the Government’s objectives and purposes, and the essential principles that apply. The guidance in the PPG explains **how** those policy objectives and purposes are to be achieved, and the principles put into practice, in individual decisions (§34).

- (c) The PPG performs a valuable role in “*explaining, clarifying or elucidating*” the policies in the NPPF, to which it relates. The PPG is not a “*rival corpus of policy*” to the NPPF but complements it. Its purpose is to support the NPPF, and to promote greater predictability and consistency in the decision-making process when the Government considers this to be necessary (§35).
- (d) Where NPPF policy is expressed in relatively broad terms, as it is in respect of flood risk, the need for elucidation or explanation in the PPG may be greater (§37).
- (e) Both the NPPF and PPG are capable of being material considerations for the decision maker (§38).
- (f) Holgate J was correct to say that as a matter of policy, the PPG is intended to support the NPPF, and it is therefore to be expected that the interpretation and application of the PPG will be **compatible** with the NPPF. The Appellant notes that this was a point it made in submission to this inquiry. The Court of Appeal further confirmed that one would not expect the Government to publish policy and guidance inconsistent with each other. This would be counter – intuitive and would cause needless confusion about the Government’s objectives (§41).
- (g) Policies in the NPPF and PPG can be used as an aid to the interpretation of each other. They can be read together as a coherent whole (§42).
- (h) Where policies are “*broad and open textured*”, there is obvious scope to clarify the concepts in the PPG, and obvious advantages of doing so (§45 – 46). In such circumstances, the PPG can provide practical guidance on the application of the policy and articulate the Government’s thinking on the relevant policy (§47).
- (i) The publication of PPG guidance does not have to be contemporaneous or near contemporaneous with the publication of the policy it serves. Its use is not limited to explaining the intention of the Government at the time the policy in the NPPF was promulgated. There is no time limit on the function of the PPG, and to seek to imply one would be to artificially curtail the Government’s freedom to explain, through the PPG, the intended operation of NPPF policy (§50).

- (j) Accordingly, NPPF and PPG can and should be read together and harmoniously. The guidance in the PPG can do what it can and should do by supporting and by clarifying the policy in the NPPF to which it relates (§52).
5. The Appellant’s submissions at the inquiry are directly supported by the principles set out by the Court of Appeal in *Mead* (above). Reading the NPPF and PPG together and as a whole, there is no requirement for sequential testing where development is proposed in an area of low risk – see paragraph 39.14 (a) – (l) Appellant’s closing submissions, and oral submissions at the inquiry. In this respect, the Appellant would re-emphasise that PPG023 expressly sets out that there is no requirement for sequential testing where proposed development is proposed in an area of “*low risk*”.
 6. Nonetheless, it is also of note that in the *Mead* case, the Court of Appeal confirmed that, even if the PPG goes beyond elucidating or explaining a policy in the NPPF, there is no legal obstacle to that, and no legal principle which prevents national policy in the NPPF being altered, modified or qualified by the PPG (§53).
 7. Therefore, even if (which the Appellant does not accept), the PPG goes beyond the policies in the NPPF, there is no legal principle preventing that. The PPG is the Secretary of State’s detailed guidance as to how the sequential test is to be applied and is a significant material consideration for the decision maker. As set out in closing and above, the PPG is clear. There is no requirement for a sequential test where proposed development is within an area of “*low risk*” (PPG23). That is the case here.
 8. Accordingly, the Appellant submits that the principles set out by the Court of Appeal in the *Mead* case support the submissions that it has made to the inquiry as to the correct interpretation of the NPPF and PPG, and its case that no sequential test is required.
 9. Further, as the Appellant set out in closing, the new RoFSW data set and the addendum to the FRA set out clearly that the part of the site that will be developed is within the lowest risk category for surface water flooding in any event.

31st January 2025

Sarah Reid KC
Kings Chambers.