

CONSULTATION ON PLANNING POLICY STATEMENTS (PPS)

**Report by
Planning Policy Manager**

1. BACKGROUND

- 1.1 As part of the ongoing process of reviewing national policy guidance the Office of the Deputy Prime Minister (ODPM) has published two consultation papers on Housing (PPS3) and Development and Flood Risk (PPS25). Comments are sought by 28th February 2006. The cabinet is being asked to endorse the comments as set in the report.

2. PLANNING POLICY STATEMENT 3: Housing

- 2.1 This follows earlier consultations which proposed changes to the existing national guidance for housing PPG3 (published in 2000). The government's key objective is 'to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live.' To achieve this government is seeking a number of objectives:-
- A) ensure that a wide range of housing types is available for both affordable and market housing to meet the needs of all members of the community
 - B) deliver a better balance between housing demand and supply in every housing market and to improve affordability where necessary and
 - C) create sustainable, inclusive, mixed communities in all areas. Developments should be attractive safe and designed and built to a high quality. They should be located in areas with good access to jobs, key services and infrastructure.
- 2.2 Draft PPS3 requires Regional Planning Bodies through the Regional Spatial Strategy to determine the level and distribution of housing, including affordable housing in the Region. In addition there is a requirement to identify sub-regional housing market areas for which the release of land may be varied, dependant upon demand for housing.

- 2.3 In determining the level of housing provision and its distribution, Regional Planning Bodies will need to consider a range of factors including:-
- sub-regional housing market assessments
 - sub-regional land availability assessments
 - advice from the proposed National Advice Unit on the impact of the proposals for affordability in the region
 - environmental, social and economic implications of development
 - the implications of development for existing and proposed infrastructure
- 2.4 There is a clear steer from Government regarding the need to consider market considerations in setting the level of housing provision. For example housing market assessments will need to assess both the need and demand for housing within an area. The Government has proposed in accompanying Draft Guidance that housing market assessments should be prepared by a Partnership, which would include the Regional Planning Body, Local Authorities, Registered Social Landlords and County Councils. Housing land availability assessments will need to determine both the level of land available for housing and the level of housing provision. The assessments are expected to examine all land that might potentially be made available for house building.
- 2.5 Draft PPS3 identifies the need to increase the level of housing supply in areas where demand is high, by exploring opportunities for development including, new freestanding settlements and major urban extensions. Cambridgeshire is located within one of the Government's Growth Areas as identified in the Sustainable Communities Plan (published in 2003) in which Government is seeking an increase in the level of house building.
- 2.6 The draft PPS3 then identifies what role the LDFs have in allocating land. The framework must contain a housing trajectory that provides for a 5 year supply of land that is available, suitable and viable. The development on brownfield land in preference to greenfield land is still considered to be a priority in the new statement. Guidance is given on densities appropriate to various locations and car parking standards should reflect local circumstances, recognising that people still want to own cars. The PPS suggests that we should have regard to studies that form part of the sub regional market assessment to determine mix of households. The Statement provides guidance on affordable housing thresholds and the approach to affordable housing and private housing in rural areas. Designing for quality and greening the residential environment are contained in further sections of the document. Finally the section on managing delivery and development identifies some circumstances where sites not allocated for development can be brought forward.

3. COMMENTS ON PPS 3

3.1 These are based on the questions posed by ODPM at the back of the document.

Question 1 Do the policies set out in draft deliver the Government's housing objectives?

- Yes, with reservations. There is a general lack of detail in the draft PPS3 and the publication of companion guides may have helped in understanding the document. The document is confusing, contains contradictions and its message is not as strong as in previous draft material e.g. Sustainable Communities leading up to this publication.
- It appears to be too market driven and in some statements contradicts the procedures that are necessary to carry out for the statutory planning process. The reference to the sequential test contained in PPG3 has disappeared and with the drive for more houses the market appears to be influential in determining where houses are built. This could result in development in unsustainable locations and scarce infrastructure diverted away from where it is most needed.
- Reducing affordable housing thresholds is welcomed and will assist but it is questionable whether an increase in housing supply will help to solve affordability. There is still no certainty from Government about where the money will come from to fund the affordable element.
- PPS3 doesn't address the fundamental problem of infrastructure deficit. There needs to be a radical Government review so that planning and infrastructure funding come hand in hand. PPS3 is to be implemented now whilst the guidance in the draft Planning Gain Supplement will not be implemented until at least 2008.

Question 2 Are the arrangements for delivering PPS3 clearly set out in relation to:

- a) Working in sub regional housing market**
- b) Determining the regional level of housing provision and its distribution**
- c) Allocating and releasing land for housing**
- d) making the efficient use of land**
- e) planning for mixed communities**
- f) planning for rural housing**
- g) designing for quality**
- h) greening the residential environmental**
- i) managing delivery and development**

a) There are many different definitions of sub-regions, how are they to be reconciled and market areas defined? Sub-regional housing market areas are likely to create complications where they cross Local Authority boundaries (e.g. Peterborough/E. Midlands & EOE). How is this going to work? Further guidance is needed on defining relationships between areas as each are defined for different purposes eg. housing/planning/economic.

b) PPS3 does not show how development industry and local authorities can have a constructive dialogue to influence affordability at the regional level. It is not clear how the National Advice Unit will help in this debate.

c) The 5-year allocation of supply of housing is very prescriptive and may result in over supply in areas such as Huntingdonshire. A 15-year plan provision is a good idea.

d) It is not clear whether Local Planning Authorities can count windfalls in their housing trajectories but it is important to build them into the assumptions as they are a valid source. If you cannot count brownfield land or windfalls the implication is that most of this 5 year supply will be greenfield. Will not this contradict the encouragement of development onto brownfield land? The guidance on different densities in various locations is helpful but there are concerns that it should not be seen as prescriptive. In some circumstances there is a need for lower density.

e) There is a continued emphasis on housing delivery in settlements, but the need for other uses e.g. employment must not be forgotten.

f) The suggestion of lowering the thresholds for affordable housing is welcomed as it will provide more scope to provide that housing in market towns where the need is greatest. More developments will make contributions but there is a concern with the encouragement of development in unsustainable rural locations. It is unlikely that allocating land solely for affordable housing in the market towns or anywhere else will bring forward that land.

g) There is a need to have a stronger lever to make sure developers deliver higher quality design. It would help if there was some clear guidance on measuring design quality and some evidence of the impact of quality design on housing costs. Stronger guidance/legislation is needed but the ability to raise quality through PPS3 is limited by the principle in PPS1 that the planning system should not go beyond other legislation. The promotion of design codes is welcomed but there is a resource and time implication.

h) The commitment to sustainable dwellings is too weak but this could be strengthened by statute through building regulations.

i) This section is of concern. It suggests that planning applications for development could be approved in certain circumstances in advance of a review of a development plan. It is not appropriate to have a plan led approach delivering sustainable communities with an opt out to release sites outside of the planning process.

Questions 3 and 4 have not been answered.

4. PLANNING POLICY STATEMENT PPS25: Development and Flood Risk

4.1 This consultation document together with an accompanying Practice Guide should in due course replace PPG 25 on flood risk. The PPS proposes a Risk Based Approach to flood risk. Central to this

approach is the sequential test. This test requires that when either local authorities or developers wish to allocate land or develop land for housing or other uses in areas at risk from flooding they should demonstrate that there are no alternative sites available which have a lower risk of flooding. If there are no reasonable alternatives available in the areas of lowest flood risk and the benefits of development outweigh the risk then other areas of flood risk can be considered. The guidance also proposes to introduce an exceptions test which sets out four tests which, if all are satisfied, can allow departures from the sequential test. The four tests are:-

the development makes a positive contribution to sustainable communities

the development is on developable brownfield land

the Flood Risk Assessment (FRA) demonstrates that the residual risks of flooding are acceptable and can be managed

the development makes a positive contribution to reducing or managing flood risk

4.2 The PPS seeks views on the introduction of a Flood Direction. This direction would require that when a Local Authority is minded to approve a planning application to which the Environment Agency has a sustained objection on flood risk grounds, the application should be referred to the Government Office to decide whether the application should be called in by the Secretary of State.

4.3 The PPS also proposes to extend the Environment Agencies role as a statutory consultee in relation to flood risk on certain developments. This would mean the Environment Agency would be consulted on non-householder development in flood zones 2 and 3, non-householder development on areas identified as having critical drainage problems outside zones 2 and 3 and on any development exceeding 1 ha.

4.4 The Statement also suggests that Local Authorities should consider whether the making of Article 4, Directions taking away permitted development rights to householders for extensions and alterations where such development is likely to have a direct and adverse affect on a flood risk area or its flood defences and their access, or permeability and management of surface water, or flood risk to occupants.

5. **COMMENTS ON PPS25**

5.1 These are based on the questions posed at the back of the document

Question 1. We consider positive planning has an important role to play in delivering policies which will avoid, reduce and manage flood risk. We will provide a Practice Guide to help implement the planning policies set out in PPS25. Will the new policy and the proposed Practice Guide as outlined in the consultation package secure planning strategies that direct new development to suitable locations taking flood risk and type of development into account? If not, what alterations in approach do you suggest?

- Agree that the risk-based approach set out in the PPS should ensure that development is directed to areas that have a lower risk of flooding. The requirement to carry out Strategic Flood Risk Assessments will allow a more strategic approach to be taken in relation to flood risk and will give more certainty to developers when they are submitting planning applications.

Question 2 The draft PPS25 sets out a ‘plan led’ approach to take flood risk into account in helping to deliver sustainable development. We are proposing that flood risk should be taken into account at all levels of the planning process i.e. regional, local and at site specific levels. Do you agree with this approach and the key planning objectives set out in para.5?

- Agree with this approach and the objectives contained in paragraph 5. It is essential that the issue of flooding is fully taken into account at both the plan-making stages and the planning application stage as this will provide more certainty to residents, local businesses and developers.

Question 3 We have set out in PPS25 the decision-making principles which regional planning bodies and local planning authorities should adhere to in relation to development and flood risk. Are the principles clear and sufficient or should they be modified and if so, how?

- Agree the principles are clear and sufficient.

Question 4 It is suggested that flood risk assessments should be carried out at the regional, local and site-specific levels (see paras. 9-12 and Annex E). Is the guidance clear on how the Regional Flood Risk Assessments (RFRAs) and Strategic Flood Risk Assessments (SFRAs) are used to inform Regional Spatial Strategies and Local Development Frameworks as a basis for preparing policies for flood risk management? Is the relationship of RFRA and SFRA to Sustainability Appraisal also clear?

- The PPS makes it clear that RFRAs should inform Regional Spatial Strategies and that SFRA should inform Local Development Frameworks in the preparation of flood risk management policies and in the allocation of land. It is not clear how RFRAs and SFRAs should be used in relation to Sustainability Appraisal but it is proposed that this detail is provided in the accompanying Practice Guide.

Question 5 An appropriate site-specific Flood Risk Assessment (FRA) is required to accompany planning applications for development in flood risk areas. Are the criteria for determining the need for FRA correct? If not, what should they be?

- Agree the criteria for determining the need for FRA are correct.

Question 6 The central part of the risk-based approach is the Sequential Test (see paras 13-15) and Annex D. We have clarified this approach by amalgamating the PPG25 3a and 3b Flood Zones and making explicit the consideration of flood risk

vulnerability. Is this clear and do you agree with this approach. If not, what amendments do you propose that would serve better?

- Agree with the approach set out in the Sequential Test, this will reduce the risk of potential damage which can be caused by flooding and will help direct development to areas with a lower risk of flooding. The approach clarifies the sequential test contained in PPG25 as it provides a clear connection between types of development and degrees of flood risk.

Question 7 It is proposed to add a new Exceptions Test to complement the Sequential Test in Flood Zones 2 and 3 where development is necessary for wider sustainability reasons (see paras. 16-19 and Annex D). Do you agree with this principle and the approach described or do you have an alternative proposal?

- Agree with the principle of the Exceptions Test as this will allow development in locations which may be more sustainable in other terms but are in a higher risk flood zones. The criteria set out ensure that this can only take place when the risks of flooding are acceptable and can be satisfactorily managed.

Question 8 The responsibilities of key stakeholder are given in paras. 20-30 and Annex H. Do you agree that the responsibilities are clearly stated or do you have amendments and alternatives to propose?

- Agree with the responsibilities set out for Local Authorities provided the resource implications of the Flood Direction have been assessed.

Question 9 We consider effective monitoring and review is essential to secure sustainable development of flood risk areas. Do you agree that the expected annual monitoring should include the HLT5 indicators listed in para. 32? If not, what alternatives would serve better while being practicable and delivered at no extra cost?

- Agree this indicator is appropriate to use as this data is already collected.

Question 10 Do you consider the proposed scope of the Practice Guide (see section 3) covers all the relevant topics?

- Agree the proposed Practice Guide covers all relevant topics.

Question 11 Does the proposed scope of the Practice Guide include topics which do not need to be covered? If so which topic and give reasons why?

No

Question 12 It is proposed to make a standing Flood Direction (see section 4) in respect of major development for which a planning authority proposes to grant permission, despite there being a sustained objection from the Environment Agency on flood risk grounds, after being re-consulted following an initial

objection. Do you agree with this proposal? If not, have you any relevant alternative to this approach within the present ambit of the Planning Acts?

- The resource implications for implementing this direction need to be assessed in detail. The direction will require an increase in time spent by Local Authorities, the Environment Agency and the Government Office in determining applications and may be contrary to planning handling advice. In Huntingdonshire in the period 2004/05 two applications were approved contrary to Environment Agency advice.

Question 13 As part of this consultation, we are proposing that the Environment Agency be made a statutory consultee under the Town and Country Planning Act Order (GDPO) 1995 on:

- i) non-householder development proposed in Flood Zones 2 and 3;**
- ii) non-householder development outside Flood Zones 2 and 3 which are identified by the Environment Agency as having 'critical drainage problems'; and**
- iii) any development exceeding 1 Ha.**

There is also a proposal to amend Article 10 (1) para. (p) of the GDPO (see section 5). Do you agree with this approach?

- The resource implications of this need to be fully assessed to ensure that the Environment Agency has additional capacity to cope with extra consultations.

Question 14 The partial RIA sets out the likely benefits and costs of the draft PPS25. Do you agree with the assumptions made? If not, or if you think it is incomplete, please tell us why and provide any quantifiable evidence available to you on benefits and costs.

- Agree that the RIA is complete.

Question 15 Is the policy set out in PPS25 likely to effect small businesses? If so, please tell us how, and if appropriate, how any disproportionate impact on small businesses could be eased while ensuring they, and neighbouring users of land, retain the benefit of protective planning policies on flood risk.

- The requirement to provide Flood Risk Assessments may have a more significant effect on smaller firms than large businesses due to the cost involved but this is likely to be a smaller impact than the damage that could potentially be caused by flooding.

Question 16 Planning Policy Guidance Note 25 contained a commitment to review after 3 years. Do you think that PPS25 should contain a similar commitment for review? If 'yes', please give reasons why and include an appropriate review period.

- The PPS should include a statement to monitor the effectiveness of the policy approach, if the policy approach fails or further information is received about climate change and flood risk then the PPS should be reviewed.

6. RECOMMENDATION(S)

- 6.1 That Cabinet note the contents of the report and:- a) endorse the responses in section 3 relating to PPS3 and b) endorse the responses in section 5 relating to PPS25

BACKGROUND INFORMATION

Office of the Deputy Prime Minister (ODPM) has published two consultation papers on Housing (PPS3) and Development and Flood Risk (PPS25)

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