



Meeting Flooding Select Committee

date 12 March 2007

agenda item number

Report of the Service Director Planning and Sustainability

Planning Policy Statement 25 (PPS25): Development and Flood Risk

Purpose of the Report

1. To inform the Flooding Select Committee of the Planning Policy Statement 25 (PPS25): "Development and Flood Risk" and consider its implications for regional and local planning.

Information and Advice

2. Planning Policy Statements (PPS) set out the government's national policies on aspects of planning in England. PPS25 has been published following consultation on a draft PPS25 in February 2006 to which the County Council responded with a report to cabinet on February 8th 2006.
3. The aim of PPS25 is to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.
4. The PPS continues the approach introduced in the draft:
 - the overall risk based approach, applied through the sequential test, with the aim of steering all new development to zone 1 (lowest probability of flooding);
 - In conjunction with this land uses are classified according to their level of flood risk vulnerability;
 - the introduction of an exception test which can justify departure from the sequential test in exceptional circumstances when it is necessary to meet the wider aims of sustainable development;

- an emphasis on requirements for flood risk assessments at all levels of planning - Regional Spatial Strategies, Local Development Documents and site specific levels.

5. The PPS outlines the following main aspects of national planning policy:

Key planning objectives

6. The key planning objectives for regional planning bodies (RPBs) and local planning authorities (LPAs) should include:

- identifying land at risk and the degree of risk of flooding;
- preparing Regional or Strategic Flood Risk Assessments, which should be part of, or contribute to, Sustainability Appraisal;
- framing policies for the location of development which avoid flood risk to people and property where possible and manage any residual risk, taking into account of the impacts of climate change;
- reducing flood risk to and from new development through location, layout and design, including a sustainable approach to drainage;
- using opportunities offered by new development to reduce flood risk to communities;
- only permitting development in areas of flood risk when there are no suitable alternative sites in areas of lower flood risk and the benefits of the development outweigh the risks from flooding.

Risk Based Approach

7. The overall approach to be adopted at all levels of planning is 'risk-based', which requires:

- a strategic approach through policies in Regional Spatial Strategies (RSSs) and Local Development Documents (LDDs) which avoids adding to causes of flood risk, such as inappropriate development in flood risk areas;
- managing flood 'pathways' to reduce the likelihood of flooding by, for example, ensuring that the design and location of development maximises the use of sustainable drainage systems and the performance of flood defence infrastructure;
- reducing the consequences of flooding on people, property and infrastructure by avoiding inappropriate development in areas at risk of flooding.

8. Flood Risk Assessments (FRAs)

- FRAs should be carried out at all levels of the planning process to assess flooding risk identifying land at risk and the degree of risk of flooding;
- preparing Regional or Strategic Flood Risk Assessments, which should be part of, or contribute to, Sustainability Appraisal;

- framing policies for the location of development which avoid flood risk to people and property where possible and manage any residual risk, taking into account of the impacts of climate change;
- reducing flood risk to and from new development through location, layout and design, including a sustainable approach to drainage;
- using opportunities offered by new development to reduce flood risk to communities;
- only permitting development in areas of flood risk when there are no suitable alternative sites in areas of lower flood risk and the benefits of the development outweigh the risks from flooding.

9. The Sequential Test

Flood Risk Zones are used for applying the Sequential Test. Land is categorised as being within a particular Flood Zone according to its probability of flooding. Zone 1 is low probability, Zone 2 medium probability, Zone 3a high probability and Zone 3b is the functional floodplain. The draft PPS also classifies land uses according to their level of flood risk vulnerability.

10. The overall aim should be to steer all new development to Flood Zone 1, but where this is not possible development from certain classifications of flood risk vulnerability may be appropriate in Flood Zones 2 and 3, as set out in the draft PPS, provided that it is demonstrated that no reasonable options are available in a lower risk category, FRA requirements are met and residual flooding risks are assessed and managed. This process of selecting land for development with the lowest flood risk possible is called the Sequential Test.

11. The Exception Test

The Exception Test can be used to justify departures from the Sequential Test in line with wider sustainability objectives. If development cannot be located in the zones of lower probability of flooding the Exception Test can be applied, and if satisfied, it provides a means of managing flood risk while still allowing necessary development to occur. The Exception Test is that:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk;
- the development is on developable previously-developable land or if it is not; where there are no reasonable alternative options on developable brownfield land;
- a FRA demonstrates that the development will be safe, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

12. The exception test is supported as it allows the use of brownfield land to be prioritised, a key planning policy consideration as expressed in the Joint Structure Plan and Regional Spatial Strategy.

13. Practice Guide

Practical advice on the implementation of PPS25, including more detail on how to carry out FRAs how to apply the sequential and exception tests at different stages in the planning process and clarification on management of residual risk is outlined in the Practice Guide Companion “Living Draft” published in February 2007.

14. Town and Country Planning (Flooding) (England) Direction [2007]

Under the Flooding Direction issued in conjunction with the PPS, where a local planning authority is minded to approve a planning application for major development yet there is an environment agency objection to it on flood risk grounds, the application must be referred to the appropriate government office to consider on behalf of the secretary of state, whether it should be called in for determination.

Extending and Amending the Environment Agency’s Statutory Consultee Role

15. It is proposed to give the Environment Agency a lead role in advising on flood risk issues by making them a statutory consultee on all applications for development in flood risk areas:

- non-householder development proposed in Flood Zones 2 and 3;
- non-householder developments outside Flood Zones 2 and 3 which are identified by the Environment Agency as having ‘critical drainage problems’; and
- any development exceeding 1 ha.

Changes from the Draft PPS

16. Several important changes have been introduced since the draft, in line with the response submitted by Nottinghamshire County Council as part of the consultation process.

17. A significant change concerns minerals workings, which are now categorised in the flood risk vulnerability classification as “water compatible development” rather than the “less vulnerable” category. This means that mineral extraction can be appropriate in the “functional flood plain”. This is particularly important to the County Council as a Minerals Planning Authority. Without this change the policy could have led to blanket sterilisation in policy terms, of many millions of tonnes of sand and gravel reserves.

18. The exception test has been reworded. The draft stated that there was a requirement to make a positive contribution to reducing or managing flood risk. This has been changed to read “where possible, reduce flood risk overall”. This amendment creates a more balanced approach, allowing for wider sustainability considerations to be taken into account in decisions on the location of development.

19. Issues concerning the practicalities of preparing FRAs highlighted in the draft stages have been addressed to an extent with the expansion of detail in this PPS. It is hoped that some of the existing issues will be clarified further in the Practice Guide Companion "Living Draft" published at the end of February. This Practice Guide Companion will be discussed at the committee meeting.

Implications for the County Council's Role in the Regional and Local Planning Process

20. The practical issues of concerning preparation of flood risk assessments highlighted in the draft stages have not been addressed. These issues concern:

- resource implications in terms of who will produce them and how will they be assessed as flood risk modelling is a highly specialist area, with few consultancies having the necessary expertise.
- the availability of resources also needs to be considered with regard to assessment of FRAs submitted with development proposals – the need to get involved in carrying out and assessing submitted FRAs will represent a considerable extra burden on local authorities' resources.

21. Comments have been invited on the Practice Guide Companion "Living Draft" published at the end of February. The closing date of this consultation is the 20th August 2007.

Greater Nottingham Strategic Flood Risk Assessment

22. The County Council is currently working in partnership with Broxtowe Borough Council, Gedling Borough Council, Nottingham City Council, Rushcliffe Borough Council, Nottingham Regeneration Ltd and the Environment Agency to produce a Strategic Flood Risk Assessment (SFRA) for the Greater Nottingham conurbation and River Trent Corridor. The planned completion date set out by the consultants is 31st July 2007, with the non technical summary to be produced after this date.

23. The County Council will need to have regard to the PPS as a whole in its submissions to the Regional Plan examination, as well as its advice to EMRA, district councils and other partners.

Recommendation

23. That the report be noted and used as a basis of discussion.