

Report of: Planning Policy Manager

To: Executive Board

Date: 20th February 2006

Item No:

Title of Report: Response to Consultation on Planning Policy Statement 25: Development and Flood Risk



Summary and Recommendations



Purpose of report: To forward comments to the Government by the end of the consultation period on 28.2.06

Key decision: No


Portfolio Holder: Councillor Edward Turner, Strategic Planning, Housing and Economic Development

Scrutiny Responsibility: Environment Scrutiny Committee

Ward(s) affected: All

Report Approved by: Councillor Edward Turner; Lindsay Cane, Legal Services; Emma Burson, Financial Services

Policy Framework: Oxford Local Plan 2001 – 2016 section 4: Natural Environment and sections 6 and 7 relating to Housing

Recommendation(s): Executive Board is recommended to thank the Office of the Deputy Prime Minister for consulting the City Council on the draft Planning Policy Statement 25: Development and Flood Risk and to agree that  comments in this report and Appendix 1 should be forwarded to the ODPM as the views of the City Council.

Introduction/Background



The Office of the Deputy Prime Minister has consulted the City Council on draft Planning Policy Statement (PPS) 25: Development and Flood Risk. The intention is that PPS 25 and an accompanying Practice Guide

will replace Planning Policy Guidance Note 25 (PPG25) on Development and Flood Risk, which was published in July 2001. With a number of significant floods in recent years, the Government clearly attaches high importance to this issue. Given that two recent floods in December 2000 and January 2003 have affected a considerable number of properties in Oxford, this is clearly an important issue for Oxford City Council too. With climate change it is also considered likely that flooding will increase in severity and frequency in the future.

2. This report summarises and comments on some of the main issues for Oxford arising from the draft PPS25. The full document can be found in the Members Room or on the ODPM website at www.odpm.gov.uk/Planning under Consultation Papers.

Planning Policy Statement 25 on Development and Flood Risk

Summary of The Sequential Test and Flood Zones

- 3 A sequential test, whereby sites should only be allocated for development, or applications approved for planning permission, in areas at risk of flooding if there are no reasonable options in a lower risk area was in PPG25, but it is proposed to strengthen it in the new PPS. The draft PPS states, in Annex D paragraphs D3 and D4, that:

'The overall aim of decision-makers should be to steer all new development to Flood Zone 1. [that is low risk areas having less than 1 in 1,000 chance of flooding].....Where it is not possible to steer all new development to Flood Zone 1, decision-makers allocating land in spatial plans or determining applications for development at any particular location should demonstrate that there are no reasonable options available in a lower risk category and should take into account the flood risk vulnerability of land uses.'

- 4 In Oxford Flood Zone 1 occupies the major part of the city, including Headington, Rose Hill/Iffley, Risinghurst and Sandhills and most of north Oxford, Littlemore, Marston and Barton but there are significant areas which have higher levels of flood risk.

The other Flood Zones consist of:

- Flood Zone 2, which is assessed as having between a 1 in 100 and 1 in 1,000 annual chance of flooding (1% - 0.1%) and is described as having a moderate risk of flooding;
- Flood Zone 3a, which is assessed as having a 1 in 100 or greater annual chance of river flooding (>1%) and is described as having a high probability of flooding; and
- Flood Zone 3b, the Functional Floodplain which consists of land where water has to flow or be stored in times of flood.

In Oxford, large areas fall within Flood Zone 3a, including south Oxford; west Oxford; Lower Wolvercote and parts of Blackbird Leys and East Oxford. Flood Zone 3b covers the undeveloped floodplains of the Thames and Cherwell. Details of the extent of the Flood Zones are derived from the Environment Agency's Flood Zone maps.

- 5 Where it is not possible to locate all development in Flood Zone 1, the PPS provides details of what types of development may be appropriate in areas of higher flood risk, but only if:
- The requirements relating to flood risk assessment are met (this is discussed in paragraphs 16 - 19)
 - The residual risks of flooding are assessed and managed; and
 - Where appropriate, the 'Exception Test' is passed (this is discussed in paragraphs 10 - 13)

Comments on the Implications For Oxford of the Sequential Test and Flood Zones Guidance

- 6 If ratified this guidance would be likely to significantly affect development in Oxford, owing to the large parts of the city, which are at flood risk. As a result quite a few of the sites allocated for development in the Local Plan are in Flood Zones 2 and 3a. Those sites which are wholly or mostly in Flood Zone 3a, for example, include Arthur Street; Cowley Marsh depot site; Bertie Place Recreation Ground; Scrap Yard, Jackdaw Lane; Lamarsh Road and Osney Mill; and there are parts of other sites such as Cooper Callas; Oxpens, Worcester Street Car Park; Canalside land Jericho, the College of Further Education and the Telephone Exchange. In the case of these sites student halls of residence, which are included in the list of acceptable uses at several of these sites, would no longer be an acceptable use under the new guidance. They are classified as 'highly vulnerable development' and the draft guidance states that they 'should not be permitted' in Flood Zone 3a. In this respect given that large numbers of students live in ordinary residential accommodation in these areas, it seems unreasonable, that the provision of student Halls of Residence or hostels should not be permitted within existing urban communities where the development is on brownfield land and a flood risk assessment demonstrates that the residual risks of flooding to people and property are acceptable.
- 7 Other uses such as residential, hotels, schools, health services, nurseries and educational establishments are classified as 'more vulnerable' and could only be permitted in accordance with the new draft guidance if the Exceptions Test discussed below is passed.
- 8 A curiosity about the guidance is that shops, restaurants and cafes, offices, general industry; storage and distribution, assembly and leisure and transport infrastructure are described as 'less vulnerable uses,' and are described 'as appropriate' in Flood Zone 3a and do not have to undergo the Exceptions Test, although they clearly have the potential to

have major implications for accentuating flood risk. On the other hand, an application for one house, a nursery, health centre or educational establishment within Zone 3a has to undergo the Exceptions Test, while student Halls of Residence should not be permitted at all. Presumably the logic behind this is that the users of these facilities are more vulnerable, but where there are existing communities, it is vital that local services are provided which are easily accessible. Also even in those areas with a 1% or greater annual risk of flooding a flood will often be a rare or very rare occurrence and there will be advance warning so that when a flood threatens the nursery, school or health centre can be closed.

- 9 A significant problem with the sequential test is that it makes no reference as to whether a site is greenfield or brownfield or to other sustainability considerations such as a central location. Tables D1 and D.2 of the draft PPS lists various forms of built development that it states are 'appropriate' within Flood Zones 2 and 3a. If this is the case, it seems illogical to be searching for land in Flood Zone 1, when there is brownfield land in a sustainable location available, the development could be located and provided with adequate protection from flooding and not accentuate flooding elsewhere. This is especially the case in Flood Zone 2, some parts of which may only have a very low risk of flooding, of perhaps a few millimetres in a 1 in 1,000 year flood. The Flooding Sequential Test, as currently drafted, is too simplistic and therefore it should be recognised that other material and sustainability considerations also apply and that more consideration should be given to variations in flood risk within Flood Zones 2 and 3. These problems could be avoided if the guidance made the Exceptions Test part of the Sequential Test, and this would also make the guidance easier to apply.

Summary of the Exceptions Test

- 10 The PPS goes on to state in paragraph 17 that:

If, following application of the Sequential Test in Table D.1, it is not possible for the development to be located in zones of lower probability of flooding, the Exception Test can be applied.

- 11 The Exception Test is that:

'A) the development makes a positive contribution to sustainable communities, and to sustainable development objectives of the relevant Local Development Document (LDD) (having reached at least the 'submission' stage of the Development Plan Document Process...)

B) the development is on developable brownfield land or where there are no reasonable alternative options on developable brownfield land;

C) a flood risk assessment demonstrates that the residual risks of flooding to people and property (including the likely effects of climate change) are acceptable and can be satisfactorily managed; and

D) the development makes a positive contribution to reducing or managing flood risk.'

- 12 The Exceptions Test can only be applied in certain circumstances. It cannot be used where the PPS states that a particular use should not be permitted in this zone. This includes 'highly vulnerable uses' in Flood Zone 3a and 'less vulnerable', 'more vulnerable' and 'highly vulnerable uses' in Flood Zone 3b.

Comments on the Exceptions Test

- 13 This seems to be a good test in principle, but paragraph D6 states that *'the Exception Test should be applied by decision-makers only after the Sequential Test has been applied.'* Officers consider that it should form part of the Sequential Test, rather than be applied after it, to avoid the problems outlined above. It also seems that as currently worded the first criterion could cause some problems. It can only be complied with when the relevant LDD has reached at least the 'submission' stage. The relevant LDDs would be the Site Allocations and the Development Control Development Plan Documents (DPDs). It is unclear whether the 'Saved' Local Plan policies would have the same status for the purposes of the Exceptions Test. As the City Council's Site Allocations DPD is not scheduled to reach the 'submission' stage until April 2009, it appears that as currently worded this might mean that no applications for housing development, including on small infill sites, could be permitted in those urban parts of south, west and north Oxford which have a 1% or greater annual risk of flooding for at least another three years. This seems unreasonable given the pressing need for more housing in Oxford, and would also prevent development on brownfield land within existing densely populated urban areas close to the City centre while not significantly increasing the population at risk of flooding or needing to be evacuated.

Summary of requirement to produce Strategic Flood Risk Assessments (SFRA)

- 14 The draft PPS25 states that local planning authorities should prepare Strategic Flood Risk Assessments in order to provide the information to apply the sequential approach. Some further guidance is provided in Annex E in paragraph E6 where it is stated that *'local planning authorities should prepare SFRAs in consultation with the Environment Agency to determine the variations in flood risk across and from their area as the basis for preparing appropriate policies for flood risk management for those areas and enable local planning authorities to*

determine the acceptability of flood risk in relation to emergency planning capability.'

Detailed guidance as to how to produce a SFRA is to follow in the Practice Guide, which is to be produced.

Comments on Strategic Flood Risk Assessments

- 15 Paragraph 43 states that the cost of a SFRA 'would be typically in the region of £15-£25,000,' but officers are concerned that it could prove to be more. In many ways it would seem to be more sensible for this responsibility to be given to the Environment Agency who have a statutory responsibility to provide effective defence against flooding. Their officers will also have greater technical expertise with regard to the production of SFRA's and economies of scale would be gained by appointing consultants to look at a wider area than one local authority.

Summary of Guidance on Flood Risk Assessments (FRA)

- 16 Paragraph E8 states that *'Planning applications for major development proposals in Flood Zones 1 and all proposals for new development, which are located in Flood Zones 2 and 3 should be accompanied by a FRA which will identify and assess the risks of all forms of flooding to and from the development and demonstrate how these flood risks will be managed over the lifetime of the development. For major developments in Flood Zone 1, the FRA should identify positive opportunities to reduce the probability and consequences of flooding.'*
- 17 This represents a significant extension of the need for FRA, as all major applications in areas of low flood risk such as the City Centre, or hospital/University development in Headington would need to submit a FRA.
- 18 Paragraph D12 also states that *'applications for minor non-residential extensions, alterations, and 'householder' development and changes of usewill still have to meet the requirements for FRAs and flood risk reduction set out in Table D.1.'*

Comments on Guidance on Producing Flood Risk Assessments

- 19 While the need for Flood Risk Assessments for most forms of development in Flood Zones 2 and 3 is acknowledged, requiring flood risk assessments and flood risk reduction for 'alterations', changes of use and garden sheds appears unreasonable, as almost invariably the impact on flooding will be minimal.

Summary of Proposals for a Flooding Direction

- 20 The consultation also seeks views on the making of a standing Flooding Direction. This is in respect of major development¹ 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. The Direction would require the local planning authority to refer the application to the relevant Government Office to decide whether to call in the application for decision.

Comments on Proposed Flooding Direction

- 21 As flooding can have significant impacts on the welfare of the wider community and it can threaten both peoples lives and property, this proposed Flooding Direction for major development is considered appropriate.

Conclusion

- 22 It is vitally important that new development has adequate protection from flooding and does not contribute to flooding elsewhere. On this important issue this revised guidance is therefore welcomed. However, it is also important that the guidance is easy to follow and would not unnecessarily prevent development that is needed to serve existing communities in areas of flood risk. For these reasons it is considered that the draft guidance should be amended to take account of the points made in this report and attached in Appendix 1.

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Background papers: Consultation on Planning Policy Statement 25: Development and Flood Risk



¹ A major development is one in which the number of dwellings to be constructed is ten or more, or the site area is equal to or greater than 0.5ha. Non-residential developments are defined as major if they involve a floor space equal to or greater than 1,000sqm, or a site area equal to or greater than 1ha