

Consultation on Planning Policy Statement 25: Development and Flood Risk

Questions on which we would particularly like your views

Name:	Steve Pickles
Organisation:	Oxford City council
Address:	Planning Policy, Ramsay House, 10 St Ebbe's St, Oxford, OX1 1PT
E-mail address:	spickles@oxford.gov.uk

Respondents should place a cross (☒) in the Yes or No boxes to indicate general agreement or disagreement. The Comment box is provided to reinforce the reasons for agreement or explain reasons for disagreement.

	Yes	Some Reservations (please give details)	No
Q1.	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?		
	<input type="checkbox"/>		<input checked="" type="checkbox"/>
Q1.	Comments		
	<p>In the City Council's view 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. Table D1 on pages 25 and 26 of the draft PPS states that 'less vulnerable, more vulnerable uses and essential infrastructure are appropriate in Flood Zone 2' and that 'less vulnerable uses' 'are appropriate' in Flood Zone 3a. If this is the case it seems illogical to be searching for land in Flood Zone 1 which may be in a less sustainable location, when there is brownfield land in a sustainable location, which could be 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 a few millimetres in a 1 in 1,000 year flood. In the City Council's view 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</p>		

Consultation on Planning Policy Statement 25: Development and Flood Risk

<p>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.</p>			
<p>Q2. 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? If not, what alternative approach would be better?</p>	<input checked="" type="checkbox"/>	<p>Concerned that the principles do not distinguish between greenfield and brownfield land</p>	<input type="checkbox"/>
<p>Q2. Comments</p> <p>The City Council agrees that flood risk should be taken into account at regional, local and site specific levels. It also generally agrees with the principles set out in paragraph 5, but is concerned about the principle of 'only permitting development in areas of flood risk when there are no suitable alternatives.' This does not distinguish between areas that are already built up and those that are undeveloped. Oxford has large areas within the existing urban area, which are in Flood Zone 3a e.g. virtually all of west and south Oxford. These areas need local facilities such as nurseries, schools and medical centres. Oxford is also surrounded by a tight Green Belt which means that the City Council needs to take advantage of small windfall sites within the existing urban area, including those parts where there is a risk of flooding. In the City Council's view this should be acceptable provided it is possible to provide adequate flood protection and the development will not contribute to flooding elsewhere.</p>			
<p>Q3. 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?</p>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
<p>Q3. Comments</p>			
<p>Q4. It is proposed 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 Regional Flood Risk Assessments (RFRAs) and Strategic Flood Risk Assessments (SFRAs) are used to inform Regional Spatial Strategies and Local Development</p>	<input type="checkbox"/>		<input checked="" type="checkbox"/>

Consultation on Planning Policy Statement 25: Development and Flood Risk

<p>Frameworks as a basis for preparing policies for flood risk management? Is the relationship of RFRA and SFRA to Sustainability Appraisal also clear?</p>			
<p>Q4. Comments</p> <p>While the City Council understands the principle of a SFRA, the guidance does not make it clear what carrying out a SFRA will involve. Carrying out the SFRA will also be onerous to local authorities given the many other documents they have to produce; the extensive public participation they have to carry out and the tight timetables in their Local Development Schemes. There is also concern about the likely cost. It is stated on page 70 paragraph 43 that the likely cost 'would be typically in the region of £15 - £25,000,' but the guidance under which the SFRA is produced has not yet been published. However, from the contents of paragraph 5 on page 49 it would seem that a SFRA will need to cover an extensive range of topics, will involve modelling and is likely to involve data collection. In these circumstances and given the City Council's knowledge of consultants' costs it would not be surprised if the cost substantially exceeds these levels. City Council officers also do not have detailed hydrological knowledge and are therefore poorly equipped to lead on such a project. For these reasons it is considered that it would be better for responsibility for producing SFRA's to be given to the Environment Agency.</p> <p>There are also concerns about the timetable for the production of SFRA's. Paragraph E6 states that 'The SFRA should either form part of the Sustainability Appraisal of the Local Development Documents (LDDs), or be used to inform it.' Given that the guidance on producing SFRA's has not yet been produced, it will be difficult to complete the SFRA in time for the City Council's Site Allocations Development Plan Document on which work is due to commence in the autumn of 2007.</p>			
<p>Q5. 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?</p>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
<p>Q5. Comments</p> <p>While the City Council understands the importance of carrying out FRAs, it considers that it should not be necessary to prepare them for changes of use, 'alterations' that do not increase the size of the building or garden sheds, as almost invariably the impact they have on flooding will be minimal. The City Council also considers that further consideration should be given to the circumstances where domestic extensions should require a FRA and the amount of detail that needs to be provided. It seems to the City Council that requiring a FRA for every application for a conservatory or porch in Zone 3a is excessive.</p>			

Consultation on Planning Policy Statement 25: Development and Flood Risk

<p>There is a contradiction between Table D.1 which states that in Flood Zone 1, FRAs will be required 'on sites comprising one hectare or above' and paragraph E8 which states that it would apply to all 'major developments', which also includes residential developments of 10 or more dwellings or where the site area is equal or greater than 0.5ha.</p>			
<p>Q6. 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?</p>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
<p>Q6. Comments</p> <p>The City Council considers that this section is unclear. From reading the PPS the clear impression given is that PPG25 Flood Zones 3b (undeveloped areas) and 3c (functional floodplain) had been combined, as the functional flood plain is now defined as 'land where water has to flow or be stored in times of flood.' [Should this question therefore have referred to combining Flood Zones 3b and 3c?]. If the question is stated correctly, the City Council considers it to be wrong to combine the current Flood Zone 3a (developed areas) and Flood Zone 3b (undeveloped areas). Table D.1 states that within Flood Zone 3a 'less vulnerable uses' 'are appropriate.' Table D2 indicates that 'less vulnerable uses' include shops, offices, general industry, assembly and leisure and the City Council considers that undeveloped areas with a 1% or greater annual risk of flooding are not suitable for these uses, especially given the likely increase in the frequency and severity of flooding through climate change.</p> <p>The City Council also considers that as currently worded it is unclear what areas Flood Zones 3a and 3b cover. The functional floodplain (Flood Zone 3b) is defined as 'land where water has to flow or be stored in times of flood,' which implies it includes undeveloped areas of the floodplain. No reference is, however, made to the chance of flooding in this zone. As it consists of a subset of Flood Zone 3 it presumably relates to all areas with a 1% or greater annual risk of flooding, but this is not explicitly stated.</p> <p>Flood Zone 3a is defined as 'land assessed as having a 1 in 100 or greater chance of river flooding (>1%)'. As Flood Zone 3b covers land where 'water has to be stored in times of flood', Flood Zone 3a presumably only consists of developed areas. This should be made explicitly clear.</p>			

Consultation on Planning Policy Statement 25: Development and Flood Risk

<p>Q7. It is proposed to add a new Exception 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?</p>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
<p>Q7. Comments</p> <p>The City Council agrees with the Exceptions Test in principle, but considers that it should be combined with the Sequential Test. At present, Table D.1 states that Flood Zone 2 is appropriate for 'less vulnerable', 'more vulnerable uses' and 'essential infrastructure' and Flood Zone 3a is appropriate for 'less vulnerable uses'. This is, however, only the case if the Sequential Test has first been passed. This is confusing. The City Council therefore considers that the Sequential and Exceptions Test should be combined.</p> <p>The City Council considers that the Exceptions Test should make reference to sustainable development objectives, while deleting reference to the 'sustainable development objectives of the relevant LDD (having reached at least the "submission" stage of the Development Plan Document Process)' as this would be likely to prevent the provision of necessary services within existing urban communities for several years, until the relevant documents are progressed to the necessary stage in the planning process.</p>			
<p>Q8. The responsibilities of key stakeholders 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?</p>	<input type="checkbox"/>	<p>Please see comment box</p>	<input type="checkbox"/>
<p>Q8. Comments</p> <p>The City Council considers that the Environment Agency should be given responsibility for SFRAs as their officers have much greater technical expertise in this area than local authority planners.</p>			
<p>Q9. 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?</p>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
<p>Q9. Comments</p>			

Consultation on Planning Policy Statement 25: Development and Flood Risk

Q10.	Do you consider the proposed scope of the Practice Guide (see Section 3) covers all the relevant topics? If not, which are missing and why?	<input checked="" type="checkbox"/>		<input type="checkbox"/>
Q10.	Comments			
	<p>Many of the topics which it is proposed to cover in the Practice Guide are critical to the implementation of the PPS, it is therefore desirable that the Practice Guide is published at the same time as the PPS.</p>			
Q11.	Does the proposed scope of the Practice Guide include topics which do not need to be covered? If so which topics and give reasons why?	<input type="checkbox"/>		<input checked="" type="checkbox"/>
Q11.	Comments			
Q12.	It is proposed to make a standing Flooding 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?	<input checked="" type="checkbox"/>		<input type="checkbox"/>
Q12.	Comments			
Q13	. 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 developments 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?	<input checked="" type="checkbox"/>		<input type="checkbox"/>
Q13.	Comments			

Consultation on Planning Policy Statement 25: Development and Flood Risk

<p>Q14. 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.</p>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
<p>Q14. Comments</p> <p>The City Council does not agree with the estimated benefits as it considers that having both a Sequential Test and an Exceptions Test makes the new guidance complicated and is likely to lead to confusion. It also considers that combining Flood Zones 3a and 3b (if true, as stated in question 6) represents a considerable weakening of flooding guidance in the undeveloped floodplain.</p>			
<p>Q15. Is the policy set out in PPS25 likely to affect 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.</p>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
<p>Q15. Comments</p> <p>Requiring Flood Risk Assessments (FRAs) for all development in Flood Zones 2 and 3, including changes of use and alterations that do not increase the size of buildings, such as to the external appearance, as specified in paragraph D12 and Footnote 8 is likely to affect small businesses. From the requirements in Table D.1 it is evident that preparing a FRA will require employing an expert, with both cost and time delays for the proposed development.</p>			
<p>Q16. Planning Policy Guidance Note 25 contained a commitment to review after 3 years. Do you think that PPS25 should contain a similar commitment for a review? If 'yes', please give reasons why and include an appropriate review period?</p>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
<p>Q16. Comments</p> <p>There are a number of significant changes to the advice in PPG25 and some of these may prove to be unworkable in practice.</p>			
<p>Other comments on issues not covered by the above questions are welcome and can be made here.</p> <p>Student Halls of Residence are classified as 'highly vulnerable development' and the draft guidance states that they 'should not be permitted' in Flood Zone 3a. It is considered that this restriction should be removed as in Oxford there is a need to provide more student accommodation and there are several urban areas within Flood Zone 3a, where some of this accommodation could potentially be provided. 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</p>			

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demonstrates that the residual risks of flooding to people and property are acceptable.

Please respond to pps25consultation@odpm.gsi.gov.uk by 28 February 2006