

Body: CABINET

Date: 8th February 2006

Subject: CONSULTATION ON PPS25: DEVELOPMENT AND FLOOD RISK

Report of: Director of Economy, Tourism and Environment

Ward(s) All

Purpose To inform members of the content of the draft and provide the response of Eastbourne Borough Council to Planning Policy Statement 25: Development and Flood Risk (PPS25) from the Office of the Deputy Prime Minister (ODPM).

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Recommendation: That Cabinet supports the proposed PPS25 as presented by ODPM and approves the Council's response in Appendix A.

1. Introduction

- 1.1 The Office of the Deputy Prime Minister produced a draft Planning Policy Statement 25: Development and Flood Risk in December 2005 for consultation. The intention is that PPS25, together with an accompanying practice guide, should, in due course, replace the current Planning Policy Guidance Note 25 (PPG25): *Development and Flood Risk* published in July 2001.
- 1.2 The new guidance strives to reinforce the current advice contained in PPG25 while clarifying some of the areas that have previously been proven to be open to interpretation. It aims to ensure that flood risk is taken into account at all stages in the planning process; avoid inappropriate development in areas at risk of flooding; and direct development away from high risk areas.
- 1.3 The total area at risk from flooding within Eastbourne Borough is 1246.66 hectares (data supplied by the Environment Agency). These areas are protected from flooding by sea defences maintained either by the Borough Council or by the Environment Agency, and the Willingdon Levels flood mitigation scheme operating in the Eastbourne Park Area. Extreme weather patterns could potentially impact greatly on Eastbourne's

economic, environmental and social well-being. However, it is unrealistic to suggest that development should cease in all areas at potential risk of flooding particularly if they have adequate flood defences. It is the role of planning to ensure that flood risk is minimised through a sequential approach to site selection for development applications, and where it can't be avoided for economic or social reasons to ensure appropriate and mitigation measures are in place.

2. Key Issues

Differences between PPG25 and PPS25

- 2.1 The current planning policy guidance note on development and flood risk (PPG25) has raised the profile of flood risk in the planning process (the percentage of applications permitted by local planning authorities against sustained Environment Agency advice has almost halved since PPG25 was introduced). However, the need to ensure policies are fully implemented has resulted in the preparation of the strengthened PPS.
- 2.2 The new PPS25 seeks to achieve this by:
- A strategic approach, emphasising the need to consider flood risk is introduced as early as possible in the planning process;
 - Core policies which are clear and easy to understand;
 - Further clarifying the Sequential Test which matches the type of development to the degree of flood risk; and
 - Strengthening of guidance on the need to include Flood Risk Assessments (FRAs) at all levels of the planning process.
- 2.3 The consultation also includes proposals:
- To extend the Environment Agency's (EA) statutory consultee role in relation to flood risk on certain developments; and
 - Creation of a 'Flooding Direction', providing greater scrutiny for major developments proposed in flood risk areas. Where local authorities intend to approve applications that the EA object to, the ODPM could call them in for decision by a Minister.
- 2.4 PPS25 will provide:
- Opportunities to reduce existing flood risk to communities, for instance by re-creating and safeguarding functional flood plain and washlands¹ and 'designing-in' green amenity space and sustainable drainage systems; and
 - Subject planning applications for flood risk areas to more thorough scrutiny.

¹ A washland is defined as "An area of the floodplain that is allowed to flood or is deliberately flooded by a river or stream for flood management purposes, with potential to form a wetland habitat". Source: English Nature, 2004.

- 2.5 The Government is proposing to extend the EA's statutory consultee role to include development comprising:
- (i) non-householder development to be carried out on land within medium or high flood zones;
 - (ii) non-householder development to be carried out on land which is identified as having critical drainage problems²; and
 - (iii) Any development of land exceeding 1 hectare.
- 2.6 In addition, an 'Exception Test' has been introduced. The Exception Test is to be applied where, after application of the Sequential Test; it is not possible for the development to be located in zones of lower risk. The aim of the risk-based sequential test is to steer new development to areas at the lowest probability of flooding. (Appendix C provides extracts from the proposed PPS25). The Exception Test is to be applied where, the Sequential Test has shown it is not possible for the development to be located in zones of lower probability. The Exception Test provides a way to manage flood risk while still allowing necessary development to occur.
- 2.7 Some requirements of the Exception Test are that:
- a) The development makes a positive contribution to sustainable communities, and to sustainable development objectives
 - b) The development is on developable brownfield land
 - c) A flood risk assessment demonstrates that 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.
- 2.8 An amendment has also been put forward with regard to the Agency's role with development in close proximity to main rivers and any proposal including culverting (artificial channels which may or may not be totally enclosed). These proposals will now require consultation with the Agency before the grant of planning permission.

3. Consultation

- 3.1 Draft PPS25 is out for public consultation until 28th February. The intention is to publish the new PPS25 in Summer 2006. The Government proposes to implement the measures to extend the EA's statutory consultee role and publish the flooding direction in Autumn 2006 provided they are supported by the consultation response. The appendix of the consultation document contains a series of consultation questions to which a response is expected. The response to these questions will be accompanied by a letter expressing Eastbourne Borough Council's views on the PPS. Internally the views of the Amenities Section; in particular the Engineering Manager have been taken into account, particularly with regard to coastal defences for which they are responsible. The views of the planning committee will be reported verbally at Cabinet.

² 'Critical drainage areas' will be notified by the Environment Agency to local planning authorities.

4. Implications

- 4.1 There are no, human resources, human rights, youth, equalities or community safety implications as a direct result of this report.

The new guidance is unlikely to result in increased workload for officers on a day to day basis even though the range of developments and scenarios which require consultation with the EA has increased. Community safety issues will be considered as they arise in the receipt of planning applications.

There are financial implications as a result of implementation of PPS in its current format. A Flood Risk Assessment (FRA) will now be required as part of the Local Development Framework, either as part of the Sustainability Appraisal of their plans or as a freestanding assessment that contributes to the appraisal. This will require staff and financial resources in order to be produced. In the short term the cost of the specialist work is expected to be met from the Planning Delivery Grant.

- 4.2 The cost of flood mitigation can be met from section 106 contributions i.e. flood storage compensation. The responsibility for the issue of tidal/and or river flood warnings rests with the Environment Agency. The Met Office concurrently provides a severe weather warning service and the storm tide forecasting service. On receipt of such warnings, the Council may initiate a graduated response depending on the severity of the warning³. It is the responsibility of the developer to include evacuation/escape routes as part of the FRA process for new developments.
- 4.3 The guidance is likely to have positive environmental consequences in that inappropriate development is less likely to take place in areas of flood risk. Therefore negative environmental impacts should be reduced, enabling appropriate, sustainable development to continue.
- 4.4 Clearly, the guidance will not mean a ban on all development in flood risk areas, or that all planning applications in flood risk areas are called in for decision by a Minister. The proposed direction would result in call-in only in extreme cases where local authorities persistently ignore advice from the Environment Agency. In the 2004/05 financial year the number of planning applications received by EBC and objected to by the Environment Agency was 4. Of these, 1 was withdrawn, 2 refused and for the remaining application, the objection was withdrawn subject to revisions of the layout of the proposal to the Agency's conditions. Therefore in the recent past there has not been significant disagreement over implementation of PPG25 with regard to planning applications. It is unlikely that implementation of PPS25 will alter this.

³ EBC prepares, maintains, and exercises its own emergency plans to enable a cohesive response to be made in the event of a flood. For further information please contact the Emergency Planning Officer Bill Whitlock on 07876036866.

4.5 Additionally, there is further advice on accommodating the potential impact of climate change but the implementation remains somewhat open to interpretation. The guidance states the most up to date data on climate change and flooding from the Environment Agency, Department of Environment, Food and Rural Affairs (Defra), ODPM and the UK Climate Impacts Program (UKCIP) should be considered in the preparation of Regional Flood Risk Assessments, Strategic Flood Risk Assessments and site-specific Flood Risk Assessments. However, it does not state explicitly how this information should be incorporated into the preparation of FRAs or strategies and/or policy. These bodies should ensure a coordinated response is provided to planning authorities and developers to ensure the appropriate information is included in the production of FRAs or strategies and/or policy.

5. Conclusion

5.1 Broadly the consultation draft is viewed as a definite improvement on PPG25; the paper is more concise and easier to follow than its predecessor. It is recommended that Eastbourne Borough Council supports the proposed PPS25 as presented by ODPM.

Norman Kinnish
Director - Economy, Tourism & Environment

Background Papers:

The Background Papers used in compiling this report were:

Planning Policy Guidance Note 25: Development and Flood Risk. 2001. Department for Transport, Local Government and the Regions.

Planning Policy Statement 25: Development and Flood Risk. 2005. Office of the Deputy Prime Minister

To inspect or obtain copies of background papers please contact Kristina Entwistle-Planning Officer, Planning Policy

Appendix A – Council Response to Consultation

From: Cllr Ian Lucas – Leader of the Council

To:
Deborah Lewis
Office of the Deputy Prime Minister
Minerals and Waste Planning Division
Zone 4/A2, Eland House
Bressenden Place
London SW1E 5DU

Our ref: KEE/TP3/4

Dear Ms Lewis

CONSULTATION ON PLANNING POLICY STATEMENT 25: DEVELOPMENT AND FLOOD RISK

At its meeting on the 7th and 8th of February 2006, Planning Committee and Cabinet respectively considered the response that this Council should make to the consultation on the proposed PPS25: Development and Flood Risk.

The Council welcomes the opportunity to comment on your proposals and wholeheartedly supports the move toward sustainable planning for development and flood risk. For completeness I have included the Cabinet report on which the content of this letter is based, along with the consultation questions feedback form provided by ODPM.

Yours Sincerely

Ian Lucas
Leader of the Council

Appendix C-Flood Risk Zones

Table D.1: Flood Risk Zones Proposed Planning Policy Statement 25:
Development and Flood Risk

Zone 1 Low Probability

This zone comprises land assessed as having a less than 1 in 1000 chance of river and sea flooding in any year (<0.1%). All the uses of land listed in Table D.2 are appropriate in this zone. However, all development proposals should still be considered in relation to:

- a) their vulnerability to flooding from other sources as well as from river and sea flooding; and
- b) their potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off.

For development proposals on sites comprising one hectare or above, these considerations should be incorporated in a FRA. This need only be brief unless the factors at a) and b) above or other local considerations require particular attention. In this zone, developers and local authorities should seek opportunities to:

- i. reduce the overall level of flood risk in the area through the layout and form of the development; and
- ii. mitigate the potential to increase flood risk elsewhere through the appropriate application of sustainable drainage techniques.

Zone 2 Medium Probability

This zone comprises land assessed as having between a 1 in 100 and 1 in 1000 chance of river flooding (1% – 0.1%) and between a 1 in 200 and 1 in 1000 chance of sea flooding (0.5% – 0.1%) in any year.

The water-compatible, less vulnerable and more vulnerable uses of land and essential infrastructure in Table D.2 are appropriate in this zone.

The highly vulnerable uses in Table D.2 are **only** appropriate in this zone if the Exception Test (see para. D10) is passed.

All development proposals in this zone should be accompanied by a FRA, which should include:

- a) their vulnerability to flooding from other sources as well as from river and sea flooding;
- b) their vulnerability to flooding over the lifetime of the development;
- c) their potential to increase flood risk elsewhere through the addition of hard surfaces, the effect of the new development on surface water run-off, and the effect of the new development on depth and speed of flooding to adjacent and surrounding property; and
- d) a demonstration that residual risks of flooding after existing and proposed flood management and mitigation measures are taken into account, including flood defences, flood resistant and resilient design, escape/evacuation, effective flood warning and emergency planning, are acceptable.

In this zone, developers and local authorities should seek opportunities to:

- i. reduce the overall level of flood risk in the area through the layout and form of the development; and
- ii. mitigate the potential to increase flood risk elsewhere through the appropriate application of sustainable drainage techniques.

Zone 3a High Probability

This zone comprises land assessed as having a 1 in 100 or greater chance of river flooding (>1%) and a 1 in 200 or greater chance of flooding from the sea (>0.5%) in any year. The water-compatible and less vulnerable uses of land in Table D.2 are appropriate in this zone.

The highly vulnerable uses in Table D.2 should not be permitted in this zone. The more vulnerable and essential infrastructure uses in Table D.2 should only be permitted in this zone if the Exception Test (see para. D10) is passed.

All development proposals in this zone should be accompanied by a FRA, which should include:

- a) their vulnerability to flooding from other sources as well as from river and sea flooding;
- b) their vulnerability to flooding over the lifetime of the development;
- c) their potential to increase flood risk elsewhere through the addition of hard surfaces; the effect of the new development on surface water run-off, and the effect of the new development on depth and speed of flooding to adjacent and surrounding property; and
- d) a demonstration that residual risks of flooding after existing and proposed flood management and mitigation measures are taken into account, including flood defences, flood resilient and resistant design, escape/evacuation, effective flood warning and emergency planning, are acceptable.

In this zone, developers and local authorities should seek opportunities to:

- i. reduce the overall level of flood risk in the area through the layout and form of the development;
- ii. mitigate the potential to increase flood risk elsewhere through the appropriate application of sustainable drainage techniques; and
- iii. relocate existing development to land in lower flood zones.

Zone 3b The Functional Floodplain

This zone comprises land where water has to flow or be stored in times of flood. Only the water-compatible uses and the essential infrastructure listed in Table D.2 that has to be there should be permitted in this zone. Essential infrastructure in this zone should pass the Exception Test and be designed and constructed to:

- remain operational in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows; and
- not increase flood risk elsewhere.

The less vulnerable, more vulnerable and highly vulnerable uses in Table D.2 should not be permitted in this zone. All development proposals in this zone should be accompanied by a FRA, which should include:

- a) their vulnerability to flooding from other sources as well as from river and sea flooding;
- b) their vulnerability to flooding over the lifetime of the development;
- c) their potential to increase flood risk elsewhere through the addition of hard surfaces, the effect of the new development on surface water run-off, and the effect of the new development on depth and speed of flooding to adjacent and surrounding property; and

Zone 3b The Functional Floodplain (continued)

d) a demonstration that residual risks of flooding after existing and proposed flood management and mitigation measures are taken into account, including flood defences, flood resilient and resistant design, escape/evacuation, effective flood warning and emergency planning, are acceptable.

In this zone, developers and local authorities should seek opportunities to:

- i. reduce the overall level of flood risk in the area through the layout and form of the development;
- ii. mitigate the potential to increase flood risk elsewhere through the appropriate application of sustainable drainage techniques; and
- iii. relocate existing development to land in lower flood zones.

Note: These Flood Zones refer to the probability of river and sea flooding ignoring the presence of defences

Table D.2: Flood Risk Vulnerability Classification Proposed Planning Policy Statement 25: Development and Flood Risk

Essential Infrastructure	<ul style="list-style-type: none"> - Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk, and strategic utility infrastructure.
Highly Vulnerable	<ul style="list-style-type: none"> - Police stations, Ambulance stations and Fire stations and Command Centres required to be operational during flooding. - Electricity-generating power stations and sub-stations. - Hospitals. - Emergency dispersal points. - Residential institutions such as residential care homes, children’s homes, social services homes and student Halls of Residence and hostels. - Gypsy and traveller sites using caravans or mobile homes. - Mobile or park homes for permanent residential use. - Dwelling houses designed, constructed or adapted for the elderly or other people with impaired mobility.
More Vulnerable	<ul style="list-style-type: none"> - Buildings used for: dwelling houses (except for those in the highly vulnerable classification); drinking establishments; nightclubs; and hotels. - Non-residential institutions such as health services, nurseries and educational establishments, but excluding hospitals. - Landfill and hazardous waste facilities.
Less Vulnerable	<ul style="list-style-type: none"> - Buildings used for: shops; financial, professional and other services; restaurants and cafes; hot food takeaways; offices; general industry; storage and distribution; non-residential institutions; and assembly and leisure. - Land and buildings used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan. - Land and buildings used for agriculture and forestry. - Waste treatment (except landfill and hazardous waste). - Minerals working and processing. - Transport and infrastructure.
Water-compatible Development	<ul style="list-style-type: none"> - Flood control infrastructure. - Water treatment plants and pumping stations. - Sewage treatment plants and pumping stations. - Docks, marinas and wharves. - Navigation facilities. - Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location. - Water-based recreation and tourism (excluding sleeping accommodation). - Lifeguard and coastguard stations. - Amenity open space, outdoor sports and recreation and essential facilities such as changing rooms. - Essential ancillary sleeping or residential accommodation for staff required by uses in this category.

Note: 1) This classification is based on advice from the Environment Agency on the flood risks to people and the need of some uses to keep functioning during flooding.

2) Buildings that combine a mixture of uses should be placed into the higher of the relevant classes of flood risk sensitivity. Developments that allow uses to be distributed over the site may fall within several classes of flood risk sensitivity.