

DRAFT PLANNING POLICY STATEMENT (PPS)25:

DEVELOPMENT AND FLOOD RISK

Comments on key planning objectives and principles, principles in preparing planning strategies, the risk based approach and the Sequential Test and Exception Test:

Comments

1. **There may be issues in terms of the practicalities and feasibility of finding alternative sites in lower flood risk areas.**
2. **The sequential and exception test approaches may conflict with current Environment Agency advice, which is largely against any new development in flood risk areas, creating a potential anomaly between national policy and Agency advice which needs to be addressed.**
3. **It is important that consideration be given to the cost of SFRA. At the Borough level, if this becomes a Local Planning Authority responsibility as currently suggested by the Environment Agency, cost in excess of £100,000 may be expected.**

Comments on the Local Planning Authority/Environment Agency Liaison:

4. **The contradictions in advice between the draft PPS and the Environment Agency need to be addressed, in order to prevent a potential increase in applications referred to the Secretary of State, with all the associated costs and delays to the development process.**

**The flexibility in the draft PPS is to be preferred to the dogmatic approach of the Agency.**

CONSULTATION PAPER ON PLANNING POLICY STATEMENT 3 (PPS3):HOUSING

Comments relating to the Review of Planning Policy Guidance, Policy and Technical considerations, Policy Framework:

Comments

On the Policy Framework:

1. **The mechanism for identifying, monitoring and adjusting housing land supply has been an important part of planning policy in Runnymede since the first Local Plan was adopted in 1986. However, working across a sub-market area and potentially extending to adjoining County/Metropolitan areas may create some local tensions. An Authority that has been successful in ensuring that it meets and indeed exceeds its housing allocations may find it unreasonable if its approach is not matched by other Authorities in the remainder of the sub-market area. The outcome could result in an inequitable part of the sub-market allocation being directed to the more proactive Authority. The danger with this approach is that the implications, in terms of the social and physical infrastructure needed to support the new population based upon an assumed equitable distribution of housing over the 20 year period, may not be recognised. This could be overcome if there were prescribed Borough housing allocations in the sub-market area.**
2. **There is a basic conflict between a particularly buoyant housing market locally and constraints on development such as poor local infrastructure, Green Belt, flood plain and proximity to Special Protection Areas and therefore one of these will fail.**
3. **The approach to ensure that land is available for development over a 15 year timespan may have an impact on the contribution 'windfall' sites make in future assessments of supply. This may result in greater pressure being placed on the release of Green Belt sites to provide certainty over a 15 year timescale. The consultation presents only a partial picture of planning policy for housing – it does not address the role of the existing housing stock in meeting demand or the potential within empty homes. The Council calls for greater flexibility at the local level to allow LDF's to include windfall developments on brownfield sites, and to phase the rate at which new housing comes forward for development, in the light of local circumstances.**
4. **The draft PPS3 indicates that market circumstances should be taken into account and complement social and environmental issues to determine the level and distribution of housing provision within each sub-regional housing market area. A key part of this approach would therefore be upon cross-boundary working between Authorities and may be with adjoining County or Metropolitan area. This would require close co-operation between Authorities who may have different priorities both in terms of preparing the relevant planning documents (Development Plan Document) or aspirations/objections. Whilst there is merit in joint working, the logistics of such an approach need to be fully recognised if this policy approach is developed further.**
5. **In terms of density, the policy reiterates what is already contained within PPG3. However, it should be emphasised that increased density should not be at the expense of amenity of existing residents or impact on existing residential character, nor should it be pursued in unsustainable locations. The Council objects to the lack of specific reference to meeting the needs of the growing elderly population and to the need for extra care housing.**

On Affordable Housing:

**The opportunities for providing affordable housing on small sites (less than 0.4 ha) will assist in an area such as Runnymede where a significant proportion of residential development is on the smaller sites. It will, however, require a specific assessment of each site. The ability to require off-site/in lieu contributions from all other sites, both**

**residential and commercial, should be included formally in the guidance. The latter is particularly important in view of the link between employment and demand for housing.**

On Managing Delivery and Development:

**The circumstances whereby residential developments are proposed, in advance of a formal policy position being established, should be extended to also formally take into account local circumstances where brown field/windfall sites form a significant element of local supply (as set out in paragraph 14 of the advice).**

On Car Parking:

**The approach proposed appears to relax the existing policy on parking provision. The Council welcome the more realistic approach to reducing the need to travel by car but allowing a level of parking that reflects local circumstances. The key may be to recognise the potential to encourage non-car modes in town centres and therefore lower car parking provision with a more generous provision for developments in locations poorly served by public transport.**

On Environmental Implications:

**The earlier consultation document (Planning for Housing) recognised that there could be an increased risk of development on green field sites if the more difficult 'recycled brownfield' sites were not coming forward in the prescribed time. This may begin to influence the Government's objectives of achieving 60% of new housing development on 'brownfield land'. There are also potential negative social and economic disbenefits if there was a trend towards using green field sites to meet the policy object of providing a buffer of additional land equivalent to 20% to 40%.**

PLANNING GAIN SUPPLEMENT

CONSULTATION

1. The Committee endorsed the Government's view that the actual valuation would reflect the true land value uplift associated with a development.
2. Whilst the PGS will draw in funding to assist with local social and physical infrastructure, the cost of administering the procedure locally must be recognised. The PGS process has the potential for drawing in considerable Local Authority staff resources, and the implication of this must be recognised by the Government when finalising the details of the scheme.
3. There will be a period of transition until the older arrangements for 'negotiating' planning obligations gives way to the more 'limited' on-site contributions prescribed in Circular 5/05. This will create a difference between the scale of local enhancements secured pre and post-Circular 5/05 that will not be addressed until the PGS is operational. The Government will need to consider the implications of the potential shortfall in contribution towards local social and physical infrastructure during the transition.
4. There is some ambiguity in the proposed allocation of the PGS. It could be interpreted that locally operated PGS will be recycled to the region rather than the local area from which it was generated. The Committee may wish to emphasise that locally generated PGS should be used 'directly' on the local area in which it was generated to cope with the impact of the new development.
5. The Committee expressed its concern that locally operated PGS will not be used to support essential local social and physical infrastructure. This infrastructure is currently unable to cope with existing requirements and significant investment is required to meet existing and new growth. The emphasis should be upon retaining locally generated PGS in the local Authority area.

## **Planning Obligations Supplementary Planning Document Issues for Consultation**

### **1 Context**

1.1 The supplementary planning guidance (SPD) will provide guidance to developers, applicants and other interested parties the mitigating measures required to address the effects of new development within the Borough. It will set out the Council's approach when considering the impact of a development proposal and it is intended to assist in securing both local and national objectives in respect of the provision of sustainable communities. The SPD will provide further guidance on the proposed policy approach in the emerging Core Strategy and Development Control Development Plan Documents.

### **2 Introduction**

2.1 Planning obligations, also known as Section 106 Agreements, are agreements negotiated between Local Authorities and developers in the context of granting planning permission. They provide a means to ensure that a proposed development contributes to the creation of sustainable communities, particularly by securing contributions towards the provision of necessary infrastructure and facilities required by local and national planning policies. They are intended to make acceptable development which would otherwise be unacceptable in planning terms

2.2 Current guidance on the use of planning obligations is contained in Circular 05/05, which replaced Circular 1/97. The changes introduced in the new circular concern the negotiation of planning obligations and do not introduce an optional planning charge ie the Circular concerns improvements to the current system for the interim period before further reforms are brought forward. These further reforms may include the introduction of a Planning Gain Supplement. The Planning Gain Supplement is a proposal which is currently out for consultation and proposes a change to the Planning Obligations system to introduce a way of capturing the uplift in land values created by the planning process. Planning Obligations would remain to meet on-site requirements, whilst the PGS would be directed towards improving the wider infrastructure needed to accommodate the impact of the proposed development. The Planning Gain Supplement is a proposal out for consultation and so at this stage the existing system of Planning Obligations as updated by circular 05/05 will form the basis for the supplementary guidance, although the issues raised will need to be considered within the context of the SPD.

### **3 The Issues**

3.1 Circular 5/05 indicates that there are no hard and fast rules about the size or type of development that should attract obligations, but a planning obligation must be:

- necessary to make the proposed development acceptable in planning terms;
- relevant to planning;
- directly related to the proposed development;

- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other aspects.

3.2 However, case law (such as Tesco 1995) has confirmed a wider interpretation of the type of developer contribution that can be agreed under Section 106. It has required only a connection between an obligation and development which is 'greater than de minimis'. So in practice, Local Authorities have been accepting contributions from developers that go beyond the definition in the previous Circular 1/97 – contributions that are related to the development but that do not meet the 'necessary' requirement of the Secretary of State's policy tests. Circular 05/05 reinforces the requirement for development to meet all of the tests but does go on to say that the question of whether or not an obligation is valid and material in a particular case is ultimately a matter for the courts

3.3 Planning Obligations are private agreements negotiated between local planning authorities and persons with an interest in the land, to meet the cost of infrastructure, on-site maintenance and other necessary works in connection with a development scheme. Obligations can also be secured through unilateral undertakings by developers to:

- **prescribe** the nature of development to achieve planning objectives (such as requiring that a given proportion of new homes are affordable);
- **compensate** for loss or damage created by a development (such as loss of open space); or
- **mitigate** the impact of a development on the locality (e.g. through increased public transport provision) or
- **contribute** to other Borough-wide initiatives to the benefit of the wider community.

Contributions negotiated through planning obligations (S106 Agreements) can either be in kind, or in the form of a financial contribution, and in turn this financial contribution can be a lump sum, endowment or phased payments over a period of time. Policies on types of payment should be set out in the LDF.

Where the combined impact of a number of developments creates the need for infrastructure, it may be reasonable for the developers' contributions to be pooled. Pooling can also take place between Local Authorities where there is a cross-authority impact.

3.4 Overall the Government's reforms aim to create a system that is faster, more transparent and accountable, and gives greater clarity and certainty to all concerned. The advice stresses that the negotiation of planning obligations must not necessarily delay the planning process. To this end, local planning authorities are encouraged to seek pre-application or 'early warning' discussions with applicants, or adopting a development team and a 'One Stop Shop' approach at the outset. The Circular also recommends publishing information packs including codes of practice, standard agreements/undertakings, standard terms and clauses, and procedure notes.

3.5 The Circular requires that Development Plan Documents must set out high level planning obligation policies, and that SPD should set out more detailed requirements for specific sites or areas.

3.6 The proposed policy approach as contained in the draft Development Control DPD is set out below;

**POLICY DG5: PLANNING OBLIGATIONS**

The Council will make use of planning obligations in association with development proposals where it is considered appropriate, in order to:

- meet the cost of infrastructure, long term on-site maintenance and any other necessary works in connection with the scheme, either individually or cumulatively; and/or
- specify the nature of the requirement (or planning gain) to achieve planning objectives; and/or
- compensate for loss or damage created by a development; and/or
- mitigate the impact of a development on the locality; and/or
- contribute to other Borough-wide initiatives to the benefit of the wider community.

The Council will provide additional guidance in a Supplementary Planning Document which will provide greater detail about the assessment, scale and detail of contributions that will be sought, including the use of matrices.

Pre-application discussions will be encouraged in order to establish at an early stage, the likely form and nature of the planning obligation(s) that may be required as part of the development scheme. Draft Section 106 agreements will be agreed by all parties prior to the determination of the planning application.

**4 The Options**

4.1 Recent research prepared for the London Fringe Sub-regional Strategy, reveals that many of the County's key services and infrastructure are either under strain, or running at capacity. The study advises that funding sources will need to be identified before new housing development is allowed to proceed so as to mitigate the impact and not make any deficiencies worse.

4.2 The national, regional and local strategy of concentrating and intensifying development in urban areas will cause additional pressure on existing infrastructure. This may affect the future development of the Borough.

4.3 As in much of the Surrey districts, the majority of housing completions in Runnymede are provided on small unidentified windfall sites. Historically developer contributions have been secured with larger developments, but it will be critical that there are mechanisms in place to secure adequate funding to deal with the consequences of cumulative additional demand on infrastructure and services.

4.4 The key message is that the Council considers that development industry may reasonably be expected to pay for, or to contribute towards the cost of infrastructure, which would not have been provided but for the development proposed.

4.5 Where appropriate, provision for the facilities or infrastructure required should be made on site. However, there will be cases where this is neither practicable nor appropriate, such as off site highway works or associated schemes/services. An integral part of any formal agreement is the need for funding to ensure that adequate provision is made to secure the long term maintenance of the service/facility.

4.6 The term infrastructure is defined as covering transport, affordable housing, facilities for education, social and health care, open space, libraries, other community facilities, waste management, fire and police services, utility services and flood defences. The Borough's position in terms of each element of infrastructure is amplified in Annex 1.

4.7 Policy DG5 devolves from the proposed Core Strategy CS7, which states that

**CS7: Ensure that development meets the costs of essential infrastructure and any appropriate mitigation measures, required to make a proposed development acceptable in planning terms, through appropriate planning contributions**

4.8 The Supplementary Planning Guidance is therefore required to expand and develop the methods by which contributions are evaluated. It is proposed that the use of a tariff approach based upon a pre-set matrix, for example per residential unit or amount of commercial floor space will offer more opportunity to address the infrastructure needs arising from development, particularly small scale cumulative development.

4.9 There are two ways that contributions can be sought for facilities that can not be provided on site:

Option 1 – a 'tariff' to reflect site values calculated per house or according to proposed floor space, or

Option 2 - a standard 'tariff' payment calculated per housing unit or according to proposed commercial floor space.

4.10 It is also proposed that the effects of a development and any potential deficiencies should be assessed at the conceptual stage. This is to enable compensation or mitigation to be correctly assessed and so a procedure to ensure that this happens at the early stages of a development proposal will also be built into the SPD.

4.11 A policy approach will also be developed to secure contributions from developers towards the enhancement of local infrastructure wherever relevant, necessary and reasonable. The type of contribution and/or calculation method will be developed for a range of infrastructure, mitigation or compensation measures to provide (for example):

- Improvements to the local transport infrastructure, pedestrian or cycle routes, or sustainable transport initiatives
- Education supplement

- Provision or enhancement of open space
- Protection and enhancement of biodiversity features
- STW upgrades
- Flooding alleviation and mitigation

## **6 Risk to Delivery**

6.1 The cost of contributions may affect the viability and feasibility of development in certain areas, which may have various knock on effects, such as:

- Ability to meet housing requirements;
- Ability to provide sufficient affordable housing to meet local targets and identified need; and
- Quality of development, with savings perhaps made on design and materials, etc.

## **7 Monitoring:**

- Number and type of Section 106 Agreements

## **Annex 1**

### **1. Affordable housing**

Experience in Surrey is that, whilst it may be possible to deliver some element of shared ownership or shared equity on larger housing sites via legal agreement without additional public subsidy, it is not possible to deliver social rented housing without subsidy. Most shared ownership housing in the county also requires an element of subsidy to make it affordable. This is in contrast to the policy approach of the Housing Corporation, which seeks new affordable housing on private sites without public subsidy. This is an issue for Runnymede that while on-site affordable housing contributions are sought on larger sites, much of the overall housing provision is met by the completion of small windfall sites. Hence some form of contribution to affordable housing schemes from the smaller sites will be required in order to meet the Borough's targets. Need has been identified for extra care housing in Runnymede (as opposed to retirement or sheltered housing), which may require an element of public sector subsidy.

### **2. Open Space**

There is also likely to be a need for alternative amenity space or the improvement of existing open space, to mitigate the effects on the Thames Basin Heaths Special Protection Area arising from new development. Work is currently underway to develop an approach which will put forward a standard approach of providing suitable amenity space to prevent an increase in the number of visitors to the SPA.

### **3. Flooding**

The Environment Agency is currently looking at the need to invest in alleviation and mitigation measures relating to the Thames in Surrey and to ensure that site

allocations in LDDs do not compromise the objectives of the Thames Catchment Flood Management Plan.

#### **4. Transport**

Much of the transport network in Surrey, both road and rail, is operating at or near to capacity. A number of road improvement schemes and initiatives to reduce reliance on the car are underway, but these will require sustained and substantial funding. A key feature of this approach will be to secure funding for the yellow bus service designed to reduce the amount of traffic in the Borough

#### **5. Sewage Treatment**

The Sewage Treatment Works (STW) in Chertsey is nearing capacity, but upgrade works are planned in the next 10 years, which should accommodate the growth levels in the Surrey Structure Plan, and current South East Plan proposals. However, sewer upgrades could be required in the Chertsey and Virginia Water areas. Detailed water quality modelling work is in progress and until this is complete it is not possible for Thames Water to be clear about the ability of these STW to accommodate the level of growth envisaged for the area, or the level of investment needed to upgrade them.

#### **6. Health**

There is some evidence of current infrastructure deficiencies leading to service delivery problems in Surrey. For example, the Strategic Health Authority has identified existing problems in acute services in the Ashford and St Peters Trust/West Surrey and Redhill/Crawley areas and in certain locations PCTs have identified that more space is needed to accommodate enhanced primary care services in GP surgeries and health centres. A particular concern is recruitment and retention of staff including GPs, in part a consequence of the high costs of living in Surrey.

#### **7. Education**

Funding for new school places comes from various Government borrowing initiatives and grants, but the overall levels of capital budget are limited and the amounts available to the LEA may not cover costs in full. Hence, the Audit Commission has encouraged authorities to supplement funding of school infrastructure where an increase in demand for school places results from housing development through the negotiation of developer contributions, which can also allow for more flexibility in the timing of provision. However, although in recent years it has been possible to negotiate contributions on larger sites these have not been achieved on small sites that cumulatively can create a significant demand for additional places in an area.