



# PLANNING BULLETIN

## THE GOVERNMENT'S GREEN AGENDA – A NEW PLANNING ERA

### Background

During 2006, the Department of Communities and Local Government's (CLG) planning agenda has become increasingly focused on proactively leading the Government's agenda against global warming - exemplified by key speeches from Ruth Kelly, Communities Secretary of State, and Yvette Cooper, Minister for Housing and Planning.

In short, in light of the Stern report, global warming is now accepted by the Government of creating climate change in the UK, resulting in milder and wetter winters and hotter and drier summers, with associated increased prospects of flooding and rising sea levels.

Global warming is a result of man made emissions of green house gases, of which carbon dioxide emissions, through energy production and waste, is seen to be the principal culprit.

The Government considers that if left unchecked, the impacts of global warming will have impacts on the social and economic well being of the UK, as well as disproportionately affecting those most disadvantaged groups in society.

To mitigate these projected environmental impacts, CLG in December 2006 and January 2007 announced various planning initiatives which are summarised in this bulletin. These are:

1. Planning Policy Guidance Note 25: "Development and Flood Risk" and the associated 2007 Flooding Direction.
2. "Planning and Climate Change": Consultation Document December 2006.
3. "Code for Sustainable Homes": December 2006.
4. "Building a Greener Future: Towards Zero Carbon Development", Consultation Document, December 2006.
5. "Water Efficiency in New Buildings": Consultation Document, December 2006.

### Relevance

These measures are either, or will soon be, key planning considerations in determining all future planning applications in England. If the development proposal does not comply with these "green policies", planning permission is highly likely to be refused unless there are overriding other material considerations.

### Implications for Property Developers, Investors and Occupiers

1. The carbon free agenda will increase the costs of developing new homes, offices, shops, schools, hospitals and other community facilities in England; ultimately this could affect the viability of the scheme.

2. Development proposals – even if the principle is acceptable - will take longer to prepare and negotiate, as detailed design will be needed for the assessment of building's carbon rating and environmental performance; these details will have to be agreed, including the possible need of parallel submissions of the building regulations at the time of submitting the planning application.
3. These measures will further delay the preparation and submission of Local Development Document's "Core Strategies" and "Site Allocation" plans, as Local Planning Authorities struggle to take on board and resource these green policy requirements in the plan making process.
4. The measures give a greater role of the Environment Agency in the negotiations of planning applications than has hitherto been the case, principally because of the introduction of the "sequential approach" and the 2007 Flooding Directive.
5. The low carbon energy requirements (10% of the energy supply to the building) will be controlled by planning condition or section 106 agreement, so that the development cannot commence or be occupied unless carbon/energy efficient requirements are met throughout the lifetime of the development.
6. For major developments, it will be necessary to address the environmental performance of the buildings (which will need to be included in the Design and Access statement) whilst the impacts of the development on energy consumption and green house emissions will need to be identified in Environmental Statements. This will require detailed negotiations with the Council's Building Regulation team – and hence the potential for the blurring of planning and building regulations control in the future.
7. The environmental impacts of decentralised and renewable sources of energy – such as wind turbines on buildings or solar panels - are considered to be acceptable costs in terms of landscape and townscape in areas outside nationally recognised designations (such as Areas of Outstanding Natural Beauty, Conservation Areas or Listed Buildings).
8. This "Green Agenda" is somewhat at odds with the 2006 Treasury backed Barker Review which seeks to support the UK economy by cutting down the burden on business of providing too much detailed planning information in support of major applications and seeks to make a presumption in favour of development so as to assist economic growth – including housing development.

### **What can I do to protect my commercial interests?**

Make representations to the following consultations by 8/9 March 2007:

- Draft guidance on "Planning and Climate Change."
- Building a Greener Future Towards Zero Carbon Development.
- Water Efficiency in New Buildings.

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## **I. Planning Policy Statement (PPS) 25 – “Development and Flood Risk” and the “Town and Country (Flooding) (England) Direction 2007” (Circular 04/2006)**

PPS25 was issued in December 2006 and now replaces former PPG25.

The aim of PPS25 is to ensure that flood risk is taken into account at all stages in the planning process, so as to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new development is exceptionally necessary in such policy areas, PPS25 aims to make it safe without increasing flood risk elsewhere and, where possible, reduce flood risk overall.

The objective is to appraise the risk of flooding; managing the risk of flooding and to reduce the risk of flooding throughout the planning process – in both plan making and the determination of planning applications.

In relation to the determination of planning applications, applicants will need to:

1. Ensure that their planning applications are accompanied by a site specific flood risk assessment in flood risk areas (i.e. flood risk areas Zones 2 and 3, as defined by the Environment Agency);
2. To undertake a “sequential approach” to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding (i.e. in Flood Zone 1) that would be appropriate to the type of development or land use proposed;
3. If the sequential test assessment demonstrates that it is not possible to locate the proposed development in the zones of lower flood risk, an “exception test” needs to be undertaken showing that there are wider sustainable reasons why the development should take place so as to avoid social or economic blight;
4. Incorporate into the design “sustainable drainage systems” (SUDS) and;
5. Ensure that all new development in flood risk areas is appropriately flood resilient and resistant, including safe access and escape routes where required, and any residual risk can be safely managed.

PPS25 is accompanied by the **2007 Flooding Direction and Circular 04/2006 of December 2006**.

The Direction, which comes into force on 1 January 2007, now requires “major applications” (i.e. residential development of 10 or more dwellings or a site area of 0.5 ha and non residential development of more than 1,000 sq m gross or more than 1 ha site area) to be referred to the Secretary of State in those circumstances where the Local Planning Authority are minded to grant permission in a flood risk area (i.e. in Zones 2 or 3 or, in land in Zone 1, where “critical drainage problems” have been identified by the Environment Agency) and where there is still an extant objection to the proposed development from the Environment Agency.

In such circumstances, the Secretary of State may wish to “Call In” the application for determination and hence the need for a public inquiry.

## 2. “Planning and Climate Change”, Consultation Draft December 2006.

This consultation document is proposed to supplement the Planning Policy Statement 1 (PPSI): “*Delivering Sustainable Development*” which sets out the Government’s overarching planning policies on the delivery of sustainable development through the planning system.

Addressing climate change is now the Government’s principal concern for sustainable development. This supplementary document sets out how the planning system should contribute to reducing emissions and stabilising climate change, as well as taking into account the consequences of global change.

The deadline for the submission of representations is **8 March 2007**.

### **National Target**

The ultimate objective is to achieve “zero carbon development.” This is to be achieved over a period of time; carbon dioxide emissions are to be 20% below 1990 levels by 2010 and the ambition is to reduce further carbon dioxide emissions by 60% by 2050.

Specifically, 10% of electricity generation is to come from renewable resources by 2010 and 20% by 2020.

### **What are the principal measures?**

The Consultation document takes a two pronged approach in delivering its climate change agenda.

#### **1. Impact of climate change to be incorporated in development plans.**

##### **Regional spatial strategies (RSS) are to:**

- Ensure that the regional spatial strategy is in line with national emissions targets.
- Consider how the region’s activities contribute to climate change.
- Deliver regional patterns of urban growth that help secure the fullest possible use of sustainable transport for moving freight, increased use of public transport, and overall reduce the need to travel – especially by car.
- Major new developments are to be in locations of good public transport accessibility and where the development can viably draw its energy supply from decentralised energy sources.
- Produce regional trajectories for expected carbon performance of new residential and commercial development.
- Consider the regional potential for “carbon capture and storage”.

##### **Local Development Documents**

- Core strategy to address climate change and policies to be in line with the RSS.

- Site allocations to be accessible by means other than private car and to have the capacity of existing and potential infrastructure consistent with cutting carbon emissions.
- Local policies on environmental standards for new homes to be based on the “Code for Sustainable Homes” (see below).
- New developments to avoid areas of increased vulnerability – such as flood risk zones 2 and 3.
- Assessment of development’s impact on bio diversity.
- Retention and creation of open space for increased carbon capture and urban cooling.
- Assess the plan area’s potential for accommodating renewable and low carbon technologies in new residential and commercial and industrial development, including decentralised energy supply systems.
- Avoid policies that set stringent requirements for minimising impact on landscape and townscape of renewable energy supply.

## **2. Determination of Planning Applications**

- Design and Access Statements to demonstrate, in broad terms, how the proposed development will comply with the target carbon emissions rate applicable through Building Regulations.
- Assessing the “environmental performance” of the building by:
  - Buildings to be designed so as to minimise energy consumption by layout, building orientation, avoiding solar gain in the summer and use of natural ventilation – and to provide public and/or private open space for shade and shelter and;
  - Explaining the contribution to be secured through decentralised energy supply systems, including on site renewable sources and;
  - Major applications expected to have a “significant proportion” – a standard of 10% if not otherwise specified in the development plan – of its energy supply on site and renewable and/or connect to a decentralised, renewable or low carbon supply where available and;
  - Provision of sustainable urban drainage systems and transport in line with PPG13 – through travel plans and the provision and management of car parking and;
  - Applicants should prepare building and planning applications in parallel with each other.
- Conditions to be imposed or Section 106 to ensure that the environmental performance and emission standards are maintained.

### **3. New National Standard Code for Sustainable Homes**

On 13 December 2006, the Code for Sustainable Homes was launched by the DCLG. The Code is to become a national standard against which to judge the environmental performance of buildings.

This is to be a new national standard of the environmental sustainability of new homes in their future design and construction. This is to be a voluntary code during 2007 – although it is proposed to be mandatory by 2008 and to be complementary to the existing building regulations.

The code measures the sustainability of a home against nine design categories, rating the whole home as a complete package. The nine design categories are energy/carbon dioxide, pollution, water, materials, surface water run off, waste, ecology and management/health and well being.

The code then uses a six star rating system where one star is above the building regulations level and six stars is the highest – a zero carbon home - reflecting exemplar development in sustainability terms.

Full technical guidance on how to comply with the Code is to be published in April 2007.

### **4. Building A Greener Future – Towards Zero Carbon Development – Consultation Paper December 2007.**

On 13 December 2006, CLG launched “Building a Greener Future”, a consultation document relating to the timetable for incorporating the energy/carbon standards in new homes as set out in the Code into future Building Regulations.

The paper stresses the key goal of achieving zero carbon new homes by 2016.

The paper highlights that although new homes only represent 1% of the housing stock, given the need to increase housing supply by 200,000 per annum to meet England’s growing housing needs, by 2050 around one third of the housing stock will have been built between 2006 to 2050.

The Government intends to use three main policy levers at its disposal to achieve its objective of zero net carbon emissions from new housing developments by 2016. These are:

- The Planning system – through the draft PPS on Planning and Climate Change - as outlined in this news bulletin.
- The Voluntary Code for Sustainable Homes – as outlined in this news bulletin.
- Building Regulations – which deal with the conservation of fuel and power, health and safety and accessibility in buildings.

In relation to Building Regulations, the intention is that the regulations are to change so that:

- By 2010 the energy/carbon performance of the 2006 building regulations improves by 25% - to be largely achieved through improvements to the building fabric of dwellings and in greater efficiencies of heating and lighting.

- By 2013 further improvement requiring new homes to be 44% more energy/carbon performance than 2006 building regulation levels.
- By 2016 all new homes to be zero carbon net over the year for all energy use in the home requiring renewable or very low carbon energy.

The paper does however recognise that to fully achieve zero carbon homes further reform to both the building and planning regulations will be required.

The deadline for the submission of representations is **8 March 2007**.

## 5. Water Efficiency in New Buildings – Consultation December 2006

This consultation paper was issued jointly by the Department for Environment, Food and Rural Affairs (DEFRA) and CLG. The paper proposes amending the Building Regulations for introducing minimum water efficiency standards in new homes and in respect of domestic uses of water in the workplace.

There are to be six codes of water use – where code 1 is the most of use water – measured in 120 litres per head per day – compared to code level six which is 80 litres per head per day.

For new homes, the paper is recommending the adoption of whole building performance of water consumption of between 120 to 135 litres per head per day - which is a reduction of between 10 to 20% of the current UK average per capita consumption of 150 litres per day.

The deadline for the submission of representations is **9 March 2007**.

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