



Planning Policy Statement 25: Development and Flood Risk

Full Regulatory Impact Assessment

December 2006

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to Communities and Local Government

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Title of Proposal

1. The publication of Planning Policy Statement 25 *Development and Flood Risk* (PPS25) with its eight annexes. The package also includes The Town and Country Planning (Flooding) (England) Direction 200x, and an amendment to the Town and Country Planning (General Development Procedure) Order (GDPO) 1995 extending the Environment Agency's statutory consultee role for which a separate Regulatory Impact Assessment (RIA) has been carried out. The amendment to the GDPO was published on 1 October 2006.

Purpose and intended effect of measure

The objective

2. The objective is to provide a clear statement of the Government's planning policy on development and flood risk, updating and where necessary clarifying matters dealt with in Planning Policy Guidance Note 25 (PPG25), published in 2001. It is addressed to Regional Planning Bodies (RPBs), Local Planning Authorities (LPAs), developers and others with an interest in flood risk considerations in planning. It covers forward planning and development control. It is directly relevant to business, local communities and to other organisations and individuals as users of, or participants in the planning process, or with material interests such as insurance risk.
3. This planning policy statement, flooding Direction and amendment to the GDPO apply to England. The UK's devolved administrations issue their own planning policy.

Background

4. Flood risk has always been an important material planning consideration. It is the most widespread and frequently occurring of natural hazards. Around 10 per cent of the land area, developed area and population of England lie in the Environment Agency's designated higher flood risk areas (greater than 1 in 100 year probability of river flooding or 1 in 200 year probability of tidal/coastal flooding). The great bulk of this development pre-dates the modern planning system.
5. Guidance in the more recent post-war period was formerly given in DOE Circular 17/82 (Development in Flood Risk Areas) and updated in the joint DOE/MAFF Circular 30/92 (Development and Flood Risk), FD1/92. This was comprehensively overhauled in PPG25, 2001.
6. Concern about flood hazard as a development consideration in recent years was raised significantly by major floods in the Midlands in 1998 and the widespread flooding in 2000. PPG25 was the response to this. Linked to forecasts that with climate change we can expect more frequent severe weather events, both general and localised such as at Carlisle, Boscastle and North Yorkshire in the last 2 years, concern over flood risk will continue to rise.
7. Flooding can be very costly to society. It is estimated by the Environment Agency that the floods of Easter 1998 cost £400m, autumn 2000 £1bn, Boscastle £2m and Carlisle £450m.

8. Without an approach that matches types of development and its vulnerability to degrees of risk, consenting authorities are at risk of having to adopt a generally precautionary approach, restricting future development proposals over large parts of England.

Rationale for Government Intervention

9. Given that understanding of climate change uncertainties was still evolving, PPG25 was set for review after three years. This was carried out in 2004 as part of a wider Government review, led by Department for Environment Food and Rural Affairs (Defra), of flood and coastal erosion risk management policies. This was the first stage of the *Making Space for Water* strategy for flood and coastal erosion risk management, which included a review of land use planning (see Section 7 of *Making Space for Water*). The consultation carried out in 2004 suggested that PPG25 policy was basically sound but needed some clarification and strengthening.
10. The effectiveness of PPG25 has been partly monitored by the Environment Agency High Level Target on development and flood risk (HLT12 – now HLT5). Annual reports produced by the Environment Agency have shown the progress of taking flood risk into account, during the development control process, since PPG25 was issued in 2001.
11. Flooding is particularly sensitive for housing, both because of the threat to people at vulnerable times (at night) and in vulnerable groups (the elderly and less mobile) and because of the risk to homes and property. Housing is also much less ‘flood tolerant’ than much of industry, notably the former process and port industries now yielding so much of the previously-developed land for redevelopment. There are some areas where new housing should not be located. But it is possible with careful design and local protection measures to enable housing to be built in some areas not previously thought suitable. Flood resistance and resilience measures (including, for example, electrical wiring protection and water resistant plaster/floors) can greatly reduce potential insurance losses by speeding up and simplifying clean-up and drying out, and allowing people to re-occupy flooded homes sooner and thus cutting temporary accommodation costs.
12. The Planning and Environment Ministers jointly announced their intention to commit to the revision and strengthening of PPG25 on 24 March 2005 as part of the Government’s first response to the *Making Space for Water* consultation.
13. There is a clear expectation of a revised PPS25 supported by a Practice Guide, expressed, for example, by the Environment, Food and Rural Affairs Committee’s 2006 report on the Environment Agency. Without it, as noted above, the default position for the Environment Agency, as a statutory adviser on flood risk, and the insurance industry, as the arbiter of housing mortgageability and home marketability, will be respectively to apply/expect a generally precautionary approach that will be highly restrictive to development and especially housing. In addition, there would be other considerable risks associated with not publishing PPS25. Without clear and up-to-date development and flood risk policy from Government there is a danger that land allocations for development and individual developments will not take account of the most recent developments in climate change prediction, placing people and property at increased exposure to flooding, and providing no updated policy framework for making informed judgements.

Consultation

14. Responses to both consultations (see paragraph 9) showed that PPG25 is generally working well. It has had a significant effect in raising the profile of flooding amongst planners and developers. The broad thrust of the policy is right.
15. However, the review indicated that some planning authorities needed to do more to implement PPG25, particularly requiring flood risk assessments (FRAs) for all developments needing them, and seeking and taking more account of Environment Agency advice and reporting back to the Environment Agency more consistently on their decisions. There was also evidence in the Environment Agency's HLT 5/12 reports that there continues to be a significant number of planning applications approved despite objection by the Environment Agency on flood risk grounds – often on the basis of inadequate flood risk assessment. Based on this evidence, the Government undertook to revise PPG25 to make its policy message clearer and in some respects more robust.
16. Stakeholders identified the following key issues in the 2004 consultation:
 - the Environment Agency seeks better engagement with and consultation by local planning authorities over development;
 - the insurance industry wants more consistent and rigorous application of the approach in PPG25 to complement increased investment in flood defences if development is to take place in designated risk areas; and
 - the Local Government Association acknowledges that while local planning authorities' performance was improving, some must do more to implement PPG25. However, it pointed to the resource implications in imposing new burdens (for which they would need additional funding) and considered any new call-in powers would be unwarranted.
17. In developing the consultation draft PPS25, the former ODPM worked closely with a wide range of key stakeholders particularly the Environment Agency and Defra. Others consulted were the Association of British Insurers (ABI), Royal Town Planning Institution (RTPI) (including a workshop which included local, county and regional planners, academics and consultants and Royal Society for the Protection of Birds (RSPB)), Yorkshire and Humber Assembly, Royal Institution of Chartered Surveyors (RICS), English Nature (EN), Chartered Institute of Water and Environmental Management (CIWEM), Internal Drainage Boards (IDBs), National Flood Forum, Federation of Small Businesses (FSB), Local Government Association (LGA) and Entec (environmental and engineering consultants). The draft of PPS25 was also consulted on across Government and the policy agreed collectively. The development of PPS25 and associated planning measures continues to form a key part of the Government's *Making Space for Water* strategy.
18. Formal consultation on draft PPS25 ran from 5 December 2005 to 28 February 2006.
19. During the consultation, several presentations were made to wide-ranging audiences on the policy direction of PPS25. A workshop was also held in February 2006 with a wide range of stakeholders aimed at clarifying the requirement and scoping the content of the supporting Practice Guide.

20. The new PPS25 makes five main changes to PPG25 which clarify and strengthen the policy. These are:
 - revision into the new PPS structure;
 - emphasis on a more strategic approach;
 - stronger guidance on flood risk assessment;
 - a clarified sequential test; and
 - a new exception test to manage flood risk in larger developed areas of high risk, where no lower-risk land is available.
21. The new PPS25, with the flooding Direction and changes to the GDPO, are intended to strengthen the consideration of flood risk in the planning process, linked to gateway questions on flooding in the Standard Application Form (not part of the package of measures covered by this RIA).
22. The consultation showed there was overall support for the proposed approach. PPG25 was generally acknowledged as being beneficial in improving planning for flood risk and many welcomed the continuation and refinement of this approach presented in the draft PPS25.
23. The main concern expressed throughout the consultation was the issue of resources, both for planners and the Environment Agency, to deliver the enhanced package in PPS25. However, the Environment Agency's staff have assured Communities and Local Government that the new PPS25 would enable them to ensure flood risk issues are properly addressed in the formulation of development plans. Along with the introduction of Standing Advice to local planning authorities, it should reduce their need to advise local authorities case by case. This will help them deploy resources effectively and respond on time in line with their risk-based approach to regulation. But Communities and Local Government will also keep the use of these new powers under review including the burden of their use.
24. Many of the comments on adequacy of resources referred to concerns of an increase in workload arising from requirements for Strategic Flood Risk Assessments (SFRAs) and site specific Flood Risk Assessments (FRAs). There were concerns that most SFRAs would be funded by the Planning Delivery Grant but that this was likely to diminish in the future, making it harder for LPAs to find funding. It was also pointed out that SFRAs need to be produced quickly to fit with the timescales for plan production, which LPAs may find it difficult to fund at short notice. However, it should be noted that SFRAs and FRAs are required by PPG25. PPS25 restates these policies in a way that is clearer and easier to understand, and where necessary strengthens them. It does not introduce a new requirement. Without a structured approach as required in PPG25/PPS25, flood risk would in practice still have to be dealt with in an ad hoc, case by case way, potentially at higher cost.

25. A full analysis of the responses to all 16 questions of the draft PPS25 consultation package is in the published consultation report available on the Communities and Local Government's website (www.communities.gov.uk).
26. A partial regulatory impact assessment (PRIA) formed part of the consultation document. In addition, three questions sought views on the proposals for a flooding Direction, the PRIA findings and on the impact of the proposals on small businesses. Specifically:
- Q12. It is proposed to make a standard flooding Direction (see Section 4) in respect of major developments 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?*
- 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.*
- 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.*
27. The consultation responses to these questions were:
- On balance, there was support for a flooding Direction with many respondents accepting it without comment.
 - There was no significant disagreement with the assumptions in the PRIA. Several responses considered that cost estimates for carrying out SFRAs expressed in the PRIA were optimistic.
 - There was some concern that small businesses would be disproportionately affected by the PPS25 proposals, but benefits were also identified particularly in understanding what flood risk meant to small businesses and that the best approach would be to avoid flood risk. Overall the impact on small businesses was considered neutral.
28. Close co-operation has continued with the key stakeholders, in particular the Environment Agency and Defra in refining the text of PPS25 in light of the consultation responses.
29. In conclusion, the consultation confirmed that the proposals in draft PPS25 were broadly supported and the assessment made in the PRIA generally approved. There has not, therefore, been a change in the options considered for the final package.

Options

Background to the selection of options

30. The Planning and Compulsory Purchase Act 2004 sets the policy framework for the reformed planning system. Government has published new Planning Policy Statements that set out the overarching principles of planning for sustainable development (PPS1: *Delivering Sustainable Development*), and its expectations for plan making regionally and locally (PPS11: *Regional Spatial Strategies* and PPS12: *Local Development Frameworks*).
31. There are costs associated with the operation of the planning system, including the preparation of Local Development Documents (LDDs) and the preparation and consideration of planning applications. These fall upon LPAs, developers, the Environment Agency and other users of the planning system.
32. However, much of the costs are not specific to flood risk planning activities or to PPS25. They derive from the planning system in general. Part of the justification for the planning system *per se* is to control development so that the conditions in which people live and work are acceptable and not adversely affected to an unreasonable degree by development and the use of land. Planning also protects the existence and quality of the natural environment. The planning system therefore constrains, shapes and directs development along lines agreed by the community as a whole, with clear legislative expectations for environmental protection, accepting the economic costs and opportunities forgone in return for social and environmental gains. Reforming the planning system will make it more effective in delivering sustainable communities, environmental protection and community engagement. There is an evident benefit to the community in mitigating and avoiding the impacts of flooding. The existing PPG25 builds on earlier Circulars in aiming to achieve this, requiring risk to be assessed and mitigated as appropriate, so as to allow suitable development to proceed.
33. Two options were considered:

Option 1: Do Nothing

34. The “Do Nothing” option would not be realistic given the changes that have been made to the planning system. This required key policy guidance to be redrafted to focus on planning policy. The Government also had a commitment to review PPG25 in the light of increased knowledge about the impacts of climate change. Given the Government’s own Foresight report *Future Flooding* in 2004, “Do Nothing” in the face of strengthening evidence of increasing climate change impacts would inevitably lead to an ad hoc precautionary approach. This would be a crude, blanket form of additional regulation.
35. Although PPG25 has been viewed as a general success, from the 2004 consultation there was a clear signal that stakeholders wanted a clearer, more concise planning statement. Also some areas of PPG25 policy were not felt to be working as well as they should eg a strategic approach to flood risk in planning was lacking in large parts of England, Flood Risk Assessments were not routinely being provided to support planning applications in long-term risk areas, and LPAs were not always re-consulting the Environment Agency when they were minded to approve planning applications despite an earlier objection from the Environment Agency.

36. The “Do Nothing” approach would be completely at odds with the Government’s first response to the *Making Space for Water* consultation, where the need to strengthen and clarify PPG25 is highlighted. There is considerable stakeholder expectation arising from both the PPG25 and *Making Space for Water* consultations that a new PPS will be produced. “Do Nothing” is tenable neither politically nor in terms of sensible risk-based regulation.

Option 2: The proposed course of action

37. The proposal is to issue PPS25 and support it with a Practice Guide. PPS25, drafted to provide policy and advice directly relevant to development and flood risk, is in line with the planning reform programme.
38. The policy and process in PPS25 reflects two public consultations, one in 2004 to assess whether PPG25 needed to be reviewed, and the second in 2005/6 on the proposed draft text of PPS25. Consultation and liaison with key stakeholders throughout the process confirms that the approach in PPS25 is widely supported.
39. The basis of PPS25 is:
- a new style PPS focussing on a clearer presentation of core policies;
 - a clarified sequential test that matches the vulnerability of various types of development to degrees of flood risk; and
 - strengthened policy guidance at all levels of flood risk assessment, including strategic assessments to inform planning policies and site-specific assessments to support planning applications.
40. As part of the package of planning measures to strengthen the Government’s overall flood risk management strategy, two additional measures were consulted on:
- to extend the Environment Agency’s statutory consultee role on planning applications in areas at risk of flooding (subject to a separate RIA); and
 - to introduce a flooding Direction in respect of planning applications for major developments for which the planning authority proposes to grant planning permission against sustained Environment Agency advice.
41. A linked but separate development is the inclusion of gateway questions on flood risk to be included in the forthcoming ‘Standard Application Form’ which will prompt developers to complete FRAs for their planning applications where required.

Other options considered

42. Others options were considered prior to the main consultation on the new PPS25. However, neither Defra, ODPM nor any of the key stakeholders supported the withdrawal of PPG25 with no replacement.

43. Another option was to make flood risk assessments a mandatory statutory requirement at all levels of the planning process. But this would cause legal difficulties regarding the hierarchy of statutory plans and, by being indiscriminate, would contradict the current Government aim of reducing rather than increasing regulation, and avoiding additional burdens from the planning system.

Benefits and costs

General

44. The economic, environmental and social benefits and costs identified are set out below. The justification for the approach was covered in the PRIA but additional information was sought through a consultation question about the assumed benefits/costs and any additional factual information that might clarify these. The responses showed a clear margin of general support for the analysis in the PRIA and little additional factual information emerged. What did has been incorporated into this RIA.

Sectors and groups affected

45. PPS25 will affect:
- plan makers at all levels (regional, county, local) and the stakeholders they consult and work with when formulating flood risk policies, in particular the Environment Agency, Internal Drainage Boards, water companies and sewerage undertakers, emergency service planners, and insurance and mortgage providers;
 - developers who propose development in flood risk areas or anywhere where the development may increase run-off thus potentially increasing flood risk elsewhere;
 - planning consultees, both statutory and within the community, who provide views in response to planning applications;
 - all members of the community potentially affected by flood risk issues – primarily those living and working in high risk flood zones but also those in areas where local topography can produce flash flooding; and
 - groups such as those with disabilities or mobility restrictions, which are physically more vulnerable to flood events, and disadvantaged groups which may be disproportionately affected by losses incurred as a result of flooding due to poverty and inadequate insurance and who may thus take longer to recover from flood damage.

Race equality impact assessment

46. The Sustainable Communities housing plan aims to “create a fairer society where everyone has the chance of a decent home in a sustainable community”. The policies in the PPS25 package support this by ensuring that new communities should not be at an unacceptable risk of flooding. There is no evidence to suggest that any particular racial or ethnic group has an increased exposure to flood risk with regard to new developments. However, the availability of permanent sites for Gypsies and Irish Travellers in areas of high flood risk may be restricted by the proposals.
47. Gypsies and Irish Travellers are recognised ethnic groups and are therefore protected by race relations legislation. For many Gypsies and Irish Travellers, living in a caravan is an intrinsic part of their culture. As set out in the guidance, caravan sites for permanent residence are considered ‘highly vulnerable’ and should not be permitted in areas where it is highly probable that flooding will occur (Zone 3 areas). Caravan sites which are occupied on a short-term occupancy basis are classified as ‘more vulnerable’ and proposals for their development in Zone 3 areas would need to pass the Exception Test.
48. It is evident that in high flood risk (Zone 3) areas, the development of caravan sites for Gypsies and Travellers which are intended for permanent occupation will be prevented, and the development of caravan sites intended for short stays will be subject to the application of the Exception Test. Given the cultural traditions of Gypsies and Irish Travellers of living in caravans, it is likely that the classifications of land and the restrictions on the types of development which are permitted on that land will have a disproportionate impact on Gypsies and Travellers. However, the Government believes that the disadvantage faced by Gypsies and Travellers in terms of limiting the opportunity to develop sites is far outweighed by the benefit in terms of preventing development of highly vulnerable sites in areas which are at high risk of flooding. The restriction on the development of caravan sites in these areas therefore prevents potentially dangerous and life threatening situations.
49. Where areas at high risk of flooding may coincide with concentrations of Gypsies and Travellers, Regional Planning Bodies will need to take account of flood risk when allocating pitch numbers for each local authority in Regional Spatial Strategies. Local authorities are encouraged to co-operate with neighbouring authorities and take a joint approach to meeting the needs of Gypsies and Travellers – this is particularly important in areas where the availability of suitable land is constrained by planning restrictions. The Gypsy and Traveller Unit within Communities and Local Government is working with local authorities, Regional Planning Bodies and Government Offices to facilitate the delivery of more Gypsy and Traveller sites in sustainable locations.

Health impact assessment

50. Strategic flood policies that are effective in reducing adverse flooding impacts reduce the risk to life and have a positive impact on public safety. Better planned developments should in principle also have a positive health benefit through better housing. Although damage to property is much more tangible, longer-term health issues are an important consideration in flood policy.

51. Flooding causes high levels of stress and impacts on peoples' lives both in the short and long-term, for example, through the initial threat to personal safety and potentially life, the loss of possessions, the damage to homes and the disruption of normal domestic life. Several reports have recently been produced to examine the health impacts of flooding events. The results of Defra/Environment Agency research (Defra, 2004. *The Appraisal of Human-related Intangible Impacts of Flooding*, R & D Tech Report FD2005) show that whilst flooding causes short-term physical effects, there are often also short and long-term psychological effects. One of the recommendations was that a value of £200 per household per year be taken as representing the benefits of reduced adverse health impacts as a consequence of a significant reduction in the risk of flooding. It was suggested that this figure is used in the cost/benefit analysis of flood and coastal schemes to account for the costs to human health. Intangible effects are often long-lasting and not possible to evaluate in monetary terms eg loss of memorabilia, and the perceived loss of security in the home.
52. The short-term health effects of flooding eg through exposure to contaminated water and residual dampness are also important. Such health risks are exacerbated when occupants return to properties before the effects of floods have been fully remediated for personal reasons and to prevent vandalism.

Rural impact assessment

53. In spatial terms, rural areas are likely to be at a higher risk of flooding than urban areas. They may be at a higher probability of flooding as the economic argument for maintaining flood defences is weaker than that for urban areas. Increased flood storage capacity in the "washlands" or coastal saltmarsh areas is also a valuable alternative to hard defences. By definition such areas are "rural". However, the principal consequences of a flood on people and property are in the 10 per cent of England that is developed and at high risk of flooding i.e. >than 1:100 for rivers or >than 1:200 for tidal waters. SFRAs will consider all the land in a local authority's area and FRAs should be produced for all sites in the higher flood risk areas or in instances where major development will impact on downstream areas. These are specific to areas of flood risk regardless of whether they are rural or urban.

Benefits of Option 1: Do Nothing

54. The **economic** benefits of the "Do Nothing" option primarily centre on the savings of the costs and effort of producing and disseminating the new PPS25. These savings are limited and are unlikely to exceed £200,000.
55. Some consultation responses suggested that as PPG25 has only been in existence since 2001, it was too soon to judge whether it was necessary to review it. But this view did not take account of the requirements of the Planning and Compulsory Purchase Act 2004 for planning policy statements, or the provisional nature of PPG25 in relation to developing information about climate change.
56. No **environmental** and **social** benefits have been identified for the "Do Nothing" option.

Benefits of Option 2: The Proposed Course of Action

57. The consultation on whether PPG25 should be reviewed highlighted areas of policy considered to be weak or not working as well as had been anticipated. The general message was that PPG25 had gone a long way in improving the use of flood risk assessment at all levels of planning. However, the approach was not sufficiently strategic, and the annual HLT5 reporting also highlighted that many of the objections that were made by the Environment Agency to planning applications were because FRAs were missing or of inadequate quality.
58. One of the major benefits of the proposed PPS25 is to improve the strategic approach to flood risk. Strengthening PPG25's message that flood risk should be considered as early as possible in the planning process has considerable benefits. Evidence from the consultation shows that by taking a strategic approach the issues become clearer and better judgements can be made as to whether development is appropriate or not. By working in partnership with other organisations, solutions can be found which benefit the community whilst not placing people at increased risk of flooding.
59. Where LPAs have undertaken SFRA, this has enabled them to make clearer decisions about where development is appropriate in agreement with the Environment Agency, which are then reflected in policies within LDDs, highlighting the flooding issues that affect sites and what developers should cover in their planning applications. This provides more certainty, to the benefit of developers in terms of avoiding the cost of failed planning applications and local authority planning services and the Environment Agency in terms of reducing the resources required for responding to inappropriate applications.
60. Where there is no SFRA, uncertainty is likely to result in large numbers of Environment Agency objections to development proposals. For example, Boston Borough Council, which is entirely within flood zone 3, highlights the benefits of undertaking a SFRA. The Environment Agency objected to a large number of its planning applications on the basis of flood risk prior to a SFRA being undertaken. Because of this, the LPA's local planning performance was poor, resulting in losing its planning delivery grant as it was unable to meet the eight week statutory deadline for determining planning applications in many cases. By undertaking a SFRA in close co-operation with the Environment Agency, there is now a much better understanding of flood risk and much more certainty about appropriate locations for development. By producing clear policies taking flood risk into account developers are in turn clear on what requirements they need to meet in order to gain planning permission. This has turned around Boston's planning performance and it is now meeting its targets. Other LPAs also confirm that where SFRA are undertaken they provide essential information to allocate land in appropriate locations, and give clarity to intending developers.
61. Other good examples have been provided by Somerset County Council (*The Taunton Vision study*) and also by East London Boroughs which have undertaken a sub-regional SFRA.

62. Other stakeholders endorse the benefits of the SFRA approach. Developers acknowledge that more certainty within the planning system will deliver economic benefits with less resource in dealing with technical arguments at the later stages of development proposals. Planning at all levels will benefit in terms of speed of decisions and saving of resources by reducing the number of disputes. Such savings will recur as flood risk issues become more firmly embedded in the planning process.
63. There are wider **environmental and social benefits** to strengthening the strategic approach to flood risk.
64. Comprehensive and consistent application of SFRA provides benefits by adding to the nation's database of flood risk information and interpretation. Existing data is imperfect and SFRA offer an opportunity to improve it by drawing together and sharing a wide variety of data sources applicable to particular areas.
65. Strategic flood management measures promoted through better informed development such as flood corridors can yield a range of benefits. They can provide areas for the safe conveyance and storage of flood water, provide green spaces for the community to enjoy and benefit biodiversity. Green spaces improve the liveability of urban areas by bringing wider environmental and social benefits in addition to those from reducing flood risk.
66. Reducing flood risk to properties has major social benefits through the avoidance of adverse health impacts noted above.
67. Responding to legitimate insurance industry concerns is also a very substantial benefit of the approach proposed in PPS25. As climate change is forecast to lead to increased storminess and more frequent extreme weather events resulting in more flooding of all types, insurance industry concerns about further building in flood risk areas have increased and will continue to do so. The insurance industry has made it clear its confidence depends on a combination of appropriate investment in strategic defences against river and tidal flooding and robust policies to match forms and types of development with levels of flood risk. There are wide **social** and **economic** benefits from securing ongoing insurer confidence in unlocking the mortgageability and hence marketability of homes in the lower flood risk areas. The improved approach to managing risk in PPS25 is key to achieving these benefits.
68. The fact that run-off from development can cause flooding elsewhere and must be considered at the earliest opportunity in the planning and design of the development, is something that the proposed PPS25 will embed in the planning process. This will further contribute to the social and economic benefits. It reduces flood risk to downstream areas, and to adjacent sites through local mitigation measures.
69. A revised PPS25 that reflects new climate change criteria also helps ensure that development built now will not be placed at a higher risk of flooding in the medium-term.

70. In summary the benefits of the proposed approach are:

- flood risk will be more fully understood and taken into account in planning policies, assisting all participants in the process;
- areas can be identified in plans where allocations can be switched to lower flood risk, reducing the risk that applications will be refused;
- wider environmental and social gains;
- enhanced insurance industry confidence underpinning developer activity in better locations, based on improved local assessment and design responses that mitigate residual risk; and
- the improved Sequential Test and new Exception Test in PPS25 will embed, improve and balance types of development against degrees of risk and enhance the approach that was first set out in PPG25. Without this approach the insurance industry has indicated that it may not be able to continue to insure properties in flood risk areas in accord with the terms of the Statement of Principles agreed with the Government.

Costs

General

71. The main costs of implementing the revised PPS25 fall primarily to local planning authorities, the Environment Agency and developers. But the bulk of the requirements are already in place in the existing PPG25. Unclear guidance or a lack of take-up of advice based on it can lead to planning procedures becoming inefficient. Developers who do not submit a FRA with a planning application risk costly major delays whilst avoidable objections or questions on technical issues are resolved. The Environment Agency may need to object and then consider the FRA at a later date. This may not result in the best flood risk management outcomes. By considering flood risk late in the design process it may be difficult to accommodate mitigation in the most effective or economical way. Flood risk management should be an integral part of the whole development design and planning process. Up-front costs can avoid higher costs at a later stage and, of course, the more fundamental costs of flood damage in badly located or designed development.
72. Whilst PPS25 does not propose anything radically new it does clarify what is required. By placing the emphasis on strategic planning, flood risk should be much more fully incorporated into policy. There will be some short-term resource costs particularly for LPAs and the Environment Agency in relation to engagement with the strategic planning process, and some developers may have to apply PPG25 principles more thoroughly and consistently. But these costs should be more than offset by the longer-term benefits noted above.

Costs of option 1: Do Nothing

73. The current PPG25 has improved the awareness of flood risk but the 2004 consultation highlighted areas where there was ambiguity and weaknesses in the current guidance. In conjunction with an increased understanding of the impacts of climate change (as covered in the Foresight report *Future Flooding*, Office of Science and Technology 2004) there is a broad expert consensus on the need to produce clearer policy and guidance, and for it to be applied more consistently and fully.
74. The **economic** costs of the “Do Nothing” approach will include:
- developments that do not take proper account of the latest climate change predictions and as a result risk becoming increasingly uninsurable and in the case of housing difficult or impossible to sell due to lack of mortgage availability. The insurance industry has made it clear that if PPG25 is not upgraded it will restrict and could withdraw cover in the highest flood risk areas. This will generate blight;
 - constraints on housing supply as the Environment Agency adopts a blanket precautionary principle in the absence of tools such as SFRAs/FRAs and a clearer and improved sequential test;
 - the loss of benefits that SFRAs and spatial planning can offer in unlocking lower risk areas for safe development due to better understanding of the flood risk;
 - uncertainty for developers on the requirements and scope of FRAs and increased time taken by LPAs to make planning decisions if the strategic approach is not adopted nationally; and
 - pressure to increase investment in hard flood defences (at increased public sector cost) as an alternative to a smarter approach to managing flood risk. Since not all areas can be defended, this simply displaces risk to other locations, with potentially unpredictable consequences over time as climate change effects accelerate.
75. The **environmental** costs would include the loss of valuable opportunities for improving biodiversity through better strategic planning and the increased use of sustainable drainage techniques.
76. There is potentially an increase in **social** costs as a result of a stronger precautionary approach being undertaken in response to predicted climate change impacts. Where SFRAs have been undertaken a much better appreciation of flood risk issues is apparent and LPAs are able to make informed decisions about flood risk on a more strategic basis. Without this approach, the precautionary principle is likely to result in more land being withheld from development causing, in particular, constraints on housing supply. A reduction in housing supply brings its own social and economic problems.

Costs of Option 2: The Proposed Course of Action

77. The **economic** costs of the strategic approach in PPS25 will initially fall on regional planning bodies and local authorities in the production of Regional Flood Risk Appraisals (RFRA) and SFRA. For small businesses, as noted in paragraph 27, the overall impact was considered to be neutral because of the benefits to be derived by them in fully understanding the issues surrounding flood risk and the best approach to adopt towards it. There are some concerns, primarily from those LPAs that had yet to undertake a SFRA, about the costs and implications for resources. The figures quoted within the PRIA (£15,000 to £25,000), although felt to be on the optimistic side, were based on actual figures. Only two other LPAs have offered costs of their SFRA which ranged from £30,000 to £60,000. Recurring costs as development plans are updated at, say, 5 yearly intervals, should be rather less, since a baseline assessment will then be available. Where flood risk modelling is required the potential initial costs will increase but this should be targeted at areas where high development pressure combines with flood risk, giving a good potential public benefit from the investment. To put this into perspective the cost of a SFRA to a LPA is equivalent to the cost to the economy of restoring very few homes following a flood.
78. There are ways to reduce the costs of authority level SFRA. Firstly, by groups of LPAs, perhaps in partnership with the Regional Planning Body carrying out sub-regional SFRA, possibly on a catchment basis to realise economies of scale. Secondly, effort could be concentrated on those areas identified as having high development pressure and flood risk issues. In some LPAs, a SFRA will require fairly minimal coverage where flood risk issues are not extensive and development pressures can be located easily into low flood risk areas. In areas at higher risk, the effort committed to an effective SFRA should earn a good payback in reduced costs of development control, and eventual flood damage.
79. It is clear that some LPAs do not have the expertise to develop the scope for, or prepare a SFRA in-house, which was a preferred option in the PRIA. While employing consultants will incur costs, the benefits of an assessment should outweigh these in the medium to long-term. In the short-term the PRIA suggested that costs of producing a SFRA would be covered by the benefits and savings in development control. In their consultation responses some LPAs considered that the benefits to development control would not run concurrently with the costs incurred. While this is true, it cannot be a reason for not addressing this issue against a growing volume of evidence of increasing flood risk in future years. While it will take time for the SFRA findings to be fed through to planning policy via a sustainability appraisal, and the plan-making costs will be in advance of savings, in the medium to longer-term there is little doubt that the benefits will outweigh the costs. The cost of undertaking a SFRA remains minimal compared to the cost of recovery from even a small-scale flood event. And the wider costs to authorities and developers of confronting an indiscriminating precautionary approach to development from the Environment Agency and the insurance industry, in the absence of a more general use of SFRA, will be felt sooner rather than later.

80. A number of SFRA have already been undertaken as a result of the guidance in PPG25. These tend to be concentrated in the low-lying parts of eastern England where flood risk is clearly an important material planning consideration. The approach can and should be tailored to the initial perception of risk and as the degree of risk becomes clearer, better judgements can be made about the overall scale of the SFRA needed in any particular place.
81. Consultees also expressed concern that the GDPO and flooding Direction could impair delivery of an efficient planning system. The main concern was that by making the Environment Agency a statutory consultee and introducing the additional procedures of the flooding Direction, planning applications could be slowed down. It was felt this could impact on the LPA's ability to achieve targets to receive the Planning Delivery Grant. Concerns were also raised about whether the Environment Agency's resources would allow it to respond to LPA consultations within the 21 days for statutory consultees.
82. However, the availability of the flooding Direction, in conjunction with other aspects of PPS25, particularly the emphasis on a more strategic approach, should result in few planning applications being dealt with under the Direction. The aim of the Direction is to ensure that flood risk is dealt with rigorously by the LPA and that any objection from the Environment Agency in specific cases is robust and defensible. The Direction is intended to be a safety net if local consideration by both parties fails to resolve genuine issues.
83. The Environment Agency is aware of the resource implications of being a statutory consultee. It is bound to respond to requests for advice within 21 days. An amendment to the Town and Country Planning (General Development Procedure) Order 1995, which was made in August 2005, increased the length of the consultation period for all statutory consultees from 14 to 21 days. The Environment Agency is introducing Standing Advice for LPAs to cut down the need to advise on a case-by-case basis. This will enable the Environment Agency to focus on those applications which require attention. The Environment Agency has given an assurance to Communities and Local Government that it will give a priority to fulfilling its requirements under the amended GDPO and flooding Direction. Ministers' acceptance of its repeated calls for these additional provisions is on the basis that it will apply and safeguard the resources to deliver on the commitments involved.

Small Firms Test (SFIT)

84. Flood risk affects the whole range of firms depending on the location of the business, irrespective of size. Several sectors may be affected by PPS25 but construction companies and developers are likely to be particularly sensitive to its requirements. Advice was sought from the Small Business Service on the initial assessment of impacts. As part of the early stakeholder engagement, the Federation of Small Businesses and Home Builders Federation (membership represents the full size range of businesses) were also consulted. Initial feedback on the proposed approach has been positive. Many small businesses do not own their own premises. Any action that can reduce flood risk, keep insurance premiums low and make flood risk information available would be welcomed.

85. There is little new policy in PPS25, so small business impacts are anticipated to be relatively minor compared to the requirements for local authorities to undertake a higher level of flood risk assessment than has so far generally been the case. Currently one of the major issues highlighted by the Environment Agency's annual High Level Target 5 monitoring report is that the lack of an appropriate FRA accounts for about half of all Environment Agency sustained objections to development on flood risk grounds. PPS25 proposes stronger implementation of existing policy. While this may incur costs in producing FRAs, it should speed up the planning process and disproportionately benefit small businesses, whose cash flows and other resources tend to be more sensitive to delay, by focussing on real issues, using Standing Advice for most cases, and avoiding later delay because small business applications have omitted a FRA where one is required.
86. Stronger FRA implementation produced several comments on the consultation question of how the proposals were likely to affect small businesses. The cost of producing a FRA was felt to be proportionately greater for small businesses. Certain small industries, such as tourism and those that needed to be located near to rivers and coastal areas, could be particularly affected as they may only be able to expand *in situ*. The Practice Guide being drafted will make clear that the FRA should be proportionate to the flood risk and the nature of the business. Thus, if there are serious flood risk issues these would need to be examined in detail to show that any proposed development would be made safe and not put people or business assets at further risk. Small businesses that need to locate on the coast or near rivers for tourism reasons and benefit from those locations cannot expect to ignore flood risk as a serious business liability. Without addressing it they are likely to face problems securing insurance.
87. Where SFRA have been undertaken small businesses will be able to draw on their baseline data. LDDs should make it clear whether development is acceptable in certain areas and what issues a FRA will need to consider. If small businesses consult early with LPAs and the Environment Agency, they should be able to assess whether proceeding with development proposals is feasible. If FRAs are completed as part of the planning application, the Environment Agency is less likely to object. This should produce faster planning decisions, resulting in savings to all types of applicants regardless of the size of the company, but with the likely proportionate benefits for cash flow-sensitive small businesses noted above.
88. While standard regulatory processes potentially can bear harder on smaller businesses that do not benefit from economies of scale, flooding is no respecter of persons or businesses. Smaller businesses operating from a single site are proportionally more vulnerable. Like individual households they are also likely to benefit proportionally more from effective flood risk management in planning policies. Nor is it possible to apply policies with a lighter touch depending on business size. Small businesses are often closer to people and customers than larger ones and in the service sector have the public on their premises. This adds to potential liabilities and makes effective flood risk assessment a core business issue, not a dispensable option. Flood risk management also requires collective and common action over areas to achieve collective benefits, not least because inappropriate development at one site may affect the protection at that site while adding to the risk to properties and businesses downstream. The small business sector, like householders, cannot opt out or be left out.

89. The benefits to small businesses of the PPS25 approach are that:
- SFRA prepared by authorities will enable them to understand the flood risk of their development so they will be able to assess at an early stage whether an alternative location should be examined;
 - insurance premiums will be lower and cover easier to obtain if the location is in an area of low flood risk;
 - the short-term costs may increase, but as a proportion of the costs if the business was flooded, are likely to be very small; and
 - by assessing flood risk through a FRA a small business will understand those risks and may be able to reduce possible future problems through resilience and mitigation measures.
90. The supporting Practice Guide will provide information about where to obtain relevant guidance and the procedures that need to be followed to complete a FRA. LPAs and the Environment Agency also offer advice to businesses when considering flood risk issues.
91. In summary, flood risk management in the development process is an issue that should be taken seriously by all and must apply to all types of business. Opting out is not an option.

Competition assessment

92. Communities and Local Government completed the Office of Fair Trading's Competition Assessment as part of the PRIA. This requires that policy makers consider the market that will be affected i.e. firms that compete against one another to sell the same or similar product or service. It is accepted that the planning system can create barriers to entry or to the expansion of a business, particularly if planning permission is difficult, expensive or time-consuming to obtain, or if planning conditions attached to any permission are too onerous. The general requirements are standard and apply to all businesses depending on the location and content of their proposals for development. In applying the filter it is anticipated that there will be only a very limited competitive impact. For example, emphasising the requirement for FRAs to accompany relevant planning applications may increase initial costs. However, the detail and technical content of a FRA will reflect the scale and potential significance of flood risk. Considering whether development is in line with development plan policies on flood risk, which has been developed as a result of SFRAs, will reduce the uncertainty in obtaining planning permission. Major flood risk issues should be resolved at the strategic level, allowing the developer to work on the detail of the application, taking account of the flood risk limitations of the location.
93. All applicants for permission should be on a level playing field in having to meet the requirements of PPS25. There is a general competition issue in that planning controls only bite on proposals for development and not for existing uses. This is a standard feature of planning. However, while this may appear as a relative cost penalty on applicants for permission, their businesses should benefit from a standard of flood assessment (and precautionary measures) that existing businesses do not enjoy.

Compliance, enforcement and sanctions

Compliance

94. As with all other planning policy guidance, RPBs, LPAs and developers will have to take the revised PPS25 into account. Flood risk is in any event a material planning consideration and PPS25 helps all concerned to address it. The Government encourages all stakeholders to implement the policies but their applicability will depend on the physical characteristics of each region, local planning authority area and individual site and the proposals for their use and development. PPS25 makes it clear that flood risk should be considered at all levels of planning and by developers. By doing so, planning applications on sites with flood risk considerations should expect to receive timely and sympathetic handling in locations identified in LDDs and for proposals which conform to the planning strategy and policy set out in them. Such proposals should have an expectation of being approved unless the balance of all relevant considerations indicates otherwise.

Enforcement

95. Two linked parts of the PPS25 flood action package, namely implementing the amendment to the GDPO to make the Environment Agency a statutory consultee for certain types of development regarding flood risk, and the flooding Direction, will together secure the routine use of flood risk assessments in the higher risk areas and will increase the responsiveness of LPAs to flood risk advice from the Environment Agency. If there is an objection by the Environment Agency but the LPA remains minded to grant planning permission, even after discussions between all parties, the LPA will be under a duty to refer the application to the Secretary of State to assess how it relates to the policies in PPS25 and to consider whether the application should be called in. This will make LPAs more aware of the possible consequences if flood risk and advice on it is not fully considered. Equally, it also makes the Environment Agency ensure its objections are robust, since the Secretary of State will only be prepared to consider calling in cases where representations have been properly made after due consideration of the issues.
96. More generally, failure to follow PPS25 policies is likely to trigger more precautionary objections by the Environment Agency and risks withdrawal of insurance cover, which is a powerful market sanction. The insurance industry is looking to a combination of a generally higher standard of planning response to flood risk, and an appropriate level of investment in strategic defences, as the basis for it maintaining cover in the higher flood risk areas.
97. Looking ahead, the Government's Standard Planning Application Form, now under development, will include a standard question to clarify whether a FRA is required. If the answer is 'yes' but one is not provided, the application is likely to be deemed invalid. This will put the onus on the developer to make sure that the correct information is provided with the application, so that a prompt decision can be made.

Monitoring and review

98. It is intended that the Environment Agency's annual HLT5 monitoring will continue as detailed in the PPS25 consultation paragraph 32. This will evaluate whether FRAs are being submitted with applications and whether they are of the required quality. Additionally, the number of major applications which are granted against Environment Agency advice will continue to be monitored. This is where use of the flooding Direction will also be a key indicator.
99. Communities and Local Government will monitor how the new PPS25, the amended GDPO and the flooding Direction are working.
100. The supporting Practice Guide should solve many of the questions relating to how to apply the policy in practice that were raised in the consultation. But if monitoring reveals significant or systemic issues that need to be dealt with, these can be considered for any possible future revision of the PPS. If, as anticipated, further good practice on implementation becomes available this will be made available via a support website.
101. The consultation also asked whether PPS25 would need to be reviewed. The great majority of those who responded felt it should, mainly because of the need to ensure the most recent data on climate change is used to assess flood risk. The second most common reason was to ensure that the new PPS25 was successful and that delivery of the policy was working well. The suggested period was three years for review. However, Communities and Local Government considers this may be too short given that with PPS25 there will have been two revisions since 2001. Five years was the second most common response, and Communities and Local Government considers this is more realistic.

Implementation and delivery plan

102. The consultation confirmed that PPS25 should be published along the lines originally proposed subject to a number of changes to the text, largely to clarify certain points.
103. The focus of editing has been on the sequential and exception tests. Consultees were concerned that development in Flood Zone 3 could be unduly curtailed, leading to blight of existing communities. Essential services such as hospitals need to be located within communities rather than distant from them. Longer distances of travel to hospitals could mean a higher risk for many. This has been acknowledged. Changes have been made to secure a more balanced approach to development where alternative sites within reasonable proximity are not available in extensive areas of higher risk. Not to allow development in such cases, subject to site specific mitigation measures, risks starting to blight certain flood-prone areas as not sustainable in the longer-term.

104. The development of SFRA's has been modified into a two stage process. Firstly, flood risk will be assessed taking the latest climate change figures and other sources of flood risk into account. This will build on the Environment Agency flood zone maps. Second, the sequential test will be applied. If development can be located in areas of lower risk, that is all that is required. If, however, development is unavoidably necessary in higher risk areas then flood defences can be taken into account as part of the new exception test, to assess the real risk of flooding. This will take account of the age and condition of flood defences as well as the likely depth and velocity of flood waters if the defence is breached or fails.
105. Other changes to the draft have included revised climate change allowances for sea level rise to cover the period up to 2115. This takes into account the latest climate change information.
106. A number of technical terms have been clarified including the Functional Flood Plain, the definition of which has caused problems in the past.
107. The supporting Practice Guide is being developed taking account of points raised in the consultation. Many of the comments sought clarification of how to implement the PPS in practice rather than relating to the content of policy. The distinction between the policy and how to implement it should be much clearer when the Practice Guide is published, initially as a *live* document on the Communities and Local Government website. The aim is to seek feedback from practitioners and stakeholders over a six month period to ensure that the Practice Guide is fit for purpose and revise it to reflect feedback, with the aim of final publication in mid 2007.
108. The GDPO and flooding Direction received good support in the consultation and will be implemented with only minor amendments.

Summary and recommendation

109. This RIA has been prepared reflecting Cabinet Office guidelines, and informed by:
 - an initial consultation to see whether PPG25 needed reviewing;
 - continuous engagement with stakeholders regarding the detail of the review during the consultations;
 - consultation on the draft PPS25 package; and
 - feedback from a Practice Guide Advisory Group made up of key stakeholders.
110. PPS25 is part of the wider programme of planning reform and also the Defra-led *Making Space for Water* strategy. This context to some extent restricts the options that can be considered and adopted as described above.

111. The work on this RIA has not thrown up any major additional economic costs. Much of PPS25 is already included in PPG25. Where the consultation responses have made reference to increased costs these are essentially already required under PPG25, for example, requiring a more systematic implementation of FRAs at all levels. PPS25 has made the requirements more explicit so that stakeholders are now clear about their responsibilities.
112. The consultation overwhelmingly supported the draft PPS25 package. By taking flood risk into account now, much time and resource will be saved in the future, making peoples' lives safer and reducing adverse economic, health and environmental impacts. A more strategic approach allows flood risk management to be assessed on a more holistic basis, reflecting the wider benefits for communities and the economy. Because flood risk is a common societal risk, poor development decisions by individual developers can have adverse consequences well beyond site boundaries. Short-term costs to the development process are expected to be outweighed considerably by longer-term social, economic and environmental benefits of wider application.
113. It is difficult to quantify the monetary benefits and costs. Events such as the floods of autumn 2000 (£1bn) show how costly flooding is to the economy and society. The costs of undertaking a SFRA at development plan level and more routine preparation of FRAs at site level are clearly outweighed by the costs of dealing with a flood aftermath of even a relatively small flood event or the blocking of more development on precautionary grounds. By understanding flood risk the whole community is better able to respond through the design and defence of development.
114. Accordingly, it is recommended that the PPS25 package detailed in option 2 is put into action.
115. The anticipated timetable for implementation is as follows:

GDPO amendment to make the Environment Agency a statutory consultee	October 2006
Flooding Direction	November/December 2006
Publication of PPS25	November/December 2006
Publication of live draft of PPS25 Practice Guide	November/December 2006
Ongoing stakeholder consultation	Winter 2006/Spring 2007
Publication of revised Practice Guide	June 2007

116. The table below summarises the costs and benefits of the options.

Table 1: Summary of costs and benefits of the options considered in the RIA

Option	Total cost per annum	Total benefit per annum
Do Nothing	<ul style="list-style-type: none">• HLT5 monitoring highlights where PPG25 is failing such as lack of or inadequate flood risk assessment accompanying planning applications.• Policy becoming out of date and not taking account of the latest climate change predictions.• Stakeholders are expecting a new PPS25.• In the absence of clarified policy the Environment Agency adopts a generally precautionary approach in higher risk areas and the insurance industry implements its warned intention to consider restricting cover where risk assessments are inadequate	<ul style="list-style-type: none">• Little benefit has been identified other than making short-term financial savings by not producing and disseminating a new PPS25.• Maintains the current system which is understood but could be improved.
Replace PPG25 with PPS25 package	<ul style="list-style-type: none">• Higher initial costs in more systematically undertaking the more strategic approach of RFRAs and SFRAs.• Higher demand on resources by all stakeholders (this is already required under PPG25).	<ul style="list-style-type: none">• A better understanding of flood risk at all levels of planning will result in better decisions being made benefiting communities and the economy.• Avoidance of blight in extensive high risk areas through use of the exception test.• Lower long-term costs as strategic flood risk approach takes flood risk into account on a holistic basis.• Better planned developments resulting in lower risk of flooding with economic, social and environmental benefits.• Up to date climate change predictions can be factored in now.

117. Accordingly, the Minister is recommended to sign the following declaration and approve the publication of the PPS25 package.

Declaration and Publication

I have read this Regulatory Impact Assessment and am satisfied that the benefits outweigh the costs.

Signed



Baroness Andrews OBE

Parliamentary Under Secretary of State
Communities and Local Government

6 November 2006

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