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REPORT TO:	Financial & Management Services Committee	AGENDA ITEM:	10
DATE OF MEETING:	21 <sup>st</sup> February 2006	CATEGORY:	DELEGATED
REPORT FROM:	Deputy Chief Executive	OPEN	
MEMBERS' CONTACT POINT:	Gill Hague 595742	DOC:	
SUBJECT:	Consultation on New Planning Policy Statement 3 (PPS3) Housing	REF:	
WARD(S) AFFECTED:	All	TERMS OF REFERENCE:	FM14

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## 1.0 Recommendations

1.1 The Office of the Deputy Prime Minister be informed together with any comments or changes made by Members at Committee that the Council considers the consultation draft PPS3

- (A) contains ambiguities which if not resolved will lead to considerable public expense defending interpretation at future inquiries;
- (B) does not set out a clear and logical search sequence for the identification of housing sites;
- (C) does not provide clear guidance to enable decisions to be made on planning applications for residential development in the period prior to the adoption of Local Development Framework documents;
- (D) should place greater weight on the need to protect the character of an area rather than establishing higher densities for new residential development;
- (E) fails to provide a definition of 'sustainable';
- (F) is unclear as to the weight that should be placed on bringing previously developed land back into beneficial use for residential purposes;
- (G) should not be issued in final form until all associated documents have been made available for comment;
- (H) should clarify the position with regard to greenfield land and agricultural buildings located within villages and urban areas;
- (I) should be published in a revised draft form for further consultation before being issued in its final form;

- (J) should permit Local Planning Authorities to include a conservative windfall allowance as such sites exist and therefore should not be ignored.
- (K) runs the risk of undermining the process of planning for housing through its reference to the need to re-open the consideration of the level of housing provision in Local Development Frameworks. Such an unqualified policy would inevitably reduce certainty and lead to increased costs and delays in preparing local development documents as developers see an opportunity to reopen the debate that should have been concluded at the Regional Spatial Strategy stage.

1.2 That a copy of this report accompany the response.

## 2.0 Purpose of Report

2.1 To inform Members of, and seek their response to, a consultation document that will provide guidance on the formulation of future Local Development Framework policies relating to residential development.

## 3.0 Executive Summary

3.1 The report where necessary compares the consultation document with the existing PPG3 as follows:

Paras 4.1-4.2 conclude that whilst the Government's objectives appear to be similar in both documents the weight given to the importance of reusing previously developed in urban areas is less clear in PPS3.

Paras 4.3-4.14 deal with the search sequence and conclude that PPS3 is less helpful in this regard as it contains ambiguity and leaves areas open for interpretation likely to result in potentially lengthy and costly inquiries.

Paras 4.15-4.16 look at the need to provide sufficient housing and concludes that PPS3 is more specific in what Regional Spatial Strategies and Local Development Documents should contain.

Paras 4.17-4.18 consider density and conclude that PPS3 reinforces the minimum density requirement of 30 dwellings per hectare and only briefly mentions the need to protect local character.

Para 4.19 confirms the importance of the Annual Monitoring Report.

Paras 4.20-4.21 acknowledge that PPS3 continues the theme of creating mixed communities established in PPG3.

Paras 4.22-4.23 set out how to assess local housing needs.

Paras 4.24-4.25 identify a lower threshold of 15 dwellings in PPS3 as the trigger in place of 25 dwellings established by PPG3.

Para 4.26 confirms the continuance of an exceptions policy in rural areas for affordable housing.

Paras 4.27-4.28 deal with windfall allowances for those sites of less than 10 dwellings. PPS3 seeks not to include such an allowance unless insufficient allocations can be made.

Paras 4.29-4.32 set out general officer comments regarding the lack of clear guidance for determining planning applications in the period prior to the adoption of Local Development Framework documents, the need for further consultation to be undertaken if the final version of PPS3 is to differ significantly from the consultation version and the need to be clear about the status of agricultural land and buildings located within villages or urban areas.

## 4.0 Detail

Comparison between the current PPG3 and PPS3

### **Government Objectives:**

4.1 The PPG3 objectives that Local Planning Authorities should set out to achieve include re-using previously developed land within urban areas, an explanation of how to create sustainable patterns of development, placing the needs of people before ease of traffic movement and promoting good design.

4.2 It is interesting to note that whilst the key objectives in PPS3 are similar they are condensed and the phrase previously developed land is not mentioned at all although it is referred to elsewhere in the document. Neither is the emphasis on urban areas included in the objectives although one assumes the implication is there as it is urban areas that provide the best opportunities to locate new housing well related to jobs, services and facilities.

### **Sequential Approach:**

4.3 In the officer's opinion, the sequential approach in PPG3 is the pivotal part of the document and this has been significantly weakened in PPS3. Paragraph 31 of PPG3 sets out the following criteria by which to assess the suitability of sites for development:

- availability of previously developed sites;
- location and accessibility;
- capacity of existing and potential infrastructure;
- ability to build communities; and
- the physical and environmental constraints on development of land.

4.4 Where sites perform well against these criteria, paragraph 32 states that the *presumption* will be that previously developed sites should be developed before greenfield sites.

4.5 With PPS3 this presumption has been lost and replaced by "the priority for development is *developable* brownfield land." For a site to be developable it needs to be: available or capable of being developed within the next 5 years; suitable, in that the site offers a sustainable option for development, and economically viable.

4.6 This statement raises some questions. Firstly, who is the onus on to prove that a site can be developed within 5 years? If a developer claims that it cannot be, does the site automatically not meet the definition of developable? Is there a test that can be used? Secondly, there is no

expansion on what the term 'sustainable option for development' means. With regard to economic viability, again, who is to determine what is economically viable (i.e. what is a sufficient profit margin)? A benefit of PPG3 has been that the value of brownfield sites has increased thus creating an incentive for owners to bring them forward for development. Under PPS3 a vicious circle may be started with the value of brownfield sites decreasing because it is again easier to get permission on greenfield sites, thereby reducing the value of other brownfield sites and so on.

- 4.7 As a general point with regard to PPG3's paragraph 31, the criteria are not listed in the same way anywhere in PPS3. Instead, references to these issues are scattered throughout the document making the whole issue of the sequential approach more ambiguous.
- 4.8 Paragraph 30 of PPS3 (under the heading Rural Housing) states that Local Planning Authorities should make sufficient land available either within or adjoining market towns or villages in order to sustain rural communities. They should have regard to the relevant sub-regional housing market strategy and land availability assessments together with more localised strategies in determining their approach to housing in rural communities.
- 4.9 Paragraph 31 reads as follows:
- "The focus for significant development should be market towns or local service centres that are well served by public transport and other facilities. Development may be provided for in villages and other small rural communities where needed to contribute to their sustainability. The priority for development is developable brownfield land, but where this is either insufficient or not available developable greenfield may need to be used."
- 4.10 The hierarchy of settlements relating to paragraphs 30 and 31 is market towns, local service centre, villages, and small rural communities. Significant development should be focused on market towns and local service centres but this does not exclude the possibility of significant development in smaller/less well served settlements. There appears to be a contradiction between these two paragraphs regarding the approach to the development of villages. Paragraph 30 states that land should be made available *adjoining* villages whereas paragraph 31 states that development may be provided *in* villages.
- 4.11 It should be noted at this point that 'sustainability' in the context of paragraph 31 is not very clearly defined. It would appear to mean economic sustainability, but this is not what it says.
- 4.12 By way of example, if a village shop is at risk of closure it may be argued that further development is required to contribute to its sustainability. However, if there is insufficient developable brownfield land, then developable greenfield land may be used. At this point it is unclear whether this greenfield site has to be in the village (which, again, has not been defined but could mean the village envelope) or adjoining the village. These paragraphs together seem to provide a loophole that contradicts the aim of developing brownfield sites in sustainable locations.

- 4.13 In addition to this, there is no indication of what would be an appropriate scale in these areas. It may be necessary to allow significant development to underpin the economic viability of services and facilities. There is potential for substantially more development within and adjoining small settlements than would have been the case under PPG3.
- 4.14 PPS3 continues to put emphasis on developing brownfield sites and states that Local Development Frameworks should set out the local strategy for bringing forward and developing brownfield sites, including a target for brownfield development over the plan period. However, these statements do not appear to be borne out in the detail of the document. There is no definition of the word 'focused'. Does it mean that the majority of development should take place on previously developed land? Does it mean that previously developed land should always be considered before greenfield?

#### **Providing Sufficient Housing:**

- 4.15 PPG3 talks of the need to provide homes in the right place and the right time. Economic growth must be reconciled with social and environmental considerations in the interests of sustainability. The development plan should aim to provide sufficient housing to meet the likely housing requirements. New development should be focused where previously developed land is available. Guidance regarding what should be included in the Local Plan was scattered throughout the document
- 4.16 PPS3 puts greater emphasis on listing exactly what Regional Spatial Strategies and Local Development Frameworks should contain and also on the sub-regional housing market areas. For instance, Regional Spatial Strategies should set out housing provision for the next 15 - 20 years (both region-wide and for each sub-regional housing market areas) the region's brownfield requirement and the region's density target. Of particular concern is the advice in para 10 that local planning authorities will need to re-open the consideration of the level of housing provision for their area (in Local development Frameworks) where there has been a "significant long-term change in housing market circumstances" since the preparation of the regional spatial strategy. As an unqualified statement, this runs the risk of undermining the planning process by reducing certainty. Under the old system an Inquiry into a Local Plan would not reopen the debate about housing numbers as that figure was determined in the Structure Plan which had itself been the subject of examination. It had been assumed that the same would apply to Inquiries into Local Development Framework documents because the overall housing figures would be set in the Regional Spatial Strategy which itself is the subject of consultation and examination.

#### **Density:**

- 4.17 PPG3 states that Local Planning Authorities should *avoid* developments of less than 30dph, encourage housing development which makes more efficient use of land, i.e. 30-50dph and seek greater intensity of development in areas with good public transport links.
- 4.18 PPS3 states that when Local Planning Authorities develop density policies, they should have regard to Annex C of the document (attached as Appendix 1 of this report), which gives an indicative density range for rural areas of 30-40dph. PPS3 does allow for the consideration of maintaining the

character of particular residential areas or environments in determining density policies. However, it goes on to state that the presumption is that the minimum density should be no less than 30 dwellings per hectare.

#### **Plan, Monitor, Manage**

- 4.19 This has been replaced by the Annual Monitoring Report in PPS3 to reflect the changes of the 2004 Act.

#### **Creating Mixed Communities:**

- 4.20 PPG3 states that house sizes/types should be balanced throughout a residential development so as to create mixed communities. Local Planning Authorities are to take account of local housing need and formulate plans that will: provide a mix of dwellings, avoid inefficient use of land, promote good design and introduce flexibility regarding parking standards.
- 4.21 Creating mixed communities also remains high on the agenda throughout PPS3.

#### **Assessing Local Housing Needs:**

- 4.22 PPG3 stated that Regional Planning Guidance and Structure Plans should provide advice and information to Local Planning Authorities, informed by housing needs assessments to guide local policy formulation. Housing needs assessments are to be undertaken by Local Planning Authorities in the light of local circumstances based on *Local Housing Needs Assessments: A guide to good practice (2000)*.
- 4.23 PPS3 does not include anything on housing needs assessment (in the broader sense, i.e. including market housing) in the body of the document but does include an Annex setting out some guidelines for assessments and reference to a sister document.

#### **Delivering Affordable Housing:**

- 4.24 Where there is a demonstrable lack of affordable housing, PPG3 provides for Local Plans to include a policy on affordable housing and set out a definition of what they consider to be affordable housing, indicate how many affordable homes are needed throughout the plan area and identify suitable areas/sites together with how much provision will be sought. Where a site meets the criteria of paragraph 10 of *Circular 6/98 Planning for Affordable Housing*, the presumption is affordable housing should be provided. This circular will be cancelled after PPS3 is adopted.
- 4.25 Further information will be in the companion guide referred to in PPS3 which states that sub-regional housing market assessments should help determine whether affordable housing is needed and guide the level, size, type and location of such housing. However, in determining the overall target for affordable housing Local Planning Authorities should have regard to many other strategies. PPS3 sets an indicative minimum site-size threshold for affordable housing of 15 dwellings. This is to be welcomed, as more sites will now be caught by the policy hopefully improving provision, as the previous threshold

was 25. However, it also states that Local Planning Authorities should balance the need for affordable housing against the viability of sites in the area. It also provides for Local Development Documents to include circumstances where a financial contribution could be given in lieu of affordable housing. Much more advice on affordable housing will be in the companion guide.

**Providing for exception housing in Rural Areas:**

4.26 PPG3 enabled Local Planning Authorities to release land (which would not normally be released) within or adjoining villages, to meet local needs. This provision remains under PPS3.

**Windfall sites:**

4.27 PPG3 stated that authorities should make specific allowances for windfalls (defined as previously-developed sites that have unexpectedly become available) in their plans. Allowance was to be made on the basis of examining past trends and the urban capacity study. No allowance was to be made for greenfield windfalls.

4.28 PPS3 states that the Local Development Framework should allocate sufficient land and buildings for the first five years of the housing trajectory, only taking into account a windfall allowance where it is not possible to allocate sufficient land. For example, if a sustainability appraisal indicates that allocating sufficient land would have unacceptable impacts and local circumstances justify it, a realistic allowance for brownfield windfall can be included. It is unclear why a windfall allowance i.e. for sites smaller than 10 dwellings cannot continue to be included as a matter of course as such sites will come forward and should not therefore be ignored.

**General Officer Comments:**

4.29 Officers, the public at large and the development industry have only just got used to working to the sequential approach in PPG3 and now it appears to be changing again. The Government changed the planning system to supposedly speed up the preparation of plans but there are lead in times necessary and considerable public consultation exercises that we are required to undertake that means the process still takes time and if the Government is constantly revising its national guidance we will never be in a position to actually adopt our Local Development Framework Documents. Many Local Planning Authorities will be in a similar position to South Derbyshire i.e. have commenced but not adopted new style documents. The search sequence established in PPG3 at least set criteria that could be used for determining planning applications in the interim. PPS3 with its ambiguities will result in more differences of interpretation leading to longer and more protracted appeal and local development document inquiries with the consequential cost implications for the Local Planning Authorities.

4.30 PPS3 refers to several sister documents some of which are still in the course of preparation. The detail contained in such documents could well have an influence on the responses to PPS3 but Local Planning Authorities are precluded from having an opportunity to take a holistic approach.

- 4.31 When PPG3 was published in its final form it differed considerably from the original consultation draft and would have benefited from a second consultation version. This would have provided an opportunity to point out ambiguities and areas requiring clarification that would possibly have avoided the need now for a new document. It is unfortunate that the Government does not see fit to place the same weight on consulting Local Planning Authorities as they are required to do with regard to public involvement i.e. consultation on options and then consultation on 2 drafts before adoption of the document.
- 4.32 PPS3 Annex A: Definitions contains the same definition of previously developed land as PPG3. Under PPG3 greenfields and agricultural buildings existing within villages and even urban areas were unlikely to get planning permission, as they did not fall within the definition of previously developed land and no allowance could be made for greenfield windfall sites. Given the ambiguities within the text of PPS3 it is unclear as to whether this anomaly will remain.

## **6.0 Financial Implications**

- 6.1 There are no direct costs involved but indirectly if the document contains ambiguities then there may well be financial costs associated with defending an interpretation of the wording at appeal inquiries should developers, as at the last Local Plan Inquiry, adopt a different interpretation.

## **7.0 Corporate Implications**

- 7.1 The planning department needs to work closely with the Housing Strategy Manager to ensure that up to date information on housing needs is used to underpin housing policies in Local Development Framework documents.

## **8.0 Community Implications**

- 8.1 Whilst the original PPG3 was issued in 2000 it has taken some time for its impact to be taken into account in policy documents and planning application decisions. The definition of what is a sustainable location set out in paragraph 31 of the document related to issues that the community could understand. Weakening the search sequence and having no clear indications as to what is a sustainable location will be confusing and likely to alienate the community from the planning process

## **9.0 Conclusions**

- 9.1 PPS3 appears to water down the Government objectives contained in the current PPG3 of giving priority to the reuse of previously developed land in urban areas although no explanation is given as to why that has been necessary.



9.2 The document is ambiguous and will therefore result in interpretations being argued out at future inquiries thus adding cost and delay to the planning process at the expense of the Local Planning Authority, community and development industry. The points of particular concern are set out in the recommendations section at the start of this report.

## **10.0 Background Papers**

10.1 None other than referred to in this report.

