

## **Environmental Protection Response to the Consultation on Planning Guidance, following the Taylor Review. February 2012.**

Here is a record of your submission:

### **Q1. Do you agree with the recommendations of the Review Group overall?**

Environmental Protection UK (EPUK) brings together organisations from across the public, private and voluntary sectors to promote a balanced and innovative approach to understanding and solving environmental problems, through policy development and education.

Environmental Protection UK's Air Quality and Land Quality Policy Committees (EPUK AQC & LQC) have developed this response. These Committees bring together policy makers, regulators and practitioners from local authorities, consultants, developers, academics, industry, interested NGOs, as well as members from Environmental Protection UK's regional divisions.

EPUK agrees that the planning guidance system has become unwieldy over many years, and that there is confusion over the status of many of the documents. The outcome of this review should be to simplify the system whilst retaining and enhancing the present coverage. It is necessary to have widely accepted guidance to encourage consistency in planning decisions over England and Wales, assisting developers to deliver the goal of sustainable development.

### **Q2. Do you agree with the proposed recommendations for a much reduced set of essential practice guidance in the format recommended? (Recommendations 1, 2, 3, 5, 6)**

We agree that the "accumulation of out-of-date, contradictory and unmanageable material" should be rationalised to provide a slimmed down, more readily accessible set of guidance. We would welcome clear ownership of these documents, a central holding or reference location and a system where they are reviewed for relevance from time to time.

### **Q3. Do you agree that standards for future Government Planning Practice Guidance should be implemented by the Chief Planner in DCLG, but with decisions on what to include within guidance still taken by Ministers? (Recommendation 4)**

We agree.

### **Q4. While access to all planning guidance online will be free of charge, do you think it would be appropriate to offer planning professionals an additional service involving immediate notification of every revision to the guidance, and to make a small charge for this service? (Recommendation 6)**

We would encourage any system that ensures that up to date guidance is readily available for all and would not want to see the service become subscription only in full or part.

With any subscription only system there is a risk that less well-off organisations won't or can't subscribe. We believe that the update system should not be chargeable for local government. Other sections of central government offer an update on good practice and policy to public sector bodies – for example the updates issued by DEFRA concerning Environmental Permitting Regulations that are sent via email to the nominated officer in each local authority.

### **Q5. Do you agree that the new web based resource should be clearly identified as the unique source of Government Planning Practice Guidance? (Recommendations 7-9)**

We agree. We also welcome the proposal to include guidance originating from other departments of government within this resource as appropriate.

### **Q6. Do you agree with the recommended timescales for cancellation of guidance and new/revised guidance being put in place? (Recommendations 10-13)**

Where some of the revised guidance is quite specialist in nature it will be difficult to have this agreed by July 2013, especially where third party review or assistance is required.

### **Q7. Do you agree with the recommendations for cancellation of existing guidance documents? Are there specific, essential elements of current guidance material that should in your view be retained and considered for inclusion in the revised guidance set? (Recommendations 14 - 16)**

We agree.

### **Q8. Do you agree with the recommended priority list for new/revised guidance? (Recommendations**

## 17-18)

EPUK welcomes the publication priority list for new and revised guidance, especially new environmental guidance covering noise, air, land, water (including the Water Framework Directive) and light pollution. Indeed, the gap in Government guidance was the driver for EPUK to develop its own guidance on Air Quality and Development Control, initially in 2007, and then revised in 2010; in the absence of other guidance this has become the de facto standard often cited by inspectors at planning appeals.

EPUK would be willing to contribute to the new planning guidance system, by updating this de facto guidance on Air Quality and Development Control (in light of changes to the planning regime), if funding was available.

The challenge will be in addressing the significant gaps that exist in the current guidance in relation to air quality and land contamination.

These gaps have emerged since the former Planning Policy Statement PPS23 was withdrawn. Until the NPPF came into force the industry referred to PPS23 for more detailed guidance on air quality and land contamination in the development control process.

Subsequently, the NPPF now provides some outline guidance on air quality and land quality in the planning system, although the guidance given is particularly and unacceptably brief.

- NPPF paragraph 124 requires that “Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.”
- NPPF Section 109 encourages the planning system to “contribute to and enhance the natural and local environment” by minimising risk from contamination from and to new and existing development and remediating contaminated land, where appropriate (section 109).
- It also places the responsibility for ensuring that development of contaminated land is managed safely with the developer (section 120).
- After remediation the land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990 (section 121).

Beyond this the guidance does not describe in detail how air quality and land contamination should be approached in a planning context.

We welcome guidance that will clarify the responsibilities in this respect, improve the link between the planning process and air quality and Part 2a of EPA90.

### **Q9. Are there any further points you would like to make in response to the Review Group’s Report? Do you have additional ideas to improve and/or streamline planning practice guidance?**

In relation to air quality, the proposed new guidance should address the following issues:

- How air quality should be taken in account in the planning process, that was addressed in PPS23
- The principles in the guidance issued by Environment Protection UK on Air Quality and Development Control, updated to reflect current experience.
- How air pollution emissions should be taken into account in the planning process, both from individual proposals and cumulatively with other local developments.
- The work of the Low Emissions Strategy Partnership.
- The Mayor of London’s Best Practice Guidance on dust from construction and demolition, and recent guidance issued by the Institute of Air Quality Management in relation to construction.

In relation to land contamination, the proposed new guidance should address the following issues:

- The apparent lack of direction as to roles and level of information to support planning decisions. In section 109 the use of the wording “should” doesn’t necessarily imply action by any party – it is worded to imply an aim or goal but not any responsible party.
- It is not clear how developers’ responsibilities re ensuring land is safe should be achieved and to what extent.
- The NPPF does not mention improvement of groundwater quality within the planning process. The new

guidance must emphasise and include the importance of groundwater quality improvements towards the goal of sustainable development.

- The new guidance should signpost the wealth of published best practice and technical guidance (as recommendation 9)
- An attempt to clarify the position of radioactive contaminated land in the NPPF, as addressing radioactive contaminated land has been separated from other forms of contamination - the 2006 guidance still applies as separate from the latest 2012 statutory guidance on contaminated land in relation to Part 2a.
- Explain the application by planning authorities of planning conditions and informatives in relation to contaminated land in the planning process.

These matters are particularly urgent and should be addressed in order to fill the vacuum in current guidance on contaminated land in the planning regime.

EPUK, drawing on its expertise from across the development industry would be pleased to assist with, overview or comment on the new draft guidance as it emerges.

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Kind regards  
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