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Draft PPS - Exceptions Test

As you will be aware, I have expressed concerns that the Exceptions Test as currently described in draft PPS25 is too restrictive and will unnecessarily prevent urban brownfield land in the Thames Gateway from being redeveloped. I have discussed these concerns with the Environment Agency. The Agency, while agreeing with me that it would be undesirable for PPS25 to prevent urban regeneration, considers that such an unfortunate outcome would necessarily be prevented by virtue of the following statements in draft PPS25:

'Departures from the sequential approach will only be justified in exceptional circumstances where it is necessary to meet the wider aims of sustainable development' (Para.16); and

'The Exception Test is that the development makes a positive contribution to sustainable communities' (Para. D10).

The Agency's position - as explained to me - is that, where an urban brownfield site is within a Growth Area designated within the Government's Sustainable Communities Plan, then, because the Communities Plan is an expression of the Government's sustainable development objectives, the site's redevelopment is inevitably consistent with the requirements of paragraphs 16 and D10 and the application of the Exceptions Test will therefore inevitably be required. The Agency suggest that, although draft PPS25 itself is unclear on this point, it will be made clear in the forthcoming practice guide that will accompany PPS25.

I have to say that I do not share the Agency's confidence in how the status of the Sustainable Communities Plan will be interpreted with regard to the Exceptions Test in PPS25. Neither do I share the Agency's confidence that the practice guide can or will address the problem satisfactorily. Whatever the practice guide says, even within a high probability flood risk zone in the Thames Gateway, it is not *inevitable*

that local planning authorities will take the Sustainable Communities Plan as the arbiter of whether the development of an urban brownfield site is 'necessary to meet the wider aims of sustainable development' and that it will necessarily make 'a positive contribution to sustainable communities'. Essentially, it seems highly unlikely that planning authorities will accept that the mere presence of a site within a Growth Area inevitably means that the development of the site would be consistent with sustainable development objectives.

Moreover, irrespective of whether the site is within a Growth Area, if the site in question is greenfield and alternative urban brownfield sites are available, then its development is very likely to be at odds with any sensible interpretation of 'sustainable development objectives'. The Government has made it clear that it intends that the 'brownfield first' ethos should be retained in the Growth Areas.

In summary, I do not feel that it would be acceptable to rely on the practice guide to encourage planning authorities to apply the Exceptions Test to urban brownfield sites within Flood Risk Zone 3a in the Thames Gateway. I strongly recommend that the text of PPS25 itself should be carefully worded so as to make it clear that, in the interests of the Government's sustainable development objectives, the Exceptions Test should be applied to such sites in such areas in order to promote urban regeneration and avoid unnecessary encroachment into greenfield land.

Yours sincerely,

Nigel Kersey
(Director)