

PPS3 and *Delivering Affordable Housing* (DCLG, December 2006)

An initial over-view

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Introductory comments

1. Which are the relevant documents to sit down with? PPS3 itself, Affordable Housing Policy entitled *Delivering Affordable Housing* (not a circular – why is not clear), the covering letter from Joan Bailey to LPAs, and the ministerial statement on PPS3's release. These documents also tie into the model 106 issued earlier in the year. All are available from www.dclg.gsi.gov.uk
2. What remains of previous guidance? Not much: the PPS cancels PPG3, 6/98, all the ministerial statements and daughter documents (as of now – at least the repeals section is not stated to be contingent on any further matter).
3. What is the status of PPS3 as at December 2006? *DAH* appears to be in force immediately without caveat. PPS3 – see paras 7, 8 and 68 – seems arguably suspended for any purpose other than auditing the existing DPDs and Development Plans until April 2007.
4. However, although these paragraphs say that it is not required for LPAs to take the PPS into account until April 2007, that is obviously not the case insofar as carrying out a thorough audit of existing documents is concerned. It is also therefore surely relevant in the LDD and the development control context as a material consideration (or at least the relationship between PPS3 and those documents is relevant as a material consideration).

5. My view is that it is all but impossible to exclude PPS3 from full effect now in any event, particularly given the cancellation of the previous guidance.
6. Turning to the content of PPS3: the fundamental question, and the test against which the policy will be judged, is whether it actually speeds up the system and leads to more housing being delivered, without compromising the plan led system.
7. The Barker report identified the poor delivery of housing as a brake on economic growth and also a major contributory factor to the affordability gap – too few units, too high prices. The greatest challenge for the PPS is to address both. One might have thought a radical approach would have urged simply setting a housing target, a percentage target of AH at the local level and requiring the use of viability tools, but otherwise setting the market free. PPS3 is a long way from that kind of liberalisation.
8. Its key points in summary seem to me to be:
 - It is aimed at delivery of housing post Barker
 - It retains a strong emphasis on good design to prevent town cramming
 - Superstructure of the plan-led housing delivery system is even more prescriptive than before.
 - LPAs must review existing and emerging plans pre-April 2007 against PPS3
 - LPAs must have and demonstrate a 5 year rolling supply, 15 trajectory, plan, monitor and manage.
 - They must have trajectories for PDL and housing of all kinds.
 - They must demonstrate at the date of adoption of the LDD that they have 5 (or is it 10?) years' worth of housing land, excluding windfalls.
 - This latter procedural requirement may in the end lead to greater reliance on windfalls and more planning by appeal than is currently the case.

- Affordable Housing can be more prescriptive in local policy, but only if fully justified after housing market assessments and the use of viability tools.

More detailed points

9. What must LPAs do right now? Assess existing plans (and 'demonstrate' 5 year supply compliance): para 7. Tricky not least because of para 11 (need for Housing Market Assessments) and footnote 11 – housing market assessments will be dealt with in 'forthcoming' guidance. However, the reality is that LPAs must get on and do this audit forthwith as best they can.
10. As mentioned above, for development control purposes, Para 8 – not 'required' to have regard for DC purposes until 1 April 2007. However, it seems to me that it is difficult to say that it is irrelevant and in the fortnight since the guidance emerged, 2 Inspectors hearing appeals have agreed with this approach.
11. Policy objectives – para 10 – same as before. Therefore, other than making the system work better and improving affordability and delivery, there is no seismic shift in housing policy.
12. Onus on LPAs. It will be an interesting feature of the next period, under PPS3, to observe LPAs entering into a more collaborative relationship with the market, especially those who in the main actually build the houses. "Them" and "us" should be put firmly to one side. This will involve
 - Engagement with the market
 - Better evidence esp Housing market evidence
 - Plan, monitor and manage through better understanding of the market and a better appreciation of the impacts of the phasing and release of housing land.

13. Design – paras 12-19: adds little if anything to PPS1 paras 33-38, although para 16 brings a number of matters within the design umbrella. This is quite an important strand to the guidance, wrapping up a number of matters including mix, density and tenure within a general objective to ensure good design.
14. There is no equivalent to para 58 of PPG3, and no express requirements in relation to public transport – just left to ‘consider’ for LPAs. This is quite a change; above and beyond the 30 dph range, density will be for the local context but not tied mainly to the availability of PT.
15. Local distinctiveness and pride and creation issues – as in PPS1. The old preserve/create local distinctiveness issue still live.
16. Mix – SHA (para 22) without which difficult to make it work. There is no straightforward % approach, but as a policy objective a mixed community is sought – through increasing the mix of tenures, prices and households. This goes beyond a traditional ‘needs’ based assessment, but
 - What is to be the evidence base that this kind of mix actually achieves sustainability?
 - The point is also very much cut across by the emphasis in para 23 on providing what the market wants. Therefore where a group has insufficient clout in the market and needs assistance, it will be mixed with others, but if it is a market-defined demand, it can be provided without such a mix?
 - Focus on the mix in an area, rather than on site or in sub-region?
17. Strong emphasis on the assessment and provision of market housing – para 25-26. Wider than the usual Fordham/Couttie assessments
18. Assessing the content of plans (paras 32-61):
 - 32-33 – various assessments – then the guides to policy makers

- What kind of sites? Site suitability and the former 'sequential test' : para 36. PT, jobs, Crown land, and 'priority for pdl', in particular vacant and derelict sites and buildings, and para 37 – energy and carbon emissions – less of a brake
- See para 38 at the local level – what priority there? Greenfield extensions in particular. – less of a brake
- How dense? Paras 45-46: wider than just PT – less of a brake
- How many houses are needed: deliverability is the standard: para 54; and : **5 years specific sites, (para 54), then (para 55) 6-10 [s0 – any difference from saying 10?] and where possible, 11-15 (or else, in the last instance, locations)**
- Windfalls? Para 59 – move away from brownfield? Less of a brake
- **The key problem here is that the definition of available includes the stipulation that the sites must be available "now", ie, at the date of adoption of the plan. This is likely to reduce the number of sites securely identified through the plan – but perhaps (because the first five years are not to include windfalls) increase the amount of GF housing land that gets allocated.**

19. LPAs need to develop an "Implementation strategy" (para 62)

20. What about development control? Para 69-74:

- No prematurity reasons for refusal
- Consider harm to achievement of policy objectives
- Apps on post 5 years list before their time: para 70
- Where behind the 5 years' - "consider favourably" housing applications [? Subject to the other points in the PPS?]

21. Affordable – the quantitative target set locally – para 29

22. Set separate tenure targets where appropriate; size and type specified

23. Range of circumstances in which it will be required – 15 indic minimum site threshold
24. Set policy on 106s.

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25. SHMA stressed – para 1.
26. Para 19 – what is relevant to consider when writing your policy
27. No 'site suitability' point (the end of old paragraph 2 and 10 of 6/98) – role of toolkits will be crucial here at the District/Borough level as well as on a site by site basis.
28. Low cost now firmly market not affordable
29. Deregulates RSL only type clauses/approaches
30. 106s – codifies the existing position – useful to focus on funding more but will lead to a variety of different approaches.
31. Real timing issues over 106s and the HC's assessment of grant, therefore cascade approach even more important
32. Tenure – how to set them – para 12
33. **The key initial point from *DAH* is that apart from reviewing the DPD or the old LP/UDP for compliance, the future will be structured along toolkit lines (GLA/GVA Grimley style economic instruments aimed at showing what the site in question can produce by reference to a residual valuation set against the existing use value**

of the site/s). The s.106 (at least in the short term) will be key – its flexibility, cascade provisions, etc.

Overall

34. PPS 3 and *DAH* will cause short term increases in workload as LPAs carry out their audits, work through the implications in particular of the approach to deliverability/availability of housing land, and commission more sophisticated assessments of housing markets and affordability. In the long term, the effect of the document will be subject to the potentially far more radical shake-up presaged by the final Barker report, published a week later. If only some of the Barker recommendations are adopted, then PPS3 will require major surgery.

35. It is intended in due course to produce a fuller version of this commentary, as it begins to be interpreted and applied by LPAs, Inspectors and the Secretary of State. Readers should also keep an eye on Sweet & Maxwell's *Planning Encyclopedia*, which will in due course carry a commentary on the PPS and on *DAH*.

36. In the meantime, readers are more than welcome to contact any of the planning specialists at Landmark Chambers in connection with PPS3, via the clerks or through www.landmarkchambers.co.uk

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