

Planning Policy Context (Water Resources, Geology and Soils)

## **Planning Policy Context**

1. Current key environmental legislation in respect of contaminated land and water resources includes The Water Framework Directive (2000), The Water Resources Act (1991), The Reservoirs Act (1975), The Water Act (2003), The Land Drainage Act (1991), Future Water Report (2008), Planning Policy Statement 1: Delivering Sustainable Development (2005), Consultation Planning Policy Statement: Planning and Climate Change (2006), Planning Policy Statement 25: Development and Flood Risk (2006), Town and Country Planning (General Development Procedure) (Amendment) (no.2) (England) Order (2006), Town and Country Planning (Flooding) (England) Direction (2007), The Pitt Review: Learning Lessons from the 2007 Flooding – Final Report (2008), The Environmental Protection Act (1990), The Environment Act (1995), The Groundwater Regulations (1998) and Planning Policy Statement 23: Planning and Pollution Control (2006).

## **National Policy and Guidance**

2. In 2000 the European Union published the Water Framework Directive (WFD) with the aim of improving the quality of all inland and coastal waters. By 2015 the status of each body of water should be at least 'good'. The WFD aims to achieve a healthier water environment by taking into consideration economic, social and environmental aspects. The Environment Agency (EA) is responsible in England and Wales for implementing the WFD.
3. The Water Resources Act (1991) introduced the definition of controlled waters and outlined measures that should be undertaken to protect water resources. The Act also details the responsibilities of the Environment Agency in relation to water pollution, resource management and flood defence.
4. All reservoirs with an above ground storage capacity greater than 25,000m<sup>3</sup> are subject to the Reservoirs Act (1975). Whiteknights Lake has a combined capacity of 70,000m<sup>3</sup> and consequently is subject to the Reservoir Act. The reservoir owner, or Undertaker, has responsibility for reservoir safety. A Panel Engineer is appointed to continuously oversee and carry out periodic inspections of the reservoir. If alterations or repairs are required to an existing reservoir they must be designed in agreement with a Panel Engineer.
5. In 2003 an amendment to the Water Resource Act (1991) and the Reservoirs Act (1975) was published in the form of the Water Act (2003). The Water Act includes stipulations relating to land drainage and for compensation under section 61 of the Water Resources Act. The amendment to the Reservoirs Act makes provision relating to contaminated land relating to the pollution of controlled waters.
6. A number of bodies have responsibilities under the Land Drainage Act (1991); these include the Environment Agency, Local Authorities, Internal Drainage Boards and riparian owners. They have a duty to maintain flows and prevent flooding.

7. The issues and possible solutions to problems relating to pollution, surface water drainage and river flooding are detailed in the Government's Future Water Report (2008). The need for a joined-up approach is highlighted, looking at the catchment as a whole, not as individual sections. The need for good soil management during construction is also outlined to maintain the absorption capacity of the land and its ability to convey water with the aim of reducing flood risk.
8. The condition of our surroundings has a direct impact on our quality of life. Conservation and improvement of the natural and built environment brings social and economic benefits. Planning Policy Statement 1: Delivering Sustainable Development (2005) identifies that prudent use of resources means ensuring natural resources are used wisely and efficiently. This means enabling more sustainable consumption and production, and using non-renewable resources in ways that don't endanger supplies or cause serious damage or pollution.
9. The Consultation Planning Policy Statement: Planning and Climate Change (2006) has a key objective to sustain biodiversity and recognise that the distribution of habitats and species will be affected by climate change.
10. Planning Policy Statement 25: Development and Flood Risk (2006) aims to deliver sustainable development in the right areas taking account of the associated flood risks. PPS 25 details how flood risk should be considered during the planning and development process. The Sequential Test that should be applied by Local Planning Authorities (LPAs) to all future developments is described in PPS 25. The following zones define the levels of flood risk:

*Table 8.1: Probability of Flooding*

Flood Zone	Probability of Flooding
Flood Zone 1	Low Probability – assessed as having less than a 1 in 1000 (0.1%) annual probability of flooding in any year
Flood Zone 2	Medium Probability – assessed as having between a 1 in 100 (1%) and 1 in 1000 (0.1%) annual probability of river flooding or between a 1 in 200 (0.5%) and 1 in 1000 (0.1%) annual probability of sea flooding in any year
Flood Zone 3	High Probability – assessed as having a 1 in 100 (> 1%) or greater annual probability of river flooding or a 1 in 200 (> 0.5%) or greater annual probability of sea flooding in any year

11. The introduction of the Town and Country Planning (General Development Procedure) (Amendment) (No.2) (England) Order (2006) stipulates that the EA are a statutory consultee for all planning applications where flood risk is a key issue. If, after discussions, it becomes clear that the EA is unable to withdraw its objection, but the LPA remains minded to approve the application for major development, the Town and Country Planning (Flooding) (England) Direction (2007) requires the LPA to notify the Secretary of State of the proposal.

12. The PITT Review: Learning Lessons from the 2007 Flooding – Final Report (2008) gives 92 recommendations about how flooding can be better managed in the future. These recommendations include being more open about the risk, increasing inter-agency co-operation, removing the automatic right for a new development to be connected to the sewer system and for the Environment Agency to have overall national responsibility for flood risk, regardless of source.
13. The Environment Act 1995 (Section 57) amends the Environmental Protection Act (1990) and makes provisions for a risk based framework for the identification, assessment and management of contaminated land within the UK. The provisions of the Act came into effect in April 2000, and are aimed at ensuring that actions taken with respect to contaminated land are directed by a technically well-founded assessment of risk that considers the source/pathway/receptor scenario (pollutant linkage).
14. The Groundwater Regulations (1998) implement the Groundwater Directive (80/68/EEC) and place restrictions on chemicals permissible within groundwater.
15. Section 4.2 of Planning Policy Statement 23 (PPS23): Planning and Pollution Control sets out the requirements for the LPA in relation to ground contamination. It stipulates that the applicant must provide sufficient information in support of an application to determine the extent or absence of contamination, its nature, the potential risks that it may pose to the proposed development and a scheme for reducing it to an acceptable level. This requires a risk assessment to identify potential sources, pathways and receptors (pollutant linkages).
16. PPS 23 specifies that, as a minimum requirement, a desk study, including a site walkover must be undertaken and any ground investigation would have to be carried out in accordance with BS10175 (2001) Code of Practice for the Investigation of Potentially Contaminated Sites.
17. PPS 23 states that, in determining applications the LPA will need to be satisfied that the development does not create or allow the continuation of unacceptable risk arising from the conditions of the land in question or from adjoining land. In particular, the LPA should satisfy itself that existing significant pollutant linkages will be broken by removing either the source, pathway or receptors and that the development will not create new pollutant linkages, such as, creating new pathways to groundwater by site investigation drilling or piling. As a minimum, after carrying out the development and commencement of its use, the land should not be capable of being determined as contaminated land under Part IIA of the Environment Protection Act (1990).

### **Local Policy and Guidance**

18. Methods that could be used to achieve water efficiency, sustainable water supplies and for protecting and enhancing water quality are detailed in A Clear Vision for the South East – The South East Plan (2006). This document highlights the need to ensure that development and land use does not pose an unacceptable risk to the quality of vulnerable surface and

groundwater, and should be taken into account during the planning process. Sensitive water bodies and groundwater should be protected through the appropriate use of pollution prevention measures. More space should also be made for water, through better land management, for water storage and flood protection

19. The South East of England is increasingly facing problems in terms of the availability of water for abstractions. This is detailed in Defra's report Directing the Flow – Priorities for Future Water Policy (2002). The increasing demand for water has led to there being no additional water available for abstractions during the summer months. There is also a growing problem of urban diffuse pollution associated with construction and urban transport. Sustainable Urban Drainage Systems (SUDS) may offer a way to mitigate these problems if difficulties associated with responsibility and maintenance can be resolved.
20. Strategic Flood Risk Assessments have been produced for both Reading Borough Council and Wokingham Borough Council, these documents identify the potential sources and area at risk of flooding in the borough and the measures that can be taken to reduce and manage the impact of flood risk.
21. The Local Government's planning policy guidance relevant to the assessment of ground conditions and water resources is the Reading and Wokingham Borough Local Plans and Local Development Frameworks.