

**STRUCTURE PLAN AND
REGIONAL PLANNING ISSUES PANEL
MONDAY 22 NOVEMBER 2004**

Item No.

6

Members of Panel: M Bayes, R Clements (Sub), A Dodd, D Drake, J Metcalf (Sub), M Saunders, R J Smith, I Simpson, W Storey (Chairman), B A York.

Planning Policy Statement 9: Biodiversity and Geological Conservation

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1. Purpose of Report

- 1.1 To inform Panel of the provisions of draft Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9) and to seek views on a County Council proposed response.

2. Background

- 2.1 The Government's Planning Green Paper, *Planning – delivering a fundamental change* (December 2001) announced that it intended to review all its planning policy guidance. The purpose of the review is to see whether planning policy guidance is still required, to seek greater clarity and to remove legislative details, implementation advice and policies which are better expressed at regional or local level.
- 2.2 The Government advise that existing Planning Policy Guidance Note 9: Nature Conservation (PPG9) is inappropriate as a more focused planning policy statement and therefore requires updating. A review will allow the Government to streamline biodiversity and geological conservation policies whilst ensuring they remain relevant to wider objectives.
- 2.3 Consequently, the Government has issued draft Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9) for public consultation. Draft PPS9 will be supported by Draft Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system (also issued for public consultation). This draft Circular is considered later in this report. The Government also intends to issue good practice guidance once draft PPS9 has been adopted. This will assist local authorities in developing local planning policies and in making development control decisions.

3. Draft PPS9 and Draft Circular

3.1 Given that the Government intends that draft PPS9 will be accompanied by draft Circular, much of the legislative guidance which appears in existing PPG9 has been removed and now appears in the draft Circular. As a result, draft PPS9 is a shorter, more focused document which restricts itself to setting out the Government's objectives and national planning policies for biodiversity and geological conservation. These are set out below.

Objectives

3.2 Draft PPS9 lists four fundamental objectives. These reflect the Government's vision for conserving and enhance biodiversity as set out in DEFRA's Biodiversity Strategy for England. They are:

- To promote sustainable development, by ensuring biodiversity is conserved and enhanced as an integral part of economic, social and environmental development;
- To conserve, enhance and restore the diversity of England's wildlife and geology, by sustaining and where possible improving the quality and extent of natural habitats and geological sites, the processes on which they depend and the species they support;
- To contribute to an urban renaissance, by enhancing biodiversity in green spaces and developments so they are used by wildlife, valued by people and contribute to a healthy functioning ecosystem, quality of life and sense of well-being;
- To contribute to rural renewal, by ensuring developments take account of the role and value of biodiversity in supporting economic diversification and contribute to a high quality environment.

Key Principles

3.3 To ensure these fundamental objectives are achieved, draft PPS9 states that regional planning bodies and local planning authorities should adhere to seven key principles:

- Policies and decisions should be based on up-to-date information about environmental characteristics, including assessments of the potential to sustain and enhance resources;
- Policies and decisions should maintain or enhance biodiversity and geological conservation interests. Appropriate weight should be attached to designated sites of international, national, regional and local importance;

- Policies should take a strategic approach and recognise the contribution of individual sites within the wider environment;
- Subject to other planning considerations, developments seeking to conserve or enhance biodiversity and geological conservation interests should be permitted;
- Local planning authorities should consider whether developments cause harm to biodiversity and geological conservation interests. Where there may be harmful effects, authorities will need to be satisfied that suitable alternative sites have been considered
- Planning permission for sites where development will result in adverse impacts should only be granted where mitigation measures are in place. Authorities should seek appropriate compensation for harm which cannot be prevented or mitigated;
- Policies should promote opportunities to incorporate beneficial biodiversity and geological features within development design.

Regional Planning Bodies

- 3.4 Draft PPS9 states that regional planning bodies should liaise with appropriate bodies to identify habitat and species distribution, designated areas and geological issues. Regional Spatial Strategies should contain biodiversity objectives, address habitat, species and geomorphological processes through criteria-based policies, seek to conserve and enhance biodiversity and should identify suitable indicators for monitoring purposes.

Local Development Documents

- 3.5 Draft PPS9 states that local development documents should clearly distinguish the hierarchy of international, national, regional and locally designated sites on their proposals maps. They should also ensure that policies are consistent with national and local biodiversity objectives. Such documents should not include specific policies for international site designations as these are protected by statutory legislation.

Sites

- 3.6 Draft PPS9 states that local planning authorities should prepare criteria-based policies to judge development proposals for national, regional and locally designated sites. They should also identify ancient woodland without statutory protection and aged or veteran trees outside such woodland for specific protection, and should not grant permission for development which would result in loss or deterioration of such. In addition, authorities should avoid habitat fragmentation and isolation; rather a network of habitats should be created to provide

routes or 'stepping stones' such as open spaces, canals and rivers for migration, dispersal and genetic exchange.

- 3.7 Local planning authorities should take account of the biodiversity and geological interest of previously developed land and look for ways to retain or incorporate such interest within any development. More generally, LPAs should maximise opportunities to build-in beneficial biodiversity features as part of good design, through planning obligations where appropriate.
- 3.8 Planning obligations and conditions should be used to protect species of principal importance (i.e. those species not protection under additional legislation) from adverse development effects. Permission should be refused unless the benefits clearly outweigh the harm caused to species or their habitat.

Draft Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system

- 3.9 The draft Circular has been issued for consultation at the same time as draft PPS9. It contains much of the administrative and legislative guidance on the application of law relating to planning and nature conservation currently set out in existing PPG9.
- 3.10 The draft Circular is presented in five parts. Part I covers internationally designated sites. Part II covers nationally designated sites. Part III covers habitats and species outside designated sites. Part IV covers species protected by law. Part V covers other duties and statutory powers that planning authorities can use. The Circular is supported by a number of annexes listing flora and fauna species protected by law or of principal importance. These are updated versions of the annexes currently set out in existing PPG9.

Issues

- 3.11 The review of existing PPG9 in order to update and streamline policy guidance on biodiversity and geological conservation is welcomed, for the following reasons:
 - The removal of much of the administrative and legislative guidance which appears in existing PPG9 makes draft PPS9 a shorter, more focused document;
 - It reflects the provisions of the Planning and Compulsory Purchase Act which introduces Regional Spatial Strategies and Local Development Documents;
 - It contributes to the Government's objectives of sustainable development, urban renaissance and rural renewal;

- It recognises that healthy ecosystems can contribute to a better quality of life;
 - It reflects the most up-to-date international, European and national statutory obligations regarding designated sites, flora and fauna;
 - It contains a new policy to protect ancient woodland and aged or veteran trees;
 - The fifth key principle essentially advocates a sequential approach to development which favours alternative sites to those where significant harm would be caused to biodiversity and geological interests.
- 3.12 However, draft PPS9 appears to reduce the level of conservation protection awarded to biodiversity. The fundamental objective of both existing PPG9 and draft PPS9 is to strike a balance between development and effective conservation of biodiversity. Existing PPG9 seeks to *“make adequate provision for development... whilst ensuring effective conservation.”* Draft PPS9 states that *“planning, construction, development and regeneration should have minimal impacts on biodiversity and enhance it wherever possible.”*
- 3.13 Initial comments received from colleagues in Hertfordshire Biological Records Centre (HBRC) suggest that a fundamental objective of draft PPS9 should be to ensure a net gain in biodiversity. This achievement of this objective could be enhanced through comprehensive ecological assessments and monitoring.
- 3.14 Draft PPS9 policy guidance for Regional Spatial Strategies and Local Development Documents could usefully refer to national and county Biodiversity Action Plans as these are important delivery vehicles.
- 3.15 To ensure adherence to the sequential approach, clearer policy guidance may be useful to ensure local planning authorities can justify their decision-making processes.
- 3.16 Officers are currently liaising with colleagues from HBRC to prepare a detailed response on draft PPS9 and accompanying Circular. It is anticipated that the response will be structured around four key questions asked by ODPM in the consultation document:
- Are there any policies which are not covered in draft PPS9?
 - Does draft PPS9 provide a suitable national policy framework?
 - Are there any legislative issues which are not covered or adequately explained in the draft Circular?

- What matters should be covered in the good practice guidance?

4. Conclusions

- 4.1 The views of the Panel are sought on the content of draft PPS9, draft Circular and on a response to the consultation.
- 4.2 A draft copy of the proposed response to ODPM will be circulated via electronic mail to all Panel members in the week prior to the Thursday 9 December deadline.