



meeting **FLOODING SELECT COMMITTEE**

date **12 March 2007** **agenda item number**

Report of the Chair of the Flooding Select Committee

Evidence and Information Received by the Flooding Select Committee

Purpose of the report

1. To provide the Flooding Select Committee with a summary of the information and evidence gathered during the course of this review.

Background

2. On 12 July 2006 the Overview and Scrutiny Committee commissioned a review of issues around flooding.

Issues

3. On 18 September 2006 the Flooding Select Committee heard from Morgan Wray, Asset Systems Management Team Leader and Andrew Disney, Development Control Team Leader from the Environment Agency. The following points emerged:
 - Environment Agency (EA) is the primary government authority for flood defence
 - EA has been investigating options for protecting the left bank of the Trent by reviewing its defences through Nottingham
 - Part of EA function is to manage flood risk by influencing development and capital schemes to reduce flood risk in susceptible areas
 - 1998 and 2000 floods highlighted how a moderate increase in flooding would result in widespread damage
 - Fluvial Trent Strategy – highlights shortcomings – areas that need further attention or where defences are reaching the end of their design life.
 - Strategy has taken into consideration planning over the next 50 years and climate change
 - Strategy recommended the creation of two schemes: Nottingham Trent Left Bank Flood Alleviation Scheme and the West Bridgford Flood Alleviation Scheme. A total of 30km of defences protecting 22,000 homes at a cost of £64m and taking four years to build.

The Committee also heard from Rob Fisher, Head of Emergency Management and Registration at Nottinghamshire County Council and learnt the following:

- NCC has a duty of care role for all communities in Nottinghamshire
- NCC needs to support the community through all phases of an emergency – from response to recovery.
- The Multi-Agency Flood Response Plan was devised following the 2000 floods – continues to be developed.
- Civil Contingencies Act confers new duties on Local Authorities, Government agencies, Emergency Services and most NHS organisations to share and co-ordinate information.

The committee also learnt about the Local Resilience Forum Risk Assessment Working Group which is developing a process to inform local planning arrangements. This forum has recently put together a draft generic response for developers who wish to build on a flood plain.

4. Nottingham City Council – Review of Flooding Issues:

On 23 October 2006 the Select Committee heard from Nottingham City Councillor Emma Dewinton, Chair of the Regeneration, Infrastructure and Sustainability Overview and Scrutiny Panel and Barbara Cast, Head of Scrutiny. The City Council undertook a review of flooding issues which concluded in 2004. There were a large number of recommendations from the review including the following:

- That relationships and partnerships between lead organisations for flooding be built upon and where necessary formalised.
- That the lead organisations consider how communications between them can be improved – especially where activities may impact upon another organisation
- That the contact details of lead organisation be readily available to the public and their representatives
- That the feasibility of research organisations e.g. British Geological Survey engaging in joint projects with the Environment Agency to map and forecast flooding patterns be examined.
- That lines of responsibility be clearly set out and disseminated. Including responsibility for different types of watercourses including non-open watercourses for groundwater level management.
- That for future housing developments the responsibility for drains and sewers be made clear.
- That periodic exercises be held to include all the parties likely to be involved in a flooding emergency
- That British Waterways be fully involved in the response to flooding
- That problems to City traffic flows caused by diversions when Gunthorpe Bridge is closed should be addressed.
- **That the introduction of Sustainable Urban Drainage Systems (SUDS) be welcomed.**

- That Defra be urged to ensure continuity of funding for the National Flood Forum in order to maintain independent advice to those at risk of flooding

5. Building Development Planning Applications

Also on 23 October the Select Committee received a presentation from Nottinghamshire County Council's Principal Planning Officer, Mike Hankin in relation to development and flood risk. The following points emerged:

- The current planning policy guidance is Planning Policy Guidance Note 25: Development and Flood Risk (PPG:25) which was published in July 2001.
- A consultation on a revision to this document was published in December 2005 entitled "Planning Policy Statement 25: Development and flood risk (PPS:25) the final version is yet to be issued.
- PPS 25 advises:

"Flood risk should be considered alongside other spatial planning concerns such as transport, housing, economic growth, natural resources, regeneration and the management of other hazards. Policies should recognise the positive contribution that avoidance and management of flood risk can make to the development of sustainable communities."

- Effective flood risk assessment should be made at all levels of the planning system. **Planning is at the core of delivering effective flood risk management policy.**
- The aim is to avoid, reduce and manage flood risk by taking full account of potential impacts in decisions on plans and applications.

Responsibilities

Within the planning process, local planning authorities are responsible for ensuring that developers assess flood risk and incorporate the assessment within their application. While the Environment Agency has a statutory responsibility for flood management, **owners and developers** have a responsibility to safeguard their land (and other property) against flooding.

Planning authorities are required to assess flood risk impacts when preparing regional plans and development plan documents. One of the main intended outcomes is to direct development to areas not affected by flooding and where this is not possible minimise flood risk to people and property.

Planning Applications

When considering a planning application authorities should examine whether the location, layout and design is likely to reduce flood risk; as well as the possible application of **sustainable drainage**. Development should only be permitted in areas of flood risk when no alternative sites are available and the benefits outweigh the flooding risks.

Taking into Account Flooding Impact

Areas at risk of flooding are geographically identified in development plans and Environment Agency floodplain maps. **Where development has been applied for within a floodplain area local planning authorities must seek the advice of the Environment Agency to assess the flooding risk.** All applications must be supported by a flood risk assessment. Flood risk is a material consideration in reaching planning decisions.

Flood Risk Assessments

Flood Risk Assessments are the means by which potential flood risk impact is considered by local authorities. The assessments must consider the risk caused by the development **to** surrounding land as well as **within** the development. The assessment must also consider the effects of climate change.

The County Council and Planning Applications

The County Council is responsible for processing planning applications in relation to minerals and waste proposals and in relation to development being undertaken by the County Council (i.e. schools and County Council officers).

Mineral and Waste Development

Mineral/waste development within floodplains can reduce storage capacity, impede flow and thereby exacerbate flooding elsewhere. Minerals are frequently located in floodplains and can only be worked at the location of the deposit – in the case of sand and gravel reserves this means within the ancient flooding patterns of river valleys.

When submitting a planning application in flood risk areas developers are required to submit a flood risk assessment.

6. Regional Spatial Strategy

On 13 November the Flooding Select Committee heard from Mr Richard Ling, Planning Manager, Communities Department regarding the Regional Spatial Strategy. The main points emerging from his presentation are as follows.

- The Regional Spatial Strategy (RSS) is the top tier of the new statutory planning system and replaces the Regional Planning Guidance and the County Structure Plan.
- The strategy is prepared by the East Midlands Regional Assembly with assistance from the County and City Councils.
- The RSS consists of two parts: Part 1 setting out region-wide policies and Part 2 setting out sub-regional strategies covering the geographic county. The draft strategy was out for consultation with a closing date of December 2006. Final approval from the Secretary of State is expected in early 2009.

- The RSS and other local development documents will, when approved, make up a framework for all development control decisions.
- Priority areas for assessment are the built up areas of Newark and Nottingham
- The new lower tier of the planning system will include Local Development Plans which will be informed by strategic flood risk assessments.
- In the region, proposed housing for 2001-2006 stood at 96,875 with 20,000 proposed developments on greenfield sites.

7. **Severn Trent**

On 11 December 2006, the Select Committee heard from Derek Lord of Severn Trent. The following points emerged from his presentation:

Local Planning Authorities

- Local Planning Authorities are under pressure to meet targets for the provision of housing, **but there is a scarcity of available land**
- Local Planning Authorities **must refer all planning applications to statutory consultees** – applications must also be checked for compatibility with the local plan and material considerations and representations from consultees must be taken into account
- **No consultee can direct a Local Planning Authority to refuse or condition an application**
- Severn Trent **can** seek to place a restriction on a planning application where a development will cause or could give rise to unacceptable adverse environmental impacts

Drainage

- **Severn Trent check applications against sewer records and comment if a public sewer likely to be affected is located within or adjacent to the development site**
- **Comments are also required where capacity is an issue – in terms of residential properties this means at least ten properties or 0.3 hectares**
- Severn Trent is not funded to deal with private drainage – in future, pipes within a property will be the owner's responsibility and only become a public obligation when they leave the property
- During the 1990's drainage area studies were carried out on drainage for a majority of urban and rural areas to get a better understanding of assets and to develop computer models – from these studies schemes were developed to deal with problem areas
- In 2009 Severn Trent plans to make a submission to OFWAT identifying problem areas/areas for investment.

8. The Environment Agency and Defra Cuts

On 15 January 2007, the Select Committee heard again from Mr Morgan Wray of the Environment Agency, this time on the effect of Defra cuts and the progress of the Nottingham Trent flood alleviation schemes.

- The left bank scheme was due to finish in 2011 but this will be delayed a year due to internal budget prioritisation
- Necessary planning applications for the scheme will be submitted in February – **there may be problems in the Attenborough section where residents are opposed to the proposed route of defences – while it was hoped that this scheme would go ahead as planned, if there was considerable delay monies could be allocated to another scheme**
- The Wilford Lane embankment work was currently 2-3 weeks behind schedule while the Trentside was progressing well.
- Defra cuts did not mean a reduction in their capital programme for this year – although work would have to reprioritised.
- There would be a postponement of detailed floodplain mapping and instead a concentration on improving model misalignments on the flood map
- **The Environment Agency will be looking at alleviations schemes for Barton-in-Fabis and Burton Joyce as well as individual house protection in Gunthorpe.**

9. National Flood Forum

On 15 January 2007, the Select Committee also heard from Mary Dhonau of the National Flood Forum.

- The Forum supports individuals and communities who have been flooded or who are at risk of flooding
- Such support takes the form of advice and guidance (e.g. on where to source flood protection products and on insurance issues)
- The Forum's start up grant from the Environment Agency was £55,000 and this was cut back to £30,000 in April – **in 2008 the grant will cease and alternative funding will need to be sought.**

10. Sustainability Team Manager

Mr Rob Crowder attended a number of meetings of the Flooding Select Committee and asked for the following points on planning and local authorities to be fed into the committee's considerations:

Planning Guidance gives the Environment Agency a role in providing flooding advice for strategic planning and for individual applications.

Since the publication of the advice note PPG25 in 2001 there has been a reduction in the number of applications granted nationally which were contrary to Environment Agency advice. **However, we have not been able to obtain local statistics on how many applications in the Nottinghamshire area have been granted against advice.**

The new Planning Policy Statement 25 (PPS25) published in December 06, sets out Government policy on development and flood risk. It's aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall. **Where necessary section 106 agreements can be used to require developers to contribute to flood defence measures.**

11. Building and Development Planning Applications

On 12 February the Select Committee heard from Mr Mike Evans, Head of Planning Services at Newark & Sherwood District Councils. His presentation included the following points (but a detailed summary can be found within the attached minutes).

- Newark & Sherwood DC receive 2000 planning applications annually
- 14% of all planning applications are referred to the Environment Agency
- Preference should be given to locating new developments in areas less likely to flood ("flood zone 1")
- **Flash flooding can result in older drainage systems being unable to cope**
- **The Town and Country Planning (Flooding) (England) Direction 2007 introduced new arrangements to safeguard against inappropriate development being granted planning permission**
- **The Environment Agency have produced a planning response matrix for planners – it allows planners to "know where they stand" – Local Authorities cannot approve a planning application with an EA objection without further discussion – where there is no agreement the matter can be referred to the Secretary of State.**

12. Possible Areas for Recommendations

The Select Committee may wish to recommend that:-

- Central Government allocates monies to support the work of the National Flood Forum
- The status of the Environment Agency as a statutory consultee is welcomed
- The work of the County Council's Emergency Planning officers be commended
- **Central Government and the Environment Agency should be lobbied to put measures in place so that in instances where local people exercise their right to object to the location of flood**

defences the locality does not cease to be considered for flood defences because of the resulting delay.

- **Environment Agency/Severn Trent Water should be required to comment on all applications where there is likely to be an adverse effect on drainage irrespective of the number of properties in the development (i.e. even if there are less than ten properties).**

Recommendations

13. It is recommended that

the Flooding Select Committee discuss and comment on the evidence it has gathered during the course of this review.

Councillor Yvonne Davidson
Chair of the Flooding Select Committee

Background papers: nil.