



AGENDA

FLOOD RISK MANAGEMENT COMMITTEE

Friday, 28th January, 2011, at 10.00 am

Ask for: **Andrew Tait**

**Bowl Room, Sessions House, County Hall
Maidstone**

Telephone **01622 694942**

Tea/Coffee will be available 15 before the start of the meeting in the meeting room

Membership

Conservative (7): Mr R E King (Chairman), Mr A H T Bowles, Mr D L Brazier,
Mr M J Harrison, Mr C Hibberd and Mrs P A V Stockell

Liberal Democrat (1): Mr M J Vye

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

- 1 Substitutes
- 2 Declarations of Members' Interest relating to items on today's agenda
- 3 Minutes of the meeting on 25 October 2010 (Pages 1 - 6)
- 4 Local Multi-Agency Flood Plans - Oral update by Tony Harwood:
Emergency Planning Officer
- 5 Preliminary Flood Risk Assessment Indicative Areas and data from the
Environment Agency - Oral Update by Max Tant: Flood Risk management
Officer
- 6 Defra funding for Lead Local Flood Authorities - Oral Update by Max Tant
- 7 Response to proposals for wider Member engagement on the Flood Risk
Management Committee from the Kent and Medway Chief Executives -
Oral Update by Max Tant
- 8 Flood and Coastal Erosion Risk Management (FCERM) National Strategy
Consultation (Pages 7 - 12)
- 9 Local Government Information Unit Scrutiny Flood Toolkit (Pages 13 - 14)
- 10 Other items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Thursday, 20 January 2011

KENT COUNTY COUNCIL

FLOOD RISK MANAGEMENT COMMITTEE

MINUTES of a meeting of the Flood Risk Management Committee held in the Medway Room, Sessions House, County Hall, Maidstone on Monday, 25 October 2010.

PRESENT: Mr R E King (Chairman), Mr A H T Bowles, Mr D L Brazier, Mr M J Harrison, Mrs J A Rook (Substitute for Mrs P A V Stockell) and Mr M J Vye

IN ATTENDANCE: Mr M Tant (Flood Risk Management Officer), Mr S Terry (Assistant Head of Emergency Planning) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**20. Membership**

(Item 1)

The Committee noted that Mr C Hibberd had replaced Mr W L Richardson.

21. Minutes of the meeting on 29 July 2010

(Item 3)

RESOLVED that the Minutes of the meeting held on 29 July 2010 are correctly recorded and that they be signed by the Chairman.

22. Sustainable Drainage Systems (SUDS)

(Item 4)

(1) Mr Tant, the Flood Risk Management Officer began his presentation by explaining that "SUDS" stood for "Sustainable Drainage Systems". The "U" no longer stood for "Urban."

(2) SUDS were designed to mimic a natural process for managing water runoff, thereby minimising discharge rates and volume whilst providing better water quality.

(3) The main benefit of SUDS was that they avoided the use of conventional gravity sewers to discharge water, which could lead to flooding. This could happen if the sewer system was extended whilst the existing sewers were not upgraded. A particular concern was that if the sewers discharged into a combined sewer, any flooding would also involve effluent.

(4) Many combined sewers had been laid under roads in the late 19th and early 20th Centuries. They may have been built to cater for 1 in 30 year storms, discharging into rivers if an event exceeded this design capacity.

(5) Mr Tant then described the various forms of SUDS Techniques. An important source control technique involved green roofs. These contained a thin layer of soil

which was able to absorb rainfall (which evaporated at a later stage). A further benefit of this technique was that it provided better insulation for the property.

(6) Rainwater harvesting involved storing roof water in tanks for use as garden water and lavatory flushing. This water could not, however be used for washing or drinking.

(7) Swale filter grids were vegetated surface features that drained water evenly off impermeable areas such as road surfaces. This water could be stored or else released to slowly infiltrate the ground.

(8) Permeable paving (whether brick work with gaps between them or a gravel surface) enabled water to filter through to a storage point below the surface from where it could discharge to a local water course or sewer or infiltrate the ground below.

(9) Infiltration techniques enabled water to be collected and disposed of by using the natural properties of local soil. Features of these techniques were soakaways, detention basins (which dried out), detention ponds (which could support wildlife and discharged slowly after the rain had stopped falling). Another form of infiltration technique was underground storage. This involved collecting water in large perforated pipes or in stormcells. It was essential to ensure that the water collection process was properly filtered as the danger was that the system could become blocked through the accumulation of silt.

(10) Surface water was sometimes drained from houses into a soakway. This was not an appropriate technique for clay surfaces.

(11) Mrs Rook asked why the drainage systems were sometimes vulnerable to 1 in 1 year storms. Mr Tant replied that at the time that a sewer had originally been laid, it might well have been designed to cope with a 1 in 25 year flood event. As the town expanded, the system's capacity became steadily reduced to the point where it could cope with only a 1 in 5 year event or less.

(12) Mr Tant also said that a number of properties drained directly onto the road as a result of their front gardens being concreted over. People actually needed planning (and probably drainage) permission to do this, but this legal provision was one that most people were unaware of.

(13) Mr Tant concluded his presentation by identifying urban creep and increased urban density rather than climate change as the main reason for urban flooding.

(14) RESOLVED that the report be noted and that Mr Tant be thanked for his presentation.

23. Flood and Water Management Act 2010

(Item 5)

(1) Mr Tant reported that Government Guidance on the Act was still awaited. Parts of the Act had come into force on 1 October 2010. Other provisions were due to begin on 1 April 2011.

(2) The Act included the creation of Lead Local Flood Authorities (LLFAs) to lead on local flood risk from surface water run off, groundwater or ordinary water courses (as opposed to main rivers). Lead Local Flood Authorities were defined in the Act as Unitary Authorities or (in two-tier counties) County Councils. The LLFAs had come into being on 1 October 2010.

(3) There was no set definition of an “ordinary water course” and it was considered likely that some main rivers would be re-classified as such.

(4) Mr Tant explained that the Act had also created Risk Management Authorities (RMAs consisting of the Environment Agency, district councils, internal drainage boards, highways and water companies). These RMAs had a legal duty to act in accordance with the LLFA’s Flood Risk Management Strategy – although in the case of the water companies, the only duty upon them was to act with regard to the local Strategy. The LLFAs were empowered to scrutinise the RMAs to ensure that they were carrying out their responsibilities and acting in accordance with the Local Strategy.

(5) Mr Tant explained that an LLFA would not be legally responsible for flooding provided that the Strategy worked to the level that it had been designed for.

(6) Kent had the greatest number of homes at risk of flooding within the South East. There were approximately 64,000 such homes within the County. By way of comparison, Hampshire had 61,000, Hertfordshire 60,000, Surrey 52,000 and Essex 48,000. Funding by DEFRA would eventually take account of these statistics.

(7) There had been four flooding events in Kent during the recent summer months. One of these had been caused by 10 mm of rain.

(8) Mr Tant informed the Committee that the Kent Flood Partnership (jointly chaired by KCC and Medway Council) had been formed at officer level involving all of the RMAs in Kent. Its first meeting had been held on 5 October 2010. One of its tasks would be to draft the Local Strategy.

(9) In response to a question, Mr Tant said that Flood Investigations would only take place when none of the agencies took responsibility.

(10) Mr Tant replied to a question by the Chairman by saying that one of the tasks of the LLFAs was to maintain a list of structures and features that affected flooding or coastal erosion. Once identified, the owners would need the permission of the LLFA to alter them. It was anticipated that the Government Guidance would eventually define what was needed and what form an assessment of them should take. There could potentially be a large number of enforcement issues, mainly in land drainage areas.

(11) The Chairman asked for a list of the Independent Drainage Boards together with their Chairmen and Lead Officers.

(12) The Chairman said that there might be a need to redraft the Committee’s terms of reference in the light of the responsibilities that were being described in the report.

(13) Mr Tant said that SUDS potentially placed the largest burden on the County Council. The LLFA would be required to establish a SUDS Approval Board once this part of the Act came into force. Applications involving drainage would need to be considered by this Board at the same time as the Planning Authority. No development would be able to proceed until both bodies had granted approval. DEFRA was currently drafting guidance for SUDS.

(14) Mr Tant said that there were some 4,500 major and minor planning applications within Kent each year that had drainage implications. In future, these would require engineers to assess their drainage implications and provide a decision. If the drainage system was sustainable and served more than one property, the SUDS Approval Board would be obliged to adopt it. Once adopted, they would also need to be inspected and maintained. The financial implications would hopefully be covered by the application and inspection fees. There was currently no provision for maintenance of SUDS to be reimbursed. A DEFRA Select Committee was currently consulting on fees and charges for SUDS. A minimum of four or five non-senior staff might be needed to carry out the approval work. However, the extent of the resources required would depend on the guidance on SUDS to be published by DEFRA.

(15) The Flood Risk Regulations were a Statutory Instrument written in response to the 2003-04 flooding events in Europe (including the Rhine and Danube rivers). The LLFAs were obliged to deliver their Preliminary Flood Risk Assessments (PFRAs) highlighting areas of significant risk from local flooding by June 2011. DEFRA had provided £30,000 to KCC to undertake this work. Kent's draft PFRA would be considered by Cabinet on 4 April 2011 and by the County Council on 23 May 2011.

(16) Mr Tant said that the definition of a significant flood risk area was still being considered by DEFRA and the Environment Agency. France had identified three such areas nationally. It was likely that there would be more than that in Kent alone.

(17) Mr Tant informed the Committee that he had produced a draft report to the Kent and Medway Leaders and Chief Executives Committee. This report recommended that a District Council representative should be invited to take up membership on the Flood Risk Management Committee and that a standing invitation should be sent to all Kent District Councils and Medway Council to attend its meetings.

(18) RESOLVED that:-

- (a) the report be received and that Mr Tant be thanked for his presentation;
- (b) a further report be submitted to a future meeting of the Committee once the capacity assessment is complete and the allocation of funding for flood management in Kent is confirmed by central government;
- (c) the draft Preliminary Flood Risk Assessment be submitted to a future meeting of the Committee prior to submission to Cabinet;
- (d) no objection be raised if the Kent Leaders and Chief Executives Committee recommends that a representative from the District Authorities be invited to serve on the Flood Risk Management Committee; and

- (e) consideration be given to re-drafting the Committee's Terms of Reference for approval by the County Council in the light of the implications for Kent of the Flood and Water Act 2010.

24. Dates of future meetings

(Item 6)

(1) The Committee agreed that it should aim to meet on two occasions early in 2011 in order to consider the draft Preliminary Flood Risk Assessment. The aim would be to arrange them for early January and late February.

(2) The Panel accepted Mr Terry's offer to assist in liaising with the Police and Fire and Rescue Services in respect of a proposed tour in early 2011. The intention would be to inspect Command and Control Centres at KCC as well as both of the other Services.

(3) The Committee also agreed to accept the invitation made by the Head of Emergency Planning to attend Exercise Watermark in April 2011.

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By: Max Tant, Flood Risk Management Officer

To: Flood Risk Management Committee

Subject: Flood and Water Management Act 2010 guidance consultations

Classification: Unrestricted

Summary:

The Flood and Water Management Act 2010 requires the publication of various strategies and guidance documents to provide risk management authorities with strategic guidance for undertaking new roles and clarify responsibilities for flood risk management. The Environment Agency and Defra have published four documents for consultation:

- The National Strategy;
- Guidance on cooperation between Authorities;
- Local Authority contribution to sustainable development; and
- Future funding for flood and coastal erosion risk management.

There is also a Strategic Environmental Assessment on the National Strategy for consultation.

National Strategy

Summary

The National Strategy is required by the Flood and Water Management Act 2010 to provide a single strategy for managing all flood risks in England. It is the responsibility of the Environment Agency (EA) to prepare the strategy. At present the document currently being consulted on is an outline for the National Strategy rather than a draft strategy itself. It leaves several areas open, to be completed once the consultation has been completed.

The National Strategy consultation has the following chapters:

1. Introduction – sets out who would be interested in the consultation;
2. Flood and coastal erosion risk in England – sets out the various risks from flooding we face;
3. Managing flood and coastal risk – sets out strategic aims for the strategy and means to meet the objectives (for instance, understanding the risks and planning for the risks);
4. Working together to protect people and property – sets out the roles and responsibilities of various organisations;
5. Funding for flood and coastal erosion risk management – sets out the proposed changes to flood defence funding mechanisms (subject to separate consultation);

6. Reporting on the strategy and supporting information – sets out responsibilities for reporting to the Minister.

In many areas the strategy states the position that is likely to be adopted in the National Strategy (for instance, avoiding development in high risk areas). However, for some issues there is no specific guidance only indications of issues that require further development (for instance, balancing protection of property against agricultural damage), which may or may not be provided in the final strategy.

Strengths

The strategy promotes a community and partnership focused approach to flood risk management. It highlights the need to increase awareness of flood risk management and cooperation between organisations and communities. A risk-based approach is advocated, recognising that not all flooding can be prevented, along with proportionality in any measures undertaken, ensuring that any investigation or subsequent scheme reflects the risks.

The strategy also promotes sustainability and multiple benefits in any measures. For instance, flood defence measures that have benefits to the wider environment, cultural heritage or the locality are encouraged. The proposed changes to the funding mechanisms for flood defence reflect many of these policies to encourage local engagement and a risk based approach.

Weaknesses

The strategy sets out a hierarchy of flood risk management documents from the National Strategy, through River Basin Management Plans, then Catchment Flood Risk Management Plans (CFMPs) and Shoreline Management Plans (SMPs), finally to Local Strategies (which are required to incorporate policies from the other plans, where necessary). This seems an unnecessary complication of documents in a strategy that is intended to simplify the process for the public. Rolling the CFMPs and SMPs into the Local Strategy would provide one document for local communities to consult for flood risk management plans in their area.

The strategy is focussed largely around the needs of the Environment Agency and their existing mechanisms. There is no mention of Water Company strategies and the AMP cycle, which local authorities will need to be mindful of in order to ensure any significant investment in drainage infrastructure that may be required, amongst other responsible bodies.

Strategic Environmental Assessment

A strategic environmental assessment (SEA) is undertaken to ensure that environmental effects are considered during the development of a plan or strategy alongside technical, economic or other considerations. This SEA has been prepared for the draft National Strategy. An assessment of the potential impacts of the strategy has been made on the following areas:

- biodiversity, flora and fauna
- population and human health
- soil

- water
- air
- climatic factors
- material assets
- cultural heritage, including architectural and archaeological heritage
- landscape and
- the inter-relationship between the above issues

The SEA concludes that the strategy either has no impact or a positive impact on these areas.

The SEA assesses impacts on a national scale. It does not replace the need for assessments on local strategies and schemes.

Guidance on Co-operation between Authorities

The purpose of this guidance is to clarify Section 13(1) and 14 of the Flood and Water Management Act 2010, which state that authorities must co-operate and that the Environment Agency and Lead Local Flood Authorities can request relevant information, respectively.

The guidance outlines what co-operation is in this context and the benefits of co-operation between authorities. It also provides guidance on how data requests should be made and what should be done when one is received.

This guidance is common sense and most authorities would likely have interpreted the Act in this way anyway. What it does not provide is a formal legal framework or definitions to use where authorities fail to co-operate and how the Act can be used to enforce it. There are no examples of the type of data that would be covered by Section 14 or how to resolve conflicting requirements for the data, (for instance, commercial sensitivity, data protection, etc).

Guidance for LAs on Contribution to Sustainable Development

This document sets out what sustainable development means in the context of flood risk management as the Local Strategy is required to identify how it will help to achieve sustainability goals. The guidance provides examples of sustainable activities under the following headings:

- Living within environmental limits
- Ensuring a strong healthy and just society
- Achieving a sustainable economy
- Using sound science responsibly
- Promoting good governance

The guidance also provides links to further sources of information for the implementation of sustainability under these headings.

Future Funding for Flood Defence

This document sets out proposals for a new means to fund flood defence works. It proposes a mechanism based on funding for specific outcomes (rather than for meeting specific objectives) and allows for third party money to be used to offset any deficit in the

current cost benefit analysis used to determine Grant in Aid (GiA) funding. Additionally, the proposals would promote more government investment in areas least able to pay for themselves.

Existing funding for flood defence works comes from central government if the scheme achieves a desired cost benefit ratio, typically 1 to 8. This means that many schemes are not viable as the benefits (ie the damages a flood causes) are not sufficient. By paying for specific outcomes, irrespective of whether the whole scheme achieves a desired cost-benefit ratio, and allowing additional sources of funding to meet any shortfall, either through the RFCC or raising funds locally, the government hopes to increase the number of schemes that are viable.

The consultation outlines various flood defence outcomes and how much GiA would be available for each outcome. For instance a home that is moved from one flood risk zone to another would receive a proportion of the estimated reduction in annual damages per annum of the flood defence scheme (e.g. If the household would otherwise be at significant or very significant risk (5% assumed), expected annual damages of £1,500 are reduced to £300 as a result of protection being improved, therefore Government would pay an extra £240 (1 in 5 of the benefit) a year per household better protected against very significant or significant risk). Outcomes for critical infrastructure, environmental improvements and other outcomes are also given.

Communities can make up the shortfall in GiA funding to meet the scheme costs by providing some of the funds themselves, they are also encouraged to help improve the cost-effectiveness of defence schemes. This also provides more local determinism in flood defence provision. Whilst the intentions of this proposal are supported and they may help Lead Local Flood Authorities to deliver some of the objectives of the Flood and Water Management Act, there remains a gap in how local communities could raise the required additional funds. If there are not loans or grants available for them to draw upon it is hard to see how this will change anything for small communities at risk.

The new proposals preclude any houses built after January 2009 in flood risk areas being used in any benefit calculations. Whilst this policy is accepted in principle as it helps to deter development in inappropriate areas, it is not clear if this will include areas of existing housing that have been redeveloped. If this is the case then this measure could deter redevelopment of key areas.

Recommendations

The committee should add any comments to the draft responses of Kent County Council to these consultations.

Background documents

The Floods and Water Management Act -

http://www.legislation.gov.uk/ukpga/2010/29/pdfs/ukpga_20100029_en.pdf

The National Strategy - <https://consult.environment-agency.gov.uk/portal/ho/flood/fcerm/strategy>

Co-operation and sharing of information guidance - <https://consult.environment-agency.gov.uk/portal/ho/flood/fcerm/strategy>

Local Flood Authorities Contribution to Sustainable Development -
<http://www.defra.gov.uk/corporate/consult/flood-sustainable-development/index.htm>

Future Funding for Flood and Coastal Erosion Risk Management -
<http://www.defra.gov.uk/corporate/consult/flood-coastal-erosion/index.htm>

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By: Max Tant, Flood Risk Management Officer
To: Flood Risk Management Committee
Subject: LGIU Scrutiny flood toolkit
Classification: Unrestricted

Summary:

The Flood and Water Management Act 2010 gives lead local flood authorities the power to exercise the overview and scrutiny of flood and coastal erosion risk management functions by risk management authorities in their area. The Local Government Information Unit has provided non-statutory advice for carrying out these roles.

Background

The Flood and Water Management Act 2010 (the Act) amends the Local Government Act 2000 to provide lead local flood authorities (as defined in the Act) the power to exercise overview and scrutiny of flood risk and coastal erosion management functions in their area. Schedule 2, Section 54 of the Act amends the Local Government Act 2000 by inserting Section 21(F), Section 2 of which reads:

“The arrangements required under section 21(2)[of the Local Government Act 2000] include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority’s area.”

The Local Government Information Unit (LGIU) has prepared some non-statutory advice for local authorities to understand the role of scrutiny in flood risk management. This advice has been prepared after the LGIU, in partnership with Local Government Improvement and Development, held a series of three meetings with elected members and officers from 19 local councils across England and Wales.

Summary

The document is quite short and is written in short bite-sized parts. It provides a background to the scrutiny role, including a review of the relevant scrutiny and flood risk legislation, and a summary of the potential and limitations of local government scrutiny.

The advice gives “ten tips” shared by the Centre for Public Scrutiny. Finally the advice identifies measures that may be taken in four areas to strengthen the scrutiny of flood risk management, these areas are:

- Resources,
- Leadership,
- Process, and

- Partnerships.

The advice is often written from the perspective of reviewing a specific issue or incident, for instance a flood event, though some advice is more general to day-to-day oversight of flood risk and coastal erosion risk management issues (in fact one tip advises that scrutiny should also be forward looking, rather than constantly retrospective).

The advice advocates understanding the issues and engaging with partners and senior leadership to ensure that any review that is necessary can be undertaken effectively.

Recommendations

The committee may wish to review the current terms of reference to ensure that the scrutiny role provided for by the Flood and Water Management Act 2010 is adequately addressed.

Background documents

The Floods and Water Management Act -

http://www.legislation.gov.uk/ukpga/2010/29/pdfs/ukpga_20100029_en.pdf

Scrutiny of flooding toolkit - <http://www.idea.gov.uk/idk/aio/24925049>

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