

Local Members' Interest
N/A

Prosperous Staffordshire Select Committee – 18th December 2014

Flood Risk Management update

Recommendations:

That the Select Committee:

1. Notes progress with regard to the County Council's new responsibilities as Lead Local Flood Authority (LLFA) for Staffordshire.
2. Notes the results of the recent consultation on the draft Local Flood Risk Management Strategy prior to this being signed off by Cabinet
3. Notes the response made by Staffordshire County Council to an alternative approach to delivering Sustainable Drainage Systems (SUDS) on new developments
4. Notes progress on work being but in place with partner organisations to deliver a six year programme of flood alleviation investment for the County
5. Notes the work of the Flood Risk Management Team with regards to managing County Council owned reservoirs

Report of Mark Winnington, Cabinet Member for Economy, Environment and Transport

Summary

The Select Committee is being asked to note progress being made on flood risk management responsibilities, including our work in partnership with Shropshire Council to deliver new responsibilities as LLFA, work with Local Planning Authorities to promote sustainable development and work with the Environment Agency and other Risk Management Authorities to bring forward Flood Alleviation Schemes in the County. This report outlines the progress made to date and provides information on further new responsibilities that the County Council may acquire with respect to the provision of SUDS on new developments.

Report

Background

Following the severe flooding during the summer of 2007, the government commissioned an independent review (the 'Pitt Review') which in 2008 recommended that local authorities should lead on the management of local flood risk, working in partnership with other organisations. Two key pieces of legislation

have brought this forward; the Flood Risk Regulations (2009) which transpose the EU Floods Directive into UK Law and the Flood and Water Management Act (2010).

The County Council is now a Lead Local Flood Authority (LLFA) and has new powers and statutory duties to manage and co-ordinate local flood risk management activities. Local flood risk means flooding from surface water (overland runoff), groundwater and smaller watercourses (known as Ordinary Watercourses). The County Council does this by working together with other organisations including the Environment Agency, which manages flooding from generally larger rivers (known as Main Rivers, such as the River Trent); the Sow and Penk Internal Drainage Board (IDB) managing low lying areas around Stafford; District, Borough, Parish and Town Councils and infrastructure / utility providers, such as Severn Trent Water, United Utilities and the Highways Agency.

Staffordshire County Council (SCC) and Shropshire Council (SC) have collaborative working arrangements for local flood risk management. The aims and objectives of the collaborative working approach will help to ensure that both SC and SCC work effectively together to a common objective based on a culture of partnering and trust and sharing of ideas, resources and methods. To support the collaborative working approach, a new governance structure has been established to provide appropriate scrutiny and effective engagement between Regional Flood and Coastal Committees, partner organisations and community groups. The initial meetings of the Service Delivery Group (multi agency steering group) and Project Board (involving lead Elected Members for flooding) were held in November 2014.

There are both strategic and operational elements to the role of LLFA. Strategically, the Council need to develop, maintain, apply and monitor a Local Flood Risk Management Strategy. Operationally, the County Council investigates flooding incidents, holds a flood risk management asset database and has powers to designate third party assets where they have an impact on flood risk. Additionally the County Council also undertakes various land drainage activities, including consenting to works and enforcement on Ordinary Watercourses outside of the Sow and Penk IDB area.

If commenced, Schedule 3 of the Flood and Water Management Act would establish the County Council as a SUDS Approving Body (SAB). The purpose of SUDS is to mimic natural drainage, significantly reduce surface water runoff and improve water quality. The SAB would be responsible for approving, adopting and maintaining drainage systems in new developments.

However in autumn this year the Government consulted on an alternative approach to implementing SUDS legislation and mechanisms for ensuring their long term maintenance. This is based on making better use of the planning system. At the time of writing this report the outcomes of the consultation are unknown.

Progress in delivering new responsibilities including the Local Flood Risk Management Strategy

Operational work

As a LLFA we are required to hold a register of drainage assets that could have a significant effect on flood risk. A significant amount of work has been undertaken since 2011 to collate and update this information in a GIS based format and this is being used to inform wider LLFA work, such as flood investigations and responding to planning applications.

A project is now being undertaken within the Flood Risk Management Team to develop this further into an Asset Management System. The project will review and assess current systems and processes to realise efficiencies and optimise our Asset Management System to inform programmes of work for both ourselves and internal and external partners to help reduce flood risk throughout the County. It will also inform priorities for further data collection, taking a risk based approach.

The County Council also has powers to designate third party assets where these affect flood risk so that they cannot be removed or altered e.g. garden walls acting as informal flood defences. We have been working closely with Shropshire Council to establish the legal procedures necessary. Designation of such features will take place using a risk based approach. Such features would then be added to our Asset Management System (note that not all assets on the register above need to be designated).

The County Council has a duty to investigate flooding incidents, where it deems it to be 'necessary or appropriate' and determine which organisation(s) have roles and responsibilities. Formal investigations and more straightforward land drainage investigations are ongoing following the 2012 floods and recent flooding experienced at Little Aston, working with Walsall Council in July 2014 and the Newcastle area, working with the Borough Council in November 2014.

In respect of land drainage work, our role includes consenting of permanent and temporary works that are likely to affect the flow of an ordinary watercourse and enforcement to rectify unlawful and damaging or potentially damaging work that has an adverse affect on flow of an ordinary watercourse. We receive around 40 applications for consent a year for works such as culverts, bridges and outfalls. We seek to resolve enforcement issues, such as a lack of maintenance or unconsented structure posing a flood risk, by negotiation with the landowner(s) in the first instance and have a number of cases ongoing. We have also been working with riparian (brook and river side) landowners to raise awareness of their responsibilities to maintain watercourses and keep them free flowing.

Infrastructure Plus, the strategic partnership between Staffordshire County Council and Amey, commenced on the 1st October 2014. There are supporting links between our work as a Highways Authority and a Lead Local Flood Authority in respect of processes, systems and customer interfaces. This includes for example drainage asset management and maintenance, flood alleviation scheme design and delivery, planning for operational flood response and investigations into drainage and flood risk issues. Discussions are being held to identify the relevant linkages and how we can work together.

Local Flood Risk Management Strategy

The County Council has a duty to develop, maintain, apply and monitor the implementation of a Local Flood Risk Management Strategy. We have worked jointly with Shropshire Council to produce our Local Flood Risk Management Strategy and public consultation took place between April and September 2014. Around 20 responses were received from the public, town and parish councils, County Council colleagues and flood risk management partner organisations. The report and supporting Strategic Environmental Assessment are currently being finalised by our consultants and will be sent to Cabinet for sign off in early 2015.

The Local Flood Risk Management Strategy sets out roles and responsibilities for flood risk management, assesses the risk of flooding in the County, where funding can be found to manage flood risk, and establishes our policies, our objectives and our actions to manage flood risk.

The next step will be to develop an Implementation Plan, which will bring together the actions and priorities set out in our Strategy and plans for investment in flood alleviation from all partners across Staffordshire and Shropshire. Progress will be monitored by the Staffordshire and Shropshire Flood Risk Management Service Delivery Group.

Partnership investment programme

Central Government's funding mechanism for flood risk management schemes is called Flood and Coastal Risk Management Grant in Aid (GiA) (sometimes called Flood Defence Grant in Aid (FDGiA)). Since 2011 GiA has operated on a 'Partnership Funding' basis. The amount of central funding that a scheme attracts is based on the benefits of a scheme (principally in terms of residential properties protected) and the amount of funding secured from 'other' sources, including public and private funds and regional funding known as Local Levy. The government's approach to Partnership Funding means that the more external funds that can be found, the better a scheme 'scores' and the more likely it is to be delivered and prioritised against other schemes nationally. Schemes are approved by the relevant Regional Flood and Coastal Committee (RFCC).

Flood Risk Management Authorities, including Staffordshire County Council, can submit bids for GiA. Traditionally, the Environment Agency invited bids on an annual basis each summer. This year, and following the winter floods of 2014/15, a six year programme of bids was required and the submission date was moved forward to the spring. There has been ongoing and accelerated liaison with the relevant RFCCs to secure Staffordshire schemes in the six year programme and ensure that our local priorities have been taken into account. The six year programme is due to be announced nationally by government on the 5th of December.

Schemes have recently been delivered at Elford (culvert relining) and Moreton (Property Level Protection). Schemes are ongoing at Lower Tean (flood diversion channel) and Kinver (Property Level Protection).

Studies are commencing to identify the preferred option for flood alleviation for Codsall, Perton, Huntington, Rolleston on Dove, Marchington and Barton under Needwood. We have been working with East Staffordshire Borough Council and the Environment Agency to develop a solution to a health and safety issue on the Trent flood bank at Stretton. The delivery dates for these schemes will be set out in the announcement made by government in December as part of the autumn statement. That announcement will also cover other locations across the County where we hope to deliver studies and subsequent schemes over the next six years.

Flooding rarely comes from one source and we have been working closely with partner organisations to deliver schemes both led by ourselves and others at locations across the County. For example, we have been supporting the Environment Agency to develop a scheme for the Rising Brook in Rugeley, which is seeking to secure Local Enterprise Partnership funding.

Planning and SUDS: flood risk management functions yet to be finalised

Schedule 3 of the Flood and Water Management Act introduces a role for the County Council with regards to the approval, adoption and maintenance of sustainable drainage systems on new developments. Government consulted on the implementation of Schedule 3 from December 2011 to March 2012 and a number of issues have arisen that have caused delay nationally to the implementation of the legislation.

In autumn this year the Government consulted on an alternative approach for implementing SUDS and mechanisms for ensuring their long term maintenance. This is based on making better use of the planning system to meet Sir Michael Pitt's recommendations on sustainable drainage. In light of this consultation, both Councils have put the preparation work for the SAB on hold until further clarity is known about the future of LLFA involvement in SUDS on new developments.

The suggested alternative approach centres around strengthening planning policy (with supporting guidance including the National Standards for SUDS proposed under Schedule 3) and that Local Planning Authorities should secure SUDS through conditions on new development, being supported by expert advisors and consultees. A variety of options were put forward for maintenance, although none of these are new and all are potentially available at the current time. Subject to the outcomes of the consultation, the government would like to introduce changes to the planning regime in Spring 2015.

A response was prepared with Councillor Gill Heath to the consultation highlighting the following key issues:

1. The anticipated SUDS Approving Body as an entity disappears but the work involved in 'approving' SUDS remains.
2. The need for funding for the role of 'approving' SUDS as considered under the burdens analysis undertaken for Schedule 3 remains
3. Imposing conditions to ensure and check SUDS are implemented and maintained will be a major challenge
4. How the SUDS are maintained in perpetuity and who pays for this work will be a major challenge, as highlighted in the Pitt Review (2008)

The Environment Agency have withdrawn from making bespoke comments on planning applications outside of the larger river flood risk zones and on surface water management for new developments. They are also withdrawing from providing advice on

flooding from smaller watercourses and surface water to inform Local Planning Authority strategic planning documents. The Environment Agency has been deflecting developers and Local Planning Authorities towards the LLFA to provide this advice. This has significantly increased the workload of the Flood Risk Management team as there is an expectation from Local Planning Authorities that we will act as a non statutory consultee to the planning process.

We are working in partnership with Local Planning Authorities, the Environment Agency, Severn Trent Water and United Utilities to put in place efficient and effective processes for managing planning responses to ensure integrated working and on a risk basis to identify the developments with the potential to have the highest impact on flood risk.

Reservoirs

Staffordshire County Council owns and maintains six reservoirs throughout the County. There are three in the North (Serpentine, Deep Hayes and Consall) and three in the South (Chasewater, Norton Bog and Hatherton).

Chasewater and Serpentine fall under the regulation requirements of the Reservoirs Act (1975) because they are large raised reservoirs (over 25,000m³). This requires a regular programme of inspection and monitoring by Inspecting and Supervising Engineers to ensure public safety. Serpentine and Chasewater are also monitored by the County Council Countryside Rangers on a weekly basis and if any works are necessary the Flood Risk Management Team liaise with the County Structures Team and Countryside Services Team who are responsible for reservoir management in Country Parks.

Staff Resources

There are currently five members of the Flood Risk Management Team: a Team Leader (Flood Risk Manager), three Flood Risk Officers and a Flood Risk Management Technician.

The need to act as a non statutory consultee to Local Planning Authorities has created a significant additional workload for the team and put pressure on our other flood risk management functions. Resources are currently being supplemented by consultancy support on planning applications provided by partnership arrangements with Shropshire Council. Depending on the outcomes of the current consultation and any future role that the County Council has with regard to SUDS on new developments, additional resources will need to be considered.

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Background papers

Flood and Water Management Act 2010

Flood Risk Regulations 2009

Pitt Review 2008

Staffordshire County Council response to government consultation on an alternative approach to SUDS provision 2014

Staffordshire Preliminary Flood Risk Assessment

Consultation Staffordshire Local Flood Risk Management Strategy 2014

UKCP09 "The climate of the UK and recent trends" 2009

UKCP09 "Climate Change Projections" 2009

IPCC 5th Assessment Report 2014