

Report to Overview and Scrutiny Committee

Date of meeting: 9 July 2009

Subject: Consultation on Draft Flood and Water Management Bill



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Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

- 1) That the local knowledge and expertise that exists within the Council be used to make a comprehensive response to the consultation and where possible and feasible seek the best outcome for the residents of the District,**
- 2) That the newly formed Pitt Review Task and Finish Panel will look into the impact of this Bill on the Council**

Report:

1. A copy of the Draft Flood and Water Management Bill has been placed in the Members Room for comments, please send any comments to Kim Durrani.
2. Following the wide spread flooding in summer 2007 the Government asked Sir Michael Pitt to conduct a review of the circumstances surrounding the flooding including the aftermath and how the incidents were dealt with. The outcome of this was the 'Pitt Review' which was published last year. The report makes a number of recommendations and the impact of these on the Council will be considered by the recently established 'Pitt Review Task and Finish Panel'.
3. The Government has now responded by announcing a draft bill which seeks to address the issues raised in the Pitt Review. The report was issued in April 2009 and the deadline for responses is 24 July 2009. The bill is intended to be presented to Parliament in the autumn session later in the year.
4. There are 188 individual questions in the Bill that require a response. Whereas some of the questions may not have an impact on the Council there are a number of proposals within the Bill which can have a significant impact on the way the Council provides its front line flood risk management service.
5. One of the major elements of the Bill is the definition of a Local Authority, it is proposed that for all matters relating to flooding the responsibility will rest with the Tier 1 authority. This will make Essex County Council the lead authority for all matters relating to flood risk.
6. The Bill refers to formation of local partnering arrangements but it is not clear how these will be formed. In the case of this District where there is a significant risk of flooding and where local knowledge and expertise exist a stronger partnering agreement needs to be developed with the Tier 1 authority.

7. The Bill also proposes changes to flood defence funding with the lead role being given to the Environment Agency and the role of the Regional Flood Defence Committee changing to that of an advisory body.

8. Another significant change is the adoption of Sustainable Urban Drainage Systems by a local authority. These are systems which are put in place to reduce the risk of flooding from a new development. Traditionally these systems have been managed by the developer, but in practice these are difficult to manage specially if the development is not significantly large. The Bill proposes that these systems should be adopted by Tier 1 local authorities. It is unclear how the adoption process will be managed specially since the planning function is the responsibility of Tier 2 local authorities.

Reason for Decision:

9. To ensure that the experiences and knowledge within the District are used to make valuable contributions to the consultation on the proposed Bill.

10. There are a number of properties within the District that are at a significant risk of flooding. There are two major rivers flowing through the District and over a 1000 km length of small watercourses which represent a flood risk. There are four flood defence schemes and a large number of flood assets for which the Council is legally responsible and for the maintenance of which it has got a drainage team.

Options considered and rejected:

11. It is possible to offer a 'no comment' to the consultation however officers are of the view that there are far reaching changes proposed in the draft Bill which could result in a diminished level of service for residents of a District like EFDC where flood defence has always been allocated a higher priority.

12. Another option is to accept all the changes as proposed. This could result in a deterioration in the level of flood defence service currently provided, for example if all flood defence matters were a Tier 1 local authority function then it is reasonable to assume that the response to a local flooding emergency may not be as rapid as that of a Tier 2 or alternatively may not be as cost effective.

Consultation undertaken:

Safer, Cleaner Greener Panel meeting 23 June 2009 to consider proposal for placing this item on the O&S agenda

Resource implications:

Budget provision: no additional funding required

Personnel: officers of the Environment and Street Scene Directorate will prepare the response

Land: a number of flood defence assets are in the Council's ownership however no change in ownership or responsibility is proposed in the Bill.

Community Plan/BVPP reference: Safer Cleaner Greener and Council's Action Plan will be considered when preparing responses to the consultation

Relevant statutory powers: the Land Drainage Act 1991 & 1994, Planning Policy Statement 25 and other community well being powers to deal with flooding

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)