

CONSULTATION ON FUTURE ARRANGEMENTS FOR FLOOD DEFENCE MANAGEMENT

PROGRAMME AREA RESPONSIBILITY: HIGHWAYS AND TRANSPORTATION

CABINET

4TH DECEMBER, 2003

Wards Affected

County-wide

Purpose

To consider the options suggested by the Environment Agency and the Welsh Assembly Government in consultation papers on the future of flood defence funding in England and Wales. Replies have been requested by 5 December 2003 for the Welsh Assembly and 31 December 2003 for the Environment Agency.

Key Decision

This is not a Key Decision

Recommendation

THAT it be recommended to the Environment Agency and the Welsh Assembly Government that:

- (a) any future Regional Flood Defence Committee having responsibility for Herefordshire should be sufficiently small to ensure that local interests can be properly represented;**
- (b) the funding arrangements for work undertaken by the Regional Flood Defence Committee must be consistent across the whole of the Committee area and not affected by national boundaries;**
- (c) in the event that Herefordshire remains within a Welsh system of Regional Committees, the creation of three Regional Committees for Wales be recommended; and**
- (d) if the English/Welsh border is adopted as the boundary for Flood Defence Committees, Herefordshire should become part of an English Regional Committee structure but within a smaller region than that proposed for the Midlands Regional Flood Defence Committee.**

Reasons

In March 2003 the Government announced the outcomes of the Flood and Coastal Defence Funding Review. One of the key recommendations of the review is the creation of Single Tier Flood Defence Committees. The proposals, if adopted, would apply to England and Wales and would result in the abolition of any current two tier (Regional and Local)

Further information on the subject of this report is available from
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committee structures.

Consultation on the proposals is now being undertaken by the Environment Agency for England and the Welsh Assembly Government for Wales.

Within Herefordshire, flood defence functions on the River Wye are the responsibility of the Environment Agency Wales and are generally discharged through the River Wye Local Defence Committee, which is subsidiary to the Welsh Regional Flood Defence Committee.

Considerations

1. The Council has been invited by both the Environment Agency and the Welsh Assembly Government to comment on options for future management of flood defence functions and funding arrangements in the areas currently administered by Local Flood Defence Committees.

Current Position

2. The current arrangements for funding flood and coastal defence are common to both England and Wales. Flood defence services are delivered through the Environment Agency (EA), local authorities and Internal Drainage Boards (IDBs). The EA is the main operating authority in respect of flood defence with powers to construct and maintain defences on watercourses designated as "Main Rivers". In Herefordshire, these include the rivers Wye, Lugg, Monnow, Arrow and Teme.
3. The Council has permissive powers to carry out flood defence works on non-main rivers outside the areas covered by IDBs. The largest current scheme under preparation by the Council is the Ross-on-Wye flood alleviation scheme for the Rudhall and Chatterley brooks.
4. The Environment Agency exercises its responsibility through Flood Defence Committees (FDCs). In some areas, including all of Wales, these Committees operate in a two-tier structure of Regional and Local Committees. In Herefordshire, the River Wye Local Flood Defence Committee (LFDC), covers the entire catchment areas of the Rivers Wye and Lugg. The majority of this area is in Wales and so the Wye LFDC is responsible to the Welsh Regional FDC and, through the Environment Agency, to the Welsh Assembly Government.
5. The LFDC is composed of representatives of each local authority in the area, the Environment Agency and the Welsh Assembly. By statute, the local authorities have a majority of one among the membership.
6. Funding for the work of the LFDC is supported by a levy on each local authority in the area. Capital works undertaken by LFDCs are also eligible for grant assistance from Government at levels dependent on the needs of the relevant Committee. Where Local Authorities undertake capital works on non-main rivers, grants are available from Government at levels dependent on the country within which the works are to be undertaken. LA schemes in Wales are eligible for grant assistance from the Welsh Assembly at a rate of 85% of the capital cost. The level of assistance for schemes in England (ie within Herefordshire) is only 45% and is managed through the Department for Environment, Food and Rural Affairs (DEFRA).

Proposals for Consultation

7. In both England and Wales, the Government has announced its intention to introduce a single tier Flood Defence Committee structure. Subject to changes in primary

legislation to be facilitated by the Water Bill, the changes are likely to be implemented in April 2005. This must inevitably have a direct effect on Herefordshire's future representation and role in the development of flood defences in the county.

8. In a parallel development, the Government proposes changes to the levy system of funding. The bulk of Environment Agency flood defence work will in future be covered by direct grant from government, whilst Regional Flood Defence Committees will retain the right to make supplementary levies for works of local importance which fail to achieve national priority.

Consultation for Wales

9. The consultation paper from the Welsh Assembly Government proposes two basic options together with a specific proposal for trans-border catchments such as the Wye.

Welsh Option 1 – Single Regional Committee for Wales

10. In this option, most of Wales would be covered by a single Regional FDC. Exceptions would be the part of Severn catchment in Wales, which would be the responsibility of the English Midlands FDC and the parts of the Wye and Dee catchments in England, which would be administered by the Welsh FDC.
11. Funding would be a combination of block grants from the Welsh Assembly for the geographical areas of Wales and from DEFRA for the areas within England. In addition, it is suggested that the funding formulae should take account of both the costs of any works and the areas where the relative benefits would accrue. The existing levy system would be abolished.
12. In terms of the membership of the FDC, the Welsh Assembly suggests that new legislation would be promoted to change the future composition of the Committee. Any change affecting Herefordshire would be subject to approval by the Secretary of State for Environment, Food and Rural Affairs.
13. The consultation paper suggests that this option for a single committee would ensure a focus on strategic rather than local issues and that funding arrangements would be compatible with those in England.

Welsh Option 2 – Three Regional Flood Defence Committees

14. In this option, Wales would be administered through 3 FDCs but, as with Option 1, a catchment based approach would be adopted and the Wye in Herefordshire would form part of the South-East Wales Region.
15. It is suggested that more local accountability would be retained with this option and that funding might be provided through local levies imposed by the Environment Agency. However, for activities outside Wales (ie within Herefordshire) it would be likely that funding would be by grant from DEFRA to the Environment Agency.
16. As with Option 1, consideration would be given to changing the representational arrangements on the FDCs, possibly by strengthening local authority representation.
17. The consultation paper suggests that a likely outcome for this option could be that capital works within Herefordshire would be funded by direct grant from DEFRA whilst all work within Wales would be funded through block grants from the Welsh

Assembly. Herefordshire could then be unique in England in its arrangements for capital flood defence works on main rivers. The consultation does not make clear how such a system of finance would be compatible with a key role identified for RFDCs under this option of determining programmes and priorities within their areas and introducing local influence and control over flood defence services.

Welsh Option 3 – The abolition of Cross-Border Committees for FDCs

18. Options 1 and 2 retain the current catchment-based approach to the management of flood defence. As can be seen, these impose serious constraints on Herefordshire in terms of representation to national bodies, the application of national policy and the consistent allocation of funding provision.
19. In its consultation paper, the Welsh Assembly Government makes clear that these options restrict the Assembly Government's ability to tailor the flood defence service to Wales and run counter to the principles of devolution.
20. An alternative proposal is that FDC boundaries follow the national boundaries, placing Herefordshire within the administrative area of the Midlands FDC. This would provide representation for elected Members of Herefordshire Council through an English structure for flood management.
21. Although the representational elements of flood defence would no longer be consistent with river catchments, the Environment Agency would continue to manage and operate its flood defence functions on a whole catchment basis.

Consultation for England

22. The Environment Agency consultation on proposals for England is being undertaken on an informal basis to enable them to finalise their proposals for submission to DEFRA prior to formal consultation by the Secretary of State. The Environment Agency did not include Herefordshire Council in its initial circulation of the consultation papers but provided the information immediately on request when the omission was pointed out.
23. The principles adopted by the Environment Agency in reviewing their arrangements make clear that they wish to maintain Flood Defence Committees based on river catchment boundaries. However, they wish the Committee areas to be small enough to provide accountable democratic input but large enough to adopt a strategic approach.
24. There is no direct reference to Herefordshire or the River Wye in the consultation document and it is made very clear that, for England, the Environment Agency does not consider that a change to national boundaries is justified at this time. Whilst recognising that the parallel changes in Wales could promote the adoption of national boundaries for flood defence management, the Environment Agency regards this as an issue to be considered at a future review.
25. The only change recommended by the Environment Agency for the Midlands is that the existing Severn-Trent RFDC be renamed the Midlands RFDC.
26. The Midlands RFDC (currently Severn-Trent) covers a very large area and contains 64 local authorities (excluding Herefordshire). If Herefordshire was to be added, it could be argued that the area should be split into two separate regions to secure greater local accountability.

Associated flood management issues

27. In conjunction with the proposed abolition of the Local tier of Flood Defence Committees, the Government is also proposing to transfer the responsibility for “Critical Ordinary Watercourses” (COWs) to the Environment Agency. These are watercourses which have been identified as having the potential to cause significant flooding even though they are not Main Rivers. In Herefordshire there are several COWs, including the Rudhall and Chatterley Brooks in Ross-on-Wye and the Yazor, Widemarsh and Eign Brooks in Hereford.
28. Although the transfer of these watercourses to the Environment Agency may appear to remove some existing responsibilities for Herefordshire Council, it must be remembered that the Council will retain its responsibilities as Riparian Owner along many parts of these watercourses. Riparian Owners are responsible for the maintenance of their watercourse and it will become the function of the Environment Agency to enforce these responsibilities on Critical Ordinary Watercourses.
29. Combining the effects of the package of proposals, it is conceivable that with the Welsh Options 1 or 2 the future delivery of flood defence solutions for the areas of Hereford City affected by flooding from COWs (eg the Edgar Street Grid area) could become the responsibility of an Environment Agency Regional Flood Defence Committee in Wales.
30. This highlights the potential weaknesses of perpetuating a system of representation for flood defence matters in isolation from their relationship to local communities and the development of devolved or regional government. Both Options 1 and 2 presented by the Welsh Assembly Government have inherent weaknesses in their application to Herefordshire.
31. Provided that the actual management of flood defence continues to be on the basis of whole catchments, the representational and funding functions for Herefordshire should logically be part of the English regions. This option has been suggested by the Welsh Assembly Government but dismissed, so far, by the Environment Agency in both England and Wales. If the EA view prevails, Herefordshire will remain within a Welsh RFDC system until at least a further review of arrangements, possibly in three years time.
32. It is unfortunate that the two sets of consultations are progressing in relative isolation at this stage rather than addressing the trans-border issues together. This leaves Herefordshire very much at risk of being seen as either an “add-on” to a Welsh RFDC pending a further review or an “uninvited guest” to an English RFDC not yet prepared to operate within a regional rather than catchment based framework.
33. Despite the assertions of the Environment Agency about the requirement for catchment based approach to flood defence (essentially a management issue), it is fundamental to the composition of RFDCs that they are principally representative bodies of the local authority areas but holding executive powers. In these circumstances, the long term interests of Herefordshire need to be considered in terms of the likely ability of this Authority to have influence within the decision-making framework.

Alternative Options

As described in the report.

Financial Implications

Covered in the report above.

Risk Management

Flooding poses a risk to many areas of Herefordshire. In particular, communities along the River Wye in Hereford, Hampton Bishop, Lower Bullingham and Rotherwas have the potential to be seriously affected. Mitigation of these risks is important to the future well-being of the community and economic activity in these areas and should be the over-riding factor in the recommendations for future policy on flood defence.

Background Papers

None identified.