

ANGUS COUNCIL

**DEVELOPMENT CONTROL COMMITTEE
PLANNING AND TRANSPORT POLICY COMMITTEE**

**13 JANUARY 2000
27 JANUARY 2000**

**SUBJECT: DRAFT SEPA
PLANNING AUTHORITY PROTOCOL ON FLOODING ISSUES**

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

<p>Abstract: This report comments on a proposed protocol between Planning Authorities and SEPA on consultation arrangements for the assessment of development at risk of flooding.</p>

1 RECOMMENDATION

It is recommended that the Committee:-

1. notes the terms and contents of the draft protocol on flooding issues, and the progress in accordance with this best practice advice already made in Angus;
2. agree that this report be submitted to COSLA as the observations of Angus Council on the draft protocol, drawing particular attention to Section 4 including the actions already underway in Angus; and
3. welcome this initiative on flooding issues and await publication of a finalised protocol for adoption by Angus Council.

2 INTRODUCTION

- 2.1 The proposed protocol stems from a seminar on flood issues jointly organised by COSLA and the Scottish Environmental Protection Agency (SEPA) in late 1998 which clearly identified a desire for guidance on what should be expected of Councils and of SEPA in dealing with flood risk aspects of planning applications. This included the specific role of SEPA in supplying information on flooding matters and its weight in the determination of planning applications by Planning Authorities.
- 2.2 The proposed protocol has been drafted by a Working Group of officers drawn from SEPA, COSLA and the Scottish Executive. Although the protocol is intended as an agreement on ways of working between Councils and SEPA, the Scottish Executive has a clear interest in the operation of the relevant legislation and the application of NPPG7 on Planning and Flooding.
- 2.3 The proposals will not become operational until comments have been received and any necessary changes taken on board. COSLA has requested comments on the draft protocol by 10 January 2000 and in order to meet this timescale a copy of this

report has been forwarded to COSLA as the provisional views of Angus Council subject to consideration and agreement by the Committees.

3 DRAFT PROTOCOL

3.1 A copy of the Draft Protocol is appended to this Report and contains five elements:-

?? The framework for consultation, encompassing the statutory background to the functions of SEPA and Planning Authorities, together with the roles of SEPA and Planning Authorities including Development Plans and Development Control.

?? Information sources for Planning Authorities on the history of flooding and flood risk.

?? Formation of Flood Appraisal Groups to give practical guidance and information to Planning Authorities.

?? SEPA's formal comments to Planning Authorities on planning applications.

?? Flood Risk Assessments including guidance on content, format and requirements.

4 DISCUSSION

Policy Background

4.1 Guidance and policies on various aspects of planning and flooding is provided nationally via NPPG7 and locally via the Tayside Structure Plan 1993 and Finalised Angus Local Plan.

(i) National Planning Policy Guideline 7

4.2 NPPG7 recognises that flooding is a natural phenomenon which plays an important role in shaping the natural environment and cannot entirely be prevented. The Government, however, wishes to ensure that flood risk is properly taken into account in the planning of developments and that measures are taken to reduce the risk of flooding and the damage which floods cause. NPPG7 sets out the Government's policy on the positive role of planning in achieving these aims and the lead responsibilities of Local Authorities. It provides guidance to Planning Authorities, developers and the public on a wide range of planning and other measures which should ensure that decisions in relation to areas of existing and future development take account of flood risk whether inland or on the coast.

(ii) Tayside Structure Plan 1993

4.3 The Tayside Structure Plan 1993 highlights that in order to avoid unnecessary flooding problems in the future, it is necessary to take full account of the potential for flooding and, where appropriate, to resist development within and direct development away from areas of flood risk. Accordingly, the Approved Structure Plan contains the following proposal, recommendation and policy relevant to flooding issues:-

?? Environment Proposal 3:

To liaise with other relevant bodies in the assessment of flooding risk for new development and in the evaluation of alternatives for flood defence and prevention, with full regard to their environmental impact.

?? Environment Recommendation 1:

In identifying land for development within Local Plans, due regard is taken of possible areas at risk from flooding and such areas are not allocated for development unless no suitable alternatives exist and it is conclusively demonstrated that development can be fully protected.

?? Environment Policy 6:

Development in areas liable to flood or where remedial measures would adversely affect the flood risk elsewhere will not normally be permitted.

(iii) Finalised Angus Local Plan

- 4.4 The Finalised Angus Local Plan indicates that within Angus there are no major flood plains nor long tidal river sections such as the Tay Valley which experienced severe flooding in the early 1990's. Flooding where it occurs tends to be localised and limited to the valley floors adjacent to the watercourse, particularly on the South Esk and the Brothock Water. Site assessment, particularly the location and characteristics of the water course supported often by local knowledge is fundamental to establishing flood potential in relation to new development proposals. Accordingly the Finalised Angus Local Plan contains the following policies relevant to flooding issues:-

?? Policy INF8 : Flooding - Consultation:

Angus Council will routinely consult SEPA if development proposals are adjacent to:-

- ?? the Elliot Water, south of Arbirlot;
- ?? the Brothock Burn, south of Leysmill;
- ?? the South Esk;
- ?? the North Esk, south of Edzell;
- ?? the catchment of the Dighty Water and tributaries; and
- ?? other sites adjacent to watercourses known to be a local flood risk.

?? Policy INF9 : Flood Risk Assessment:

Angus Council will take cognisance of SEPA's recommendations on relevant applications and developers will be required to submit hydrological studies and/or flood risk assessment where appropriate.

Flood Appraisal Group

- 4.5 It is suggested in NPPG7 that each Planning Authority should form a Flood Appraisal Group to assist the Council in addressing related issues. The Finalised Angus Local Plan confirms that a Flood Appraisal Group for Angus Council has been established with SEPA, NoSWA and Council Departments represented. Through the work and discussion carried out by the Flood Appraisal Group, flooding can be considered in a strategic and longer term context enabling management policies to be formulated.
- 4.6 Progress on the work of the Flood Appraisal Group, which was initiated in March 1998 and meets quarterly at present, is summarised in the Biennial Reports published by the Council in accordance with the Flood Prevention and Land Drainage (Scotland) Act 1997. Most recently the 2nd Biennial Report considered by Angus Council on 4 November 1999 confirmed that the Flood Appraisal Group is convened on an informal and advisory basis to provide a forum for the exchange of information and data gathering and to enable discussion on such issues as:-
- ?? catchment drainage management;
 - ?? flood prevention schemes and other mitigation measures;
 - ?? watercourse repair and maintenance;
 - ?? development plan land allocations;
 - ?? significant development proposals.

Detailed Comments on Draft Protocol

- 4.7 Many of the aspects of best practice highlighted in the Draft Protocol are already in place or being undertaken in Angus. In finalising the Protocol it is suggested that the following matters be drawn to the attention of COSLA.

Development Plans (Paragraph 10)

- 4.8 Reference should be made to pro-actively allocating land for development, taking account of flooding issues, in addition to the role and status of the Development Plan in determining planning applications.

Development Control (Paragraphs 11 - 13)

- 4.9 Paragraph 12 of the Draft Protocol does not sufficiently recognise the practical application of consultation procedures. It is understood that Planning Authorities may have more detailed site specific knowledge, but SEPA should also have a responsibility to comment on flood risk whether or not this has been specifically requested by the Planning Authority. In some cases this "assessment" could, in the first instance, simply draw attention to a potential flood risk issue to be the subject of further investigation. Detailed arrangements for consultation with SEPA on planning applications may, of course, vary among Planning Authorities but the underlying objective should be firstly to identify potential flooding issues and secondly to secure appropriate information to properly consider the relevant issues.

Flood Appraisal Groups (Paragraphs 18 - 19)

- 4.10 The second sentence of Paragraph 18 should be amended to read “A Flood Appraisal Group does not replace the role of the Planning Authority in making decisions, but can offer advice.”
- 4.11 Experience to date in Angus suggests that a Flood Appraisal Group can strengthen liaison among relevant bodies and increase information on and understanding of flooding issues including opportunities for enhanced river management. In practice the timescale for considering individual planning applications does not normally afford opportunity for formal detailed input via the full flood appraisal group mechanism. However, it does supplement direct contact between the Council, SEPA and NoSWA and provides a useful forum for raising inter-related issues and promoting a holistic approach on a whole river basis. There may also be occasions, where complex flooding issues are under consideration, for convening a sub-group of the full Flood Appraisal Group to draw on specialist technical knowledge.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from this report.

6 CONSULTATION

- 6.1 The Chief Executive, Director of Finance, Director of Law & Administration and Director of Roads have been consulted in the preparation of this report.
- 6.2 The background to and terms of the Draft Protocol were also discussed and considered at the Angus Council Area Flood Appraisal Group meeting held on 23 November 1999.

7 CONCLUSION

- 7.1 The proposed protocol provides useful practical advice and guidance on consultation procedures and actions relevant to development at risk of flooding. The clarification of the respective roles of Planning Authorities and SEPA within the proposed protocol is to be welcomed. The offer of technical assistance from SEPA in defining the scope of appropriate Flood Risk Assessments together with their assessment and interpretation will assist the Council as Planning Authority in the clarification of flood related issues pertaining to planning applications.
- 7.2 It is intended that in its final form the protocol will be endorsed by COSLA, the SEPA Board and the Scottish Executive, and recommended for adoption by Councils.
- 7.3 Subject to preparation and publication of a finalised version, it is intended that the operation of the protocol will be reviewed a year after its introduction taking account of the development locally of good practice.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/CGR/KW
5 January 2000

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