Information/Discussion Paper

Overview and Scrutiny – 26 February 2018

Response to issues raised by the Cheltenham Flood and Drainage Panel

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed

1. Why has this come to scrutiny?

1.1 The Cheltenham Flood and Drainage Panel presented to the Overview and Scrutiny committee on 28 November 2017. The reason for this was due to the complexity of flood risk and the suggestion that it was not fully understood by the public.

1.2 In response to the presentation, the committee decided that it would like a report from the Development Management team on the following issues:

1.3 *Can comprehensive training be arranged for officers and members of the Planning Committee in flooding and drainage issues, and if so, when?*

1.4 *Can officers explain if and how the Cheltenham Flood and Drainage Panel could be given the same status as the Civic Society and Architects' Panel?*

1.5 *Can a summary be provided of the Council's responsibilities in terms of planning, with specific reference to policies, roles, Flood Risk Assessments, Sustainable drainage schemes, and Section 106 agreements?*

1.6 This report will seek to answer these questions and also provide context for flood risk generally, in this regard, it will answer para 1.5 first before answering the other two queries.

2. Summary of the Issue

2.1.1 <u>What are the Council's responsibilities in terms of planning and flood risk?</u>

2.1.2 To understand the Council's responsibilities in terms of planning and flood risk, it is first important to understand what flood risk is and how it is dealt with in the planning system.

2.1.3 Flood risk is an important material consideration when assessing planning applications and has taken on an extra level of scrutiny in Cheltenham since the floods of 2007.

2.1.4 Decision-makers need to be aware of both national and local policy so this report will seek to explain what current guidance requires.

2.2 <u>The National Planning Policy Framework</u>

2.2.1 The NPPF has a specific chapter on flooding (10. Meeting the challenge of climate change, flooding and coastal change) and the framework is also supported by technical guidance on flood risk which sets out how policy should be implemented.

From a planning perspective, the government defines flood risk as:

2.2.2 *For the purposes of applying the National Planning Policy Framework, "flood risk" is a combination of the probability and the potential consequences of flooding from all sources – including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources.*

2.2.3 The NPPF states that "*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere"* (para 100).

2.3 The Joint Core Strategy

2.3.1 The JCS acknowledges the significance of flood risk in Cheltenham as follows (para 5.3.3):

2.3.2 *Cheltenham Borough occupies a low-lying urban area of the lower Severn catchment. Of particular relevance is the River Chelt which flows through the centre of Cheltenham and is regulated by a flood alleviation scheme. The high degree of urbanisation, coupled with the small size of the catchments and impermeable underlying rock, mean that the greatest flood risk in the area is from surface water overloading of the old drainage system, particularly during intense rainfall events.*

2.3.3 The relevant policy in the JCS (INF 2) requires the following:

Development proposals must avoid areas at risk of flooding, in accordance with a risk-based sequential approach. Proposals must not increase the level of risk to the safety of occupiers of a site, the local community, or the wider environment either on the site or elsewhere. For sites of strategic scale, the cumulative impact of the proposed development on flood risk in relation to existing settlements, communities or allocated sites must be assessed and effectively mitigated.

Minimising the risk of flooding and providing resilience to flooding, taking into account climate change, will be achieved by:

i. Requiring new development to, where possible, contribute to a reduction in existing flood risk

ii. Applying a sequential test for assessment of applications for development giving priority to land in Flood Zone 1, and, if no suitable land can be found in Flood Zone 1, applying the exception test

iii. requiring new development that could cause or exacerbate flooding to be subject to a flood risk assessment which conforms to national policy and incorporates the latest available updates to modelling and climate change data and historic data and information and guidance contained in the authorities' Strategic Flood Risk Assessments and Supplementary Planning Documents, in order to demonstrate it will be safe, without increasing flood risk elsewhere

iv. Requiring new development to incorporate suitable Sustainable Drainage systems (SuDS) where appropriate in the view of the local authority to manage surface water drainage: to avoid any increase in discharge into the public sewer system; to ensure that flood risk is not increased on-site or elsewhere; and to protect the quality of the receiving watercourse and groundwater. Where possible, the authorities will promote the retrofitting of SuDS and encourage development proposals to reduce the overall

flood risk through the design and layout of schemes which enhance natural forms of drainage. Developers will be required to fully fund such mitigation measures for the expected lifetime of the development including adequate provision for on-going maintenance.

v. Working with key partners, including the Environment Agency and Gloucestershire County Council, to ensure that any risk of flooding from development proposals is appropriately mitigated and the natural environment is protected in all new development.

2.4 Cheltenham Borough Local Plan (Adopted 2006)

2.4.1 The adopted local plan sets out a straight-forward approach to development in policy UI2 (Development and Flooding). This policy states that:

Development will only be permitted where it would:

a) In the case of new development, not increase the quantity or rate of surface water run-off; or

In the case of redevelopment, reduce the quantity or rate of surface water run-off and;

b) Not have a direct and adverse effect on a watercourse or its flood defences; and

c) Not impede access to flood defence and management facilities

3. Roles and responsibilities

3.1.1 To assist the Borough Council with their decision making, applications which trigger flooding considerations are referred to statutory consultees who provide advice on the details submitted. Statutory consultees are set out within the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council is statutorily required to consult with the following bodies:

3.1.2 **The Environment Agency -** Major development in flood zone 2 or flood zone 3

3.1.3 **The Lead local flood authority (Gloucestershire County Council) -** Major development with surface water drainage considerations

3.1.4 The authority is also required to consult the Environment Agency for sites located within flood zone 1 but which have critical drainage problems as notified by the EA.

3.1.5 The work of the Environment Agency is well understood: they are responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea. They have a strategic overview of all sources of flooding and they engage with the planning system by commenting and critiquing Flood Risk Assessments through consultations.

3.1.6 The Lead Local Flood Authority:

3.1.7 In preparing this paper, the LLFA were consulted on how they see their role in the planning system. The following response was provided:

3.1.8 *Gloucestershire County Council became the Lead Local Flood Authority (LLFA) following the Flood and Water Management Act in 2010 and in April 2015 were made a statutory consultee on surface water drainage for major planning applications.*

3.1.9 *The aim of consultation is to ensure that future developments will manage surface water in a more sustainable way that does not increase flood risk to the site or elsewhere as well as aiming to enhance water quality. The LLFA, while assessing an application, will check that the development uses a range of Sustainable Drainage Systems (SuDS) to mimic the natural environment as closely as is reasonably practical. For example, using infiltration or a watercourse as the method of discharge instead of a confined public sewer, limiting the rate and volume of surface water discharging from the site and, in extreme events, ensuring that excess surface water that cannot be managed by the drainage system is directed away from properties on and off site.*

3.1.10 *The LLFA will advise the Local Planning Authority whether to object, accept or condition an application based on whether the drainage meets the required criteria.*

3.1.11 From a planning perspective, 'major' is defined as developments which create over 10 houses, more 1000sq.m floorspace, or have a site area greater than 1 hectare.

3.1.12 Cheltenham Borough Council also employs an engineer and part of their role is to consider flood risk management. From their perspective, their role within the planning system is to identify, record, and ultimately take steps to mitigate flood risk. Specifically, they have commented as follows:

The floods of 2007 identified many at risk areas, and since then much work has been undertaken to reduce the risk either by way of improved maintenance regimes or as in many cases by the implementation of structural interventions; i.e. the construction of flood mitigation schemes.

The principles of avoiding flood risk areas and applying sustainable drainage systems (SuDS) where possible and appropriate are well established and for developers to demonstrate that they have been considered.

Developments of 10 residential properties or more are referred for comment to Gloucestershire County Council as Lead Local Flood Authority (LLFA). They have a dedicated SuDS team.

For smaller developments, and if consulted, I will be looking to ascertain whether or not a serious attempt has been made to apply SuDS and limit the post development surface water discharge rate from the site to an acceptable level (usually associated with greenfield run-off rates).

There is no shortage of guidance on SuDS and Gloucestershire County Council has produced one such guide. It is a substantial document but the key point to remember is the hierarchal approach that should be applied to the discharge of surface water; in order of preference:

1. *to the ground via infiltration;*
2. *to a surface water body including a watercourse;*
3. *to a public surface water sewer; or*
4. *to a combined sewer.*

Evidence of this hierarchal approach should be demonstrated by the applicant.

3.1.13 When determining planning applications, case officers work closely with the EA, LLFA and Borough Council's engineer to ensure that flood risk is appropriately understood and suitably mitigated. This is helped by the submission of Flood Risk Assessments (FRAs).

3.2 Flood Risk Assessments

3.2.1 A site-specific flood risk assessment is carried out to assess the flood risk to and from a development site. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users.

3.2.2 An assessment is required for the following:

- Development in flood zone 2 or 3, including minor development and change of use;

- Development with a site area greater than 1 hectare in flood zone 1;

- Development with a site area less than 1 hectare in flood zone 1 where they could be affected by sources of flooding other than rivers and the sea (for example surface water drains, reservoirs);

- Development in an area within flood zone 1 which has critical drainage problems as notified by the Environment Agency.

3.2.3 Government advice states that;

3.2.4 *"The information provided in the flood risk assessment should be credible and fit for purpose. Site-specific flood risk assessments should always be proportionate to the degree of flood risk and make optimum use of the information already available…"*

3.2.5 *"A flood risk assessment should also be appropriate to the scale, nature and location of the development. For example, where the development is an extension to an existing house which would not significantly increase the number of people present in an area at risk of flooding, the local planning authority would generally need a less detailed assessment to be able to reach an informed decision on the planning application. For a new development comprising a greater number of houses in a similar location, or one where the flood risk is greater, the local planning would need a more detailed assessment."*

3.2.6 The objectives of a flood risk assessment are to establish the following:

- Whether a proposed development is likely to be affected by current or future flooding from any source;

- Whether it will increase flood risk elsewhere;

- Whether the measures proposed to deal with these effects and risks are appropriate;

- The evidence for the local planning authority to apply (if necessary) the sequential test, and;

- Whether the development will be safe and pass the exception test, if applicable.

4. Sustainable drainage systems (SuDS)

4.1.1 A sustainable drainage system seeks to mimic nature in terms of managing surface water. Such a system can be delivered in a variety of ways but the basic premise is to manage rainfall close to where it falls and slow down run-off before it enters watercourses. This reduces the risk of "flash-flooding" which occurs when rainwater

rapidly flows into the public sewerage and drainage systems.

5. Can training be arranged for members of the Planning Committee?

5.1 The simple answer is yes. Officers attended a session hosted by the LLFA soon after their inception which provided a useful overview of the work of the LLFA and how they engage with the planning system. It is considered that running a similar session for members would prove very helpful as it will provide context for the work of the committee.

5.2 At the time of writing this report, the planning committee had been advised that the session was being made a priority in terms of member training, and officers were trying to arrange a suitable date. The LLFA have confirmed that they are happy to conduct the training.

6. The status of the Cheltenham flood and drainage panel

6.1.1 Overview and scrutiny asked for an explanation as to whether or not the panel could be given the same status as the Civic Society and Architects' Panel. For context, these groups are recognised within the Council's scheme of delegation as local amenity groups whereby their comments on planning applications can trigger committee decisions. In this respect, they have recognition similar to parish council's when it comes to decision-making.

6.1.2 It is always possible to create new amenity groups that are recognised by the Constitution, but in relation to this specific topic officers would urge caution in the first instance.

6.1.3 The Architects' Panel and Civic Society are recognised in the Constitution given their ability to provide design advice, in the absence of a statutory consultee. Whilst good design can be considered in an objective manner, there is perhaps less of a science to it than flood risk, and this is why different opinions can prove very helpful for case officers. Members of planning committee will be well aware where views of the two groups have proved helpful in carrying out negotiations and formulating recommendations.

6.1.4 With regard to flood risk, government advice is quite clear on who should be consulted on planning applications and what their remit is. The LLFA and the EA are statutory consultees on matters of flood risk and drainage, and decision-makers should be led by their professional advisers. If an amenity group was formally recognised, this could put the authority in a difficult position whereby different consultees are disagreeing with each other on the same subject matter. This is not to say that the recent work of the Cheltenham Flooding and Drainage Panel is not without merit, their scrutiny has indeed proved helpful, but the preferred position has to be that all interest groups are in agreement with the statutory consultees on matters of flood risk – it should not be an area in which there is a wild divergence in opinion.

6.1.5 The Local Government Association provides some useful guidance in relation to managing flood risk (link below). Part of this advice states the following:

6.1.6 *LLFAs should encourage local communities to participate in local flood risk management. Depending on local circumstances, this could include developing and sharing good practice in risk management, training community volunteers so that they can raise awareness of flood risk in their community, and helping the community to*

prepare flood action plans. LLFAs must also consult local communities about their local flood risk management strategy.

6.1.7 https://www.local.gov.uk/topics/severe-weather/flooding/local-flood-risk-management/managing-flood-risk-roles-and

6.1.8 In light of the desires of the Cheltenham Flooding and Drainage Panel, it would appear that the best starting point is engagement with the LLFA so that knowledge can be shared across both organisations. It maybe that this is something that Borough Council could facilitate, but given the nature of both organisations, involvement from the Borough Council seems unnecessary. Direct communication between the two groups rather than two separate bodies scrutinising the same planning applications seems a much more effective use of resource.

6.1.9 Once a sensible level of discussion has taken place between the two groups, it would then be appropriate to report back to the borough on progress and next steps, perhaps through Overview and Scrutiny.

7. Next Steps –

7.1 In light of the above, it is recommended that the following steps take place:

a) Training is arranged for members of Planning Committee to help them better understand matters relating to flood risk, drainage, and the work of the LLFA;

b) The Cheltenham Flood and Drainage Panel work directly with the LLFA to improve understanding and lines of communication.

c) The Cheltenham Flood and Drainage Panel report back to Overview and Scrutiny to outline their experience and how it may impact upon consultation comments received from the LLFA.

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