

Overview and Scrutiny



"Flooding Lower Alt"

Task Group Report

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Flooding Lower Alt

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"Flooding Lower Alt"

Introduction

In early October 2011, the Environment Agency (EA) published a consultation document, seeking views on their proposals to alter the means and funding for water management of the Lower Alt with Crossens Catchment Area. This area includes a significant proportion of the land of the West Lancashire divisions administered by the County Council. It contains urban centres at Formby, Southport (both administered by Sefton Council) and Ormskirk. In the main, however, the area is a rural environment of high agricultural productivity. A significant amount of the national total of domestic vegetables are produced in this area.

The Environment Agency is a Government funded Agency that reports directly to the Secretary of State for Environment, Food and Rural Affairs. This is currently Caroline Spelman MP. In brief the remit of the EA is

- Protect and improve the environment and make it a better place for people and wildlife
- Operate at the place where environmental change has its greatest impact on people's lives
- Reduce the risk to people and properties from flooding

- Make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate
- Act to reduce climate change and help people and wildlife adapt to its consequences
- Work closely with a wide range of partners

The consultation document contains a draft "Flood Risk Management Strategic Plan" for the Lower Alt with Crossens Catchment, on which the views of the public are sought. The consultation document can be read in full at(hard copy attached at Appendix A).

The deadline for responses to the consultation document was given initially as 16 December, although this has now been extended, following significant pressure from the public and elected representatives.

Since publication of this document, local county and district councillors alike have become aware of a strong and passionate local public reaction to the proposals made. This reaction is partly because of a perception that there is insufficient clarity in the proposals on

- what must, as opposed to, what might happen in the future;
- what the practical options actually are;
- the depth and veracity of the evidence that has been used to inform the consultation document and its proposals; and
- the extent to which the likely impact and consequences of any options have been properly considered.

Public fear and confusion about the potentially destructive effect any changes might have on the sustainability of the local agricultural economy and people's livelihoods feature strongly in this reaction.

Local county and district councillors recommended that further exploration and clarification of the issues directly with the EA was needed to satisfy public interest before well-informed responses could be given to the consultation. As Lead Local Flood Authority, Lancashire County Council has powers to scrutinise the EA in its exercise of local flood risk management strategies.

At its meeting on 11th November 2011, the County Council's Scrutiny Committee approved a request to establish an Overview and Scrutiny task and finish group to carry out this work. Initial communication with EA demonstrated a willingness by them to cooperate in this way. Given the place-specific nature of this issue, the composition of the task group included two co-opted

members from West Lancashire Borough Council.

Membership

Lancashire County Council:

Mike Devaney (Chair) (Chorley Rural North)
 Terry Aldridge (Skelmersdale Central)
 Malcolm Barron (West Lancashire North)
 William Cropper (West Lancashire West)
 Sarah Fishwick (Lancaster Rural North)
 Tony Pimblett (Penwortham North)
 Maggie Skilling (Skelmersdale West)

West Lancashire Borough Council:

Paul Blane
 Jane Houlgrave

Terms of Reference and Methodology

The terms of reference for the task group were:

- To further examine directly with the EA the status and implications of the consultation document and its proposals
- To make recommendations

Senior EA representatives with strategic, tactical and operational responsibility for the area in question attended a closed meeting of the task group at County Hall on 16th December. They had been given prior to the meeting a detailed range of questions from task group members and been asked to arrive at the meeting with prepared detailed answers.

In addition to the information provided orally at the meeting, the EA subsequently supplied written responses to the questions to supplement the detail.

A key benefit of the meeting was the willingness of the EA to work with a group of Lancashire county and district councillors to ensure effective communication with interested groups and individuals as the consultation and engagement process progresses. It was agreed that the West Lancashire councillors will act as a conduit in this regard, arranging future meetings between the EA, local representatives and other interested parties. It was agreed by members that this activity would be independent and out-with the corporate authority of both the county and district councils

Witnesses

Keith Ashcroft – Area Manager
Jonathan Croft – Asset Systems Management Team Leader
Steve Crowe – Regional Operation Manager

Findings

The key document that provides the background and context for this task group report is the EA's Consultation Document, "Lower Alt With Crossens Pumped Drainage Catchment – Draft Flood Risk Management Strategic Plan." This document is attached at Appendix A.

The findings of this task group report assume a familiarity with the contents of the consultation document. In addition, it is

important in the context of this O&S review to set out the role of the County Council in relation to this issue and the potential impacts on it of any changes to current arrangements. Also important is the role of the West Lancashire Borough Council.

Lancashire County Council is the Lead Local Flood Authority (LLFA), with primary responsibility for managing the local flood risk from surface water, groundwater and ordinary watercourses. In this role, however, the County Council is bound by the same requirement to focus on prioritising urban flood risk as the EA. In practice, the County Council's responsibilities are around ensuring that flood risk resulting from surface water (e.g. heavy rainfall), high groundwater levels, and small rivers, causes as little damage as possible to people and buildings.

There may be some occasional impacts of relevance to the County Council as LLFA and highway authority if proposed changes go ahead, in particular if pumping levels are reduced. These could include:

- higher water levels in field drains and ditches
- Surface Water not draining as effectively or quickly at times of heavy rainfall
- Outfalls from surface water/highway drains being under water for longer
- Highway drains at times being less effective resulting in flooding of carriageways

- Increased incidents of Groundwater flooding

In the main, however, these are likely to have a minor impact on County Council services.

In addition, the County Council as LLFA may choose to take on a significant role in establishing replacement arrangements and securing contributions to maintain any agreed future pumping levels. As the EA is bound by the new DEFRA (Department for Environment, Food and Rural Affairs) partnership funding approach, which is based on "payment for outcomes" – the EA monies available into the future for water management schemes will be allocated primarily on property protection rather than land. The EA will not, therefore, be able to continue to fully fund its current activities in the Crossens with Alt catchment area. Payment for outcomes essentially means that other agencies, individuals, organisations or communities will be expected to top up any costs going forward, according to locally-determined need. In particular, it would be expected that any beneficiaries of any continued land drainage activity would be expected to help fund such activity. This is an approach that the County Council may also be expected to engage with for other flood risk management scheme.

In addition to the above responsibility – and perhaps more significantly in the context of this issue - the County Council has statutory responsibilities and priority policy commitments in promoting biodiversity, reducing carbon emissions and stimulating local economic development.

- Reductions in land drainage activities and a resulting (deliberate) water-logging of fields will have an impact on their viability for farming and for the long term soil quality, which will have an economic impact on Lancashire. This is a major public concern.
- The County Council supports local efforts to reduce carbon emissions.
- Making changes to current water management in the catchment area may improve biodiversity

West Lancashire Borough Council (WLBC) has responsibilities for flooding and flood risk management in the following areas:

- As a coastal authority
- Land drainage to ordinary watercourses
- In line with Planning Policy Statement 25 WLBC as Local Planning Authority ensures that all developments, land and development control policies are fully informed by a Strategic Flood Risk Assessment carried out in liaison with the Environment Agency.

Environment Agency Key Points

- The EA recognises the seriousness and depth of the issues and concerns that have been raised since it published its consultation document. Its representatives agreed that with hindsight it could have explained

better that this consultation is more of an " initial discussion" with the public and only the first stage of a comprehensive consultation period that will last 18 months

- The manner of the presentation of the consultation document has been unhelpful. In fact, the intention of the EA is not to put forward proposals, but rather to discuss with all interested parties the issues around ongoing pumping and watercourse maintenance in the catchment. EA stated clearly that they remain very much in listening mode and recognise that there is still a significant amount that they need to understand yet regarding the communities likely to be affected, the key issues, and how best to continue with discussions and engagement.
- No firm decisions have been made yet, EXCEPT that a decision has been taken by the EA **not** to close the Crossens pumping station.
- Tidal protection will not be reduced.
- However, the EA believes it is important to inform the public at an early stage of the constraints under which it must now operate and the direction which has been set for it by government. This consultation period is a genuine attempt to discuss "handing over the baton". Once this consultation/initial discussion period closes (now at end March 2012), the process will enter a debating period to discuss in detail the practical ways in which the challenges may be met.

This might take place at two levels, the first strategic, taking a themed approach according to key issues, such as economic benefits and sustainability. The second level might be local, working with communities within the catchment to share information with each other and make sure that together the best possible option can be arrived at. New ideas and concerns will be received and welcomed until 31 March 2013. After that date, there will be a transition period to prepare for changes that have been settled upon.

- Practical changes will not take effect until 31 March 2015.
- There will be no immediate changes.
- The EA is under the Secretary of State for Environment, Food and Rural Affairs. It no longer sets policy itself, as it had done to some small extent previously. Furthermore, it has restructured with commensurate reduction in spending power has lost several experienced staff. It currently has an annual budget of approximately £1.3bn a year. It estimates that its current expenditure in this catchment area is approximately £3million (a breakdown of these figures can be found at Appendix B).
- The EA is bound, therefore, to the priorities and framework as set out at the beginning of the consultation document. The key features of this in the context of this specific issue are: managing flood risks with a priority on protecting people and residential properties ie. urban flood risks;

limiting EA funding according to outcomes – "payment for outcomes" principle; promoting more coordinated activity with other interested partners and local empowerment; and sustainability, including a greater dependence on using the natural flood plain.

- Land drainage carried out for reasons other than EA's stated priorities is no longer a main task of the agency (as it was 5 years ago, when EA invested in a number of satellite pumping stations in the area).
- It is almost certain that the EA, into the future, cannot continue to maintain its existing assets in Lower Alt with Crossens Catchment and to perform drainage activities to the same levels as currently.
- However, it is possible that not all avenues of sources of central government funding have been fully exhausted. The area under question is clearly very special and this does not seem to be fully appreciated by the Government.
- EA state that they are committed to working better with partners – landowners, tenants, growers, local authorities, businesses- to identify the best option for the future, and that those who might wish to take over maintenance have enough time and support to do so. Elsewhere in the country, there are exemplar long-standing arrangements in place (typically in the form of Internal Drainage Boards (IDBs) which secure investment from those locally that benefit from land

drainage. For example, there are 100 IDBs in the Anglian region. And similar arrangements in the North East, the Midlands and Somerset Levels.

- According to EA, the North West region is an exception in not having IDB arrangements. However, local communities with water management issues are currently piloting the potential creation of new IDB arrangements in Cumbria, which if set up will need significant funding from local beneficiaries.
- The powers of the EA to drain the land are permissive and not obligatory. There are no legal contracts in place, except for Hey Cop pumping station. The legal position is not affected by the fact that the EA has continued to choose to undertake this service for such a long, continuous period of time. They have however agreed to look at the potential legal implications of discontinuing their long term operations.
- EA acknowledge that the effectiveness of the steering group that they established to help inform the proposals was limited for a number of reasons. These included insufficient two-way communication, poor composition and representation, and perhaps not enough meaningful discussion within it. In addition, EA accepts it was wrong not to include Lancashire County Council, as Lead Flood Authority, in that group. This was an oversight. EA welcome the opportunity to work more closely with the County Council

and other key stakeholders from now on.

- EA fully intends to ensure that councillors from Lancashire County Council and West Lancashire Borough Council have opportunity to be key members of a reinstated and more robust steering group going forward to work with EA through the rest of the consultation and debating period and to further explore in greater details the implications and consequences, across all levels and sectors of local society, of any changes to current arrangements.
- EA believe that looking at new, locally determined ways of managing flood risk and carrying out drainage according to local need will help raise awareness of the costs and benefits involved, better identify efficiencies, and to empower local communities to manage their flood risks and to become more resilient.
- The EA view this consultation period as an opportunity to work with farmers, landowners and other interested parties and consider all the issues involved. It is important, they say, to be aware of how the manner of the land drainage might affect the quality of the land and undermine its productivity in the long term. The EA would like to explore with interested parties the possibilities of creating more flood storage basins, which would serve a multi-purpose of managing flood risk, storing water for periods of drought and improving habitat

Councillors key points of concern and messages for EA

- A significant amount of the nation's domestic vegetables are produced in the area under question. The agricultural success of the area has been facilitated by the land drainage and embankment protection that has been undertaken by the EA, creating conditions that has allowed food production business to grow and flourish. Previous to the current arrangements, flooding was a very serious problem in this area. Since the EA began its service, local agribusiness has taken advantage of the conditions created and committed significant investments, creating many jobs, especially for the villagers who live in the area. This success contributes significantly to UK food production and security. **Those businesses and jobs are now vulnerable to the risk of changes to land quality.**
- **A more detailed analysis is needed into the economic effects – local and national - of any changes to current water management arrangements.** The consultation document, as presented, does not demonstrate that it has fully considered the economic impacts of its proposals. For example, the costs to the Government of potential significant loss of livelihoods and economic contraction could outweigh the savings by Government of a reduction in funding for water management. This analysis should include the collection of accurate figures of

turnover for the whole affected area. Estimated figures that have been used are lacking in detail and possibly reliability. Furthermore, there is significant local detail yet to be captured in order that the EA position on this be properly informed. The analysis should also include information derived from EA's current dialogue with the Association British Insurance companies (ABI) about the associated impact that changes in flood risk assessments will have.

- Related to this is **an apparent contradiction between the details and rationale contained in consultation document regarding the role and priority of the EA and the commitment of the Government, through DEFRA, to jobs and growth in the countryside particularly around food and drink production.** The local public would benefit from some clarity from Government on how these varying commitments are to be reconciled in this case.
- **A more detailed analysis is needed on the impact on UK carbon reduction levels of reduced pumping.** Changes to the food productivity capacity of this area are likely to impact on requirements to increase food importation, creating associated increases in carbon consumption relating to transportation. In addition to this, but related, is the issue of food security and the need to support reliable domestic production.
- **Greater consideration followed by more clarity is needed from EA on the weighting of the various drivers behind the proposals** (see 3.0 of the consultation document for details). This should include consideration of the possible sustainability benefits of keeping the pumps going; realities of land shrinkage and peat loss risks (which some locally suggest is less of a risk than the EA might believe).
- There may be **scope for development of more energy efficient means of pumping**, such as in-situ wind-powered turbines, solar panels and greater use of gravity. These options need further consideration before proper conclusions can be reached about, for example, costs, savings targets and carbon consumption.
- In considering potential for creating additional flood storage capacity through use of flood basins, it is important to ensure that all interested parties are included in the reinstated steering group, such as food growers and other rural businesses. Task group members remain concerned that the overall benefits of doing this will not outweigh the costs and disadvantages involved.
- Arrangements for appropriate compensation to landowners and farmers in the event of land-use change for flood storage, agreements on the level and duration of the compensation must be agreed before any changes take place.

- **The role and input of the EA in decisions around planning permissions must be strengthened.** Government policy on development and flood risk aims to ensure that flood risk is taken into account at all stages of the planning process to avoid inappropriate development in areas at risk of flooding. This approach is highlighted in Planning Policy Statement 25 (PPS25). However, in the past it may have been locally assumed that land drainage arrangements would remain in perpetuity and, therefore, that flooding risks would be minimal.
- There is a concern that a proportion of the water being drained from agricultural and rural land is in fact displaced run-off from the urban areas. This could affect the validity of implementing a "payment for outcomes" scheme. Should farmers be expected to pay for draining water that has come from building developments where the flood risk considerations had not been properly considered?
- It is **important to consider more carefully what impact the shoreline management/tidal defence plans have on the drainage issues further inland.** Furthermore, an emphasis in stopping water coming in from the sea might mean that efforts to let high rainfall water out are neglected.

Conclusions

The EA's current consultation document together with its proposals are flawed because:

- The evidence base supporting the proposals made is insufficient and incomplete
- Neither local interests nor local expertise have been properly included in the preceding information gathering process

Since the consultation document is flawed, this puts into doubt the value and validity of the responses they receive to it as a fair and true test of public opinion.

It is encouraging that the EA accept this and that they are now clearly taking steps to rectify these gaps.

It is the view of this task group that, in some senses, the consultation process must begin again. The task group welcomes the intention of EA to reinstate the steering group, but only if it is a reinvigorated and a more robust body than its predecessor. It must also include a more appropriate and inclusive membership and there must be a greater general public awareness of its existence.

The task group also welcomes a closer exploration of all mitigating/relevant factors. In particular, more analysis and research is required around:

- economic impact;
- "payment for outcomes" rationale and urban vs rural beneficiaries;

- carbon emissions impact;
- sustainability and biodiversity issues;
- legal, insurance and compensation issues
- possible alternative sources of central government funding for the land drainage activity in the area

The task group believes that once this additional evidence base has been developed, a new set of proposals be developed on which the public must again be consulted for their views.

The task group retains some concern that it is the determined aim of the EA to transfer costs of land drainage from the public to the private sector. However, the task group believes that such an aim is premature and that further consideration must first be given to the extent to which the water being drained off the land is water that has been displaced from urban areas. The task group also views this cost-transference aim to be a direct contradiction to the government's stated policy of support to rural communities, particularly measures to boost jobs and growth and to grow the UK's food and drinks sector.

The task group also retains some concern that the requirement to identify cost savings on overall spend in the Alt with Crossens Catchment is being targeted towards reductions in pumping activities before having fully exhausted possibilities for internal efficiency savings within EA itself.

Recommendations

- **The Environment Agency provides written responses to those questions outstanding of the task group.**
- **Councillors continue to be given every opportunity to be engaged in the consultation and debating period.**
- **The Environment Agency reinstates and reinvigorates its steering group as it continues through the consulting and debating period and investigates the many outstanding issues and factors that require a fuller consideration before proposals can be firmed up. This steering group should develop a more relevant membership, including elected members and officials from different councils and different political affiliations.**
- **The Environment Agency also ensures that the steering group includes members of the task group who have local interest, expertise and commitment to the consultation process, namely Cllr Blane, Houlgrave, Cropper and Barron. It should be noted, however, that this involvement will remain independent and out-with the corporate authority of both the county and district council.**
- **The Scrutiny Committee invites the Environment Agency to a meeting in summer/autumn 2012 to discuss their progress on**

developing a more effective public consultation process.

- **The Executive of the County Council plays a full and appropriate role in the continued consultations and debating period, according to its duties, responsibilities and policy commitments.**
- **The County Council submits a corporate response to the EA's consultation document, this response being informed by the findings of the task group.**
- **This task group report be submitted to West Lancashire Borough Council and to local MPs for their information.**
- **The Cabinet Member for the Environment communicates with the Secretary of State for Environment Food and Rural Affairs seeking clarification from Government on the reconciliation of policy commitments towards promoting growth and jobs in rural areas, in particular food and drink production, and withdrawing support for flood risk management in rural areas that are successful agricultural economies.**