



RTPI

mediation of space · making of place

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24th July 2009

Flood and Water Management Bill Team
Department for Environment, Food and Rural Affairs
Area 2C Ergon House
London SW1P 2AL

Email response sent to: FloodsandWaterBill@defra.gsi.gov.uk

Dear Sir/Madam,

RESPONSE TO CONSULTATION PAPER: Draft Flood and Water Management Bill

Thank you for the opportunity to respond to the above. The RTPI is a membership organisation representing over 22,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public.

This document responds to the consultation for the Draft Flood and Water Management Bill

The response has been formed drawing on the expertise of members including the RTPI Environmental Planning and Protection Network.

If you require any further assistance, please contact Rebecca Coates, Planning Policy Officer on 020 7929 9466 or email england.policy@rtpi.org.uk.

Yours faithfully,

Matt Thomson
Head of Policy and Practice

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The response below constitutes a summary of key points the Royal Town Planning Institute wishes to raise with respect to this consultation. It does not respond to each consultation question individually.

Future Roles and Responsibilities

The draft Bill proposes a clear division of executive roles and responsibilities for flood and coastal risk management. The RTPI welcomes the clarity of this proposed division of roles and responsibilities, particularly between local authorities and the Environment Agency.

However we believe that a key issue in the success of arrangements for local flood risk management is the need for them to be adequately funded. This will be particularly relevant in areas with two tiers of authorities, where the division of roles for different types of flooding will need to work effectively. In order for the provisions of the Bill to be effectively implemented, it is critical that all of the relevant authorities are properly resourced, and their leaders and officials appropriately skilled and aware of the need for action.

The consultation document asks whether County and Unitary Authorities should have powers to carry out works of an emergency nature. We welcome the provision of such powers which would enable prompt action by lead Local Authorities on flooding from surface water, groundwater or ordinary watercourses. However, we see no need for such powers to be extended to flooding from main rivers or the sea.

Managing Surface Water

The draft Bill makes a number of proposals for managing surface water which we welcome. In particular, we support the proposal to require sustainable drainage systems (SUDS) for all new developments. SUDS have a major role to play in managing surface water runoff, and at the same time offer important water amenity opportunities within new developments. In the past, the ongoing management of SUDS has often proved a stumbling block for their effective implementation. The proposal in the consultation document for the creation of a SUDS approving body (upper tier or unitary Local Authorities in England) will greatly overcome this barrier to their use. The RTPI believes that the SUDS approving body should be responsible for the adoption and maintenance of SUDS and that new SUDS should meet standards set out and approved by Government in supplementary guidance. In Wales, we welcome the opportunity for the Minister to allow adoption and maintenance of SUDS by others if appropriate.

The RTPI also supports the provision for developers to include SUDS in new development, where appropriate. However, this by itself is unlikely to be sufficient to fully address surface water flooding and water quality issues within the existing waste water system. The RTPI suggests that in addition there is a need to consider the retrofitting of SUDS, and a need to tackle existing waste water capacity issues.

Transposition of the EU Floods Directive

The RTPI supports the proposal in the consultation document which specifies that floods from sewerage systems would be excluded from transposition where caused solely by a system failure such as a blocked or collapsed sewer. However we propose the inclusion of cases where the result of heavy rainfall or high river levels should also be considered.

We consider it important that there is an appropriate balance between meeting the requirements of the EU Floods Directive and enabling local authorities to take the lead on local flood risk, with the Environment Agency maintaining its strategic overview role. However, the RTPI believes that the Environment Agency should have a key role in providing guidance and support to enable local authorities to develop the skills and expertise that they require to implement these measures.

In addition, we would support the proposal that local authorities undertake the Preliminary Flood Risk Assessments for local flood risks, but believe that the local authority should have a duty to publish these assessments themselves. However, this support is conditional on the relevant local authorities being properly resourced to achieve the outcome.

The draft Bill proposes that responsibility for national scale flood mapping would reside with the Environment Agency. Where there are potential significant risks from ordinary watercourses, surface water and groundwater, local authorities would produce local flood maps, using Environment Agency guidance and specifications, however it would be the Environment Agency's duty to publish all of the flood maps together. We support the proposals that the Environment Agency should be responsible for national scale flood mapping and publishing local and national flood maps. Although we believe that local flood mapping is best devolved to responsible local authorities who have access to local data and historical records, and that it necessary for all flood risk mapping to be published as a whole, rather than as subsets by different agencies/authorities.

We support the proposals for production of Flood Risk Management Plans under the Directive. As with the preliminary assessments, however, we believe that Local Authorities should themselves publish the plans that they produce.

Designation of Third Party Assets

The flood defences that the Environment Agency and other authorities maintain amount to the majority of the assets that the public rely on to protect properties from flooding. However, the RTPI recognises that there are also a number of other assets, such as highways, railway and other embankments, boundary and garden walls and buildings, which are maintained by 'Third Parties', and which have a flood management role.

The draft Bill includes provisions for the Environment Agency, Local Authorities and Internal Drainage Boards to designate such assets which are integral to flood risk management. It proposes a permissive power, allowing a risk-based approach to be applied. The owners would then be unable to remove, alter or damage these assets without prior consent, and authorities would also be able to take enforcement action in cases where someone acts without such consent.

The RTPI welcomes the proposed system of third party asset designation. This should reduce the risk of flood defence systems being compromised.

Reservoir Safety

The draft Bill includes proposals to amend the reservoir safety provisions of the Reservoirs Act 1975. The current Reservoirs Act is not risk-based, and we welcome the tighter controls proposed within the consultation document.

Wales

The draft Bill applies both to England and Wales. Concerns have been expressed that the differences between arrangements in Wales and England are not necessarily all covered in the draft Bill. These include:

- Responsibility for SUDS at least is passed to top tier local authorities in England, whereas Wales has only one tier; would it be appropriate for the EA, LA or another body to deal with this?
- Welsh Water has a mutual structure, rather than shareholders as is the case with English water authorities, and this may have implications for aspects of the Bill.

The consultation asks various questions about how these and other issues, such as flood maps and assessments, should be addressed. We suggest that a workshop or workshops is held with officials from the Welsh Assembly, Welsh

Water, the EA, and practitioners in the field, including the RTPI to consider how to address such issues in Wales.

General Comments

Whilst the Institute recognises that there is a need to be comprehensive, we suggest that 188 individual consultation questions may perhaps be a little excessive.