

Open Report on behalf of Richard Wills, Executive Director for Communities

Report to:	County Council
Date:	22 February 2013
Subject:	Joint Lincolnshire Flood Risk and Drainage Management Strategy

Summary:

The report seeks the approval of the County Council of the recently completed Joint Lincolnshire Flood Risk and Drainage Management Strategy.

Recommendation(s):

To approve the Joint Lincolnshire Flood Risk and Drainage Management Strategy.

1. Background

Lincolnshire County Council is the Lead Local Flood Authority for Lincolnshire under the Flood and Water Management Act 2010. Among other strategic and operational responsibilities arising from this new role, the Council is required 'to develop, maintain, apply and monitor a Local Flood Risk Management Strategy'.

The strength of the partnership arrangements that have been established in Lincolnshire to address flood risk management means that this duty is also an opportunity to develop a co-ordinated approach for all organisations with responsibilities for flood risk and drainage management.

As such, in Lincolnshire the Local Flood Risk Management Strategy has been developed in partnership as a joint approach to cover all forms of flooding, and to provide a focal point to rationalise and integrate the wide range of existing strategies, plans and activity programmes.

A three-month public and stakeholder consultation, including roadshows and workshops across the county, has informed the development of the Strategy, which builds on the nationally regarded work of the Lincolnshire flood risk and drainage management partnership, the coastal study and the coastal change pathfinder, among other initiatives.

The Strategy consists of three parts. These are

- Strategic Vision (Part 1)
- Implementing the Strategy in Partnership (Part 2)
- Action Plan and Common Works Programme (Part 3 - due for implementation in April 2013)

Following Executive approval in December 2012, this report presents the first two parts of the Strategy for approval by the County Council as the overall direction for management of flood risk and drainage in the county up 2025. The Action Plan will be finalised over the next few months for implementation from April 2013.

The Council's duty under the Equality Act 2010 needs to be taken into account when coming to a decision. It is important that the Council is aware of the special duties it owes to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the decision maker. The duty is for the Council, in the exercise of its functions, to have due (that is proportionate) regard to the need to:

- (1) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 s 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: s 149(7).

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- (1) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (2) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (3) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others.
- (7) The relevant protected characteristics are:

Age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation

In practical terms this requires the decision maker to understand whether implementation of the strategy is likely to result in adverse impacts on people with protected characteristics and if so what mitigating steps can be taken to reduce or eliminate those adverse impacts. The impact analysis form attached at Appendix C which should be taken into account when reaching a decision considers the potential for adverse impacts. It indicates that there may be an adverse impact on people in that their access to certain points on the coast might be reduced in the event of construction or enlargement of significant defence works. While this will impact on all, it could impact disproportionately on people with limited mobility, a characteristic of some elderly and disabled people.

To discharge its statutory duty the Council must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified, consideration must be given to measures to avoid that impact as part of the decision making process.

In this case the risk of disruption to coastal access is likely to be minimal. The residual risk can be managed by ensuring that the steps taken are proportionate to the need to protect the coast and commensurate with the level of the flooding risk in an area and that consideration is given to maintaining coastal access where ever reasonably possible. The impact will be further mitigated through the work of the national project implementing coastal access under the Marine and Coastal Access Act 2009 which is tasked with improving and opening up coastal access for all and will seek to address access issues arising from limited mobility. The project is due to report in 2017.

The Council must consider the potential adverse impact of its decision and may consider the adequacy of the proposed mitigating steps. The Council should then consider other relevant factors before making a decision such as

- The need to comply with its statutory flooding responsibilities
- The need to reduce the incidence of flooding
- The need to protect the most vulnerable from the effect of the above including the elderly and disabled who are likely to be disproportionately impacted by flooding

2. Conclusion

The Joint Lincolnshire Flood Risk and Drainage Management Strategy will provide the strategic direction and works programme for the Lincolnshire Flood Risk and Drainage Management Partnership. It brings together flood risk management workstreams that have been in progress in Lincolnshire over the past four years, many of which have been recognised by Defra and the Local Government Association as national best practice.

While meeting statutory obligations, the development of the Local Flood Risk Management Strategy as a genuinely joint programme with a shared vision for flood risk management into the future will secure and maximise the benefits

already accruing from existing work in this area. The Council is therefore asked to approve Parts 1 and 2 of the Strategy.

3. Legal Comments:

The action required is lawful and within the remit of the Council.

Approval of the Strategy will enable the Council to meet its statutory obligations under the Flood and Water Management Act 2010.

4. Resource Comments:

Implementing the Council's role as a Lead Local Flood Authority has long-term financial implications in terms of financing a new service area. Provision has been made in budget plans up to 2014/15 to support development of this area of work, but there remain uncertainties about the timing and scale of arrangements needed to deliver important aspects of the legislation, such as sustainable drainage system approval, as well as uncertainties about the scale of future Government funding for flood risk management. Any on-going financial implications of approving this Strategy not presently dealt with in the future budgets of the Council will be considered as a part of future budget cycles.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The Joint Lincolnshire Flood Risk and Drainage Management Strategy has been considered throughout its development by the County Council's Environmental Scrutiny Committee and by the Flood and Drainage Management Scrutiny Committee which includes co-opted members from each of the district councils and invited participants from all involved partner organisations. Scrutiny comments have been incorporated into successive drafts of the Strategy, and the final draft was recommended to the Executive for approval in December 2012.

d) Policy Proofing Actions Required

The impact analysis report attached at appendix B indicates that there may be an adverse impact on people in terms of coastal access in the event of improvements or alterations to significant coastal defences. This could impact disproportionately on people with limited mobility, a characteristic of some older and disabled people. In this case the risk of disruption is likely to be minimal.

The residual risk can be managed by ensuring that the steps taken are proportionate to the need to protect the coast and commensurate with the flood risk in a particular area, while consideration will be given to maintaining coastal access wherever reasonably possible.

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Joint Lincolnshire Flood Risk and Drainage Management Strategy, Parts 1, 2a and 2b, and Strategic Environmental Assessment <i>(Please note: Due to the size of this document only electronic copies have been circulated)</i>
Appendix B	Impact Analysis

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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