

## 4. Consulting on planning applications: Protecting development from coastal risk

### 1. Introduction

The safety of people and property must be safeguarded from coastal risk. The onus of demonstrating that proposed development will be safe lies with the developer. However, it must be remembered that, even with major engineering works, safety against catastrophic natural events cannot be guaranteed. Precautionary principles must be adopted for development subject to coastal risk.

#### Box 1

#### Key definitions

**Coastal risk** - the combination of both the likelihood and consequences of a coastal hazard

**Coastal hazard** - a naturally occurring or human-induced coastal process or event, with the potential to create loss. Natural coastal hazards include coastal erosion, instability and flooding

### 2. Development control and coastal risk minimisation

Development control can play an important role in minimising coastal risk to both people and property:

- Organisations and authorities charged with defending the coast from risk do not have the power to stop development in areas of risk; only LPAs can do that
- By ensuring that only development which will not generate unacceptable risk is permitted, development control can minimise the implications of coastal risk for the future
- By permitting appropriate coast protection and flood defence works, development control can allow policies to manage risk of erosion and flooding to be implemented
- Through its control of development, development control can ensure that development does not pre-empt choices about the future management of the shoreline
- By bearing in mind the relationship between life of defences and life of development, development control can try to protect people and property into the longer term future
- With its public interface, development control can contribute to increasing public awareness, including by developers, of erosion and flood risk
- Risk must be balanced against other considerations concerning economic development, conservation and recreation

*However, it must be remembered that Local Planning Authorities (LPAs) do not have the technical expertise to go it alone. They must consult the Environment Agency (EA).*

### 3. Policy statements on development control in locations affected by coastal risk

Central government has published a number of Planning Policy Guidance Notes (PPGs) (to be updated as Planning Policy Statements) pertinent to planning applications affected by coastal risk:

- PPG20 Coastal Planning
- PPG25 Development and Flood Risk
- PPG14 Development on Unstable Land (including later published annexes)

PPG policy is carried forward at the local level in development plans. Regional spatial strategies and development plan documents will replace structure and local plans and will be supported by supplementary planning documents. The importance of ensuring appropriate coastal risk policies in development plan documents is demonstrated by the recent introduction of a requirement that planning decision notices (for unconditional and conditional permission and for refusal) must indicate the development plan policies relevant to the decision. For further information, see Information Sheet 3.

#### Plate 1

#### Hurst Spit, Hampshire.



### 4. EA Standing Advice

The EA is not yet a statutory consultee on planning applications affected by flood risk. Nonetheless, Government guidance is extremely clear that the EA must be consulted on such applications. Provisions for this are set out in protocols and memoranda of understanding/service agreements between LPAs and the EA (Information Sheet 7). Following amendments to the General Development Procedure Order (2003), the EA is piloting the use of standing advice on dealing with planning applications affected by flood risk with a number of LPAs. In due course, this will be available on a national basis. This

would allow the EA to delegate its responsibility for dealing with certain types of flood risk to the relevant LPA while providing bespoke advice on major issues. Its purpose is to ensure that the EA concentrates its resources on dealing with planning applications, which involve substantial flood

risk while ensuring that LPAs are in a sound position to consider the flood risk issue where it is limited. While this will not apply to all types of coastal risk, it will provide a framework for dealing with planning applications affected by estuarine and tidal flood risk.

**Table 1**  
**Opportunities to highlight coastal risk issues in the development control process**

Stage	Opportunity to deal with shoreline management issues	Requirement for successful processing
Pre-application	LPA Inquiry Desk hands out the EA leaflet 'Addressing flood risk in new development' (in draft, Spring 2004) with planning application	EA to provide adequate supplies of leaflet to LPA Inquiry Desk
	Developer discussion with planning officer – shoreline management issues highlighted and developer advised to undertake appropriate consultation including with the EA, CPA, MDC and insurers	Planning officer awareness of risk and of the appropriate bodies dealing with particular risks
	Developer discussion with the EA. The EA must respond. Flood risk highlighted. Potential for FRA identified	Developer awareness of risk
	Developer discussion with MDC and IDB – flood risk highlighted. Potential for FRA identified	Developer awareness of risk
	Developer discussion with CPA – instability issue highlighted. Potential for SA identified	Developer awareness of risk
Administration	Notification of receipt of application to warn of coastal risk issue and to include the EA information on development in flood risk areas	Administrative system information on risk areas and the EA information on developing in flood risk areas to be made available for LPA distribution
	Check for flood risk assessment or stability assessment report	Administrative system information on when/where assessments and reports required
	Inform the EA when permission is recommended but the EA have objections on flood risk (principle could be extended to IDB, CPA and MDC)	Administrative system to be informed of the need to inform Sufficient time for the EA, IDB, CPA, MDA to respond before decision is made
	If the EA suggests that information should be conveyed to the developer and to future owners/occupiers, to convey that information	The EA to state that the information that they provide should be conveyed to developer and future owners/occupiers
	Include the EA information on living in a house at risk from flooding with appropriate planning decisions	EA information on living in houses at risk from flooding to be made available to LPA for distribution
Professional consideration	Check whether planning proposal is in area at risk. If so, check that FRA or SA reports have been submitted	Clearly defined zones at risk from flooding, erosion or instability shown on LPs/LDDs
	Proposals in flood risk areas where standing advice is available	
	Check against flood risk constraint map for high risk in indicative flood plain or low risk outside indicative flood plain If site is identified in map, establish development type Use EA matrix to identify cell for development type and risk If red , LPA consult with the EA, including on FRA If green, LPA use standard response and assess FRA If grey, no requirement for EA input on flood risk or for FRA Note: Letter of Compliance indicates EA-developer pre application discussion. Does not signify acceptability Note: some of these steps may be administrative Consider the FRA and, if available, EA response	Clear information on, and understanding of, the flood risk constraint map Clear understanding of the operation of EA standing advice on flood risk Planners to be able to assess FRA for low risk applications using technical advice notes from the EA The EA to provide clear, full and timely representation
	Proposals in flood risk areas but where standing advice is not available	
	Check if proposal is in area of flood risk or where the EA has stated that it wishes to be consulted Where necessary, consult with the EA on flood risk and on relevant coastal defences, including on the quality of the FRA and mitigation measures. Consider response, if applies	Clear information on importance of consultation and on when/where EA/MDA should be consulted Clear information on the standard of protection for different types of development in different locations Clear information on the level of risk, the standard of protection and the local implications of climate change
	Where necessary, consult with MDC on erosion/flood risk and on relevant coastal defences Consider response, if applies	
	Non-flood related matters	
	Check whether planning proposal affects coastal processes or interferes with coastal defences. Consult with coastal engineer Consider response, if applies	Sound awareness of coastal processes and of the role and location of coastal defences
	Proposals affected by instability risk	
	Check if proposal is in unstable area. Consult with CPA on instability risk and quality of SA Perhaps consult with other experts on instability risk Consider responses	Awareness of importance of consultation and of the contexts where it is required

Stage	Opportunity to deal with shoreline management issues	Requirement for successful processing
Professional consideration	Opportunities to mitigate risk	
	Negotiations with developer to mitigate risk	Representations received promptly from the EA, CPA and/or MDC
		Adequate awareness by professionals of the significance of coastal risk
	Possible involvement of the EA, CPA and/or MDC in negotiations with developer to mitigate risk	Willingness to participate by the EA, CPA and/or MDC professionals
	Consideration of how mitigation measures are to be funded, including for future maintenance Application of planning contribution: prescribed means through an optional planning charge; or compliance with relevant requirements agreed by negotiation; or combination thereof	Awareness that the costs of protection, and their future maintenance, for new development will not normally be borne by the public purse even into the longer term future
	Balancing risk and other considerations	
	Consideration of development plan policy	Appropriate policies for coastal risk
Decision making	Incorporation of coastal risk information from all sources in report synthesising planning proposal, all planning considerations, recommended decision and reasons for recommended decision	Awareness of the importance of coastal risk issues (including the safety of people and property over the long term future and of the ability of future occupiers to insure and maintain their property) and an ability to balance these with other planning considerations
		Representations, including on appropriate conditions and on any planning obligation, from the EA, CPA and/or MDC within 21 days (or notification seeking more time or information)
		Adequate detail in representations from the EA, CPA and/or MDC
	EA advises: if development is in flood risk area and standing advice applies, when proposal fits in red or green cells but there is no FRA – refuse. If development is in red cell, the EA will object if FRA not considered adequate Both the EA representation and the EA standing advice are material considerations	The EA standing advice to be operational (i.e. reviewed and confirmed over last two years) Response from the EA to be timely LPA not to feel that other considerations outweigh coastal risk
	If LPA seeks to permit development against the EA objection, LPA to re-consult. Decision notice to refer to relevant development plan policy	Adequate awareness by officers of coastal risk and of paragraph 65 of PPG25. Appropriate policies in development plan documents
	Refusal where coastal risk is substantial, where mitigation measures are inadequate/inappropriate or where risk is not outweighed by other considerations. Reasons should refer to representations or standing advice and to relevant development plan policy	Adequate awareness by councillors and planners with delegated powers of the significance of coastal risks <i>vis-à-vis</i> other considerations. Appropriate policies in development plan documents
Post-application	Conditions (including Grampian type) related to coastal risk attached to planning permission. Reasons should refer to representations or standing advice and to relevant development plan policy	Adequate awareness by councillors and planners with delegated powers of how risk may be mitigated (see consultations). Appropriate policies in development plan documents
	Planning obligations related to coastal risk associated with planning permission	Adequate awareness by councillors and planners with delegated powers of how risk may be mitigated (see consultations)
	Monitoring of planning decisions	Awareness of the importance of adherence to conditions (including Grampian type) and of implementation of obligations related to coastal risk
	Refusals, or conditions attached to planning permissions, incorporating shoreline management issues to be sustained at appeal, including if standing advice was used in reasons for refusal	Willingness and ability of the EA, CPA and/or MDC officers to support representations through appeal process Adequate awareness by inspectors and Secretary of State of the significance of coastal risks <i>vis-à-vis</i> other considerations and of how risk may be mitigated
Purchaser provided with coastal risk information with planning search and advised to consult the EA (or other bodies in appropriate contexts)	Link between planning decision and planning search procedures	
The EA to inform LPA when recently developed properties are flooded	Monitoring of flooded properties by the EA and a base line date for development for which notification would be undertaken	

**FRA: Flood risk assessment**

**SA: Stability assessment**

**EA: Environment Agency**

**LPA: Local Planning Authority**

**CPA: Coast Protection Authority**

**MDC: Maritime District Council**

The EA will need to review and confirm the appropriateness of standing advice at least every two years. The standing advice will, otherwise, have no status.

**Box 2**

**Summary of the EA's standing advice**

Key elements of the EA's standing advice:

- EA's most up to date maps of flood risk areas
- A flood risk response matrix identifying types of development by risk of location and indicating whether the EA should be consulted or the LPA deal with flood risk
- Four technical guidance notes on flood risk assessment for different types of development in different types of location

For flood risk, proposed development locations are classified as:

- Within Main River bye-law distance
- Within the indicative flood plain, i.e. falling into PPG25's zone 3, a high flood risk area
- Outside the high flood risk area represented by PPG25's zones 1 and 2, no/low risk and low/medium risk

EA's Technical Guidance Notes:

- Development Less Than 1.0 Ha. in Zones 1 & 2 (FRA1)
- Development Greater Than 1.0 Ha. in Zones 1 & 2 (FRA2)
- Minor Development within Zone 3 (FRA3)
- General Development within Zone 3(FRA4)

**5. High level targets**

Defra has a number of high level targets (HLTs) to monitor operations related to risk management. HLT 12, *Development in areas at risk of flooding*, requires monitoring of the integration of the EA and LPA activity in development control decision making. This is done by reporting the EA's response to planning applications, identifying where the EA sustained objections and what the final decision was. HLT13, *Development in areas at risk of coastal erosion*, requires reporting on planning applications where coastal erosion is a material consideration.

**6. PA consultations on flood risk**

Key points to consider include:

- Consultees on planning applications should make their responses within three weeks. Monitoring information on HLTs indicates that the most common reason that LPAs do not consider the EA advice on flood risk is that it is received too late (or not received at all).
- The EA is not, currently, a statutory consultee on flood risk (though it is on other matters). However, it is proposed to amend the General Development Procedure Order to include the EA as a statutory consultee on such applications. No information is available (mid 2004) on when that will happen
- The Planning and Compulsory Purchase Act 2004 requires that statutory consultees on planning applications must give substantive responses to consultation in the required time (or other time agreed in writing). The Secretary of State has power to prescribe the procedure and basis of substantive responses. This will apply when the EA

becomes a statutory consultee on flood risk. The EA will then be obliged to make timely and substantive responses on planning applications involving flood risk.

**7. Training & Continuing Professional Development (CPD) of staff**

Although dealing with flood risk has assumed increased prominence in LPAs, similar concern must be directed to other forms of risk in coastal locations. To deal with coastal risk, planning staff and decision-makers must be well informed about hazards and risks, about shoreline management and about the implications of low regard to coastal risk issues.

To operate the EA's standing advice, an understanding of the principles underlying the advice and its method of operation is required. The EA proposes to train both its own officers and those of LPAs. Additionally, to judge the quality of FRAs needs an understanding of their need, the appropriateness of the assessment of risk and of the mitigation measures proposed. The EA proposes to offer training to LPAs.

Finally, training must be repeated regularly because of staff changes and the updating of ideas and advice. It should be extended to include councillors. It may contribute to the CPD requirements of professional officers.

**Questions to ask yourself:**

- Do I, or the staff in my authority, have the necessary knowledge identified in the table on this sheet to successfully implement the links identified? If not, what action should be taken?
- Have I, or the staff in my authority, read the relevant protocols, memoranda of understanding and/or service agreements between the authority and the EA to deal with flood risk? If not, how should this material be made available to staff?
- Have I, or the staff in my authority, been trained in the use of standing advice and the assessment of FRAs? If not, what action should be taken?

**Further reading**

Ballinger, R.C., Taussik, J. and Potts, J.S. (2002) *Managing coastal risk: making the shared coastal responsibility work: coastal planning and shoreline management - a review of legislation and guidance*, A report to the Local Government Association (LGA)'s Special Interest Group (SIG) on Coastal Issues.

Taussik, J. (2004) Workshop Report on Sharing Responsibility for Coastal Risk.

Taussik, J. (2004) Development control in areas of coastal risk. Research paper to LGA Coastal SIG

