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Development and flood risk in England annual monitoring report 2009-2010

Monitoring the outcome of Environment Agency responses to planning
application consultations 2009/10

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Development and flood risk in England

annual monitoring report 2009 – 2010

Introduction

This report examines the extent to which Local Planning Authorities (LPAs) have taken into account our expert advice on flood risk. It has been prepared by the Environment Agency with input from local planning authorities in England for the period from 1 April 2009 to 31 March 2010. A separate report is prepared for Welsh Government in relation to their High Level Target 13.

Summary of the key findings

- The total number of planning application consultations to which we responded fell to 25,994 in 2009/10, compared to 30,842 in 2008/09 - a decrease of 16%. Nationally, the number of planning applications submitted to LPAs declined by 8%.
- The number of planning applications referred to us by LPAs for detailed consideration on flood risk grounds fell to 11,096 in 2009/10, compared to 12,115 in 2008/09.
- We initially objected on flood risk grounds to 4,124 of these planning applications in 2009/10 compared to 5,198 in 2008/09. This represents a 6% reduction in the proportion of consultations we received that required detailed consideration of flood risk between 2008-9 and 2009-10.
- LPAs provided us with decision notices for 61% of all applications objected to on flood risk grounds, down from 72% last year. This means we do not know the final outcome of more than one third of the applications to which we objected on flood risk grounds.
- **Our advice to LPAs is generally taken into account and influences the final outcome of planning decisions. Where we initially objected on flood risk grounds and where LPAs have advised us of the final outcome, over 96% of decisions (2,429 out of 2,522) were in line with our advice.**
- Developers need to continue to improve their site-specific flood risk assessments (FRAs) that accompany individual planning applications. FRAs are vital if LPAs are to make informed planning decisions. Unfortunately the proportion considered unsatisfactory has increased. 65% of our sustained objections were because applications did not contain a FRA or the FRA was unsatisfactory, up from 60% in 2008/09.
- We believe the 2007 Flooding Direction to be a success. The continued discussion between all parties to try to resolve outstanding problems (as required under the Direction) has resulted in major developments that are better able to cope with the effects of flooding.
- We influenced successfully many residential applications to ensure that flood risk is appropriately managed. 99% of the 54,236 proposed new residential units that we initially objected to were decided in line with our advice. Only 519 units (less than 1%) were permitted against our advice. This proportion was similar to 2008/09.
- Most planning appeals, 91%, where flood risk was an issue in 2009/10 were either dismissed or allowed with conditions which fully mitigated our concerns. This is a similar proportion to 2008/09.

The policy framework

Planning policy for England on 'Development and Flood Risk' (Planning Policy Statement 25 or PPS25) directs development to the lowest flood risk areas first and seeks to reduce overall flood risk. The PPS25 approach addresses flood risk from all sources, including the sea, rivers and surface water.

It requires LPAs to carry out strategic flood risk assessments so that flood risk is more fully understood in an area and enables informed planning decisions to be made. It expects decision makers to steer new development away from areas at greatest risk and to ensure new development will be safe over its lifetime, not increase flood risk elsewhere and, wherever possible, help reduce existing risks.

The role of the Environment Agency

Since October 2006, the Environment Agency has been a statutory consultee in England for all planning applications (other than minor development) in areas where there is a risk of flooding¹ and large developments outside those areas. LPAs are required to consult us before making any significant decisions on new development in flood risk areas.

We provide information and interpretation of technical flood risk issues for planners and developers. We raise objections to development proposals that do not comply with PPS25 in terms of safety, increase the risk of flooding elsewhere and where options for avoiding flood risk by locating the development away from areas with the greatest risk have not been considered.

Planning applications

DCLG statistics show that the number of planning applications submitted to LPAs continued to fall during 2009/10 following a sharp fall (22%) in 2008/09. The number of planning applications submitted fell by a further 8% from 507,000 in 2008/09 to 466,400 in 2009/10.

The number of planning applications referred to us for detailed assessment of flood risk fell to 11,096 in 2009/10, compared to 12,115 in 2008/09 – a decrease of 8% (see table 1). The number of objections we made on planning applications on all flood risk grounds² fell to 4,124 in 2009/10 compared to 5,198 in 2008/09. This represents 37% of consultations received that required detailed consideration of flood risk, down from 43% in 2008/9.

¹ See [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2010, Schedule 5 \(ze\)](#) for full description.

² includes surface water flood risk in areas with a low probability of tidal and fluvial flooding

Table 1: Total number of planning applications considered and objections made by the Environment Agency

Monitoring Period	2004/5	2005/6	2006/7	2007/8	2008/9	2009/10
Planning consultations to which the Environment Agency responded on all issues ³	41,481	32,142	31,850	38,401	30,842	25,994
Consultations which required detailed consideration on flood risk grounds	13,937	11,403	10,854	9,123	12,115	11,096
Total Environment Agency objections made on flood risk grounds	4,634	4,201	4,750	6,232	5,198	4,124
LPA decision notices received by the Environment Agency relating to our objections on flood risk grounds ⁴	3,047	2,922	2,719	3,689	3,728	2,522
Applications on which the Environment Agency sustained objections on flood risk grounds where the outcome is known, ⁵ of which:	1,438	1,160	1,067	1,264	1,310	743
- Applications refused, or approved with conditions, by LPAs in line with our advice ⁶	998	889	829	1,021	1,072	596
- Applications refused by LPAs for other reasons	192	135	128	119	123	54
- Applications permitted contrary to our sustained objection ⁷	248	136	110	124	115	93
Number of Appeals allowed against, or only partially mitigating, Environment Agency advice	5	1	5	2	8	4

The proportion of planning application decisions reported to us by LPAs in 2009/10, in cases where we had objected on flood risk grounds, fell to 61% from 72% in 2008-9 (the highest proportion recorded). However, it is broadly in line with previous years. Many LPAs are now posting development decisions on their websites rather than sending paper Decision Notices. Although past research has shown that there is no difference in the proportion of un-notified cases determined in accordance with our advice, and those where we have been notified, it does mean that we are unaware of the final outcome of more than one third of the planning applications in 2009/10 to which we objected on flood risk grounds.

³ We record once only, in the first year of receipt, applications where consultation extends over more than one year. The 2009-10 figure excludes 3,111 of the lowest risk (not necessarily flood related) applications responses. The figure includes EIA applications.

⁴ Decision notices received from LPAs during the monitoring period do not correlate with objections made. Many decisions will relate to objections made in the previous accounting period, while LPAs will not yet have made a decision on those objections made late in the monitoring period.

⁵ Sustained objections do not include applications withdrawn by developers or Environment Agency objections resolved through negotiations, before a formal decision is made by the LPA.

⁶ This includes applications refused in line with our advice plus those approved with conditions attached that fully mitigate our concerns.

⁷ Including those with conditions only partly mitigating/meeting our concerns.

In the 2009/10 monitoring period, some decisions notified to us by LPAs, were made on applications that we had objected to in the 2008/09 period or before. Similarly, some objections made by us in 2009/10 will not reach a decision until 2010/11. As a result, the total number of applications decided and objections made cannot be directly correlated. Nevertheless, the figures provide a useful year-on-year indication of performance.

Interpreting the outcomes

The latest information provided by LPAs suggests that we are influential advisors to the planning system. Of the 2,522 decisions in 2009/10 where we objected on flood risk grounds, and where we know the outcome, 96.3% were in line with our advice. This represents the fourth year running in which over 96% of outcomes have been in line with our advice (figure 1). This means that planning applications to which we objected, were either:

- i. refused by the LPA in line with our advice (or for other reasons);
- ii. withdrawn by the developer (often being re-submitted at a later date with improved designs);
- iii. found to be acceptable following further investigations; or
- iv. had their designs subsequently modified by the developer following detailed discussions with the Environment Agency.

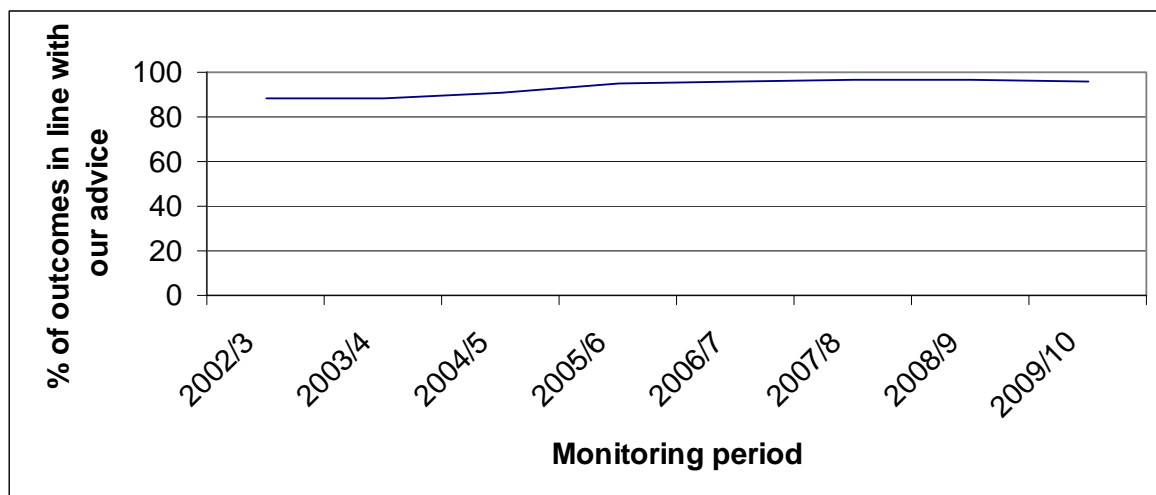


Figure 1. Proportion of planning application final outcomes in line with our advice.

We are aware of only 93 cases (3.7%) where development was finally permitted either against our sustained objection, or with conditions which only partly mitigated our concerns (figure 2).

Since planning policy was strengthened, with the issuing of PPS25 (December 2006) and the Flooding Direction (January 2007), the amount of development permitted against our advice has greatly reduced. In many cases although our concerns were not fully mitigated, conditions were often attached to the granting of planning permission covering issues such as flood resilience, flood warning and restrictions on ground floor accommodation.

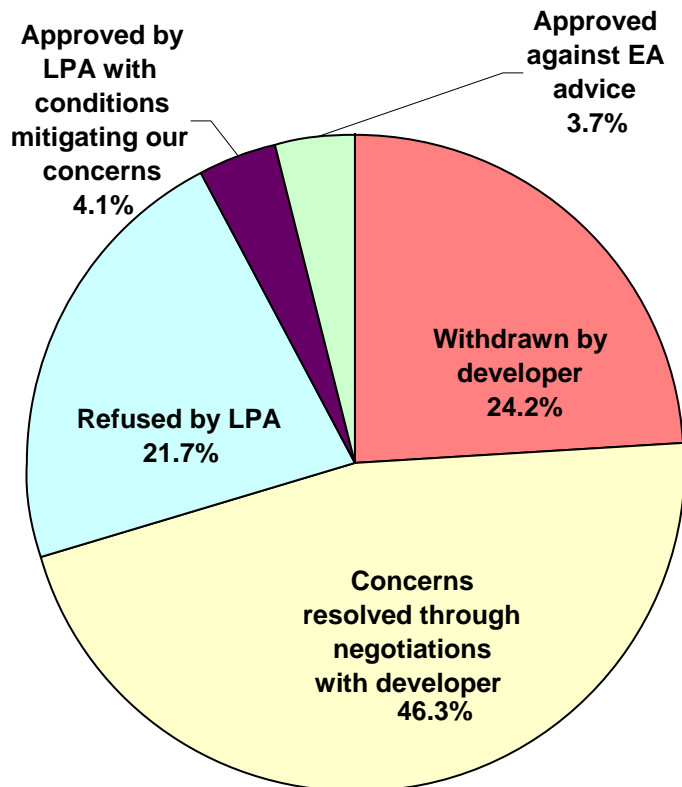


Figure 2. Outcome of Environment Agency objections on flood risk grounds

Of the 93 development proposals which received planning permission against our sustained⁸ objection on flood risk, fourteen were 'major' developments. Only five of these fourteen 'major' developments were in a high risk flood zone (Flood Zone 3), while the remaining nine were in a low risk zone (Flood Zone 1), where our objections related to surface water run off. Major residential developments are those where ten or more dwellings will be built, or where the site area is equal to or greater than 0.5 Ha. Non-residential developments are defined as major if they involve new floor space equal to or greater than 1000 m², or a site area equal or greater than 1 Ha.

Since 2007/08 we have collected data on the number of residential units in planning applications where we objected. In 2009/10, where we know the outcome, we objected on flood risk grounds to planning applications which proposed a total of 54,236 residential units (68,350 in 2008/09). However, only 519 units (less than 1%) were permitted against our advice, a similar proportion to 2008/09.

Flood Risk Assessments

PPS25 requires developers to submit a Flood Risk Assessment (FRA) that assesses the flood risk affecting a proposed development so that informed planning decisions can be made. In most cases, the act of producing a FRA improves development designs that mitigate the flood risks the assessment identified.

The Environment Agency provides guidance and information to developers undertaking FRAs. The standard of FRAs still needs to improve significantly. In 2009/10 there was an increase in the proportion of applications which either lacked a FRA, or where the FRA submitted was unsatisfactory. In 2009/10, 65% of our sustained objections were made

⁸ Sustained objections do not include applications withdrawn by developers or Environment Agency objections resolved through negotiations, before a formal decision is made by the LPA.

because applications did not contain a FRA or the FRA provided was not good enough to support planning decisions, an increase on the 60% in 2008/09.

Flooding Direction

The Flooding Direction became effective in January 2007⁹. Under the Direction, if we object to an application for a 'major' development in the highest risk areas (Flood Zone 3 'high probability' and Flood Zone 2 'medium probability'), the LPA and we are required to discuss our objections to the application. If we are unable to withdraw our objection and the LPA does not propose to refuse the application, the LPA is required to notify the Secretary of State about the proposal. The Secretary of State may then 'call in' the application for determination.

During 2009/10 only four applications for 'major' development, which had been referred to the Regional Government Offices (GOs) for consideration for call-in under the Flooding Direction, reached a final resolution. One application was later withdrawn by the developer, the final outcome in two cases was in line with our advice. One case was referred back to the LPA for determination where the final decision did not take account of our advice.

Appeals

In 2009/10 the number of planning appeal decisions involving flood risk halved, compared with the previous year, from 146 in 2008/09 to 78 in 2009/10. However, the majority (91%) of the 44 appeals decided by planning inspectors, where we had sustained our objection, were either dismissed or allowed with conditions which fully mitigated our concerns. Four appeals were allowed against, or only partially mitigating, our advice.

Conclusions

The Environment Agency continues to give technical advice on planning matters relating to flood risk. Our advice to LPAs is generally taken into account and influences the final outcome of many planning decisions. Where we had initially objected on flood risk grounds and where LPAs have advised us of the final outcome, over 96% of final decisions (or other outcomes) were in line with our advice. This is in line with our performance over the last six years.

However, we still wish to be informed of more decision notices so we are aware of the final outcome in cases where we object on flood risk grounds. In 2009/10 LPAs provided us with decision notices representing 61% of the applications we had objected to.

This report marks the third full year of operation of the Flooding Direction. There is clear evidence that the continued discussion between parties required under the Direction has often improved the quality of the development proposed and the information supporting it. Evidence shows that final decisions have generally taken into account the policy implications of PPS25.

With implementation of PPS25 and the Flooding Direction the amount of development permitted against our concerns has greatly reduced. In cases where our concerns were not fully mitigated, conditions were often attached to the granting of planning permission covering issues such as flood resilience, flood warning and restrictions on ground floor accommodation.

Residential development is one particular area which demonstrates our effectiveness in influencing planning decisions to ensure that they are safe from flood risk. In 2009/10, in

⁹ The Town and Country Planning (Flooding)(England) Direction 2007. This has now been superseded by the flooding provisions of the Town and Country Planning (Consultation) (England) Direction 2009, CLG Circular 02/2009.

cases where we know the final outcome, we initially objected to planning applications on flood risk grounds comprising a total of 54,236 new residential units. Of these only 519 were permitted against our advice. We consider the fact that decisions on 99% of residential units to which we originally objected were in line with our advice to be a considerable success.

A large proportion of objections relating to the lack of, or an inadequate, developers' FRA, despite the policy requirement in PPS25, underlines the need for better sharing of good practice in carrying out FRAs. This should include a better understanding of what constitutes an appropriate flood risk assessment for various types of development. By working in partnership with LPAs, the Environment Agency helps ensure that they have the necessary information available to make informed planning decisions.

Engaging in pre application discussions is important. We will continue to work with developers to ensure that flood risk is assessed and managed appropriately. This is likely to reduce the number of objections and the number of refused and withdrawn planning applications.

We believe that since its introduction the PPS25 approach has reduced flood risk overall, through both strategic planning and individual planning decisions. We welcome the continuation of this approach in the 2011 draft National Planning Policy Framework.

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