

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

27 May 2009

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Information

1 DRAFT FLOOD AND WATER MANAGEMENT BILL

Summary

The Government has commenced a consultation on the Draft Flood and Water Management Bill and has invited responses by 24 July 2009. The consultation package will be analysed in the coming weeks to assess the implications for the Council and a full report made to the next meeting of the Board.

1.1 Context

- 1.1.1 The floods of 2007 caused widespread damage to property and greatly affected many residents and businesses in various parts of the country. The Government invited Sir Michael Pitt to undertake a review of the events and to assess what needed to be done to avert or mitigate a recurrence of such a civil emergency.
- 1.1.2 Sir Michael Pitt produced his independent review in June 2008 entitled "Learning Lessons from the 2007 Floods" (the Pitt Review). It contained 92 recommendations addressed to the Government, Local Authorities, Local Resilience Forums, essential services providers, the insurance industry and the general public.
- 1.1.3 The Government produced its response to the Pitt Review in December 2008 and this broadly supported all of its recommendations. Some of the Pitt Review recommendations will require primary legislation and it is this aspect of the Review that the recently issued draft bill addresses.

1.2 Consultation on the Draft Bill

- 1.2.1 The Draft Bill and its accompanying consultation paper were issued at the end of April and the Government has invited response by the closing date on 24 July 2009.
- 1.2.2 This is an extensive set of documents that represent fundamental change to the current arrangements for flood and water management. In the coming weeks the documents will need detailed analysis to assess the implications for the Council

and to frame a response to the consultation. I would also wish to take the opportunity to consult with officers of other councils and organisations to begin to consider how some of the proposed measures might be rolled out in Kent and what may arise in terms of any partnership working.

- 1.2.3 The timing of the closing date is a little unfortunate in that it just falls a few days short of the date of the next meeting of the Board. In the circumstances, I suggest that I respond before the closing date with a reservation to follow up with any additional information or comment from the Board meeting on 29 July. The response will be generally available before the closing date in the agenda for the Board. In the meantime, a reference copy of the consultation package has been deposited in the Member Library and it is also available on the DEFRA website.

1.3 Initial Impressions of the Draft Bill

- 1.3.1 The amount of information in the consultation is considerable and, at this early stage in the assessment, it is not possible to comment on the detail. However, at a broad level, it is worth noting that the direct resource and other implications for the Council appear to be moderate. The Pitt Review pointed clearly at enhanced duties for 'local authorities' without clear definition of what this meant. The Draft Bill clarifies this and creates a new entity for local flood risk management called a 'Lead Local Flood Authority'. In shire areas this is defined as the County Council.
- 1.3.2 Shire Districts will continue to have permissive roles in land drainage and capacity in the Draft Bill to carry out works to manage flood risk from ordinary watercourses. They will have to pay regard to national and local flood risk management strategies in exercising their functions and will have a duty to cooperate with the EA and the Lead Local Flood Authority.
- 1.3.3 The new role that represents fundamental change will rest with the County Council and it will have to produce and apply a local flood risk management strategy, devise and implement management plans for high risk areas, investigate flooding incidents and approve and adopt sustainable drainage systems for new developments. The Bill also provides a change in responsibility for private sewers to Water Companies.
- 1.3.4 From the debate that has occurred lately I can foresee that County Councils will turn to district authorities and other local agencies to play a key part in forming partnerships to practically implement some of these functions and provide linkage with local communities, particularly in areas with high flood risk.

1.4 Legal Implications

- 1.4.1 To be assessed as part of formulating the response to the consultation document.

1.5 Financial and Value for Money Considerations

- 1.5.1 To be fully assessed as part of formulating the response to the consultation document. DEFRA are on record in stating that there will be no new unfunded burdens arising from the provisions contained in the draft Bill although various commentators have expressed some doubt about the reality of that approach.

1.6 Risk Assessment

- 1.6.1 Risk management principles are a fundamental part of the Draft Bill.

1.7 Policy Considerations

- 1.7.1 Policy – Community. Reducing flood risk is an integral part of the Borough Council's well-being role on behalf of the local community.

Background papers:

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The Draft Flood and Water Management Bill - April
2009

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