

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**PLANNING and TRANSPORTATION ADVISORY BOARD**

**22 February 2011**

**Report of the Director of Planning, Transport and Leisure**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 FLOOD RISK MANAGEMENT**

**Summary**

**The Board is invited to consider recent consultations by the Department for Environment, Food and Rural Affairs (DEFRA) on flood and coastal erosion risk management.**

**There is also an update on proposals for flood alleviation schemes in Aylesford and Little Mill, East Peckham and recommendations about how the Council might promote their funding through the Regional Flood Defence Committee.**

**1.1 Introduction**

1.1.1 The Flood and Water Management Act requires the Environment Agency (EA) to prepare a national strategy to consider risk from all sources of flooding and coastal erosion at the national level. This will inform decisions on Government funding for flood risk management.

1.1.2 Towards the end of 2010 DEFRA and the EA published a consultation for this national strategy. They are also consulting on a number of other related documents published at the same time as the draft national strategy. These are:-

- Future Funding for flood and Coastal Erosion Risk Management.
- Strategic Environmental Assessment of the draft strategy.
- Draft Statutory Guidance for co-operation and data sharing.
- Draft guidance on local authorities' contribution to sustainable development.

1.1.3 The national strategy consultation document is on the DEFRA website at <https://consult.environment-agency.gov.uk/portal/ho/flood/fcerm/strategy> and

there are links to each of the other consultation drafts from that page. I have also placed a full set of the documents in the Member Library for reference.

## **1.2 The Consultation**

- 1.2.1 The closing date for the consultations was 16 February. This is obviously problematic because it denies us an opportunity to submit a Member approved response. The greater part of the contents was couched at an overarching strategic level well beyond our immediate Borough interests. Even then, there was a large element of 'stating the obvious' in those areas where we do have involvement. For example, there is a 14 page document on cooperation between authorities and information sharing. It is difficult to imagine what circumstances might arise in which flood risk management authorities would wish to do anything other than cooperate and share information for the greater good of the local community.
- 1.2.2 The mention in the Flood and Water Management Act of civil sanctions associated with failure to do this does strike a particularly discordant note. Perhaps this stems from the drafting stages of the Act when there was some concern that water companies, which are included in the Act as flood risk management authorities, could cite 'commercial confidentiality' to avoid a data sharing duty. Whatever the reasons, I doubt it needs such a lengthy document to capture the fundamental point that cooperation and information sharing among all the relevant parties are essential ways of achieving good results in terms of flood risk management for our vulnerable local communities.
- 1.2.3 The draft strategy and the document about sustainable development are similarly susceptible to comment that they state a whole series of truisms that few, if any, could possibly disagree with. The frustration is that it is hard to discern what the strategic level formulation of policy means for front-line land drainage and flood risk mitigation at a Borough level. Much will depend on what the County Council does in its new role as Lead Local Flood Authority. Currently, it is focusing on the statutory obligation to complete the Preliminary Flood Risk Assessment for Kent by June this year.
- 1.2.4 The Kent Flood Partnership has been set up to coordinate officer level actions required by the Flood Risk Regulations and the Flood and Water Management Act and I sit on its core steering group. As a result of the Act, there has been a transfer of enforcement powers in shire areas away from the district level to the LLFA, that is, the County Councils. More critically the proportion of Formula Grant attributable, but not ring-fenced, to land drainage work and flood risk management at the district tier has reduced. In contrast, grant to County Councils to reflect their new land drainage responsibilities has increased. It is therefore incumbent on the County Council to understand what this requires it to do as a front line land drainage authority in terms of inspection, maintenance and any enforcement required to deal with land owners who contribute to increased flood risk by ignoring their riparian responsibilities.

- 1.2.5 The implications of these new responsibilities are a major focus of the partnership and it is likely to result in new ways of joint working to achieve the intentions of the Act to reduce flood risk at a local level. This will be particularly important when it comes to implementation of duties related to Sustainable Drainage systems (SUDS). The County Council will be the SUDS Approval Body and this will require close working with the Borough Council, as local planning authority, to ensure timely processing of development applications. This is itself subject to whatever further change there might be as a result of the Localism Bill when it is eventually enacted.
- 1.2.6 One element of the consultation that I should not allow to pass without comment relates to future funding. In summary, government funding through capital grants for major schemes will be made broadly dependent on financial contributions from the local community. This does appear to be moving in a direction that implies better off areas might be in a position to secure priority for schemes over those in less well off areas where local contribution is harder to secure. This is a brief synthesis of a great deal of explanation about outcome measures and scheme prioritisation procedures.
- 1.2.7 In the event, it represents a pessimistic outlook for a critical scheme in this Borough at Aylesford. This initiative depends on securing funding from national grant sources and it is already clear from the information in the Comprehensive Spending Review that the total amount in the budgets for the next few years will be reduced. I will comment on the Aylesford scheme later.
- 1.2.8 The question that this prompts is why the greater mass of funding for flood mitigation is provided through centrally allocated government grant and only a small proportion is paid for using local levy? I suggest that the balance between these funding channels should be radically rebalanced to provide far greater say in how it is spent at a local level.

### **1.3 Consultation Response**

- 1.3.1 Notwithstanding my comments on lack of opportunity to submit a Member endorsed response, I considered that the Board would wish some form of reply, even at a broad level, to be sent so that the Council was on record as having offered comments before the closing date. Consequently, I submitted the comments contained in **Annex 1** to each of the four consultations, noting that these were to be taken as officer level responses.
- 1.3.2 I do not know how sharp this cut-off point might be but I understand that the officials at the EA and DEFRA are working to a tight timetable to enable them to issue the response to the consultation by April. That tight timetable notwithstanding, the Board meeting comes only a few days later and there is likely to be an opportunity to follow up the earlier submissions with any further views Members might wish to add.

## **1.4 Aylesford Flood Alleviation Scheme**

- 1.4.1 The Partnership Group steering this initiative met recently to review current progress and to identify and resolve any barriers to scheme implementation. The outline design for the scheme has been completed by the EA and tenders to give a cost for a design and build approach to implementation will be received shortly. This will allow the EA to prepare a business case for the scheme so that its priority can be assessed. The scheme involves the diversion of flood water at times of peak flow in the stream to the Cemex Pit to the west of Rochester Road.
- 1.4.2 In parallel, the group has been considering ways of indemnifying the owner of the pit against the risk of pollution of the minerals yet to be abstracted. The problematic point is how the cost of the premium to pay for such an indemnity should be recouped. The current preference is for this to be a commuted sum to the quarry owner that is added to the overall capital cost of the scheme. Whether this is a viable arrangement has still to be determined.
- 1.4.3 Of far greater significance, as already alluded to, is the potential impact of the current budget setting exercise for the EA. The scheme is in competition with a great many others nationally for the reducing budget of government grant monies for flood alleviation work and we have already received an indication from the EA at the recent meeting that it is unlikely to be able to fund this scheme from the grant budgets much before 2015.
- 1.4.4 The next meeting of the Partnership group will need to focus hard on how this period can be brought forward and what might be required to achieve this, especially in the light of the current consultations by DEFRA on future scheme funding. This highlights the critical importance of scheme contributions from local communities as an important factor in determining whether a scheme secures a place on future work programmes.
- 1.4.5 The position is that the Aylesford scheme is still some way from being fully defined and on a firm path towards implementation. That position should become clearer over the next few weeks when EA budgets are confirmed. However, in the light of what we have already learned from the EA about the scale of likely cuts, it would be prudent for the Council to bring the benefits of this scheme to the local community to the attention of the Regional Flood Defence Committee to try and secure some priority for the scheme through local funding mechanisms.

## **1.5 Little Mill Flood Alleviation Proposals**

- 1.5.1 Dealing with potential flooding at Little Mill, East Peckham, remained as 'unfinished business' when the Coult Stream dam was constructed several years ago.
- 1.5.2 It suffered flooding during the major event at the start of 2003 that affected a sizeable area of East Peckham but the scheme developed at that time and subsequently constructed had to be prioritised for reasons of financial necessity

towards the serious deficiencies of the Coult Stream. Those were resolved through constructing the dam and the EA expected it would be revisiting the case for flood risk management measures at Little Mill in view of the relatively frequent flood events affecting this locality.

- 1.5.3 The local understanding was that this would happen towards 2010/11 so the potential for a scheme to alleviate flooding in this hamlet has been brought to the attention of the Regional Flood Defence Committee at its January meeting. I understand that the focus at the meeting was on the overall budget setting for next year and not consideration of specific schemes for inclusion in the works programme. This was a matter left to the next meeting of the Committee in April.
- 1.5.4 The Rt Hon Sir John Stanley MP has written to me to alert me to the consideration of Little Mill as one of the potential schemes for next years programme and asked whether the Borough Council will be making a submission to the Committee supporting the case for its confirmation in the programme for next year.
- 1.5.5 As mentioned above, there has been a consistent commitment that this scheme would be revisited at some stage. Added to this is the fact that the local community has been waiting with commendable patience for this to happen, all the more so because the other neighbouring area affected in 2003 has benefited from a flood protection scheme of its own for some years now. For these reasons, I recommend that the Council makes representations in support of the proposed scheme to the RFDC so that it can give serious consideration to including it in the programme for 2011/12 and that Sir John be advised accordingly.

## **1.6 Legal Implications**

- 1.6.1 None direct for the Borough Council.

## **1.7 Financial and Value for Money Considerations**

- 1.7.1 None at this stage.

## **1.8 Risk Assessment**

- 1.8.1 The actions recommended in the report are ones that are aimed achieving a reduction of flood risk in the Borough.

## **1.9 Equality Impact Assessment**

- 1.9.1 See 'Screening for equality impacts' table at end of report

## **1.10 Policy Considerations**

- 1.10.1 Community

## 1.11 Recommendations

- 1.11.1 That the Cabinet be recommended to endorse the responses to the consultation documents listed in the paper;
- 1.11.2 That the Director be requested to submit a case in support of the Little Mill Flood Alleviation Scheme to the Regional Flood Defence Committee and that the Rt Hon Sir John Stanley MP be advised accordingly.
- 1.11.3 That the Director also be requested to advocate to the Regional Flood Defence Committee that the Aylesford Flood Alleviation Scheme included in the considerations for funding within its budgets.

The Director of Planning, Transport and Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Michael McCulloch

Nil

Steve Humphrey  
Director of Planning, Transport and Leisure

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	The decisions sought are entirely neutral in terms of equality as they relate to submissions to other bodies.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	Se previous response
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*