

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

06 September 2016

Report of the Management Team

Part 1- Public

Matters for Recommendation to Council

1 FLOODING UPDATE – TONBRIDGE, HILDENBOROUGH AND EAST PECKHAM.

This report provides Members with an important update on the flood mitigation project relating to the areas of the Borough on the River Medway that are most vulnerable to flooding. It recommends that Cabinet supports the ‘fast-tracked’ evaluation of the flood mitigation schemes, and seeks Council’s approval to update the Capital Plan to include a capital grant, as a partnership contribution, of £500,000 (maximum) in 2020/21.

1.1 Background

- 1.1.1 Members will recall that over the Christmas and New Year period of 2013/14 there were very significant and damaging flooding events in parts of the Borough. Areas of Tonbridge, Hildenborough and East Peckham were amongst the worst effected locations with hundreds of residential and business properties being severely impacted.
- 1.1.2 The effect of the flooding events were far reaching, had drastic and lasting impacts on communities and the recovery period was very extensive which in turn gave rise to significant costs. The Borough Council’s role during and following the flood events was one of community leadership as well as providing considerable practical support in partnership with other agencies.
- 1.1.3 A report was made to the Planning and Transport Advisory Board in November 2014, outlining the ongoing flood recovery work at that time. A copy of that report is included at **[Annex 1]** for Members awareness. In particular, the Council agreed to contribute £100K towards a partnership approach to develop a project to increase the capacity of the Leigh Flood Storage Area. It was also resolved that “officers continue to liaise closely with the Environment Agency and put forward a clear representation of the Borough Council’s wish to pursue the most robust solutions in the case of all the proposed flood mitigation works”.
- 1.1.4 In recognition of the wider area of flood risk in this part of Kent (for example at Yalding and Collier Street in Maidstone) a comprehensive and partnership-based

project approach was established, also involving the Environment Agency, KCC and Maidstone Borough Council, to examine the feasibility of flood mitigation measures on the Rivers Medway, Teise and Beult. Considerable work has been advanced taking into account updated modelling and looking at the cost and benefit of various options. This is necessary to justify the business case and ultimately the release of funds from the Department of Environment, Food and Rural Affairs (DEFRA) to the Environment Agency to proceed with flood mitigation schemes.

- 1.1.5 The project work has now reached an important stage and concluded that the improvement of the Leigh Flood Storage Area (FSA) to increase capacity, combined with an embankment scheme to defend Hildenborough will proceed to the next stage of development. The flood alleviation scheme at East Peckham will also proceed.
- 1.1.6 In respect of mitigation measures on the Beult and Teise, no practical flood storage solutions were found that offered significant benefit measured against costs. However, as a separate project the Environment Agency will now be working with partners to consider property and community resilience schemes that could bring greater benefit to communities in those areas.
- 1.1.7 Reaching this stage of clarity in the overall project has taken some time and analysis but is now a welcome milestone that will enable progress to be made on the schemes of most direct interest to communities in Tonbridge and Malling. Taken together the projects for the Leigh FSA, Hildenborough and East Peckham will provide significant levels of defence to approximately 2500 residential and business properties from a 1 in 100 year flood event. In short, the Environment Agency modelling indicates that if the works proposed are successfully implemented they will provide protection from the type of flooding events experienced in 2013/14.

1.2 Programme and Funding

- 1.2.1 In respect of the Leigh FSA and Hildenborough the programme is for a detailed and final business case to be made to DEFRA early next year, in order to release the majority of the funding, followed by detailed design and implementation to enable the works to be completed by 2022. East Peckham would proceed on a similar timetable but as a separate scheme.
- 1.2.2 In terms of funding, the overall costs of the Leigh FSA and Hildenborough projects are currently estimated at £17.1m and the East Peckham scheme at £7.5m; a total cost of £24.6m. The core finance available from DEFRA is likely to be £15.5m and so discussions have recently focussed on partnership funding in order to address the apparent gap.
- 1.2.3 A bid has been submitted for funding from the Local Growth Fund by the Borough Council with participation from KCC and the Environment Agency. Two main planks for successful LGF bids are being able to demonstrate that a project will

lead to or unlock growth and that a partnership approach to funding has been achieved.

- 1.2.4 In the bid we have demonstrated how flood risk has been a practical constraint and a cost burden to new development and investment, particularly in and around central Tonbridge. The bid also portrays how relieving flood risk can assist the Council and its partners to deliver growth objectives through the Local Plan and foster new business investment and the provision of new homes as well as relieve the risk to existing households and firms.
- 1.2.5 The LGF bid has also needed to be as clear as possible about funding. In addition to the DEFRA core finance, the bid includes provision for a partnership contribution of £2.5m from KCC, £0.5m from Tonbridge and Malling, previous contributions to project development of £1m and potential contributions from business and landowners in the region of £0.6m. This leaves a funding gap of £4.5m which has formed the basis of the bid submitted to the LGF. Although that bid remains the subject of approval, the initial assessments and indications are favourable and should that come to fruition then the scheme can proceed as fully funded.
- 1.2.6 The Borough Council's own contribution to this project must, of course, be considered and approved by Council, following a recommendation by Cabinet, within the context of the Capital Plan. In order to move the project this far it has been necessary for a degree of commitment to be indicated, alongside other partners, so that the LGF bid could be realistically advanced and considered. We hope Members will appreciate that this has been done in general terms in order to give the project the best chance of success at this stage. It is, however, now necessary to seek the approval of the Council for a sum of £500,000 (maximum) to be allocated to this capital project.
- 1.2.7 In the normal course of events we would bring forward proposals for capital projects and associated funding to the Cabinet during the Budget cycle (February) so that consideration of potential schemes is not done in isolation. However, given the sensitive and high profile nature of this scheme and the need to confirm a funding commitment (capital grant) to enable other funding 'bids' to progress (see paragraph 1.2.5), it is necessary to bring this to Cabinet outside of the normal timescales as a 'fast-tracked' initiative.
- 1.2.8 Accordingly, a capital plan evaluation template is attached at **[Annex 2]** for Members to consider. Cabinet will note that the capital grant, if approved, is not likely to be required to be paid over until the financial year 2020/21.

1.3 Legal Implications

- 1.3.1 Under the Flood and Water Management Act 2010, Kent County Council are the "lead local flood authority" with responsibility for setting the flood risk management strategy for Kent. TMBC is a "risk management authority", and must carry out its flood risk management functions in accordance with the strategy.

- 1.3.2 By s.111 Local Government Act 1972 a local authority may incur expenditure in order to facilitate, or in a manner which is conducive or incidental to, any of its functions, this would clearly include TMBCs flood risk management functions.
- 1.3.3 Section 1 of the Localism Act 2011 provides a general power of competence for all local authorities, which permits TMBC to do anything, including in this case incurring expenditure, which an ordinary individual might do, but subject to important restrictions. Where the general power overlaps with a pre-existing power, then any limitations imposed upon that pre-existing power also apply to the s.111 power. In the present circumstances, none of the limitations on the s.111 power would apply.

1.4 Financial and Value for Money Considerations

- 1.4.1 Members are aware that capital expenditure is currently funded from the revenue reserve for capital schemes, grants from government and other bodies, developer contributions and from capital receipts derived from the sale of assets. The reserve is finite, and therefore as part of the Capital Strategy the Council has agreed an 'annual allowance' of £200,000 for capital expenditure (excluding capital renewals and recurring capital expenditure).
- 1.4.2 The proposed capital grant, as the Borough Council's contribution to the flood mitigation project, is in excess of the Council's annual capital allowance. However, Members are advised that we have been able to release some of the existing commitments for funding from the reserve for two main reasons, and therefore this project can be considered outside of normal capital plan review process.
- 1.4.3 Firstly, the Council's own direct funding contribution to the Town Lock project has been reduced following the ability to allocate a greater proportion of developer contributions to the project. Secondly, as reported to the Communities and Housing Advisory Board in July the increased Disabled Facilities Grant allocation through the Better Care Fund will mean that the Council (in the short term at least) will not need to top up the funding received from its own resources.
- 1.4.4 The Director of Finance & Transformation will as a matter of course be reporting on these changes during the budget cycle, but advises that she is satisfied that there is now sufficient scope within the revenue reserve for capital schemes to allocate funding of £500,000 (maximum) as set out above.
- 1.4.5 Support for the fast-tracked evaluation as set out in **[Annex 2]** and the consequential update of the existing Capital Plan is therefore recommended.

1.5 Risk Assessment

- 1.5.1 The risk to communities of these projects not proceeding is very considerable in terms of severe disruption to households and loss to local business. Equally, the cost of the project and the Council's contribution must be weighed against the very significant recovery costs that could potentially occur should a major flooding event recur.

1.5.2 The risk to the project of the Council (or indeed other partners) not contributing could delay or prevent the success of the LGF bid and the realisation of the project as a whole, which is dependent on the various funds being available as described in this report.

1.5.3 As well as clear and significant benefits to the many homes and business in the local communities, the project would also provide better flood protection to some public leisure facilities, such as Tonbridge Pool, and those premises enjoyed by community clubs, such as Tonbridge Judians and the Bowls Club.

1.6 Equality Impact Assessment

1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Conclusions and Recommendations

1.7.1 Taking into account the serious and devastating experience of the effected communities, the number of people and businesses impacted and the ongoing consequences, it is difficult to imagine a more worthy use of resources than to address the issues of flood risk mitigation as outlined in this report.

1.7.2 It is true that financing flood mitigation is not a direct duty of the Borough Council. However, the way in which funding works for such schemes now inevitably requires a significant amount of partnership funding in one form or another. In view of the appropriate level of community leadership taken on by the Borough Council during the floods of 2013/14 it now seems most appropriate for a partnership contribution, in the form of a capital grant, to be made to the proposed project.

1.7.3 Cabinet is, therefore, RECOMMENDED to:

- 1) Support the 'fast-tracked' evaluation of the flood mitigation schemes for Leigh, Hildenborough and East Peckham as evidenced in **[Annex 2]**; and
- 2) Seek Council approval to the updating of the existing Capital Plan to reflect a capital grant, as a partnership contribution, towards the project of £500,000 (maximum) in 2020/21.

Background Papers:
Report to the Planning and Transport Advisory Board
November 2014

contact: Steve Humphrey
Julie Beilby

Steve Humphrey
Director of Planning, Housing and Environmental Health