

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**PLANNING and TRANSPORTATION ADVISORY BOARD**

**04 June 2019**

**Report of the Chief Executive**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 CONSULTATION ON AN AMENDMENT TO THE RIVER MEDWAY (FLOOD RELIEF) ACT 1976**

**This report provides Members with information on a consultation being undertaken by the Environment Agency on an amendment to the River Medway (Flood Relief) Act 1976 that is required in order to deliver the Leigh Expansion and Hildenborough Embankment Scheme. It recommends that the amendments are supported in light of the benefits that the scheme will deliver to residents and businesses in Tonbridge and Hildenborough.**

**1.1 Background**

1.1.1 Following the very significant and damaging flooding events that took place in 2013/14 considerable work has been undertaken in partnership with the Environment Agency to pursue robust flood mitigation solutions. The Borough Council has been a key partner on the Medway Flood Partnership, allocated up to £500,000 grant towards this initiative, and led the successful funding application process to access Local Growth Fund Round 3 grant funding via the South East Local Enterprise Partnership.

1.1.2 The Environment Agency has made considerable progress towards the implementation of the Leigh Expansion and Hildenborough Embankment scheme, which will increase the capacity of the FSA and reduce the risk to a greater number of homes and businesses in Tonbridge and Hildenborough. However, in order to deliver the scheme, an amendment to the River Medway (Flood Relief) Act 1976 is required.

**1.2 The River Medway (Flood Relief) Act 1976**

1.2.1 Under the River Medway (Flood Relief) Act 1976 sits a short document known as the 'scheme' which sets out the maximum level to which water can be stored. Under the scheme, the Environment Agency can store water to 28.05m Above Ordnance Datum Newlyn (AODN). This means above mean sea level at Newlyn, Cornwall, which is used as the benchmark for Great Britain.

- 1.2.2 At the time of construction, landowners who owned land within the boundary of the FSA were paid a single compensation payment, and the area affected by the FSA was described in the land registry deeds for the property. This noted that the area within the boundary could be flooded to any depth and for any duration required.
- 1.2.3 In order to reduce the risk to more homes and businesses, the Environment Agency are planning to increase the stored water level to 28.6m AODN (increasing the capacity by 24%), and as such this will require an amendment to the maximum water level set out in the Act.
- 1.2.4 In order to achieve this amendment, the Environment Agency are required to undertake a number of key stages:
- Contact key organisations as described in the Act, all landowners within the current flood storage area and anyone who will be brought into the flood storage area through its expansion to explain the proposals and seek their views. Where required, meetings will be arranged to discuss and answer any questions.
  - Before submitting a proposed amended 'scheme' to the Minister, the Environment Agency will supply a copy of it to those described above and notify them of the date on which they plan to submit to the Minister for approval. The Environment Agency will then write to the Minister with the proposal.
  - The Minister will then refrain from making a decision for one month. If in that time there are no objections, the Minister can then take a decision on whether to approve the 'scheme'. If there are objections which cannot be resolved, an Inquiry or Hearing will be held to review the evidence and make a recommendation to the Minister, who will then make their decision.

### **1.3 Implications for the Borough Council:**

- 1.3.1 In giving consideration to the proposed changes to the 'scheme' and the increase in the level of stored water from 28.05m AODN to 28.6m AODN it is important to acknowledge that the Borough Council has been approached by the Environment Agency as both as a landowner within the flood storage area and as a 'specified interest' as stated within the Act. It is also worth noting that this process to amend the 'scheme' is separate to the planning application process, with the Environment Agency looking to submit a planning application for the Leigh Expansion and Hildenborough Embankment works during the course of 2019.
- 1.3.2 The only site within the Borough Council's ownership that lies within the existing Flood Storage Area, or indeed the storage area once the works have been implemented, is Haysden Country Park. The works will not extend the reach of the flood storage area within the Country Park, and as such the agreement to flood land in the ownership of the Borough Council remains unchanged.

- 1.3.3 As a 'specified interest', the Borough Council clearly has a wider role in ascertaining the community impact within the borough. The increase in the stored water level to 28.6m AODN will mean that approximately 16.4 hectares of additional land around the edges and at the top of the flood storage area will be needed as part of the expanded scheme. However, all of this capacity will be gained downstream within Sevenoaks District, as illustrated by the areas of dark green on the map in Appendix 1.
- 1.3.4 In addition, these works generate considerable benefits to the local community. Greater protection will be afforded to 1,470 homes and 100 businesses in Tonbridge and Hildenborough, as well as generally creating greater resilience to Tonbridge Town Centre, and better flood protection to local public leisure facilities.
- 1.3.5 Given the level of work and commitment shown by the Borough Council to bring considerable benefits to residents and businesses within Tonbridge and Hildenborough, it is proposed that a letter of support be submitted in response to the consultation.

## **1.4 Proposed Response**

- 1.4.1 Given the above information, it is proposed that the Borough Council engage positively with this consultation and send a letter of support which includes the following:
- Highlighting the Borough Council's role in supporting the Environment Agency to deliver the Leigh Expansion and Hildenborough Embankment Scheme, not only in contributing towards the cost of works, but also through strategic advice and external funding support.
  - Recognising the considerable benefits of the scheme to local residents and businesses.
  - Acknowledging the negligible impact on Haysden Country Park arising from the change in water storage levels, and the discussions that have already been undertaken to minimise disruption during the construction works.

## **1.5 Legal Implications**

- 1.5.1 There are no legal implications arising directly from this report.

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

- 1.6.1 A capital grant contribution of up to £500,000 towards the Leigh Expansion and Hildenborough Embankment scheme is included in the Borough Council's Capital Plan for 2020/21.

## **1.7 Risk Assessment**

- 1.7.1 The risk to communities of this project not proceeding is very considerable in terms of severe disruption to households and loss to local business.

## 1.8 Equality Impact Assessment

- 1.8.1 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.

## 1.9 Recommendations

- 1.9.1 That the content of the report **BE NOTED**; and
- 1.9.2 Subject to any comments that the Advisory Board wish to make, that the proposed response outlined in Section 1.4 **BE ENDORSED**.

The Cabinet Member for Strategic Planning & Infrastructure and the Chief Executive confirm that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

None

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