Recommendation – that:

(A) the Council's Planning Committee be requested to:

(1) carefully consider the inclusion of appropriate conditions, on a case by case basis, in planning consents that could lead to an increase in sewage discharged to the standard public sewerage system or to an old combined system (surface water and sewage in the same pipes);

(2) highlight issues and recommend policies within appropriate future Development Plan Documents that promote the use of sustainable drainage in new planning applications at an early stage of a potential developers thinking;

(B) all the drainage/sewerage agencies be encouraged to consider different ways to keep the general public and the local planning authority informed of the likelihood of flooding in their area and what remedial action is being taken to reduce the likelihood of flooding in that area;

(C) the Council publishes a flooding guide that signposts people to where they can get help and assistance when flooding occurs;

(D) Parish Councils, Town Councils and Residents’ Associations be encouraged to keep records of all flooding incidents in their area and to regularly send those records to the flooding agencies;

(E) the Council fills the vacant technical post in the Sustainability team to help with residents’ communication over flooding issues within the borough.
1. **Background**

Following a letter from Mr Tony Pawson, Chairman of the Warwick Park Area Residents Association (and an independent member of the Council’s Standards Committee) to the Council’s Chief Executive concerning a recurring sewerage issue in the Warwick Park area of Royal Tunbridge Wells, the general issue of foul and surface water drainage was discussed by the Overview and Scrutiny Committee on 17 June 2013. There had been similar concerns regarding the sewerage capacity for new developments particularly in Paddock Wood.

It was agreed that a Task & Finish Group comprising of Councillors Hills, Elliott and Palmer be formed to look into the matter in detail with the aim of better understanding the problems. The overarching objective of the group was that through a better understanding of the roles of the various agencies involved, it could make recommendations that would help address the main issues and offer reassurance to residents.

2. **Evidence gathering**

The Task and Finish Group held detailed evidence sessions with:

- **Senior Flood Risk Advisor (West Kent) at the Environment Agency**

  The Environment Agency is a statutory consultee on planning applications, particularly those which are of great risk of flooding, as set out in the National Planning Policy Framework for development and flood risk. It is responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.

- **Flood Risk Manager at Kent County Council**

  As a Lead Local Flood Authority, Kent County Council has a strategic overview role for local flooding, defined as flooding from surface water, groundwater and ordinary watercourses. They have a duty to investigate flood incidents in certain circumstances and powers to regulate the maintenance of watercourses with landowners, and work in partnership with other organisations involved in flood risk management to mitigate local flood risks.

  As the Highway Authority, the County Council is responsible for:
  - flooding from a road.
  - flooding from a blocked road gully or grating.
  - flooding from a highway surface water sewer
  - Maintenance of highway structures, including watercourses where they flow under a highway

- **Developer Services Manager at Southern Water**

  As a sewerage authority, Southern Water is responsible for the adoption of connections to the public sewerage system under the Water Industry Act 1991. It is also responsible for dealing with:
  - flooding from a blocked or surcharging public sewer
• flooding from public burst water or rising main
• flooding from a pumping station

• Landowners are responsible for safeguarding their land from flooding and the maintenance of watercourses (including culverts) on or adjacent to their land.

The group also sought evidence from the Council’s planning officers and conducted desktop research of other local authorities’ practice to assess how they have dealt with the issues involved.

3. Examination of Issues

A number of key issues arose during the evidence gathering sessions and these are explored in the sections below along with the recommendations from the Task and Finish Group on proposals to improve outcomes for these issues.

1) Planning Conditions – Foul Sewerage

It quickly became clear that there was an important issue around whether a local planning authority should impose conditions to deal with potential problems caused by the connection of new development to the foul sewer system.

Section 106 of the Water Industry Act 1991 places a duty on water authorities, such as Southern Water, to accept new connections to their sewage systems. The ability of Southern Water to reject such connections is limited to very specific circumstances, such as where the connecting pipe does not meet the requisite standards.

Southern Water, therefore, has no means of stopping a development to prevent the system becoming overloaded and relies on working with local planning authorities to ensure that they can cater in advance through the Local Plan process, for the infrastructure requirements of further development.

Insofar as the water authorities have no real powers themselves to stop or delay development, the planning system has, in some locations, stepped in to assist. This is typically done through conditions that require there to be adequate sewage capacity (in the local network and at the treatment works) to be demonstrated before new houses are occupied.

The Council’s Planning Officer advised that conditions imposed on planning applications had to be made for planning reasons and there were six tests that had to be applied for a condition to be valid.

Paragraph 203 of the National Planning Policy Framework states that “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”.

Paragraph 206 of the National Planning Policy Framework states that “Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”
The Council would generally consider that a connection to the public sewer system would be a private arrangement between the developer and the statutory undertaker.

However, the group were advised of the process that Southern Water used in talking to developers during the planning application process. There were instances where due to the capacity of the pipes or the capacity of the network generally in a local area, it may be necessary for the connection to the sewer system to be added away from the development and in some cases this could involve a significant distance.

The Task and Finish Group were advised that other planning authorities often used planning conditions to deal with problems caused by new developments connecting to the foul sewer system.

Both Canterbury City Council and Ashford Borough Council used such conditions.

The Development Services Manager at Ashford Borough Council provided the following model conditions:

<table>
<thead>
<tr>
<th>E019 - Residential Drainage</th>
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<tbody>
<tr>
<td>None of the dwellings shall be occupied until the [sewage disposal]/ [drainage]* works have been completed in accordance with the submitted plans.</td>
</tr>
<tr>
<td>Reason: To avoid pollution of the surrounding area.</td>
</tr>
<tr>
<td>* choose between either</td>
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<table>
<thead>
<tr>
<th>E020 - Disposal of Sewage</th>
</tr>
</thead>
<tbody>
<tr>
<td>None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.</td>
</tr>
<tr>
<td>Reason: To avoid pollution of the surrounding area.</td>
</tr>
<tr>
<td>It may be necessary for the Local Planning Authority to consult the Water Authority about the sewage disposal arrangements but this should not form part of any condition.</td>
</tr>
</tbody>
</table>

Additionally, the Project Engineer at Ashford Borough Council stated:

‘I will request a condition relating to the capacity of a foul sewer when the applicant is proposing to connect to a public “combined system”, i.e. both foul and surface water in the same pipe. In such circumstances I would seek reassurance from the applicant in the form of a letter from the sewage undertaker confirming that there is sufficient capacity within the sewer to receive the proposed discharge.’

The Task and Finish Group noted that the duty to ensure that the system can cope with the demands placed upon it fall squarely on the water authority.

Section 94 of the 1991 Act requires sewerage authorities to provide, improve and extend the system of public sewers so as to ensure that the area is effectively drained. They are also
consulted during the development of the Local Plan on where future large developments are likely to be so that the water authority can draw up its investment plans for the sewerage infrastructure.

However, this does not help with infill development through small planning applications that have a small but significant sewerage impact, for example a doubling of the bed capacity of a nursing home. This could particularly strain combined (surface water and sewage) systems (which accounts for many of the older systems in Royal Tunbridge Wells).

Southern Water would not generally be consulted on these smaller developments. But, especially in an area with known problems, the Council should seek the views of Southern Water on the smaller applications as a way to manage the likely impact that the development could have on its surrounding area.

The Task and Finish Group concluded that, as nobody could point them to any case where a condition relating to a sewerage connection had been thrown out by the Planning Inspectorate and moreover that the Royal Town Planning Institute has a Planning Aid leaflet endorsed by the Department of Communities and Local Government that states that the capacity of physical infrastructure, e.g. in the public drainage or water systems is a material planning consideration, the Council’s Planning Committee should be requested to look at how and when such planning conditions should be imposed.

On balance, the Task and Finish Group felt that the Council should look to add conditions to planning applications that could include Grampian conditions in exceptional circumstances, where the case for such conditions had been made by the Water Authority. (A Grampian condition is a negatively worded condition which restricts development until a particular event occurs - as opposed to a positive condition requiring performance to secure the event.)

RECOMMENDED – that:

the Council's Planning Committee be requested to carefully consider the inclusion of appropriate conditions, on a case by case basis, in planning consents that could lead to an increase in sewage discharged to the standard public sewerage system or to an old combined system (surface water and sewage in the same pipes).

2) Communication

Communication to and from the organisations that deal with flooding is critical to ensure that residents’ concerns are properly addressed, the problems caused by flooding are dealt with swiftly and that appropriate plans are put into place to stop repeat incidents in the same location.

Kent County Council produces surface water management plans which are their main source of communicating with the public about local flood risks. They also seek to investigate local flooding issues such as flooding from sewers, drains, groundwater, and run-off from land, small watercourses and ditches that occur as a result of heavy rainfall.
The plans aim to identify options to reduce local flooding and include an action plan to deliver agreed measures.

There is a plan for the Tunbridge Wells area and one for Paddock Wood. Further work is currently being undertaken in Paddock Wood that will investigate the issues and potential options. Once this report is finalised, Kent County Council will publish it on their website.

The Environment Agency (EA) publish Catchment Flood Management Plans (CFMP) that consider all types of inland flooding, from rivers, ground water, surface water and tidal flooding. They take into account the likely impacts of climate change, the effects of how land is used and managed, and how areas could be developed to meet present day needs without compromising the ability of future generations to meet their own needs.

CFMPs help the Environment Agency and partners to plan and agree the most effective way to manage flood risk in the future. There was one plan that covered Tunbridge Wells Borough that related to the southern half of the Medway Flood Plain.

EA put trailers in local towns and undertake mail shots to encourage public engagement. As a result of the heavy rainfall over the 2013 Christmas period and incidences of flooding, they have run flood fairs in local areas and attended public meetings with parish/town councils to advise on how the flooding occurred and give advice on how members of the public could protect their property.

EA also provides a flood warning service, whereby flood alerts can be issued by phone, text or email to those signed up to the service. This helps to inform affected businesses and residents who maybe at risk of flooding. The Flood warning service can only be offered to areas affected by flooding from “main river” or tidal areas.

Southern Water will advise the public through their media section using traditional and “social media” communication methods if they are doing major works that will cause disruption.

All three organisations were unsure as to whether they received all reports of flooding. There was a perception that where minor flooding instances occurred, members of the public did not necessarily report them as they thought one of their neighbours would have done so already. Similarly, they may contact the fire brigade to deal with the problem rather than the relevant flooding agency who may be able to stop it happening again.

This meant that the organisations did not always have a complete picture of where and when flooding was occurring and without this, they might not investigate what action was needed or be able to judge its urgency or importance.

The Task and Finish Group considered that whilst the formal plans were important they would garner little interest from members of the public. The Environment Agency’s flood risk warnings for rivers were good practice and it would be good if they could be extended to the other large watercourses. The Group would therefore encourage all the flooding agencies to consider different ways to keep the public informed about the likelihood of flooding in their area and what remedial action was being undertaken.

There could also be a role for the Borough Council in ensuring that the public are reminded of information regarding these issues. It could provide a flooding guide, in a similar manner
to the one produced by Central Bedfordshire Council, that could be made available to members of the public. Sending this information out with the annual council tax information, as well as an article, in the Council’s “Local” magazine would help raise awareness and help people to be better prepared for future problems.

Similarly, the Council could advise members of the public and parish/town councils to report all instances of flooding to the relevant organisation.

RECOMMENDED – that:

(A) all the drainage/sewerage agencies be encouraged to consider different ways to keep the general public and the local planning authority informed of the likelihood of flooding in their area and what remedial action is being taken to reduce the likelihood of flooding in that area;

(B) the Council publishes a flooding guide that signposts people to where they can get help and assistance when flooding occurs;

(C) Parish Councils, Town Councils and Residents’ Associations be encouraged to keep records of all flooding incidents in their area and to regularly send those records to the flooding agencies.

3) Sustainable Drainage – Surface Water

The Task and Finish Group noted that all of the representatives from Kent County Council, Environment Agency and Southern Water supported the concept of sustainable urban drainage systems (SUDS) to help reduce the incidences and effects of flooding.

Sustainable urban drainage systems (SUDS) mimic natural processes to manage drainage on developments.

SUDS components can be both landscaped features, including green roofs, ponds, wetlands and swales, as well as engineering features, such as permeable pavement and soakaways.

The benefits of SUDS are:

- preventing water pollution
- slowing down surface water run-off and reducing the risk of flooding
- reducing the risk of sewer flooding during heavy rain
- recharging groundwater to help prevent drought
- providing valuable habitats for wildlife in urban areas
- creating green spaces for people in urban areas.

There is also a benefit for developers in providing savings on the overall construction and maintenance costs of drainage schemes and the improved visual attractiveness from the use of SUDS that can make a development more desirable as well as a possible increase in house value.
The government has consulted on an approval process for drainage that would promote SUDS, which are in Schedule 3 of the Flood and Water Management Act 2010. In order to be approved under this proposed process, any proposed drainage system would need to meet national standards for sustainable drainage. The draft standards can be viewed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82421/suds-consult-annexa-national-standards-111221.pdf

Under the original proposals in the Flood and Water Management Act 2010, the approving body (Kent County Council) will have responsibility for the approval of proposed drainage in new developments and redevelopments, subject to exemptions and thresholds. Approval must be granted in order for the developer to commence construction.

However, this Act has not been fully implemented and there has been recent consultation from Defra which has proposed that SUDS would now be approved by the local authority through the planning system with the future maintenance of SUDS secured by the Local Planning Authority by condition on applications.

If this proposal is adopted, it will have resource implications for the Council. Although as this is currently at the consultation stage, it is unclear as to whether this will become part of the Act.

In the meantime, some local authorities are taking the opportunity to introduce sustainable drainage policies into their adopted Development Plan Core Strategy. Ashford Borough Council has produced a Supplementary Planning Document to supplement their policy advice.

There was some concern by the Kent County Council representative, that a Supplementary Planning Document might conflict with the requirements of the Flood and Water Management Act 2010 and that a set of SUDS policies within the Development Plan would suffice.

The Task and Finish Group agreed that sustainable drainage was helpful in reducing the effect and likelihood of flooding and was something that the Council should promote. It would be beneficial if developers could be encouraged to consider drainage from the very early stages of the planning development process.

RECOMMENDED – that:

the Council’s Planning Committee be requested to highlight issues and recommend policies within appropriate future Development Plan Documents that promote the use of sustainable drainage in new planning applications at an early stage of a potential developers thinking.

4) Current Flooding Resource - Tunbridge Wells Borough Council

Following the implementation of the Flood and Water Management Act 2010, Kent County Council became the ‘lead local flood authority’ with the role of overseeing flooding and developing a Local Flood Risk Management Strategy for Kent accordingly. They would need
to co-ordinate input from other key agencies, including the Borough Council. The Environment Agency has a national strategic overview role.

Flooding is defined as caused by the following sources:

- Surface water
- Groundwater
- Ordinary watercourses/river

The Council’s own service provision can be divided into:

- Pre flooding
- During a flood event
- Post-flooding

**Pre-Flooding:**
Currently we continue with the clearance of 21 watercourses/culverts on a monthly basis, to ensure these do not block up and accordingly decrease the potential local flood risk from these sources.

Our main function is to liaise with Kent County Council. We are also required to provide the Upper Medway Internal Drainage Board (UMIDB) with their yearly set levy from central government. The UMIDB is an independent public body and is responsible for the integrity of specific local waterways and land drainage of the surrounding areas, i.e. areas around Paddock Wood.

With the implementation of the new Act, Kent County Council is now responsible for exercising the ordinary watercourse regulation outside of Internal Drainage Boards, which was transferred to them from the Districts. This requires owners of watercourses to maintain them and prevent any obstructions from impacting on the flow of water.

A significant amount of information is provided by the Environment Agency and by Kent County Council that is available to residents and owners of property and land and we signpost people to this.

**During a Flood event:**
The Council provides the relevant emergency response in line with its emergency planning requirements. During the last flood event of December 2013, the Council liaised with all key authorities and was part of the Kent Resilience Forum. The Council was available to give advice and support throughout this incident and also provided additional sandbags through our contractors.

The Council already supports three sandbag stores located in Five Oak Green, Lamberhurst and Paddock Wood. The opening of these stores and distribution rests with the Parishes.

The 21 watercourses currently cleared are kept under review and following a severe weather warning additional clearance is undertaken as required.

Although there is currently a vacancy in the Council’s Sustainability team, (which was originally the Borough Engineering Officer’s post), this role would not necessarily be the
main contact during a flood event, with this function being provided through implementing the emergency plan.

The Kent Resilience Team has the role of co-ordinating and responding to such events, delivered through the Tunbridge Wells Multi-Agency Flood Plan.

Post-flooding:
Following an event, the Council ensures the sandbag stores are restocked.

Liaison with the Kent Resilience Team would continue and the Council would be part of any de-briefing/review that is carried out. Again, significant information on what to do after an event is available and the Council signposts to these.

Following the December 2013 event, the government established the Flood Repair and Renew grant of up to £5K for home owners and businesses that had been flooded. This function is managed and delivered by the Council’s Private Sector Housing Team.

Kent County Council is also in the process of developing a flood incident recording database, which will be available for local authorities to feed information in to, to enable data to be gathered on the number and type of incidences that occur to support future strategic planning.

The vacant technical post in the Sustainability team will involve liaison with the relevant agencies on flooding issues, to ensure the watercourse and culverts contract and function is reviewed and fit for purpose and to maintain appropriate signposting to relevant information.

Communication with residents on flooding issues had been one of the key points to come out of the evidence sessions. The group therefore considered that it would be useful to have some resource made available (officer support) that could assist with the communication of flooding issues and ensure links are in place to improve communication between the relevant organisations working in this area. The group would therefore like to see the vacant technical post in the Sustainability team filled to provide this service as part of a wider role.

RECOMMENDED – that:

the Council fills the vacant technical post in the Sustainability team to help with residents’ communication over flooding issues within the borough.

4. Conclusion

In determining the location and design of new development, particular care needs to be given to avoiding areas at risk of flooding where there is not sufficient mitigation in place, including areas that have suffered from historical flood events. With climate change expected to increase the frequency of flood events, particularly in the winter months, this is a constraint that is likely to become more prominent over the coming years.

Within the borough of Tunbridge Wells the major flooding instances since 2000 have been recorded at:

- Paddock Wood from the rivers Teise/Medway in 2000;
- Lamberhurst from the river Teise in October 2000
- Five Oak Green in 2002;
- North of Paddock Wood in 2009 from the rivers Teise/Medway;
- Similar area down to Brenchley and Matfield in 2010/11, and
- Various areas across the borough at Christmas 2013.

This is going to become an increasingly prominent issue for residents across the borough. Ensuring that the Council is using its planning powers in a way that results in new development treating drainage as an important early consideration and that uses sustainable drainage will help to mitigate the effects of flooding and reduce the number of flooding incidents.

It will also become an area, if it is not already, where the effective exchange of information from the public to the flooding organisations and vice versa will be critical. Only then will residents understand what remedial work is possible in their area from the flooding organisations and the organisations will be able to ensure that their investment plans match those areas that are the most in need.

The Task and Finish Group’s recommendations look to directly address these issues and are recommended to the Committee for its consideration.

**Background Papers:** None.