

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Report Title: Leigh Flood Storage Area Expansion – Consultation on amendment to the River Medway (Flood Relief Act) 1976

Final Decision-Maker	Cabinet
Portfolio Holder(s)	Councillor Alan McDermott – Portfolio Holder for Planning and Transportation
Lead Director	Lee Colyer – Director of Development and Finance
Head of Service	Stephen Baughen – Head of Planning
Lead Officer/Author	Sharon Evans – Principal Planning Policy Officer
Classification	Non-exempt
Wards affected	Speldhurst & Bidborough

This report makes the following recommendations to the final decision-maker:

1. That the content of the report be supported;
2. Subject to any comments that the Cabinet wish to make, that the proposed amendments to the River Medway (Flood Relief Act) 1976 set out by the Environment Agency in section 2 of this report be supported, and;
3. A letter to be written to DEFRA providing support of the Borough Council for the expansion of the Leigh Flood Storage Area.

Explain how this report relates to the Corporate Priorities in the Five Year Plan:

The Planning Policy Team within the Council work collaboratively with the Environment Agency on the impact of any future development proposals and any impacts that they might have on the Council's corporate priorities. Working jointly with neighbouring authorities is also a legal requirement under the 'Duty to Cooperate' mechanism found within the Localism Act 2011.

There are no specific impacts of the proposals on the Corporate Priorities in the Council's Five Year Plan.

Timetable

<i>Meeting</i>	<i>Date</i>
Agreed for publication by Portfolio Holder	1 November 2019
Agreed for publication by Head of Service	1 November 2019
Management Board	23 October 2019

Cabinet Advisory Board	11 November 2019
Cabinet	5 December 2019
Council	N/A
Other committee(s)	N/A

Tunbridge Wells Committee Report, version: March 2019

Report Title: Leigh Flood Storage Area Expansion – Consultation on amendment to the River Medway (Flood Relief Act) 1976

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides Members with information on a consultation being undertaken by the Environment Agency on a proposed change to the stored water level in the Leigh Flood Storage Area which is governed by the River Medway (Flood Relief) Act 1976. This will increase the capacity of the storage area in order to reduce flood risk to residents and businesses in Tonbridge and Hildenborough.
- 1.2 The scheme affects a small area of land within the Tunbridge Wells Borough, within the parish of Bidborough.
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2. INTRODUCTION AND BACKGROUND

- 2.1 Following the very significant and damaging flooding events that took place in 2013/14, considerable work has been undertaken by the Environment Agency, in partnership with other bodies/stakeholders to pursue robust flood mitigation solutions for the future. Tunbridge Wells Borough Council has been involved in the Medway Flood Partnership, which has secured funding through the Local Growth Fund Round 3 grant funding via the South East Local Enterprise Partnership.
- 2.2 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 Flood Storage Area 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.

The River Medway (Flood Relief) Act 1976

- 2.3 Under the River Medway (Flood Relief) Act 1976 sits a short document known as the 'Scheme' which sets 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.
- 2.4 At the time of original construction of the Flood Storage Area (FSA), 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.

- 2.5 In order to reduce the risk to more homes and businesses, the Environment Agency is planning to increase the stored water level to 28.6m AODN (increasing the capacity of the FSA by 24%), and as such this will require an amendment to the maximum water level set out in the Act.
- 2.6 In order to achieve this amendment, the Environment Agency is 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.
 - The Environment Agency has met with senior officers of Tunbridge Wells Borough Council in Planning Services: at this meeting Officers emphasised to the Environment Agency the need to consult with Bidborough Parish Council and landowners.
 - Before submitting a proposed amended 'Scheme' to the Minister of Environment, Food and Rural Affairs for approval, 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 refrain from making a decision for one month. If in that time there are no objections, the Minister can 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 the decision.
- 2.7 The Environment Agency has informed the Minister of their intent to submit a revised scheme and are consulting with specified interests in 2019 with a view to submitting the revised scheme later this year/early 2020.
- 2.8 The Environment Agency has also confirmed that with regard to the impact of the expansion on areas downstream, expanding the FSA will allow more water to be stored upstream which will reduce the likelihood of flooding downstream. The operating procedures will stay the same so downstream communities will not see a change in how the FSA functions. The Environment Agency models the impact of proposed schemes and cannot progress with any works that will increase flood risk to others. This scheme has passed that assessment.
- 2.9 As briefed at the Planning and Transportation Cabinet Advisory Board meeting in November, Officers have had further discussion with the Environment Agency in relation to this project and have been provided with a copy of the 'Leigh Flood Storage Area Review – independent audit of operation in the December 2013 flood'. This was carried out by independent consultants HR Wallingford. This report considers whether the operation of the Leigh Flood Storage Area

worsened or caused flooding elsewhere in the catchment during the December 2013 flood event.

- 2.10 In the Executive Summary of this report, it states that without the Leigh FSA there can be no doubt whatsoever that the flooding in communities adjacent to the River Medway from Tonbridge to Maidstone would have been significantly greater. It considered that its operation did not cause or worsen flooding downstream.
- 2.11 Officers have also requested the operating procedures/Management Plan for the FSA from the Environment Agency– this has not been provided at the time of writing this report but will be shared with members as relevant when it is received. Additionally, the Environment Agency are producing mapping which demonstrates the extent of any downstream flooding as a result of the additional storage capacity – based on the 2013 flood scenario.
- 2.12 In order to provide members with comfort on this issue – a representative officer from the Environment Agency will attend the Cabinet meeting to show an animated visualisation of how the Leigh FSA works and to answer any detailed technical questions that members may have.
- 2.13 A briefing note has been prepared by the Environment Agency and is attached at **Appendix A**.
- 2.14 A map showing the area affected is attached at **Appendix B**.
- 2.15 The independent report referred to in paragraph 2.9 above is attached at **Appendix C**.

3. AVAILABLE OPTIONS

Option 1: Support the amendment proposed by the Environment Agency to the River Medway (Flood Relief) Act 1976 that is required in order to deliver the Leigh Expansion and Hildenborough Embankment Scheme.

- 3.1 As summarised in this report, the proposed amendments to the River Medway (Flood Relief Act) Act 1976 required in order to deliver the above scheme, will enable the increased storage of flood water in order to reduce the risk to more homes and businesses in the neighbouring authority of Tonbridge and Malling, in particular for homes in Tonbridge and Hildenborough.

Option 2: Do not support the amendment proposed by the Environment Agency to the River Medway (Flood Relief) Act 1976 that is required in order to deliver the Leigh Expansion and Hildenborough Embankment Scheme.

- 3.2 As, above, the Environment Agency has carried out considerable work to bring forward the proposals for the amended scheme in partnership with Tonbridge and Malling Borough Council and other stakeholders and funding arrangements are in place to fund the scheme.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option 1: that Tunbridge Wells Borough Council supports the proposed amendment to the River Medway (Flood Relief) Act 1976 in order to deliver the Leigh Expansion and Hildenborough Embankment Scheme as set out in the above report.
- 4.2 To not support the amendment to the Act at this time would jeopardise the scheme being delivered by the Environment Agency in a timely way and may have implications for the current funding position. Ultimately, it may have implications for the delivery of flood storage measures, and the flood risk to neighbouring settlements.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 As referred to above, the Environment Agency is carrying out consultation with affected bodies including Tunbridge Wells Borough Council and Bidborough Parish Council.
- 5.2 The Planning & Transportation Cabinet Advisory Board, on 11 November 2019, resolved to support the recommendation.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 That the decision be relayed to the Environment Agency, and a letter be written, by the 19th December 2019) to DEFRA providing the support of the Borough Council for the expansion of the Leigh Flood Storage Area

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	There are no legal implications to the Council as a result of the proposals.	Jo Smith Lawyer (Planning) Mid Kent Legal Services
Finance and other resources	There are no financial implications to the Council of the proposals contained within the report.	Sharon Evans Principal Planning Policy Officer 31 October 2019

Staffing establishment	There are no staffing implications as a result of the proposals.	Sharon Evans Principal Planning Policy Officer 31 October 2019
Risk Management	There are no implications to the Borough Council in terms of risk management. The Environment Agency is responsible for the delivery of the proposals (in partnership with Tonbridge and Malling Borough Council) and has ensured that the relevant risk management measures are in place.	Sharon Evans Principal Planning Policy Officer 31 October 2019
Data Protection	There are no data protection implications identified as a result of the proposals.	Ingrid Weatherup Corporate Governance Officer 31 October 2019
Environment and Sustainability	<p>The proposals are being put forward by the Environment Agency, in part to ensure resilience to future climate change impacts and possible impacts on flood risk.</p> <p>The Environment Agency as the statutory body will oversee the proposals and ensure that no adverse impacts will result to the environment as a result of the proposals.</p>	Sharon Evans Principal Planning Policy Officer 31 October 2019
Community Safety	The proposals will help to ensure that the risk of flooding is reduced in the neighbouring borough of Tonbridge and Malling.	Sharon Evans Principal Planning Policy Officer 31 October 2019
Health and Safety	The proposals will help to ensure that the risk of flooding is reduced in the neighbouring borough of Tonbridge and Malling.	Sharon Evans Principal Planning Policy Officer 31 October 2019
Health and Wellbeing	The proposals will help to ensure that the risk of flooding is reduced in the neighbouring borough of Tonbridge and Malling.	Sharon Evans Principal Planning Policy Officer 31 October 2019
Equalities	There are no equalities impacts as a result of the proposals.	Ingrid Weatherup Corporate Governance Officer 31 October 2019

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- **Appendix A:** Environment Agency Briefing Note on Leigh Expansion and Hildenborough embankment scheme
- **Appendix B:** Map of affected area
- **Appendix C:** Leigh Flood Storage Area Review – Independent audit of operation in the December 2013 flood – July 2015