

**MEDWAY (FLOOD RELIEF) ACT CONSULTATION**

<b>Final Decision-Maker</b>	Policy & Resources Committee
<b>Lead Director</b>	Director of Finance & Business Improvement
<b>Lead Officer and Report Author</b>	Corporate Property Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

The Environment Agency are consulting on a proposed change to the stored water level in the Leigh Flood Storage Area which is governed by the Medway (Flood Relief) Act 1976 (MFRA). Increasing the capacity of the storage area will reduce flood risk to a further 230 homes, more than 1,400 in total.

Maidstone Borough Council is named as a specified interest in the MFRA. A Scheme appended to the Act details (amongst other information) the maximum impoundment level within the Leigh Flood Storage area, currently 28.05m AODN. The Environment Agency manage and operate the Leigh Flood Storage Area within the parameters of the Scheme. The Environment Agency are leading a partnership project to increase the capacity of the Leigh Flood Storage Area by raising the maximum impoundment level to 28.60m AODN.

As a specified interest, the Environment Agency are consulting Maidstone Borough Council on the proposed changes to the Scheme prior to the submission of a revised Scheme to Defra and The Minister for approval.

**This report makes the following recommendations to this Committee:**

1. That Maidstone Borough Council consider the proposed change to the stored water level within the Leigh Flood Storage Area with a view to supporting it.
2. That Maidstone Borough Council write a letter to Defra supporting the new scheme.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Policy & Resources Committee	18 September 2019

# MEDWAY (FLOOD RELIEF) ACT CONSULTATION

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Resilience against flooding supports all the corporate priorities.	Director of Finance & Business Improvement
<b>Cross Cutting Objectives</b>	As for Corporate Priorities generally.	Director of Finance & Business Improvement
<b>Risk Management</b>	See paragraph 4.1.	Director of Finance & Business Improvement
<b>Financial</b>	These are no direct financial implications for Maidstone Borough Council.	Director of Finance & Business Improvement
<b>Staffing</b>	Staffing support for Flood Risk Management is provided by the Property and Procurement team for capital investment and maintenance and by the Community Protection Team for community resilience.	Director of Finance & Business Improvement
<b>Legal</b>	The relevant statutory provisions and requirements are set out in the body of the report – see paragraphs 2.4 and 2.9-2.13.	Team Leader (Corporate Governance), MKLS
<b>Privacy and Data Protection</b>	No implications.	Director of Finance & Business Improvement
<b>Equalities</b>	No implications.	Director of Finance & Business Improvement
<b>Public Health</b>	The proposal outlined in the report will reduce the risk to health and safety.	Director of Finance & Business Improvement

<b>Crime and Disorder</b>	Flood risk has an impact on community safety generally. The proposal outlined in the report will help to achieve increased community resilience during incidences of flooding.	Director of Finance & Business Improvement
<b>Procurement</b>	Maidstone Borough Council will not be involved in procuring the scheme described in this report.	Director of Finance & Business Improvement

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 Maidstone Borough is part of the Medway Flood Partnership, which brings together a range of organisations concerned with flood risk management and reduction in the Medway catchment area upstream of Allington Lock, including not only the Environment Agency and the principal local authorities but also a whole range of other relevant bodies.
- 2.2 A key capital project being delivered in the Medway Flood Partnership area is the Leigh Expansion and Hildenborough Embankment Scheme (LEHES). The scheme is proposing to increase the storage of the Leigh Flood Storage Area by 24%. Whilst Maidstone Borough Council is not a partner in the scheme, they are a key consultee and by providing greater upstream storage capacity, the scheme will benefit the borough and support the actions and financial commitments taking place within the Borough and the wider catchment area.
- 2.3 The Leigh Flood Storage Area (FSA) covers 278 hectares stretching from Leigh upstream towards Penshurst. It is formed of a 1.3 kilometre long, 5 metre high earth embankment across the Medway valley. The River Medway itself passes through 3 steel gates built into the embankment. These gates can be moved to control the amount of water flowing downstream by either letting the river flow normally, or restricting the flow to hold water in the storage area.
- 2.4 The operation of the FSA is governed by the River Medway (Flood Relief) Act 1976. A document under this Act (known as the Scheme) sets out the maximum level to which water can be stored. Under the Scheme, the operators of the storage area (now the Environment Agency), can store water to 28.05m Above Ordnance Datum Newlyn (AODN).
- 2.5 Climate change will increase the risk of flooding in the coming years so the Environment Agency is leading a project called the Leigh Expansion and Hildenborough Embankments Scheme (LEHES) to increase the capacity of the Leigh FSA to reduce the flood risk to more homes and businesses in Tonbridge and Hildenborough. To achieve this the scheme will raise the stored water level to 28.6m AODN, as measured at the control structure. This will require an amendment to the maximum water level set out in the Scheme under the Act.

- 2.6 The project will reduce the risk of flooding to over 1,400 residential properties and business and 657 properties will no longer be at risk of internal flooding during a 1.33% Annual Exceedance Probability (AEP) flood event. The improvements to the FSA will extend the lifespan of the structure to at least 2060.
- 2.7 In terms of beneficiaries, a flood storage structure such as the Leigh FSA predominantly protects the land immediately downstream. The benefits are reduced the further from the storage area one gets. Whilst the increase in the capacity of FSA will not prevent properties flooding in Yalding and surrounding communities, all downstream communities will benefit to some extent.
- 2.8 The current operation of the Leigh FSA reduces peak flood depth in the centre of Yalding in a 1% AEP flood event by approximately 170mm. The increased capacity at the FSA would increase this benefit by approximately 50mm. The reason for this relatively small benefit is the influence of the other watercourses in the location and the distance from the FSA to the communities that are impacted by the flooding.

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

- 2.9 The River Medway (Flood Relief) Act 1976 sets out parameters through which the Leigh FSA can be operated, altered and upgraded. The primary legislation stipulates the process the Environment Agency must follow in order to make an application to change the impounding level of flood water in the Leigh FSA. The Scheme attached to the Act sets out specific operating parameters and conditions that must be adhered to including the maximum impounding level.
- 2.10 This project seeks to increase the storage of the Leigh FSA by impounding flood water to a higher level. Currently the maximum impounding level stipulated in the Scheme is 28.05m AODN but through the project the Environment Agency is proposing to increase this level to 28.6m AODN. Section 17(3)(c) of the River Medway (Flood Relief) Act 1976 provides that a Scheme made under s.17(3) may be confirmed, varied, replaced or revoked by a subsequent Scheme so made and approved. The full process for changing this Scheme is set out below:
- i. Defra policy officials inform the Floods Minister to expect to receive an amendment to the River Medway Flood Alleviation Scheme from the Environment Agency. This will be in the form of a written briefing and will include some background notes.
  - ii. Before making a Scheme, the Environment Agency must consult with all interested parties (identified in s.17(3)(d) of the Act as 'specified interests') explaining what they are proposing and seeking the views of the interested parties.
  - iii. Before submitting the Scheme to the Minister for approval, the Environment Agency must supply a copy of the Scheme to each of the interested parties and shall notify them of the date on which they propose to submit the Scheme to the Minister for approval to make the change to the Scheme.

- iv. The Environment Agency will then write to the Minister with the proposal and explain the process by way of submission including waiting one month to receive any objections.
- v. The Minister refrains from making a decision for one month. If in that time there are no objections, Defra policy officials will draft a submission for the Minister outlining the points to consider. The Minister can then take a decision on whether to approve the Scheme.
- vi. If there are objections which cannot be resolved between the objector and the Environment Agency, the Minister would have to hold a local inquiry or a hearing.
- vii. The person leading the inquiry would listen to the evidence and then make a recommendation after reviewing the objections. Defra policy officials would then provide a submission to the Minister outlining the recommendations from the enquiry and outlining the options available to them.
- viii. The Minister then makes a decision following the submission.

2.11 The Environment Agency have informed Defra 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.

2.12 Maidstone Borough Council is named as a specified interest in the River Medway (Flood Relief) Act. As such, the Environment Agency are consulting the Council on the proposed changes to the Scheme prior to the submission of a revised Scheme to Defra and The Minister for approval.

2.13 The Environment Agency has requested that Maidstone Borough Council consider the proposed change to the stored water level within the Leigh Flood Storage Area with a view to supporting it.

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### **3. AVAILABLE OPTIONS**

3.1 Option 1 - Support the proposed change to the stored water level within the Leigh Flood Storage Area.

3.2 Option 2 - Give no opinion on the proposed change.

3.3 Option 3 - Oppose the proposed change.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 Option 1 – Whilst the proposed change has a modest direct impact on communities in Maidstone, the action being taken by the Environment Agency to reduce flood risk in the Medway catchment area should be supported.

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## **5. RISK**

- 5.1 There is a significant flooding risk in the Medway catchment area. The Environment Agency proposals described in this report seek to address this.
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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Officers have contacted councillors from the wards with the highest proportion of properties facing significant flooding risk (Marden and Yalding, Coxheath and Hunton) to describe the Environment Agency's plans and to invite comments.
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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If members approve the recommendations in this report, we will write to Defra in support of the Environment Agency's proposal.
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## **8. REPORT APPENDICES**

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

Appendix 1: River Medway (Flood Relief) Act 1976 Scheme

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## **9. BACKGROUND PAPERS**

None.