

KENT FLOOD RISK MANAGEMENT COMMITTEE

Friday, 16th March, 2012

2.00 pm

Darent Room, Sessions House, County Hall, Maidstone





AGENDA

KENT FLOOD RISK MANAGEMENT COMMITTEE

Friday, 16th March, 2012 at 2.00 pm
Darent Room, Sessions House,
County Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **01622 694942**

Tea/Coffee will be available 15 minutes before the meeting

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

Item

- 1 Substitutes
- 2 Declarations of Members' Interest relating to items on today's agenda
- 3 Minutes of the meeting on 21 November 2011 (Pages 1 - 4)
- 4 Kent Flood Defence Grant in Aid Medium Term Plan (Pages 5 - 14)
- 5 Draft Itinerary for the date of the next meeting on 23 July 2012 (Pages 15 - 18)
- 6 Sustainable Drainage Systems (Pages 19 - 24)
- 7 Other items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services
(01622) 694002

Thursday, 8 March 2012

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

KENT FLOOD RISK MANAGEMENT COMMITTEE

MINUTES of a meeting of the Kent Flood Risk Management Committee held in the Medway Room, Sessions House, County Hall, Maidstone on Monday, 21 November 2011.

PRESENT: Mr R E King (Chairman), Mr A H T Bowles, Mr D L Brazier, Mr M J Harrison, Mr C Hibberd and Mr M J Vye

ALSO PRESENT: Mrs J Blanford (Ashford BC), Mr J Muckle (Dartford BC), Mr H Rogers (Tonbridge and Malling BC) and Mr J Scholey (Sevenoaks DC).

IN ATTENDANCE: Mr M Tant (Flood Risk Manager), Mr T Harwood (Senior Emergency Planning Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**16. Minutes of the meeting on 23 May 2011**

(Item 3)

(1) In respect of Minute 11 (1), Mr Tant explained that Defra's definition of a Flood Risk Area was one which was continuous with 30,000 people at risk. Although Kent was the County which had the highest overall number of people at risk, there was no such concentrated pocket. Mr Tant offered to provide a list of all Flood Risk Areas to Members.

(2) RESOLVED that subject to an amendment to the heading of Minute 9 to read "28 January 2011", the Minutes of the meeting held on 23 May 2011 are correctly recorded and that they be signed by the Chairman.

17. Flood Defence Financing

(Item 4)

(1) Mr Tant explained that Defra had announced changes to the way in which the Flood Defence Grant would operate from April 2012. This would involve a new funding mechanism "Payment for Outcomes."

(2) The "Payment for Outcomes" mechanism would provide each scheme with funding according to the benefits that would accrue from it. These included the number of homes protected, measures against coastal erosion and habitat creation. If this mechanism did not result in complete funding for the scheme, there were a number of options for raising funds locally.

(3) Mr Tant said that the first option was the local levy, which was administered by the Southern Region Regional Flood and Coastal Committee. All upper tier authorities in the region contributed to it. Kent's contribution was currently £330k out of a total of £1.177m.

(4) The second option was the Community Infrastructure Levy (CIL), which had to directly benefit the local Council Tax payers and could not include projects in new developments, as the Government's intention was to discourage development in flood plains. Money raised in this way could, however, be used to fund the refurbishment of existing defences. This was important as there were currently 86k properties in the County which benefited from them.

(5) Mr Harrison commented on this option by saying that this could lead to a situation where local residents could pay for a project which would be carried out at the expense of more essential works. He considered that money raised through the CIL should not be allowed to influence a project's priority ranking.

(6) The third option available to local authorities was to raise the Council Tax. Mr Bowles commented on this option by saying that the Lower Medway Internal Drainage Board had come close to not approving its budget. Many of its Members had strongly challenged the Environment Agency's precept increase of some 20% at a time when Local Government budgets were decreasing by a similar percentage.

(7) Mr Tant agreed that there were issues around IDB precept payments to the Environment Agency. The new "Payment for Outcomes" funding mechanism encouraged cost savings as the government contribution was fixed according to the benefits of the scheme. Therefore, schemes where savings still achieved the outcomes would receive the same amount. This was leading, for example to a saving of £15k on one project where Dover DC had carried out work instead of a contractor.

(8) The fourth option was for upper tier authorities to raise a supplementary business rate subject to a ballot of all businesses in the affected area. Mr Scholey asked whether businesses could vote individually on this proposal. Mr Tant agreed to investigate the workings of this option in detail.

(9) The fifth option was Tax Increment Financing (TIF). The Government was considering whether to introduce this scheme in 2013/14. This would enable a local authority to pay for infrastructure on the basis that the increased business revenues generated by the scheme could be used to repay that initial investment. This scheme was currently operational in Scotland and the USA, where a number of authorities that had used this option had got into financial difficulties. It would therefore be essential for the project in question to directly lead to growth.

(10) The final option was for one-off charitable contributions from individuals or businesses. These could take the form of money or land.

(11) In discussion of this report, the Committee asked whether it could be provided by the Regional Flood Defence Committee with a list setting out all the projects in the region, together with an explanation of the process by which they were prioritised.

(12) RESOLVED that:-

(a) the report be noted; and

(b) the Flood Risk Manager be requested to circulate a list of all the flood defence schemes and projects in Kent (and the South East Region),

together with an explanation of the process by which they are prioritised.

18. Kent Resilience Forum Reservoir Inundation Plan

(Item 5)

(1) The Kent Resilience Forum's Off-site Reservoir Inundation Emergency Plan had previously been circulated electronically to all Members of the Committee and Invitees, together with its accompanying maps.

(2) Mr Harwood said that the Pitt Review of 2007 had identified dams and reservoirs as areas of risk, whilst the Flood and Water Management Act 2010 had reduced the level at which a body of water was defined as a reservoir from 25k m³ to 10k m³. These two events had led to an increase in the work needed in respect of reservoir emergency planning.

(3) The Kent Resilience Forum (KRF) had set up a Reservoir Task and Finish Group to consider reservoir safety. This Group had identified 34 reservoirs in Kent and a further 7 reservoirs outside the County's boundaries where flooding would affect its inhabitants.

(4) Mr Harwood then set out the four risk categories. These were:

Category A: where a breach could endanger lives in a community of 10 persons or more;

Category B: where a breach could endanger fewer lives but nevertheless cause extensive property damage;

Category C: where there was negligible risk to life and limited property damage; and

Category D: where there was no loss of life and very little property damage.

(5) Mr Harwood explained that potential water flow velocity figures could not be released into the public domain for security reasons. However, Members of the Committee had a legal right to receive other sensitive information, which he would place in the KCC Information Point.

(6) Mr Harwood concluded his presentation by saying that the Plan would inform ongoing work on updating the Kent Medway Multi Agency Flood Plan and the local multi-agency flood plans. The information within the Reservoir Inundation Plan would be held by all the KRF partners, including Kent Fire and Rescue, Kent Police, KCC, the Districts and the Coastguard.

(7) RESOLVED that the sign-off of the Kent Resilience off-site Reservoir Inundation Emergency Plan and its future use by KRF partners be noted.

19. Flood Risk Management in Kent - Oral Update on progress

(Item 6)

(1) Mr Tant reported that the recent seminar (held on 24 October 2011) had been well attended and that each District Authority and IDB had now received a standing

invitation to attend the Committee's meetings. This would be particularly important once the work on sustainable drainage got underway.

(2) Mr Tant also reported the recruitment of Brondwyn Buntine as a Sustainable Drainage Engineer. Brondwyn had worked in this capacity for authorities in the USA and Australia. In addition, a new Flood Risk Management Officer would begin working for the authority in January 2012. The sum of £490k had been allocated to cover the lead Authority's responsibilities.

(3) RESOLVED that the report be noted.

20. Dates of future meetings and future arrangements

(Item 7)

(1) The Committee agreed the following meeting dates:-

Friday, 16 March 2012;
Monday, 23 July 2012;
Monday, 19 November 2012.

These meetings would commence at 2.00 pm.

(2) It was agreed that the Environment Agency would be invited to report to the March 2012 meeting on coastal and fluvial flooding. Mr Tant would also prepare a draft itinerary for a site tour to vulnerable areas to take place on the morning of the 23 July meeting. The Committee would also consider whether to visit the completed projects at Camber Sands and Dymchurch on a separate date.

(3) The Committee asked Mr Tait to write to the District and IDB representatives to let them know how to access the past Committee reports and Minutes.

By: Mark Douch, Flood and Coastal Risk Manager, Environment Agency
To: Kent Flood Risk Management Committee
Subject: Kent Flood Defence Grant in Aid Medium Term Plan
Classification: Unrestricted

1. Introduction

- 1.1 The Committee asked at its last meeting that the Environment Agency provide a list of proposed flood defence schemes in Kent. Attached as an **Appendix** to this report is the Environment Agency Medium Term Plan (MTP) for Kent.
- 1.2 The MTP shows all proposed projects that have been identified for a number of years into the future along with a proposed spending profile for those projects.
- 1.3 Each year the annual programme of projects must be approved by the Regional Flood and Coastal Committee (RFCC). Schemes for this year have been approved by the RFCC, however the programme for future years has yet to be approved and the schemes shown on the MTP is subject to change and approval.
- 1.4 More schemes will be identified and added to the MTP in future years.
- 1.5 Mark Douch from the Environment Agency will be available to answer questions about the MTP.

2. Recommendations

- 2.1 The Committee is recommended to note the MTP.

Contacts

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By: Corporate Director – Enterprise and Environment
To: Kent Flood Risk Management Committee
Subject: Draft Itinerary for the next meeting on 23 July 2012
Classification: Unrestricted

Summary:

An itinerary is proposed for the date of the next meeting of this Committee on Monday, 23 July 2012. .

1. Introduction

- 1.1 The Committee agreed at its last meeting that the Flood Risk Manager would prepare a draft itinerary for a site tour to vulnerable areas to take place on the morning of the 23 July meeting. This is attached as an **Appendix** to this report.
- 1.2 It is proposed that those Members who wish to participate should meet at County Hall, Maidstone in order to set off by coach at 9 am. After visiting flood defences at Robertsbridge and Dymchurch, Members will be able to have lunch at the offices of Romney Marsh Internal Drainage Board before the Committee meeting at 2pm.
- 1.3 It is estimated that the coach will arrive back at County Hall at 5 pm.
- 1.4 If the proposed itinerary is agreed, the Democratic Services Officer will write to all Committee Members and the nominated District/IDB representatives setting out the arrangements in greater detail.

2. Recommendations

- 2.1 The Committee is recommended to agree the proposed itinerary for the date of its next meeting on Monday, 23 July 2012.

Contacts

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Flood Risk Committee Site Tour Day Draft Itinerary

23 July 2012

1000	Arrive at Robertsbridge to see flood defences in operation
1100	Depart Robertsbridge
1130	Arrive at maintenance site – to be determined when works schedule has been confirmed
1215	Depart maintenance site
1245	Arrive at Dymchurch to see flood defences on Romney Marsh
1315	Lunch at Romney Marshes Area IDB
1400	Flood Risk Committee meeting
1600	Depart for KCC

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By: Corporate Director – Enterprise and Environment
To: Kent Flood Risk Management Committee
Subject: Sustainable Drainage Systems
Classification: Unrestricted

Summary:

The government has recently consulted on the National Standards for sustainable drainage systems and procedures for KCC to perform its new role of Approval Body. This paper presents a summary of the National Standards and the key points of Kent County Council's response.

1. Introduction

- 1.1 The UK Government passed the Flood and Water Management Act 2010 (the Act) in April 2010 to provide new legislation for the management of flood and coastal erosion risk in England and Wales. Schedule 3 of the Act requires construction work with drainage implications to have its drainage systems approved before construction may begin and promotes the utilisation of sustainable drainage systems (SuDS) to manage drainage.
- 1.2 The “approving body” (“SAB”) for this approval process has been designated to county councils and unitary authorities. The SAB must also adopt and maintain those drainage systems that are approved SuDS which serve more than one property.
- 1.3 Sustainable drainage is a means of managing surface water at source with the aim of preventing or reducing flooding and improving water quality. Elements of sustainable drainage may include soakaways, swales, permeable pavement, attenuation basins, wetlands and ponds.
- 1.4 The Act requires that National Standards are published by the government that set out what is expected from a drainage system to be approved by the SAB. Defra published the National Standards for public consultation on 20 December 2011, which closed on 13 March 2012.

2 The National Standards

- 2.1 The National Standards provide required standards for the performance, design, construction, operation and maintenance of SuDS in order to be approved. They encourage the use of sustainable techniques and only if these are not feasible may conventional techniques be used.
- 2.2 The National Standards have a hierarchy of discharge locations, in order of preference:

- groundwater,
 - surface water body,
 - surface water sewer,
 - combined sewer.
- 2.3 Only if it can be demonstrated that the most preferable receiving body cannot feasibly receive the water can the next be considered (for instance due to impermeable ground or no local watercourses). Connection to a sewer, for the discharge of surface water, is no longer a right. It will be up to the SAB to determine if the applicant has demonstrated that that is the most sustainable way to discharge the water.
- 2.4 Drainage approval must be sought for any construction that has drainage implications. However, Defra is seeking to implement the legislation in a phased manner, with a preference to commence with major planning applications with minor planning applications being added later. It is likely that approval will never be required for construction areas less than 100 m².
- 2.5 The proposed drainage scheme will also have to meet maximum discharge rates and volumes and provide treatment of the water, which will vary according to the source and the body it is discharged to.
- 2.6 The consultation also includes four draft statutory instruments which provide the legal framework for the approval and adoption processes which include:
- Approval and adoption;
 - Enforcement of the requirement for SAB approval;
 - Procedural matters relating to approval and adoption; and
 - Appeals against SAB decisions.

3 Kent County Council's role as SAB

- 3.1 As an approving body KCC will receive applications for drainage approval, from Local Planning Authorities submitted jointly with a planning application or directly from the developer.
- 3.2 KCC will be required to make a decision on an application within 7 weeks for minor applications and 12 weeks for major applications.
- 3.3 Within this review period, KCC is required to consult with a number of statutory consultees, including Environment Agency, Southern Water, Internal Drainage Boards and the highway authority. The statutory consultees are required to provide a response to the SAB within 21 days.
- 3.4 KCC must assess each drainage application against the National Standards. If the application is consistent with the National Standards, it must be approved.
- 3.5 The SAB role is a technical approval role similar to that which KCC currently fulfil with respect to the adoption of highways. Decisions made by KCC will

not be required to be submitted to committee or be reviewed by Cabinet members.

- 3.6 KCC must adopt a sustainable drainage system which is constructed according to the approval. Once adopted, the asset must be listed on a register and becomes KCC's responsibility for maintenance.

4 Resource implications of new responsibilities

- 4.1 If this new responsibility is introduced with the threshold that all major planning applications requiring approval KCC will receive approximately 500 applications per year.
- 4.2 The new responsibilities may be undertaken within KCC's current structure and capabilities; however, they will place additional demands on existing staff. Additional capacity is anticipated to be required.
- 4.3 Areas that will be affected include:
- 4.3.1 Pre-planning: Staff will be required to undertake pre-planning consultation meetings to advise developers on preferred approaches and drainage considerations and manage the administrative requirements of statutory consultation.
- 4.3.2 Approval and Adoption: Staff will be required to determine if the submitted drainage strategies meet the National Standards, advise on approval or refusal following technical review, undertake inspections of systems requested for adoption and inform maintenance teams of anticipated maintenance program requirements.
- 4.3.3 Maintenance: As SuDS systems are constructed, they will be added to the County's asset management system, with additional requirements for regular maintenance. This will increase the responsibilities of the existing Highways Maintenance team.
- 4.3.4 The consultation includes proposed application fees for the first three years of this process, these start at £350 and rise to a maximum of £7,500. After the initial three years KCC will be required to publish a schedule of fees based upon cost recovery for the work involved. KCC is permitted to charge fees for inspection based on an hourly rate for services.
- 4.3.5 The consultation does not at present include details on how the costs of maintenance will be covered for the adoption of SuDS. Defra is proposing to fund this itself for the first three years, but they have not provided details on how the sums will be calculated or paid.

5 Legal implications of new responsibilities

- 5.1 KCC will have new legal powers and responsibilities to act as the approving body. These include:
- 5.1.1 Should an application be refused the applicant has the right to appeal the decision. The secondary legislation proposes procedures in line with the Town and Country Planning Act, which require written representations and attendance at any necessary inquiry.
 - 5.1.2 An approving body has a power to give a stop notice for any specific activity and enforcement notice for any breach of approval or conditions. Such enforcements may also be appealed and therefore representations at subsequent hearings may be required. The approving body may also undertake further action if a person fails to comply with a notice by enforcing a fine or subsequent conviction.
 - 5.1.3 An approving body has powers of entry to any construction area to determine if it should be subject to a drainage approval or to determine if stop notice or enforcement notice has been complied with.
 - 5.1.4 Once KCC has adopted a SuDS we will have a duty to maintain it..

6 Kent County Council response to the draft National Standards and legislation

- 6.1 A full response to the 29 questions posed by the consultation was prepared as well as response to specific issues with the National Standards, the proposed Statutory Instruments and the Impact Assessment.
- 6.2 KCC recommends implementation of Schedule 3 and the National Standards on 1 April 2013, to provide sufficient time to develop internal processes and procedures and recruit and train staff.
- 6.3 The following key points summarise Kent County Council's response:
- 6.3.1 Financial implications
 - The estimated number of applications does not reflect the likely number a county council the size of Kent will receive and therefore underestimates the number of staff we will require to perform the role of the SAB.
 - The estimated cost of maintaining adopted SuDS does not reflect the variation of SuDS techniques that may be used or the sizes of the developments they will serve.
 - 6.3.2 Inconsistency with existing guidance
 - The technical performance requirements do not correctly reflect current SuDS guidance and best practice.
 - The standards may result in conflicts with Building Regulation and new Mandatory Standards for Foul Sewers.
 - 6.3.3 Ambiguous procedures for two-tier authorities

- The process for making an application for drainage approval at the same time as a planning application to different authorities raises potential conflicts over the fee payment, validation of the application and timeframe for a decision should either of these be unsatisfactory.

6.3.4 Affordability goal

- The technical requirements of the guidance for a SuDS requires drainage systems that have much higher performance criteria than conventional systems, which means there is a conflict with the requirement for SuDS to be affordable in comparison with an “*equivalent* conventional design” as an equivalent system would be a SuDS.

6.3.5 Lack of consideration of matters following adoption

- Standards and secondary legislation do not cover operational issues that the SAB will have to undertake to ensure the performance of SuDS is maintained.

6.3.6 Conflicts with existing legislation

- There is a lack of uniformity with other Acts, particularly the Highways Act and the Water Industry Act, notably in the provision of powers the SAB will be able to rely upon in undertaking similar activities to those of a sewerage undertaker or highway authority.
- There is a lack of consistency and uniformity as to definitions, notably the definitions of adoptable system, sewer, highway sewer etc, between the National Standards and the Flood and Water Management Act, the Highways Act and the Water Industry Act.
- The proposed secondary legislation does not provide any clarification of potential conflicts between the Floods and Water Management Act and planning legislation, notably consideration of drainage within planning applications and flood risk assessments.

7. Recommendations

7.1 the Committee is recommended to note this report.

References

Draft National Standards and statutory instruments are available online at: <http://www.defra.gov.uk/consult/2011/12/20/sustainable-drainage-systems-1112/>

Flood and Water Management Act 2010 is available online at: <http://www.legislation.gov.uk/ukpga/2010/29/contents>

Contacts

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