

From: **Simon Jones, Corporate Director, Growth, Environment and Transport**

To: **David Wimble, Cabinet Member for (the Kent) Environment**

Subject: **Internal Drainage Board Expansion**

Key decision 25/00066

Classification: **Unrestricted**

Electoral Division: Ashford Rural South Bill Barrett, Ashford East Dean Burns, Ashford Rural East Brian Collins, Ashford Rural West Jeremy Eustace, Ashford South Nick Wibberley, Ashford Central Pamela Williams, Canterbury City North Alister Brady, Herne Bay East Paul Chamberlain, Whistable East and Herne Bay West Adrian Kibble, Herne Village and Sturry Mark Mulvihill, Canterbury City South Connie Nolan, Canterbury North Alex Ricketts, Canterbury South Mike Sole, Deal and Walmer Chris Burwash, Dover North Bridget Porter, Sandwich Peter Evans, Birchington and Rural Luke Evans, Maidstone Rural South Brian Black, Tunbridge Wells Rural Mark Munday

Summary: Internal Drainage Boards have a legal authority to expand their districts under the Land Drainage Act 1991 Section 3(1). Where expansion is sought, the relevant Internal Drainage Board must demonstrate that they have consulted with the relevant authorities and sought their approval, prior to the order being granted by DEFRA. The River Stour Internal Drainage Board and Upper Medway Internal Drainage Board are both seeking to expand their districts to align with the catchment boundary. The proposed approach to expansion differs for each Internal Drainage Board, but the expansion will ultimately improve oversight and management of flood risk.

Recommendation(s):

The Cabinet Member for (the Kent) Environment is asked to:

1. ENDORSE the proposed expansion of the River Stour Internal Drainage Board District and
2. ENDORSE the trial expansion of the Upper Medway Internal Drainage Board and the joint working arrangement between the Upper Medway Internal Drainage Board and Kent County Council as Lead Local Flood Authority as shown at Appendix A.

1. Introduction

- 1.1 Kent County Council and the Internal Drainage Boards are Risk Management Authorities for flood risk in Kent and work in partnership to manage the associated risk.
- 1.2 Kent County Council as Lead Local Flood Authority is the responsible authority for surface water, groundwater and ordinary watercourses. The Council provides a strategic overview of flood risk across the county.

- 1.3 Internal Drainage Boards are local independent public bodies responsible for managing water levels, drainage and flood risk within a defined low-lying area, known as an Internal Drainage Board District. Districts are typically rural, agricultural areas located on the coast or within a major river catchment where effective drainage is needed for land use and to maintain public safety.
- 1.4 The Land Drainage Act 1991 requires Internal Drainage Boards to undertake the duties set out within the Act. The main role of the Internal Drainage Board is to manage drainage of agricultural land, maintain flow within the watercourses, operate and maintain pumping stations, sluices and weirs to manage water levels, regulation and control of activities in and alongside the drainage system to ensure that flood risk management and drainage is not impaired and protect and enhance biodiversity.
- 1.5 In addition to their duties, Internal Drainage Boards have powers to maintain and improve watercourses within their district. This can include dredging, clearing obstructions, constructing banks, culverts or outfalls. Under these powers, the Internal Drainage Boards have a right to access land to undertake emergency work and can carry out enforcement for unauthorised works.
- 1.6 The Act gives Internal Drainage Boards the power to create by-laws, which strengthens the legislation to manage and protect drainage infrastructure and reduce flood risk. Kent County Council as Lead Local Flood Authority does not have the same power to create or enforce bylaws.
- 1.7 As an independent body, Internal Drainage Boards are governed by a board of members drawn from landowners (elected members) local authorities (appointed members) and specific interest groups (co-opted members). The day-to-day operation is overseen by a clerk, with staff comprising of engineers, operations and technical officers and administrative officers.
- 1.8 Internal Drainage Boards in Kent are funded by drainage rates charged on agricultural landowners and special levies collected from local authorities for non-agricultural land. The Internal Drainage Boards may also seek capital grants for improvement schemes or developer contributions where drainage improvements are required. Rates are set annually by the board.

2. Internal Drainage Board Expansion

- 2.1 The River Stour Internal Drainage Board District stretches from Lenham Heath in the west to Richborough and Deal in the East, and from Sellenge in the south, up to Reculver in the north. The district includes the urban areas of Ashford, Canterbury and Sandwich. The district also encompasses areas of marshland in the Wantsum Channel and the Lydden Valley. It covers the Environment Agency maintained main rivers Great Stour, East Stour, Little Stour, Ruckinge Dyke, Whitewater Dyke, Aylesford Stream, Sarre Penn, Wantsum, North & South Streams and their tributaries.
- 2.2 The Upper Medway Internal Drainage Board District includes the areas of East Peckham, Edenbridge, Forest Row, Frittenden, Groombridge, Headcorn, Lingfield, Maidstone, Marden, Paddock Wood, Staplehurst and Tonbridge and Malling. The district includes the urban areas of Tonbridge and Maidstone. It

covers the Environment Agency main rivers Beult, Teise, Medway and their tributaries.

- 2.3 Both Internal Drainage Boards are seeking to expand their districts under the Land Drainage Act 1991 Section 3 (1) to align with the full extent of the natural catchment boundary.
- 2.4 This approach brings practical and environmental benefits, allowing the Internal Drainage Board to take a more joined-up and efficient approach to managing water levels and reducing flood risk across the whole catchment.
- 2.5 With oversight of the catchment, the Internal Drainage Boards can plan and carry out maintenance more effectively, respond quickly to issues upstream that may impact communities or land downstream, and apply its powers more consistently.
- 2.6 The Internal Drainage Boards will undertake their powers for consenting activities near watercourses, enforcing bylaws, and coordinating long-term improvements that protect homes, farmland and the environment. Aligning boundaries with catchment areas also helps reduce confusion over the responsible authority for land drainage and ensures that water management decisions are made with a full understanding of how water moves through the landscape.
- 2.7 The River Stour Internal Drainage Board is proposing to undertake a single coordinated expansion of the district, aiming to streamline governance and deliver a consistent delivery of water level management and duties across the catchment area.
- 2.8 The changes from the current River Stour Internal Drainage Board district area to the expanded district area will see the incorporation of a small number of ordinary water courses which are currently the land drainage responsibility of Kent County Council.
- 2.9 The Upper Medway Internal Drainage Board is proposing a phased expansion starting with the sub-catchment of the Teise around Marden followed by the Rhoden sub-catchment.
- 2.10 This phased approach will allow the Upper Medway Internal Drainage Board to work closely with Kent County Council via a Public Services Cooperation Agreement for a period of three years.
- 2.11 The Public Service Cooperation Agreement (Annex A) will allow both parties to develop and deliver joint surface water and natural flood management projects in areas where we have known and ongoing flood risk.
- 2.12 This approach will allow the Upper Medway Internal Drainage Board to build local support for the expansion, trial practical delivery on the ground and ensure each phase of the expansion is underpinned by measurable benefits.

- 2.13 Kent County Council will be able to utilise additional resource and operational delivery to land drainage activity and better protect local communities within these catchment areas.
- 2.14 Following the three-year trial, if considered by the Board to have been successful, the expansion will be formally incorporated.
- 2.15 The differing approaches to the proposed expansions reflect the unique geographical, operational and partnership arrangements within each respective Internal Drainage Boards district.
- 2.16 The expansion of the boundaries provides benefits to both Kent County Council as Lead Local Flood Authority and local communities:
- 2.16.1 Improved coordination – the expansion will allow Internal Drainage Boards to take additional responsibility for maintenance and regulation of all watercourses across the catchment, reducing the ambiguity between Kent County Council and the Internal Drainage Board
 - 2.16.2 Reallocation of resource – with the Internal Drainage Board managing ordinary watercourses, Kent County Council can prioritise strategic planning, delivery of sustainable drainage and flood risk management schemes and coordination of flood risk management
 - 2.16.3 Strengthening partnership resource – the Internal Drainage Board brings technical expertise, local knowledge and an established operational workforce across a wider area, providing opportunity for partnership delivery of Lead Local Flood Authority objectives
 - 2.16.4 Benefits to local communities include a consistent approach to watercourse maintenance, flood risk management being managed as a whole system and improved communication with a single organisation.

3. Options Considered but discarded

- 3.1 Not to endorse the expansion proposals, however the expansion is considered to provide benefits for both Kent County Council and local communities by offering improved coordination of watercourses and flood risk management, increased resources through joint delivery of projects and improved communication with communities through a single point of contact.

4. Financial Implications

- 4.1 As a Lead Local Flood Authority, Kent County Council has permissive powers under the Land Drainage Act 1991 to consent works to ordinary watercourses outside of Internal Drainage Board Districts or those designated main rivers.
- 4.2 The Land Drainage Engineer undertakes this activity within the Flood and Water Management team and is a base funded member of staff.

- 4.3 The expansion of the Internal Drainage Board districts will result in consenting of works to ordinary watercourses being undertaken by the Internal Drainage Board.
- 4.4 The loss of revenue is expected to be no more than £500 per year across both the River Stour Internal Drainage Board and the Upper Medway Internal Drainage Board.
- 4.5 The consenting fee charged by Kent County Council is £50 per consent as set by s.23(2) Land Drainage Act 1991 but this is not considered an accurate reflection of staff resource required to complete the consenting process.
- 4.6 The loss of financial income is considered negligible as staff resource will be reallocated to projects which are externally funded with full cost recovery.
- 4.7 There is therefore no additional pressure on the KCC budget that would result from this decision.

5. Legal implications

- 5.1 There are no legal implications resulting from this decision as Kent County Council as Lead Local Flood Authority and the Internal Drainage Boards duties and activities are defined by the Flood and Water Management Act 2010, Water Resources Act 1991 and the Land Drainage Act 1991.
- 5.2 All parties will continue to carry out their roles and responsibilities as defined within these Acts.

6. Equalities implications

- 6.1 An EqIA screening has been completed and identified no harmful implications for any protected characteristic groups at this stage.

7. Other corporate implications

- 7.1 The Internal Drainage Board expansion has the potential to assist the KCC highways authority in areas related to flood risk, surface water management and infrastructure resilience.
- 7.2 Internal Drainage Boards have expertise in managing water levels, ditches and watercourses. The expansion can provide opportunities for better coordinated removal of surface water from roads, reducing road flooding, water damage to carriageways and drainage related complaints.
- 7.3 As the Internal Drainage Boards often maintain watercourses, culvert and drainage adjacent to highways, expansion could mean that more of these assets are protectively managed. This in turn can reduce silt build up in roadside gullies, lowering maintenance costs and risk of localised surface water flooding.

- 7.4 The expansion of the Internal Drainage Boards will provide a proactive drainage partner that compliments the highway authority's statutory duties and helps reduce risks and costs associated with poorly managed surface water.

8. Conclusions

- 8.1 The River Stour Internal Drainage Board and Upper Medway Internal Drainage Board are seeking to expand their districts under the Land Drainage Act 1991 Section 3 (1) to align with the full extent of the natural catchment boundary.
- 8.2 This approach brings practical and environmental benefits, allowing the Internal Drainage Board to take a more joined-up and efficient approach to managing water levels and reducing flood risk across the whole of their catchment areas.
- 8.3 Whilst each Internal Drainage Board is proposing a different method to deliver their expansion, Kent County Council will continue to work in partnership with both parties to delivery flood risk management.
- 8.4 The expansion is considered to provide benefits for both Kent County Council and local communities by offering improved coordination of watercourse management, increased resources through joint delivery of projects and improved communication with communities through a single point of contact.

8. Recommendation(s):

The Cabinet Member for (the Kent) Environment is asked to:

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2. ENDORSE the trial expansion of the Upper Medway Internal Drainage Board and the joint working arrangement between the Upper Medway Internal Drainage Board and Kent County Council as Lead Local Flood Authority as shown at Appendix A.

9. Background Papers

Appendix A – Record of Decision
Appendix B - EqIA

10. Contact details

Report Author:

Louise Smith
Flood and Water Manager

03000 414 829

Louise.Smith@kent.gov.uk

Relevant Director:

Matt Smyth
Director for Environment and Circular
Economy

03000 416 676

Matthew.Smyth@kent.gov.uk

