

KENT COUNTY COUNCIL

KENT FLOOD RISK MANAGEMENT COMMITTEE

MINUTES of a meeting of the Kent Flood Risk Management Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 10 March 2015.

PRESENT: Mr M J Harrison (Chairman), Mr L Burgess (Substitute for Mr D Baker), Mr A H T Bowles, Dr M R Eddy, Mr L B Ridings, MBE, Mrs P A V Stockell, Mr M J Vye, Mr P Vickery-Jones (Canterbury CC), Mr L Croxton, Mr J Scholey (Sevenoaks DC), Mr A Hills (Shepway DC), Mr G Lewin (Swale BC), Mr H Rogers (Tonbridge and Malling BC), Mr D Elliott (Tunbridge Wells BC), Ms G Brown (KALC), Mr M Tapp (River Stour IDB) and Mr P Flaherty (Kent Fire and Rescue)

ALSO PRESENT: Mr M A C Balfour and Mr C Pearman

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

ALSO IN ATTENDANCE: Mr S Curd (Environment Agency)

UNRESTRICTED ITEMS

1. Minutes of the meeting on 17 November 2014

(Item 3)

(1) Mr Vye asked in respect of Minute 17 (23) whether a list of planned improvements by Southern Water could also be provided. Mr Tant replied that he would request this information from Southern Water. He asked the Committee to bear in mind that the water companies were just starting their new five year improvement programmes and that OFWAT had become less prescriptive about the order in which they needed to be undertaken and that the information provided might, in consequence, be less comprehensive than Members would wish.

(2) RESOLVED that the Minutes of the meeting held on 17 November 2014 are correctly recorded and that they be signed by the Chairman.

2. Kent Resilience Forum Pan-Kent Flood Group

(Item 4)

(1) Mr Harwood said that the Kent Resilience Forum had been set up in response to the Civil Contingencies Act 2004 which required Local resilience Forums to be established for key emergency planning partners and stakeholders to enhance planning and response for major emergencies within their operational areas.

(2) Mr Harwood continued that the Kent Resilience Forum had recently established the Pan Kent Flood Group whose role was to ensure the implementation of all the outstanding actions arising out of the 2013/14 winter events and enhance local preparedness for flood emergencies.

(3) A key piece of work for the Group would be around coastal flooding planning and response. Kent had some 350 miles of coastline, and the South East was actually gradually sinking as a result of sea level rise linked to a warming planet and the geological phenomenon of glacio hydro-isostatic rebound. Part of the value of the Pan Kent Flood Group would be to act as a catalyst and advocate for the flooding agenda across the other groups which made up the Kent Resilience Forum.

(4) The Chairman referred to a letter from Dan Rogerson MP, the Parliamentary Under Secretary of State for Water, Forestry, Rural Affairs and Resource Management which advised local authorities to put their draft flood risk management strategies out for public consultation by the end of March 2015. He noted that a number of Lead Local Flood Authorities had yet to publish their strategies and stressed the role of elected Members in ensuring that this happened in their authorities.

(5) Mr Harwood responded to a question from Dr Eddy by saying that the Pan Kent Flood Group was currently meeting monthly because of the significant workload and that an update report would be presented to future meetings of the Committee as a standing item.

(6) RESOLVED that the establishment of the Kent Resilience Forum Pan Kent Flood Group be noted and that progress reports be tabled at future meetings of the Committee.

3. Drainage Consultee Role *(Item 5)*

(1) Mr Tant introduced the report by saying that the Flood and Water Management Act contained a Schedule which proposed to make KCC a drainage approval body, having the role of approving and potentially adopting drainage schemes from new developments. This role would have sat alongside the planning application process.

(2) Mr Tant went on to say that Defra had found it very challenging to bring about full implementation of this role due to concerns over how the adoption role would sit alongside planning and how long-term maintenance would be funded.

(3) In consequence, Defra had decided to consider different options to resolve the SuDS issue. In October 2014, Defra and DCLG had issued a consultation on an alternative approach. This involved strengthening the planning regime around SuDS in terms of maintenance and enforcement.

(4) Mr Tant referred to KCC's response document which supported the general direction of the proposal but did not consider that it would achieve any improvement to current SuDS provision, particularly in respect of maintenance. The consultation document had envisaged that maintenance of SuDS would be a planning condition subject to perpetual enforcement (which would be at odds with the existing enforcement regime).

(5) DCLG had followed this with another consultation in December 2014. This had included making Lead Local Flood Authorities statutory consultees within the

planning regime for surface water on major developments. This proposal was supported by KCC even though it was still considered that the proposal itself would not improve the type of SuDS or their long term maintenance.

(6) Mr Tant then said that KCC also had significant reservations about the New Burdens Assessment which set out what DCLG believed it would cost to implement and the revenue it would give to support it. It was considered that the amount of time needed to fulfil this role was being significantly underestimated and also because there was no assessment in the document of the additional burden that would be placed on planning authorities. One issue that had not been considered was that drainage details would often not be part of the original submission for a major planning application but would be submitted later as details in respect of a planning condition. The time required to undertake the enforcement role had also not been included.

(7) Mr Tant added that the DCLG consultation period had now closed. To date there had been no update from DCLG (even though it had been hoped that this would be published in time for oral communication to the Committee). It was now expected on 20 March.

(8) The Chairman commented that it had taken at least six years to reach this point and that maintenance remained a major issue. He referred to the visit to the SuDS scheme at Singleton Hill in Ashford that the Committee had undertaken in March 2014, where the scheme itself had been excellent but had clearly suffered as a consequence of multiple bodies having responsibility for different parts of it.

(9) Mr Rogers said that he had received a copy of a letter written by the LGA to Liz Truss, Secretary of State for Environment, Food and Rural Affairs. He read out one of the recommendations which was:-

“In the longer term our view is that the responsibility for approval, adoption and maintenance of SuDS should sit with water and sewerage companies within their existing regulatory regime. It is also our view that the cost of processing applications should be fully funded by the planning application scheme.”

(10) Mr Tant that KCC would have some misgivings about water companies adopting them, because a number of water companies were not interested in sustainable drainage, preferring more traditional methods. The concern was that this approach would not necessarily lead to the best sustainable drainage systems. Nevertheless, KCC was not completely at odds with the LGA's views because it did recognise the need for an adopting authority.

(11) Mr Scholey said that DCLG seemed to believe that the SuDS issues could be resolved through planning conditions. In his experience, planning conditions were effective up to the point where a property was transferred from the developer to the resident. He asked how a planning condition could be enforced after the developer had left the site.

(12) Mr Tant replied that he was not sure what mechanism the DCLG had in mind. There would, he thought, be a charge for the wider use of the drainage system. He agreed that KCC considered the point Mr Scholey had made to be one of the grounds for its misgivings about the proposal.

(13) Mr Harwood suggested that it could work if there was a legal agreement for long term maintenance signed by the developer at the time.

(14) Mr Vickery-Jones said that developers were often close to dismissive of what planners required of them. There had been many instances in Canterbury where the planning authority had been completely overruled by the Inspector at the planning appeal stage. It was vital for the Districts that the strategic overview role (usually played by KCC) was clarified.

(15) Mr Bowles said that the seriousness of the matter in hand contrasted with the delays in implementation which were occurring because of the lack of clear direction at the national level. He did not believe that there was no solution to be found. A full, focussed discussion involving all interested parties would be able to put an end to the cycle of consultation documents, which simply led to yet another round of consultation. Meanwhile, sustainable drainage was being installed but not inspected or maintained. He suggested that the Chairman and Cabinet Member should write to the Secretary of State stressing the urgent need for a solution that worked.

(16) Mr Balfour said that KCC had written to the Secretary of State on a number of occasions over the previous six years whenever this topic had arisen. He was willing to do so again in his role as the new Cabinet Member for Environment and Transport.

(17) Mr Balfour went on to say that he was aware that it was perfectly simple to design a really good urban scheme with a SuDS element that was attractive and which could be maintained as it was part and parcel of the development. He agreed that responsibility was currently being passed from one body to the next and that it was not clear who was going to pay for it. He was also concerned over the practical problem of providing the designers of the schemes and the technical expertise within the planning authorities to analyse them.

(18) At the invitation of the Chairman, Mr Harwood described the new retail development on Bearsted Road near Junction 7 of the M20. Ever since the retail scheme had gone in, the long-established local highway flooding had disappeared as a result of reductions in run-off achieved by the SuDS approach utilised within the site. The drainage scheme utilised a void with stepped rock-filled gabions beneath the store which effectively reversed the flow of surface water within the site to facilitate more effective infiltration to groundwater. This demonstrated that SuDS did not necessarily have to be a visible feature within a development and that it could work in higher density urban situations.

(19) Mrs Stockell said that it was likely that many developments in Kent would be completed before any SuDS work was actually undertaken. She then said that the Water and Wastewater in Ashford Select Committee had met in 2000 and had recommended SuDS due to the high amount of concrete in Ashford which made effective water run-off difficult to achieve. She noted that KCC was already providing three half-day workshops and asked whether there had been any feedback from them.

(20) Mr Tant confirmed that KCC had undertaken training for the Districts in respect of the role that KCC had been expecting to fill. This would continue into 2015/2016.

(21) Mr Tant continued by saying that it was expected that the LLF Authorities would become statutory consultees for drainage schemes in new major developments. This role would probably commence in April 2015. There would also be consequential amendments to the NPPF in respect of sustainable development and its drainage.

(22) Mr Tant replied to a question from Mrs Stockell by saying that work had been undertaken with internal KCC functions such as Property and Infrastructure Support in respect of school buildings. It was very important that KCC was seen as setting a good example in drainage matters. He added that a SuDS scheme was currently being developed for an extension to a school and that it was hoped that this would lead to further similar projects.

(23) Dr Eddy said he was concerned about the number of substantial developments that were going through the planning process on the edge of Flood Plains or which were pumping water into systems that were already at full capacity. He identified three areas which he suggested the Cabinet member should take up with the Minister. These were: Training, particularly for those involved in the planning process who might well be inexperienced in this particular area of work; Burdens, as much of the work was not being funded; and Maintenance of the long term sustainability of the SuDS. He then said that he was interested in the relationship in thinking between that of KCC and that of the LGA and asked whether these two organisations were likely to be able to reach the point where they were a combined voice for Local Government. He believed this to be essential if the issues he had raised were to be addressed.

(24) Mr Tant replied that the only area of disagreement between KCC and the LGA was over whether the water companies were best placed to take responsibility. This was, however, not a fundamental difference. The LGA had been negotiating on behalf of the local authorities with the DCLG over the new Burdens Assessment. There were some differences as might be expected given the large number and diversity of local authorities involved. Nevertheless, KCC and the LGA were very much of one mind in respect of the current consultation.

(25) Mr Bowles said that Swale BC was desperately trying to recruit Planners. The training that was likely to be required for them would be at the expense of their ability to swiftly deal with issues that arose, causing delays in process and implementation, and potentially leading to decisions on applications being taken by planning inspectors instead of local authorities. He believed that there were a sufficient number of Kentish representatives on the LGA who were in a position to influence that organisation's approach. He would be discussing with the Leader of the Council the most effective way of doing so.

(26) The Chairman suggested that someone in a position of authority within the LGA could be invited to speak to the next meeting of the Committee. Mr Bowles undertook as a member of the LGA to invite someone on the Committee's behalf.

(27) Mr Tapp commented on the proposed exemption of minor developments from the revisions to the planning policy and guidance. He said that in some areas this could lead to 150 houses being built in batches of ten, effectively leaving a large development which was exempt from policy and guidance on local drainage systems.

He suggested that if there was to be an exemption the bar should be set at one or two rather than ten.

(28) Mr Tapp then said that in respect of major developments which needed long term maintenance, the specifications in Ashford and Canterbury were extremely good. He then asked whether there would be provision for KCC to request that charges be built into the registry deeds of people who bought the properties. He would be quite happy for this to be done through the rates but was not sure whether differential rates would be legal.

(29) Mr Bowles said that differential rates could not be applied by a billing authority. The IDBs were not answerable to a local authority and were entitled to put up their precept as they considered appropriate. In his view, the IDB precept should be included as a headline in the Council tax bill as this would enable them to be accountable for (and therefore able to explain) every increase.

(30) Mr Balfour said that it was theoretically possible to hold the owner of a property to account in perpetuity. This would, though, be a very complicated process, involving high legal fees.

(31) Mr Rogers commented on the minor exemptions provisions in the consultation document by saying that at District level, planning authorities made numerous efforts to encourage SuDS by, for example, conditioning permeable surfacing. He then said that a significant recent change in the planning process enabled pre-application consultation with the developers so that planning authorities could advise developers on a chargeable basis. He considered that this principle could be extended to Lead Flood Authorities to enable them to advise on SuDS at the pre-application stage.

(32) The Committee expressed its concern over the lengthy and time-consuming consultation process which was delaying effective SuDS implementation and also confirmed that it wished to invite a representative from the LGA to speak at its next meeting.

(33) RESOLVED that, subject to (32) above, the report be noted.

4. Environment Agency and Met Office Alerts and Warnings and KCC flood response activity since the last meeting.

(Item 6)

(1) Mr Harwood drew the Committee's attention to the variance between the Alerts and Warnings recorded in the past few months and those received during the corresponding period in the previous year. In 2013/14 (November to March) there had been 41 warnings and 5 severe warnings whereas this year there had been 9 warnings and no severe warnings. The comparison was even greater when the figures for Met Office Severe Weather Flood Alerts and Warnings were set against one another. There had been just 10 since the last meeting compared to 87 in 2013/14. The Thames Barrier had been closed on 4 occasions since the last meeting as opposed to 49 times in the corresponding period in 2013/14. A total of 11 significant flooding related emergencies had been reported to the 24/7 KCC Emergency Planning Duty Officer since the last meeting. The figure for 2013/14 had been 66.

(2) Mr Flaherty said that Kent Fire and Rescue had invested a considerable amount of time and work in communities, resilience and equipment and this had resulted in improved response to those events that had occurred. He confirmed that his service had also seen a far lower level of flood-related activity than during the previous year.

(3) Mrs Brown reported that Yalding had not even had to deal with water on the road during the winter. The only issue that her parish had taken up with the Environment Agency was that warnings had been given at a very early stage. These warnings were, by their nature, not accurate enough. It would be preferable if the warnings were given once it became clear that an event was actually going to occur. She was pleased with the revisions made to the warning zones as this now meant that warnings could be given to those actually affected rather than to an entire stretch of river.

(4) Mr Curd (Environment Agency) said that there had been some difficulties with the warning system in the Medway catchment area. Owing to the size of the warning zones, a number of communities had received warnings when it had not been appropriate for them to do so. As a result (and following consultation with the communities) these warning zones had been reorganised by increasing their number and reducing their size. Work was still being undertaken on identification and confirmation of the correct trigger levels.

(5) Mr Vickery-Jones informed the Committee of Mr Ted Edwards' imminent retirement after many years as Canterbury CC's Engineering Manager. The Committee formally expressed its appreciation for his outstanding service and wished him a very happy retirement.

(6) Mr Hills said that on 30 September 2014 Kent had seen the highest tide levels in 25 years (11 tides over 8 metres). It was therefore critical (particularly in the Romney Marsh area) that the EA and IDB carried out the re-cutting to a high standard this year. It was essential to avoid complacency.

(7) RESOLVED that:-

- (a) the level of alerts received since the last meeting of the Committee be noted; and
- (b) Mr Ted Edwards be personally thanked for his many years of outstanding service and wished a happy retirement.

5. Oral Update by the Environment Agency on Flood Risk Mitigation in Faversham
(Item 7)

(1) Mr Curd said that 22 properties and 2 businesses in Faversham had been badly affected by the North Sea tidal surge of December 2013. The EA had been working with KCC, Swale BC and the local residents Association to develop a scheme that would help protect these properties. He was pleased to be able to confirm that sufficient funding contributions had been secured for the scheme to be taken forward. He thanked Mr Bowles for his assistance in this matter and added that he had been informed shortly before the meeting that Faversham TC would also be making a financial contribution.

(2) Mr Curd continued that the design of the scheme had been passed to the East Kent Engineering Partnership. The detailed design and cost estimates for the works were expected by the end of March 2015 and construction was expected to commence during the summer months.

(3) Mr Bowles thanked Mr Curd and Mark Douch as well as the EA generally for the pro-active way in which they had helped bring the scheme into fruition. He also acknowledged the contribution made by Mr Balfour at the meeting where funding had been secured.

(4) RESOLVED that the report be noted.

6. CPRE Flood Conference 2015 - Oral report by Paul Flaherty (Kent Fire and Rescue)
(Item 8)

(1) Mr Flaherty informed the meeting that he had recently become the Resilience Director for the Channel Tunnel. He then reported on the recent CPRE Flood Conference. He said that it had engaged itself in issues such as Planning and building on Flood Plains and some of the measures that needed to be considered in the light of the need for housing. There had been a number of high level speakers such as Damien Green (MP for Ashford) and Helen Grant (MP for Maidstone and the Weald). The Conference had been well received and well attended but had taken place in isolation from many of the agencies that had carried out work in the County.

(2) Mr Flaherty went on to update the Committee on other significant events that had recently taken place. Exercise Wade had been held on 9 December 2014 at the Tonbridge and Malling Council Offices. This had been a Resilience Forum table top exercise to try out all the changes that had been made to the various Plans and procedures as a result of the previous winter's experience. Following this exercise, both the Pan-Kent response and the Recovery Plan were being reviewed.

(3) A joint seminar had been funded by Defra for the East Kent Flooding Groups. This involved the Resilience Forums from Kent and Essex working together to discuss East Coast flooding. The outcome of this seminar was that it would lead to closer working between the two Resilience Forums. Examples of this would be joint training, joint exercising and harmonisation of procedures.

(4) Mr Flaherty then said that the Kent resilience Team had drafted an Animal Evacuation and Shelter Plan which was currently going through the consultation stage within the Kent Resilience Forum. It was expected to be operational by the time of the next meeting of the Committee in July 2015.

(5) Mr Vickery-Jones said he had attended the South East Architects presentation. This had mainly focussed on anti-social behaviour but had also discussed designing out flooding. He added that he had attended the CPRE Conference and had been left asking the question why there was no great emphasis on designing properties to withstand flooding issues. He believed that the best solution for new development was to design it to be flood-resistant rather than by seeking to build perimeter defences that would require a long term maintenance

commitment. This was particularly important given Canterbury CC's recent experiences where Planning Inspectors had overturned the Council's refusal of developments on flood plains.

(6) Mr Pearman said that in the Kent Fire and Rescue Service had performed an absolutely invaluable task in Edenbridge during the 2013/14 flooding events. Although the river had not overflowed, the town had been flooded by standing water. This effort had been hindered because the Edenbridge Depot had undergone a staffing crisis making it impossible for anyone to be deployed from there. If there had been severe weather in 2014/15, the Edenbridge Unit would not have been operational. He said that no one should underestimate the reassurance to the community that uniformed Fire and Rescue staff could provide in times of flooding. Fortunately, the Unit was expected to become operational again in April 2015 once all the volunteers had completed the necessary training. He believed that any reductions in staffing levels or redeployment needed to be communicated to the Kent Resilience Forum itself.

(7) Mr Harwood said that a key issue was the need to avoid complacency. Resilience and preparedness needed to be increased year-on-year by refining emergency planning and response, improving engineering solutions and enhancing spatial and planning management and practice. He then informed the Committee of a multi-agency off-site emergency planning exercise that was taking place for the Dungeness B Nuclear Power Station. The scenario would be a focused around severe weather/tidal flooding event, and would involve some 200 participants.

(8) Mr Flaherty said that it was not the case that the appliance at Edenbridge was not operationally available. Most of the pumps in Kent were crewed by on-call staff and were utilised when needed on the basis of risk data. Staffing issues at some stations were being addressed. Kent Fire and Rescue's stations were strategically located around the County and were not for the exclusive use of the village in which they were based. He said that the Committee could be re-assured that the Service would always be able to meet the need to place sufficient staff in any location where they were needed. Kent Fire and Rescue also had arrangements with each of its neighbouring counties to provide or receive cross-border support. All the appliances that the Service needed were available for deployment whenever the need arose.

(9) Mrs Brown underlined Mr Harwood's point about the need to avoid complacency. Whilst she had nothing but the highest praise for the work of the EA and Kent Fire and Rescue, there was a limited number of staff to carry out all the necessary tasks. Each community needed to avoid the pitfall of over-reliance on these Services. They needed to ensure that the necessary plans and individual property plans were in place, and that seemingly insignificant issues such as the availability of operational mobile phones and chargers were addressed.

(10) RESOLVED that the report be noted.