

Report to Cabinet

Report reference: C/109/2005-06.
Date of meeting: 6 February 2006.



Portfolio: Civil Engineering & Maintenance.

Subject: Principal Ordinary Watercourses and Flood Defence assets - Allocation of funding for remedial works.

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Recommendations:

- (1) That the status of the four flood alleviation schemes in the District, for which a sum of £451,000 has been set aside in the capital programme, be noted:**
 - (a) Cobbins Brook at Waltham Abbey;**
 - (b) Nazeing Brook at Nazeing;**
 - (c) Boxted Close at Buckhurst Hill; and**
 - (d) Hillmans Cottages at Abridge;**
- (2) That the existing capital allocation of £451,000 be reduced to £200,000;**
- (3) That a bid for DDF growth in the sum of £290,000 be approved for the inspection, rehabilitation and reinstatement to original condition of those flood relief schemes and assets:**
 - (a) On Council land;**
 - (b) Constructed by the Council on third party land; and**
 - (c) For the 12 flood alleviation schemes that were built by the Council; and**
- (4) That the £200,000 referred to in recommendation (2) above be utilised for any works arising as a result of the inspections.**

Report:

1. Within the capital programme there is the sum of £451,000 allocated in respect of the Council's contributions towards the costs of flood alleviation schemes at Cobbins Brook at Waltham Abbey, Nazeing Brook at Nazeing, Boxted Close at Buckhurst hill and Hillmans Cottages at Abridge. The Council and the Environment Agency (EA) have either independently or in partnership investigated the possibilities of implementation of these schemes. However, only one, that at Waltham Abbey, is now likely to progress. Nazeing Brook, whilst technically feasible, is estimated to cost £11.4 million, but scores

very low on the Defra mechanism for funding and is therefore unlikely to see implementation in the near future. Boxted Close also scores very low on Defra grant funding criteria, but the EA is seeking to implement a scaled down version of the scheme than was originally proposed by the Council, using its own resources. The last scheme, Hillmans Cottages at Abridge, is in a similar situation but the EA has indicated that efforts will continue to be made to seek funding (currently estimated at £600,000). There is also a possibility of some form of flood relief for Hillmans Cottages under the on going River Roding Flood Risk Management Strategy, which will be formalised by the EA some time next year.

2. Given the fact that these schemes are all associated with main rivers and Defra funding is unlikely for all but the scheme at Waltham Abbey, the capital allocation intended to support these schemes is no longer required. It is therefore suggested that £200,000 of the flood alleviation budget of £451,000 allocated to the four schemes above be utilised to support other flood alleviation capital works for which the Council does have a direct or partial responsibility.
3. The Council has, in exercising its permissive powers under the Land Drainage Acts 1991 & 1994, constructed flood alleviation schemes and flood relief structures at various locations throughout the District. These assets and structures are not all on Council owned land, some being on private land with residents responsible for their maintenance and upkeep. The Council, having carried out the construction work, has a practical duty to ensure that these schemes continue to operate at the required standard and do not deteriorate in performance.
4. In addition there are other flood defence assets maintained by the Council, comprising 62 storm points (trash grilles/screens) located throughout the District which have been constructed either as part of a flood relief system or independently. These screens protect critical culverts from blocking by allowing debris to be collected before it enters and blocks the culvert. 13 of these grilles will become part of the EA main river system as of the 1 April 2006. Although the EA has indicated that funding provision will be made for two years for maintaining these structures, the Council as a riparian owner would remain responsible for future maintenance.
5. The ownership and maintenance responsibility of the network of principal ordinary watercourses, as defined in common law, rests with the landowner and/or the person responsible for carrying out the construction. On this basis the network in the District can be categorised as consisting of 5 flood relief watercourses that are on Council owned land, 12 which have been built by the Council on third party land and 12 flood alleviation schemes that have been built by the Council around ordinary watercourses. Historically these flood alleviation schemes have been assigned a lower priority and resources applied to the upkeep and maintenance of the higher priority flood storage reservoirs in Loughton, North Weald and Thornwood. With the EA taking these over as of the 1 April 2006 and potentially contracting back the day to day management to the Council, there is an opportunity for the Council to become pro active and investigate the condition and where necessary undertake maintenance to these schemes and the remaining existing flood defence assets.

Resource implications:

6. The rules regarding what works can be designated as capital are laid down as part of CIPFA accounting rules. In essence, only works which enhance or improve an asset can be considered as capital, whilst basic investigations and maintenance have to be considered as revenue expenditure. Given that the original capital allocation of £451,000 can no longer be applied as originally intended, it is suggested that:

- (a) £200,000 of that capital be allocated for capital works to principal ordinary watercourses and flood defence assets; and
 - (b) £290,000 DDF revenue funding is sought to carry out the initial investigative works required to those same assets, this being allocated as follows:
 - (i) £100,000 for the purposes of inspection and repair of those 5 flood relief watercourses that are on Council land;
 - (ii) £113,000 for those 12 flood relief watercourses constructed by the Council on third party land and for which it is responsible; and
 - (iii) £77,000 for the inspection and essential maintenance of the 12 flood alleviation schemes and associated watercourses that were built by the Council and which are not being taken over by the Environment Agency.
7. The timing of the spend forecast is £125,000 in 2006/07, £200,000 in 2007/08 and £165,000 for 2008/09. The initial inspection and intrusive survey works will be carried out from the DDF allocation of £290,000 while any repair and improvement works will be funded from the capital allocation of £200,000.

Statement in support of recommended action:

8. There are a total of around 1000 km of ordinary watercourses in the District, for which this Authority is responsible for enforcement and policing under the Land Drainage Acts 1991 & 1994 and Byelaws 2005. Of these, those with the highest risk of flooding associated are classified as principal ordinary watercourses. Due to the higher priority of maintenance of the critical ordinary watercourses and the associated flood alleviation schemes associated with them principal ordinary watercourses have historically been assigned lower priorities and have been managed on a reactive rather than proactive basis. Now that the critical ordinary watercourses are being taken over by the EA the Council has the opportunity to assign a higher priority to those principal ordinary watercourses which are within the Council's direct ownership or which it has constructed and which represent the highest risk of flooding to its residents.
9. As a riparian owner or having constructed schemes on private land, the Council could be liable for any injury, damage or increased risk of flooding to members of the public, due to lack of repair and maintenance of the flood relief structures and associated assets. The current levels of risk to the Council in respect of the identified principal ordinary watercourses are considered to be significant.

Other options for action:

10. *Do nothing* - In the event of flooding or other incident resulting from a lack of maintenance, this could render the Council liable if it was found negligent specially since some of these assets were either constructed by the Council or are located on Council owned land.
11. *To carry out work on all ordinary watercourses* - The Council can in exercising its permissive powers under the Land Drainage Acts 1991 and 1994 carry out works on all watercourses on third party land, however this would be a very costly exercise (currently estimated costs for CCTV camera survey of piped sections and maintenance of open section of all principal ordinary watercourses are £896,229) and furthermore it would

send the wrong message that the Council is responsible for maintenance of all watercourses.

Consultations undertaken:

12. Discussions with the EA.

Resource implications:

Budget provision: As set out in the body of the report.

Personnel: Nil. As much as possible the works would be carried out by the Council's partnering annual maintenance contractors. The works would be implemented in a phased way and spread between 2006-2009, the priority of implementation to reflect the level of current risk.

Land: Works to identified Council principal ordinary watercourses.

Community Plan/BVPP reference: Engineering Services business plan action for 2004/05; linked to policy theme "A safe, healthy and attractive place".

Relevant statutory powers: Land Drainage Acts & associated bylaws.

Background Papers: None.

Environmental/Human Rights Act/Crime and Disorder Act Implications: Reduction in flood risk within the District.

Key decision Reference (if required): N/A.