

**Forward Plan reference number:** FP/AB/161

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| <b>Report title:</b> Leigh Flood Storage Area LGF funding decision      |                      |
| <b>Report to Accountability Board on 14<sup>th</sup> September 2018</b> |                      |
| <b>Report author:</b> Rhiannon Mort, SELEP Capital Programme Manager    |                      |
| <b>Date:</b> 10.08.2018   | <b>For:</b> Decision |
| <b>Enquiries to:</b> Rhiannon Mort, Rhiannon.Mort@southeastlep.com      |                      |
| <b>SELEP Partner Authority affected:</b> Kent                           |                      |

## **1. Purpose of Report**

- 1.1 The purpose of this report is to make the Accountability Board (the Board) aware of the value for money assessment for improvements to the Leigh Flood Storage Area and local embankments in Hildenborough (the Project) which has been through the Independent Technical Evaluator (ITE) review process, to enable £2.349m Local Growth Fund (LGF) to be devolved to Kent County Council for Project delivery.

## **2. Recommendations**

### **2.1. The Board is asked to:**

- 2.1.1. **Note** that the Project Full Business Case will not be approved by the Environment Agency until March 2021
- 2.1.2. **Approve** the award of £2.349m LGF to support the delivery of the Project identified in the Business Case and which has been assessed as presenting high value for money with medium to high certainty of achieving this.

## **3. Background**

- 3.1. The River Medway Flood Storage Area projects have been allocated a total of £4.636m LGF though LGF Round 2. This funding was allocated to support the delivery of two interventions:
- 3.1.1. Improvements to the Leigh Flood Storage area and local embankments in Hildenborough; and
- 3.1.2. The East Peckham Flood Storage Area.
- 3.2. The two interventions are both located within the Borough of Tonbridge & Malling, but the schemes themselves are not interdependent and are being delivered by the Environment Agency as separate projects.
- 3.3. A Business Case has been bought forward for improvements to the Leigh Flood Storage Area and local embankments in Hildenborough in the first instance, as Part 1. There are currently issues relating to the East Peckham Flood Storage Area intervention, Part 2, which are set out in section 9 below. As such, the LGF awarded considered through this report relates to the Part 1 Project only.

#### 4. Leigh Flood Storage Area

- 4.1. The current Leigh Flood Storage Area provides some flood protection from the flood risk presented by the River Medway to Tonbridge. However, in 2013/14 the capacity offered an insufficient level of protection and the area suffered serious flooding, affecting 311 homes and over 110 local businesses.
- 4.2. In addition to the flood risk to existing properties, considerable parts of the borough are constrained by the risk of flooding. Investment is now needed to increase the capacity of the storage area in order to achieve greater protection for existing homes and businesses and to unlock new residential and commercial development.

#### 5. Options Considered

- 5.1. Through the development of the Project, detailed consideration has been given to the options available. These options are considered in detail within the appendices to the Business Case and are summarised as:
  - 5.1.1. **Do nothing (no LGF investment)** – If the LGF contribution is not forthcoming then no improvements to the existing standard of flood protection would be delivered. If improvements to the existing infrastructure are not carried then the condition of the Leigh Flood Storage Area would decline.
  - 5.1.2. This would increase the flood risk for existing homes and businesses and would impact the potential to unlock new development sites for new jobs and homes; the opportunity to support sustainable economic growth in the Tonbridge & Malling would not be realised.
  - 5.1.3. **Do minimum** - Maintain the existing Leigh Flood Storage Area at its current level of capacity – This option could extend its life to 2035, but would not improve the current standard of protection. Once consideration has been given to the likely impacts of climate change then it's expected that this option would lead to a diminution to the standard of protection.
  - 5.1.4. This option would provide some protection, but an increasing number of homes and businesses would become vulnerable to flooding and new development sites would not be unlocked. The expected cost of this option is £10m.
  - 5.1.5. **Do something** – Improve Leigh Flood Storage Area – This option would help to protect additional housing, relative to the current level of flood protection and would unlock a limited number of additional houses. The expected cost of this option is £12.8m.
  - 5.1.6. **Do Optimum** – Improve Leigh Flood Storage Area and local embankments in Hildenborough – This option provides the protection to

the largest number of existing homes and businesses and created the greatest level of opportunity in terms of new jobs and houses. The expected cost of this option is £15.6m.

- 5.1.7. **Preferred Option** – The preferred option is for the delivery of improvements to Leigh Flood Storage Area and local embankments in Hildenborough, as this option provides the highest level of protection and greatest overall benefits for the area.
- 5.2. The specific outcomes which will be delivered through the completion of the Project will:
  - 5.2.1. Increase the flood reservoir water level maximum from 28.05m to 29m at Leigh; and
  - 5.2.2. Delivery of a local Flood and Coastal Erosion Risk Management (FCRM) scheme to Hildenborough, including upgrading existing embankment near Hawden Farm, Hildenborough and install new control structure and pumping station to prevent back-up of River Medway into Hildenborough during full discharge.
- 5.3. At the point of Project completion, anticipated in November 2023, the Project is expected to deliver the following outcomes:
  - 5.3.1. 1,475 homes and 200 businesses better protected from flooding
  - 5.3.2. 100 homes completed
  - 5.3.3. 50 direct jobs created and safeguarded
  - 5.3.4. 100 associated jobs created through the unlocking of commercial sites.

## 6. Public Consultation and Engagement

- 6.1. The Environment Agency's Communication and Engagement Plan provides a detailed approach to stakeholder management across the whole of the River Medway Flood Storage Area. The plan sets out the agreed way of working amongst partners, key messages, a stakeholder analysis and plan for future action which targets specific stakeholder groups.
- 6.2. Whilst communication is regular and ongoing with stakeholders through meetings, the most recent public consultation event took place in late 2016, at which there was demonstrated a high level of support for the scheme from residents and businesses. Further consultations are scheduled as the scheme progresses, with the next events scheduled for the period October 2018 – April 2019.

## 7. Project Cost and Funding

- 7.1. The total cost of the Project (Part 1 only) is estimated at £15.574m, as set out in Table 1 below. This includes funding contributions from the following sources:
  - 7.1.1. £2.349m LGF allocation – considered in this report.
  - 7.1.2. £2.5m - Kent County Council (KCC)

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- 7.1.3. £0.5m - Tonbridge and Malling Borough Council (TMBC)
- 7.1.4. £0.085m - Southend Regional Flood and Coastal Communities (SRF&CC); and
- 7.1.5. £10.141m - Environment Agency Flood Defence Grant in Aid
- 7.2. The funding contributions from KCC, TMBC and the SRF&CC have been confirmed and a legal agreement is in place to commit this funding.
- 7.3. The funding contribution from the Environment Agency, through its Flood Defence Grant in Aid, is set out in Policy and has been secured subject to other funding sourced being realised.
- 7.4. The full Project Business Case is required to satisfy the Environment Agency's processes before the final approval is awarded by the Environment Agency. This will not be forthcoming until March 2021, due to the time required to develop the Project to the Full Business Case stage and to satisfy the Environment Agency's own governance processes.
- 7.5. It is intended that the LGF contributions to the project will be spend on the next stage of development for the Project in advance of the Project receiving full approval by the Environment Agency.
- 7.6. The Environment Agency will only progress to the next stage of the development for the Project once all local funding contributions to the Project have been confirmed and committed through legal agreements. As such, LGF approval is required at this early stage in the Project to enable the Project to progress.
- 7.7. The spend of LGF funding contributions in advance of the Project receiving full approval by the Environment Agenda created a risk. If the Project does not progress to delivery then the LGF investment in the Project will become an abortive revenue cost and the LGF will need to be repaid to SELEP.
- 7.8. This risk is understood by KCC and as the lead local partner for the delivery of the Project, is willing to bear this risk to ensure that the Project progresses to the next stage of development.
- 7.9. The Environment Agency have stated that,  
  
"The Leigh Expansion and Hildenborough Embankments Scheme is a key element in our 6 year consented programme and will be prioritised to ensure it has the GiA (*Grant in Aid*) it needs to unlock the SELEP and public contributions. With the significant secured contributions from the SE LEP, Tonbridge & Malling Borough Council and Kent County Council the Partnership Funding score is 122% meaning it will have a high prioritisation in the National GiA allocation process. The project also has a very strong benefit cost ratio of 4.5 generating £4.50 of benefits for every £1 invested.

This is one of Kent and South London's top priority projects which is fully supported by the Medway Flood Partnership in their action plan. It also has full

commitment by Executive Directors within the Environment Agency and partner authorities. The Leigh Flood Storage area is a key flood risk asset reducing the risk of flooding to hundreds of homes and businesses, and as a designated category A large raised reservoir its continued safe operation is governed by law and supervised by accredited reservoir panel Engineers whom ensure its compliance with statute regulation”.

- 7.10. Funding contributions have already been made by partners, including KCC, TMBC and Maidstone Borough Council towards the development of the Project Business Case. There are also in kind contributions from Tonbridge Schools, including construction material/land/maintenance of flood bank, and Hawden Farm towards the delivery and ongoing operation of the Project.

**Table 1 Leigh Flood Storage Area Profile (£m)**

|                    | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22   | 2022/23   | 2023/24 | Total      |
|--------------------|---------|---------|---------|---------|-----------|-----------|---------|------------|
| SELEP LGF          |         | 866,000 | 499,500 | 983,000 | -         |           |         | 2,348,500  |
| Environment Agency |         |         |         |         | 3,506,500 | 6,380,000 | 254,000 | 10,140,500 |
| KCC                |         |         |         |         | 2,500,000 |           |         | 2,500,000  |
| TMBC               |         |         |         |         | 500,000   |           |         | 500,000    |
| SRF&CC             | 85,000  |         |         |         |           |           |         | 85,000     |
| Total              | 85,000  | 866,000 | 499,500 | 983,000 | 6,506,500 | 6,380,000 | 254,000 | 15,574,000 |

## 8. Outcome of ITE Review

- 8.1. The ITE review confirms that the Project Business Case provides a proportionate assessment of the schemes costs and benefits which results in a strong benefit cost ratio representing very high Value for Money.
- 8.2. The analysis was robustly carried out and delivers high levels of certainty around the Value for Money categorisation. The Environment Agency has led on the Business Case development and will lead the delivery of the Project. This provides high level of certainty around the deliverability of the scheme.
- 8.3. The scheme is in the Environment Agency’s 6 year consented programme and assurance has been provided that it is highly prioritised. However, delivery of the project is still subject to the approval by the Environment Agency and we would invite the Accountability Board to consider this risk. Due to the time required prior to the full Business Case, the certainty of value for money being achieved is categorised as medium to high.

## 9. East Peckham Scheme (Part 2)

- 9.1. KCC is still working with its partners, including TMBC and the Environment Agency, to work up a business case for the East Peckham scheme in keeping with the deadline for all Business Cases to come forward by the end of the 2018/19 financial year.

- 9.2. However, the East Peckham scheme has not been progressed as far as the Part 1 Project and may struggle to demonstrate an ability to spend the LGF allocation within the Growth Deal period. The East Peckham scheme is currently being revisited by KCC to establish the benefits of the proposed intervention and the proposed delivery timescales for the Part 2 scheme. In addition, KCC will also explore with the Environment Agency what level of assurance they could provide to demonstrate that the East Peckham scheme has been considered and is a viable option.
- 9.3. A further update on the East Peckham scheme will be provided to the Board following this further local consideration of the East Peckham scheme.

## 10. Project Compliance with SELEP Assurance Framework

- 10.1. Table 2 below considers the assessment of the business case against the requirements of the SELEP Assurance Framework. The assessment confirms the compliance of the Project with SELEP's Assurance Framework.

**Table 2 Assessment of the Project against the requirements of the SELEP Assurance Framework**

| Requirement of the Assurance Framework to approve the project  | Compliance (RAG Rating) | Evidence in the Business Case  |
|--|-------------------------|--|
| A clear rationale for the interventions linked with the strategic objectives identified in the Strategic Economic Plan   | Green                   | The business case identifies the current problems and why the scheme is needed now. The objectives presented align with the objectives identified in the Strategic Economic Plan.  |
| Clearly defined outputs and anticipated outcomes, with clear additionality, ensuring that factors such as displacement and deadweight have been taken into account | Green                   | The expected project outputs and outcomes are set out in the Business Case and detailed in the economic case. Flood and Coastal Erosion Risk Management (CERM) Appraisal Guidance has been used to assess the expected outputs and outcomes of the intervention. |
| Considers deliverability and risks appropriately, along with appropriate mitigating action (the costs of which must be   | Green                   | The business case demonstrates clear experience of Environment Agency in delivering similar schemes. A comprehensive risk register has been developed  |

| Requirement of the Assurance Framework to approve the project                                 | Compliance (RAG Rating) | Evidence in the Business Case  |
|---|-------------------------|--|
| clearly understood)   |                         | which provides an itemised mitigation  |
| A Benefit Cost Ratio of at least 2:1 or comply with one of the two Value for Money exemptions | Green                   | A BCR has been calculated as 9.8:1, which indicates very high value for money. |

## 11. Financial Implications (Accountable Body comments)

- 11.1. In light of LGF being spent in advance of the Environment Agency full approval being place, the Accountable Body will request written assurances from Kent County Council of acceptance of their agreement to underwrite the risk of abortive costs in advance of any funding being released.
- 11.2. The publication of findings of the Ministerial Review of Local Enterprise Partnerships was published in July 2018. Whilst Government signalled strong support for LEPs as a policy and as organisations charged with the delivery of the National Industrial Strategy, it should be noted that there is currently some uncertainty as to the geographical boundaries of all LEPs. Each LEP has been asked to come forward with proposals by the end of September on geographies which best reflect real functional economic areas, remove overlaps and, where appropriate, propose wider changes such as mergers. Should any proposals be put forward and agreed, the revised structure would not be expected to go live until April 2021. Any changes to structure would need to consider the impact on in-flight projects and their delivery. At time of writing, no specific risks arising from this process have been identified, but the uncertainty pertaining to future structures and the high possibility of risks emerging should be noted. Greater certainty on potential risks should become evident following the end of September deadline. It is understood that a report is due to be presented to the SELEP Strategic Board on the 28<sup>th</sup> September to consider the implications of the LEP review proposals.
- 11.3. Any funding agreed by the Board is dependent on the Accountable Body receiving sufficient funding from HM Government. Funding allocations for 2018/19 have been confirmed however funding for future years for this project is indicative. It should be noted that further governance requirements may be necessary following the anticipated updates to the National Assurance Framework in autumn 2018. Government is likely to make any future funding allocations contingent on full compliance with the updated National Assurance Framework.

- 11.4. There is a high level of slippage within the overall programme which totalled £43.485 by the end of 2017/18; this presents a programme delivery risk due to the increased proportion of projects now due to be delivered in the final years of the programme; and it presents a reputational risk for SELEP regarding securing future funding from Government where demonstrable delivery of the LGF Programme is not aligned to the funding profile. This risk, however, is offset in part by the recognition that the profile of the LGF allocations did not consider the required spend profile when determined by HM Government.
- 11.5. This misalignment of the funding profile has created a further risk, in 2019/20; whilst there is sufficient funding for all LGF projects across the duration of the programme, in 2019/20 there is currently a funding gap of £5.991m (including the requirements of this project).
- 11.6. It is noted that this risk is being carefully monitored by the SELEP Capital Programme Manager with potential options for mitigation being considered with partners. Potential options include: reviewing options to advance alternative funding sources ahead of LGF spend; and delaying delivery of projects into 2020/21 where the funding is available. In reviewing the options across the whole programme, minimising the risk to delivery and assuring value for money should be key considerations.
- 11.7. There are SLAs in place with the sponsoring authority which makes clear that future years funding can only be made available when HM Government has transferred LGF to the Accountable Body.

11.8.

## **12. Legal Implications (Accountable Body comments)**

- 12.1. There are no legal implications arising out of the recommendations within this report.

## **13. Equality and Diversity implication**

- 13.1. Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when a public sector body makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 13.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.



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- 13.3 In the course of the development of the project business case, the delivery of the Project and the ongoing commitment to equality and diversity, the promoting local authority will ensure that any equality implications are considered as part of their decision making process and where it is possible to identify mitigating factors where an impact against any of the protected characteristics has been identified.

### 14. List of Appendices

- 14.1. Appendix 1 - Report of the Independent Technical Evaluator (As attached to Agenda Item 5).

### 15. List of Background Papers

- 15.1. Business Case for the improvements to Leigh Flood Storage Area and local embankments in Hildenborough

**(Any request for any background papers listed here should be made to the person named at the front of the report who will be able to help with any enquiries)**

| Role   | Date     |
|--|----------|
| <b>Accountable Body sign off</b>                   |          |
| Stephanie Mitchener<br>(On behalf of Margaret Lee) | 05/09/18 |