

**Alasdair Robertson's representation in response to the Environment Agency's Application to vary the Scheme within the River Medway (Flood Relief) Act 1976**

**Environment Agency technical response, April 2021**

Further to Mr Robertson's representation to Defra, the Environment Agency's response is below.

Environment Agency response:

**The River Medway (Flood Relief) Act 1976**

With regards to your reference that downstream communities should be considered under the River Medway Flood Relief Act 1976 (the 1976 Act), the second and third recitals to the 1976 Act state:

“[W]hereas during and after periods of heavy rainfall there is extensive flooding of the land adjacent to the river and in particular of the land in the parishes of Tonbridge and Hildenborough in the district of Tonbridge and Malling in the county of Kent (hereinafter in this Act referred to as ‘the county’) and further downstream:

“And whereas the flooding of such land could be substantially alleviated by controlling the flow of the river and by storing temporarily part of such flow in a flood storage area...”.

The second recital is part of the context for the 1976 Act setting out that after heavy rainfall there is flooding of land adjacent to the River Medway including Tonbridge and Hildenborough and further downstream. The third then goes on to say that the flooding of “such land” (i.e. Tonbridge, Hildenborough and “further downstream”) could be alleviated by controlling the flow and storing flow.

As recitals, they do not place any obligation upon the Environment Agency and the 1976 Act does not place an obligation to protect the further downstream communities.

Section 17(1) of the 1976 Act states that the Environment Agency “may operate the sluice gates to control the flow of the river downstream of the control structure in such manner and for such periods as they think desirable or necessary...” This confirms the Environment Agency has a discretion in how it operates the Leigh Flood Storage Area (FSA).

The Environment Agency is entitled to operate the Leigh FSA in such manner it considers fit to provide the greatest overall benefit in reducing flood risk to downstream communities.

**Using the FSA for communities downstream of Tonbridge and Hildenborough**

Communities downstream of Tonbridge benefit from the operation of the Leigh FSA due to a reduction in peak flows in the River Medway. This may reduce flood risk in

Yalding for some events, such as where the flow of the Rivers Beult and Teise are below levels which would give rise to flooding.

The Leigh FSA Flood Risk Assessment of August 2020, drafted to accompany the Environment Agency's planning application, includes maps in Appendix E showing reductions in flood depths downstream of Tonbridge for the 1% (Appendix E1), 0.4% (Appendix E2) and 0.4% plus flows of 25% (Appendix E3) flood events, all of which show, as referenced by paragraphs 5.2.2 and 5.2.3, reductions in flood risk downstream, attributable to the FSA, beyond Tonbridge and Hildenborough as far as Yalding.

However, it must be noted that this benefit decreases proportionately the further you go downstream as other factors, such as flows from other tributaries, become more influential in determining local flood risk.

Due to the complexity in forecasting the combined influence of the Rivers Beult and Teise, not just the River Medway, we do not currently have the operational tools nor confidence in the forecast models to make decisions about how to operate the FSA to further reduce risk to Yalding.