

**Defra Ref: DPI/H2265/20/13 (Public Inquiry)**  
**River Medway Flood Relief Leigh Storage Scheme**

This is the Environment Agency's final response to the submissions that have been made by two local residents from Yalding, Dr John Ackerman (dated 13<sup>th</sup> May, 'ID-31 Response') and Mrs Jane Robertson (dated 14<sup>th</sup> May, 'Reply to EA -1'), regarding document ID/31, "EA response to the Inspectors questions of 6 May 2021". These submissions were received by the Environment Agency on 17<sup>th</sup> May 2021.

ID/31, First Query: *the figures for properties protected.*

1. We note that no issue is taken on our answers on the first query, about the number of existing properties that will benefit. We do not need to say anything further on that.

ID/31 Second query: *"To what extent does the Expansion of the Leigh FSA take into account proposed development in Tonbridge?"*

2. The response in document (ID/31) to this question is written from the perspective of the Environment Agency, and with regard to what has been said in its Strategic Outline Business Case (document CD 1.15) and the way in which this meets Defra's policy criteria for Flood Defence Grant in Aid (FDGiA) funding.
3. The two local residents have taken issue with the EA's response, with regard to the justification for the funding that has been secured. We seem to be talking slightly at cross purposes about the funding. In their comments, they have drawn no distinction between the different public authorities and their ability to commit funds to this project. Dr Ackerman's submissions focus on the Capital Project Business Case that was the basis for the Local Growth Fund contribution that was sought from SELEP (the South East Local Enterprise Partnership), and he has attached a copy of this. Whilst Mrs Robertson does not refer to any specific document, her starting point that "The EA business case makes it clear that the expansion is predicated on new development and rely on the housing numbers to

get the figures required for the Economic Case” only makes sense if this is referring to the South East LEP business case and not to the EA business case that makes no mention of development.

4. The EA has been clear that the reason that funding is in place is that it comes from a variety of sources.
5. The inquiry has a Note regarding the funding sources for the expansion of the expansion of the Leigh Flood Storage Area, as document ID/ 21. This summarises the information in the Environment Agency’s Outline Business Case (OBC - core document 1.15). As ID/21 states, the OBC sets out how the project will be funded. The sources of funding are:
  1. Flood Defence Grant in Aid (FDGiA);
  2. Local levy;
  3. Contribution from Kent County Council;
  4. Contribution from the South East Local Enterprise Partnership;
  5. Contribution from Tonbridge and Malling Borough Council; and
  6. Contribution from Maidstone Borough Council.
6. The FDGiA is providing approximately 75% of the project costs. It is worth noting that the funding rules the Environment Agency referred to in ID31 are those in regard to FDGiA. The shortfall is made up of contributions and it is up to the contributor how they acquire those funds, subject to the appropriate rules.
7. The local authorities, such as Kent County Council and Tonbridge & Malling Borough Council, are able to seek funding from different sources. The application to the South East LEP was made by Kent CC and Tonbridge & Malling BC and not by the Environment Agency. As can be seen from their Capital Project Business Case, the South East LEP have their own criteria to meet in encouraging investment. As that document makes clear, they can take account both of the benefits from increasing protection to existing houses and business properties (inc. Tonbridge High Street), and from potential development. It is a perfectly proper use of public funds to do so. Indeed, the funding was confirmed some time ago. This funding stream is providing £2,296,000 towards the project (approx. 10%). As

discussed in document ID/31, any new development in areas of flood risk can be expected to comply with national and local policy, which will ensure that it will be flood neutral - in that it is not at risk itself and does not increase flood risk to others.

8. From the perspective of the Environment Agency's Statement of Case, the Agency has relied on two matters with regard to the evidence about funding the expansion of the Leigh FSA's capacity:
  - a. that the provision of FDGiA funding confirms that there is a high level of public benefit to existing households and businesses, that in itself would lead to the approval of the revised Scheme. The downstream communities, in Tonbridge and Hildenborough and other locations (including Yalding), will benefit overall from the increased storage capacity. This has been explained in the evidence, including in the OBC itself, and is summarised in the Closing Submissions;
  - b. that the scheme is fully funded, given the commitments made by other parties, which top up the funding that the FDGiA will provide.
9. However, other parties to this inquiry - who have written in support - have asked the Minister to take account of the public benefits of unlocking development as well. It will be for the Minister to decide what weight to attach to this additional public benefit. The Minister can see why the SELEP have approved their contribution to the funding.
10. The Environment Agency's OBC document does refer to the way in which local benefits such as these can be taken into account as part of what it refers to as the qualitative business case. As that OBC (CD 1.15) states in section 3.4 (the section on 'Damages and benefits to the local economy'):
  - a. "... decisions regarding public expenditure should be based on national (UK) economic losses. However, for an organisation tasked with protecting the local economy, such as a LEP or the local council, local orientated information is relevant and of interest";
  - b. This is seen as an additional benefit (see the last part of the text in section 3.4):

“Consideration of local economic impacts in Tonbridge adds a further £32m to the Do Nothing damages, a further £22m to the option 3a (Leigh NMOWL 28.6m AOD) benefits and a further £23m to the option 3c (Leigh NMOWL 29.0m AOD) benefits. For the latter, this is equivalent to a 14% increase in option benefit and while it cannot be quantitatively included as part of the national analysis, it does further strengthen the qualitative business case.”  
[our emphasis added]

11. The economic impacts in Tonbridge can be taken into account as part of the public benefit that this project will bring. Dr Ackermann is wrong to say that it is not permissible to take these benefits into account - as he is mixing up the different sources of funding. The most that could be said by him is that, if these local economic benefits are to be given weight as material considerations in the Minister's decision, then he would query what weight can be attached to them. The thrust of the objections made by Dr Ackerman are that he would prefer that any expansion of the Leigh FSA should be to the benefit of existing properties only, and that more benefit should be given to Yalding. However, these views are not supported by the relevant local authorities, all of whom - including his own Borough Council - support this revised Scheme.
12. With regards to Mrs Robertson's response, she is incorrect in her assertions about the business case. The proposals before the inquiry are based on a proper foundation, and have been the subject of extensive debate and analysis by the different public bodies that have been involved. As has been discussed in the evidence before the inquiry, the financial, economic and social benefits of the Revised Scheme are substantial.

#### *Other points*

13. Whilst they are not related to what has been said in ID/31, we do want to pick up two remaining points that Mrs Robertson has sought to include in her 'Reply to EA -1' email.

14. In her seventh bullet point, she argues that the flood modelling for the Yalding area cannot be relied upon and must therefore be set aside. This has been addressed in the evidence, and was discussed at the round table session. This is a misunderstanding regarding the difference between the operational modelling and the FRA modelling that has been done. This is covered in the Closing Submissions, and the only reservation that has been expressed was about the extent to which the flood forecasting model could sensibly allow for further improvements at this stage (see in particular paras 94 and 95).
15. The flood risk mapping models have been calibrated and verified, and quality assured during their development. Details of strengths of the models are provided in Mr Ben Gibson's proof of evidence, and the same calibration and verification process described for Model 1 in Mr Ben Gibson's proof of evidence was also completed for the flood risk mapping models 2-4 (Model 3 covers downstream communities including Collier Street and Yalding). Further description of the model calibration, verification and sensitivity testing is provided in inquiry document "CD1.18". The document notes that calibration and verification of the Model 3 flood risk mapping model was completed using data for 12 gauging sites, including gauges at Yalding, and on the River Beult and River Teise.
16. Mrs Robertson has also added a final bullet point about her view on the relevance of the operating procedures, and asserts that they are not based on the right premise. There is no basis for this assertion. Furthermore, the focus of this inquiry is on the Revised Scheme. The operating procedures show how the Scheme is applied in practice. Their status as a material consideration has been discussed in the Closing Submissions, as part of the section on the Revised Scheme's wording, and it is not intended to repeat those points again here.

**Environment Agency**

**19<sup>th</sup> May 2021**