

<b>Committee(s):</b>	<b>Date(s):</b>
Hampstead Heath, Highgate Wood and Queen's Park Management Committee	22 <sup>nd</sup> July 2013
<b>Subject:</b> Update on the Hampstead Heath Ponds Project	<b>Public</b>
<b>Report of:</b> <b>Superintendent of Hampstead Heath</b>	<b>For Decision</b>
<p><b>Summary</b></p> <p>This report summarises the current position and outlines revisions to the project timetable.</p> <p>Mitigation of the risk continues; with the on-site emergency action plan, monitoring of the dams, telemetry (including weather and water level monitoring) and the support of an emergency response contractor. The project is continuing to progress with "all deliberate speed".</p> <p>A revised programme of activities and actions have been agreed and supported by the independent Panel Engineer, which will allow an extended period for formal consultation with the public and stakeholders. Once complete the intention is to submit a formal planning application by the end of May 2014 and subject to consents that site works commence early April 2015.</p> <p>The report also includes details of environmental surveys that are taking place and an update on procurement of the construction contractor. The finalised Communications and Engagement Strategy is also attached.</p> <p><b>Recommendation</b></p> <p>That Members:</p> <ul style="list-style-type: none"> <li>• adopt the revised programme.</li> <li>• endorse the Communication and Engagement Strategy</li> <li>• delegate authority to the Town Clerk in consultation with the Chairman and Deputy Chairman to approve budget adjustments to fund the additional professional fees that are currently being evaluated, to cover the expanded consultation, extended programme and other additional works to meet the revised schedule of appointment, that will fall within the agreed budget envelop of £15.12m (+/- 20%).</li> </ul>	

**Main Report**

## **Background**

1. Approval was given by the Court of Common Council on 14 July 2011 for the project to upgrade the pond embankments on the Hampstead and Highgate chains. The aims of the project are to reduce the current risk of pond overtopping, embankment erosion, failure and potential loss of life downstream; ensure compliance with the existing requirements of the Reservoirs Act 1975 together with the additional expected requirements under the Flood and Water Management Act 2010 while meeting the obligations of the Hampstead Heath Act 1871; and improving water quality. At the same time it seeks to achieve other environmental gains through, for example, habitat creation.
2. In May 2013 the Design Flood Assessment, produced by Atkins, was approved by your Committee. In the Design Flood Assessment, Atkins determined that whilst works are still essential to reduce the City of London's liability and meet its duty of care to communities south of the Heath, the size of potential floods in "extreme rainfall events" is less than those derived by previous hydrology consultants. By approving this Assessment, Management Committee endorsed it as the basis for continuation of the Hampstead Heath Ponds Project and development of the preferred design options that will be subject to wide public consultation later in the year.

## **Current Position**

3. Following the report to your Committees in February 2012, it was agreed that the Audit & Risk Management Committee would receive updates on Strategic Risk 11, and the progression of the Hampstead Heath Ponds Project, every 9 months. Your Committees subsequently received a further report in December 2012. In view of the number of developments on the project so far this year, it was felt appropriate to bring an update to the Committees. This report is a revision of the paper recently presented to the Audit & Risk management Committee. A copy of the updated Strategic Risk is appended to this report.
4. As reported to your Committee previously, all possible mitigating actions, apart from the completion of the Hampstead Heath ponds project, have been undertaken. These include the development of an on-site emergency action plan, monitoring of the dams, an emergency response contractor and a telemetry system, which monitors weather and water levels. The ponds project has continued at "all deliberate speed".

## **Project Programme**

5. The Development of Options phase is now progressing. This started with Atkins drawing up an unconstrained list of options, in consultation with the Ponds Project Stakeholder Group (PPSG), Hampstead Heath Staff and the wider public. On Saturday 18 May formal presentations were made to the PPSG which included various conceptual sketches, hydrographs, cross sections and 3D visuals of the engineering options, which were well received by stakeholders.
6. Following this workshop, Atkins then circulated a Constrained Options Report which was consulted upon before a further workshop with the PPSG (due to take place on 13 July) after which another report will be produced. The final

step in this process will involve one more workshop with the PPSG in September and then Atkins will produce a report with two options for formal consultation over the winter period with the wider public and stakeholders with the intent of selecting a preferred option which will form the basis of a planning application to be submitted by the end of May 2014 and subject to consents, site works commencing in the spring of 2015.

7. The process described above is the result of an expansion of the timetable following concerns that there was not enough time for proper, meaningful consultation with both the PPSG and with the wider public. The City of London has addressed these concerns by moving the more formal stage of the consultation back three months, now with an anticipated start date of late November/early December. The extra three months allows for more time to consult upon the Development of Options, a crucial phase in the project. This process is detailed in the flowchart – Appendix 2.
8. Research on other large environmental dams projects has demonstrated that time invested in consultation earlier in the process can be very beneficial longer term. The attached quote is taken from a paper prepared on the Abberton Reservoir Scheme, whilst on a different scale to our project the local sensitivities are very similar. It is interesting to note that on this project some 20% of the entire budget had been expended before a single spade was dug into the earth:  
  
*‘Time invested in promotion and stakeholder engagement prior to the submission of the Planning Application meant that the scheme received a generally positive response from the local communities affected. This avoided the need for a lengthy and costly Public Inquiry process. This and the ongoing liaison and involvement of local councils and communities through formal and informal settings has smoothed the road for the scheme ever since.’<sup>1</sup> (Troke, 2012)*
9. A revised programme (see Table 1 below) of activities and actions has been developed and has been supported by the independent Panel Engineer who has a statutory duty to ensure that the current reservoirs meet the appropriate design standards. The timetable remains challenging and it is possible it will need further revision as we move forwards and some of the “unknowns” are identified. Capita Symonds (Client representative/Project Manager) has produced a detailed project programme which aligns with these key dates.
10. As discussed later in this report, the risk of a Judicial Review application remains and if this were to happen it could impact upon the timetable for the project. Similarly, the planning process or conditions onsite may also impact upon the project timetable.

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<sup>1</sup>Troke, J. C. (2012). Delivering the Abberton Scheme, an Enhanced Water Resource for South-East England. *Innovative Dam and Levee Design and Construction*, (pp. 951-965).

**Table 1 – Revised Programme**

<b>Project Stage</b>	<b>Previous Programme</b>	<b>Updated Programme issued May 2013</b>
Problem Definition		<b>May 2013 – end of June 2013</b>
Atkins undertaking modelling to develop constrained options list to identify a short list of preferred design options.	May 2013	<b>May 2013 – end of July 2013</b>
Dialogue continuing with Heath Management Committee and other appropriate Committees / Stakeholders.		<b>May 2013 – end of June 2013</b>
Shortlist of Preferred Design Options presented to CoL for consideration and for formal consultation with the Heath Management Committee and other appropriate Committees / Stakeholders.	July 2013	<b>July 2013 – September 2013</b>
Procure and appoint 'preferred' contractor to assist in technical design preparation for 'preferred' option		<b>July 2013 – November 2013</b>
Wider Public Consultation	August 2013 – September 2013	<b>November 2013 – February 2014</b>
Preferred Option agreement by CoL and Heath Management Committee and other appropriate Committee's	January 2014	<b>November 2013</b>
Preparation of planning application		<b>February 2014 – April 2014</b>
Submission of Detailed Planning Application to Camden Council	End of February 2014	<b>May 2014</b>
Estimated Determination of Detailed Planning Application	August 2014	<b>November 2014</b>
Commencement of Works on Site (Phasing to be agreed)	October 2014	<b>April 2015</b>
Completion of Works	March 2016	<b>October 2016</b>

### **Stakeholder Engagement**

11. The PPSG continues to meet monthly as well as with additional workshops as prescribed by the timetable. These meetings continue to be constructive and informative. The various Groups represented on the PPSG provided comprehensive feedback on the Constrained Options Report. A second Workshop was held on Saturday 13<sup>th</sup> July 2013, a verbal update on the outcome of this will be given at Committee.
12. With the PPSG's help and advice the project has been rebranded the Hampstead Heath Ponds Project. The project had previously gone under a number of different names and it was felt consistency would aid the wider public's knowledge and familiarity with the project. A distinctive brand for the

project has also been developed which will be applied to all materials produced for public consumption.

13. The Communications and Engagement Strategy (Appendix 3) has now been finalised and details the timetable of activities that will take place to spread knowledge of the project to the wider community. Heath Staff continue to lead 'pop up consultations' at regular intervals on the Heath reaching many different Heath users. Summer events will be targeted as a means of reaching as wide an audience as possible. A new leaflet has been prepared that will be circulated to houses locally, copies will be available at the meeting.

### **Surveys**

14. Specialist surveys set out below have been commissioned so that the Design team can fully understand the current position in terms of aquatic and terrestrial ecology, water quality and archaeological baseline studies. Additional surveys of trees, topography and ground conditions are also being commissioned.
  - Bird surveys – 2 visits completed with 2 further to be undertaken over the next 3 weeks, a report will be drafted once the site visits are complete.
  - Great crested newt survey – initial pond assessment completed, focussed site visits undertaken on selected ponds over the next 3 weeks.
  - Bat survey – Currently confirming timetable.
  - Aquatic survey – Early season survey work completed Thursday 23rd May. Late season survey and fish survey programmed to take place in July. However as these require pond closures the dates are subject to change.
  - Archaeology – Museum of London Archaeology Service (MOLA) to complete report by the end of May.
  - Water quality – Atkins are undertaking these surveys.

### **Procurement**

15. Consultant appointments have been made along with placement of orders for the various survey works.
16. There has been a delay incurred in the tendering for the main contractor. This was caused when three out of four tenderers withdrew within a short space of each other during the initial tender process.
17. City of London officers have now started a new procurement process and are utilising the London Tenders Portal and a shortened version of the competitive dialogue process. It is now anticipated that the procurement dialogue process will take place in July through to September with participants submitting a tender proposal in October and the appointment will follow in November 2013.
18. It is unknown at this stage what impact, if any, on the programme might arise when the main construction contractor is brought into the process.

### **Implementation of the Emergency Action Plan**

19. Officers continue to engage with officers at Camden and the Metropolitan Police. The Superintendent of Hampstead Heath facilitated a workshop between all three organisations in January 2013. In addition to this, a table top

event involving Hampstead Heath, City Surveyor's and the Emergency response contractor took place in March 2013.

20. Further practical exercises will take place, as part of officers' continual activity, to ensure readiness in the event of an incident. Officers have further discussed the decision making around the Emergency Action Plan and, in the event of an incident, it is confirmed that the City Surveyor is responsible for taking the various decisions under the Emergency Action Plan – not the Supervising Engineer or the Emergency Response Contractor. This includes any decisions relating to the opening of the valves on the dams.
21. As discussed above, the City is responsible for mitigation measures on the Heath, whereas Camden is responsible for “warning and informing” as Lead Flood Authority. Camden, together with the Metropolitan Police, are the Local Responders who implement Camden's off-site emergency plan.

### **Potential for Judicial review and other Legal challenges**

22. The possibility of a Judicial Review application remains. Based on previous statements, it is likely that this would focus on the relationship between the Reservoirs Act 1975 and the Hampstead Heath Act 1871, and the assessment of risk / appropriate safety standards under national industry guidelines on which the project is based. It is not clear when such a challenge might materialise, this may be a judgement based on the final designs and whether they are considered acceptable in terms of their impact on the Heath landscape. The City Corporation has received a letter from the Heath & Hampstead Society setting out advice that it has sought in relation to the ponds project, and a response sent indicating that the City is satisfied that it is proceeding lawfully. Any planning decision could also be the subject of further challenge.

### **Resources**

23. Estimated project costs remain unchanged at £15.12m (+/- 20%) which is made up of:
  - Pre evaluation costs - £0.27m
  - Works and external fees - £14.07m
  - Staff costs - £0.78m
24. Against an agreed budget expenditure of £2,345,000 (excluding COL staff costs), current spend sits at £468,000 with further orders placed for £233,000. Given the expanded consultation processes, extended programme and other works associated with Quantitative Risk Assessments and need for improved visuals, forecasted fee expenditure with Capita, Atkins and the Strategic Landscape Architect will increase.
25. The City Surveyor did advise Committee at its meeting in July 2012, when it considered the appointment of consultants, of the problems they faced in pricing the number of meetings to be attended in relation to consultation processes. These additional costs are currently being evaluated by officers and it may take a couple of weeks to complete these commercial negotiations.

26. At this stage it is anticipated that these additional costs will fall within the agreed budget envelope of £15.12m (+/- 20%). Delegated authority is sought for the Town Clerk in consultation with the Chairman and Deputy Chairman to approve these additional costs and reschedule the budget allocations accordingly.
27. Time invested now in working with Stakeholders through a more comprehensive consultation process, will, it is hoped, together with the reduced quantum of water that has been identified by Atkins, result in less intervention works on site, and thus reduced works costs. This has always been the City's underlying aim for the project. It is envisaged that a separate paper outlining the additional costs for Capita, Atkins and the Strategic Landscape Architect can be presented prior to the meeting.

### **Corporate & Strategic Implications**

28. The works support the strategic aim 'To provide valued services to London and the nation'. The scheme will improve community facilities, conserve/enhance landscape and biodiversity and contribute to a reduction in water pollution whilst meeting the City Corporation's legal obligations. The risk of any dam breach and serious downstream flooding of communities (and consequent harm to the City's reputation) is mitigated.

### **Implications**

29. The risk of embankment failure at Hampstead Heath is assessed as a high risk on the City of London Corporation's Strategic Risk Register. In addition to the current measures to mitigate risks, there are other risks that also need to be considered, including the resources needed for on-going consultation and the potential threat of legal challenge that could still potentially delay the project.

### **Conclusion**

30. The design process is continuing, following the Design Flood Assessment approval by your Committee in May 2013. The revised project programme provides stakeholders and the wider public more time to participate in meaningful consultation which will assist the development and agreement of the design. In the meantime the appointment of the main contractor will be undertaken and environmental surveys on the Heath continue.

### **Appendices**

- Appendix 1 – Strategic Risk SR11
- Appendix 2 – Overview of options development process (flow-chart)
- Appendix 3 – Communications and Engagement Strategy

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