

<b>Committee(s):</b>	<b>Date(s):</b>
Audit & Risk Management Hampstead Heath, Queen's Park and Highgate Wood	25 June 2013 22 July 2013
<b>Subject:</b> Hampstead Heath Hydrology – Strategic Risk 11	<b>Public</b>
<b>Report of:</b> City Surveyor and Director of Open Spaces	<b>For Information</b>
<b>Summary</b>	
<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>The City Surveyor's Department has appointed Capita as Project Manager for the Ponds project, with specialist consultants (Atkins) to undertake a review of the current risk of flooding, based on storm predictions and, based upon that assessment, they will then prepare options to mitigate this risk for consideration by the City of London Corporation.</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, for site works to commence early April 2015.</p> <p>Dr Andy Hughes, the Reservoir Supervising Engineer, (Panel Engineer) has been consulted on the changes. He understands the rationale and has agreed to the change.</p> <p><b>Recommendation(s)</b></p> <ul style="list-style-type: none"> <li>• Note the adopted revised programme.</li> <li>• Note the likely need for additional professional fees to cover the extended consultation period, which will require separate reports to the Service Committee, Resource Allocation and the Project Sub Committees for additional funding and approval.</li> </ul>	

## **Main Report**

### **Background**

1. It has been recognised that the chains of ponds on Hampstead Heath are a significant liability under the 1975 Reservoir Act and other legislation. 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.
2. 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.

### **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.
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”.

### **Surveys**

5. Specialist surveys: -, The CoL has engaged the specialist companies to undertake, Aquatic, Terrestrial, Water Quality and Archaeological studies. Atkins has specified the work and will manage.
  - Bird surveys – 2 visits completed 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.
  - 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 to confirm timetable.

## **Design**

6. Capita has been appointed as Project Manager for the Ponds Project, with specialist consultants (Atkins) appointed to undertake a review of the current risk of flooding, based on storm predictions. Based upon that assessment, they will then prepare options to mitigate this risk for consideration by the City of London. In addition, a Strategic Landscape Architect has been appointed to assist the project and provide further advice to stakeholders.
7. Atkins has issued a revised unconstrained (long list) options matrix, incorporating comments from the Stakeholders' Group. In addition, they have issued a detailed landscape analysis covering landscape constraints and opportunities. On Saturday May 18<sup>th</sup>, formal presentations were made to the stakeholders Group, which included various conceptual sketches, hydrographs, cross sections and 3D visuals of the engineering options, which was well received by stakeholders.
8. Atkins are about to circulate a constrained (short list) options report. The next step will be to produce a short list of options for formal consultation with the 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 to commence in April 2015.

## **Procurement**

9. Consultant appointments have been made, along with placement of orders for the various survey works.
10. There has been a delay incurred in the tendering for the main contractor. This was previously reported to both your Committees in February 2013, when it was noted that, during the first tender process for the contractor, three out of four tenderers withdrew within a short space of each other.
11. Having consulted with the Procurement Service, 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.

## **Project Timetable**

12. Members have been keen to ensure that the project progresses with "all deliberate speed", as advised by Counsel. There has, therefore, been interest in the timetable for the project. While a broad timetable has been presented to Committees on a number of occasions, as the project has progressed, it has been necessary to review some elements.

13. In response to stakeholders concerns on available time to review and digest proposals, and the need to formally consult on the short list of options, the timetable has been amended to allow additional time for consultation. In addition to this, the proposal to undertake the wider public consultation over the summer, on the preferred option, had received negative feedback. In view of the importance of consultation in preparing for planning permission, it is proposed that the formal public consultation commence in September 2013. Such an approach is likely to mitigate potential challenges to the project during the planning process, reducing the risk of delay this would present.
14. A revised programme (see below) of activities and actions has been developed and has been agreed and supported by the independent panel engineer. This 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 its consent, for site works to commence early April 2015.
15. The timetable remains challenging and has no 'programme contingency'; it is possible it will need further revision as we move forward and some of the "unknowns" are identified. Atkins has produced a detailed project programme which aligns with these key dates.
16. 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.

	<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>September 2013 – November 2013</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>

### **Reservoir Supervising Engineer**

17. Dr Andy Hughes, the Reservoir Supervising Engineer (Panel Engineer) has been consulted on the changes to the programme (Appendix 1 and 2). Dr Hughes understands that the project will not succeed unless stakeholders feel that they have been listened to, are involved in the project and have agreed to the changes.

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

18. 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.
19. 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.
20. 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**

21. 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. Any planning decision could also be the subject of further challenge.

## **Stakeholder engagement**

22. The Ponds Project Stakeholder Group continues to meet monthly. While there continues to be constructive dialogue, officers are aware that there are two distinct schools of thought locally – those most concerned with the perceived negative impact of the project on the Heath and those concerned with the potential for flooding downstream. Until recently, those expressing environmental concerns have been most prominent and have been highlighted in the local media. Officers are now aware of a growing concern about flood risk downstream (not solely related to the Hampstead Heath ponds) and it appears that there has been an increase in activity in support of flood mitigation measures.
23. Camden residents understand that the project is designed to prevent a catastrophic dam breach and an associated sudden influx of water. It is, however, important to note that while the impact of any flooding associated with the dams and ponds is of particular significance in parts of Camden, residents remain affected by a number of flooding issues, including surface water flooding associated with insufficient sewer capacity.
24. The Design Team have made it clear to stakeholders that the Ponds Project will not exacerbate the issues of surface water flooding downstream and that the attenuation of water, in the upper parts of the catchment, may even assist with smaller rainfall events.

## **Resources**

25. Estimated project costs remain unchanged at £15.12m which is made up of
  - Pre evaluation costs - £0.27m
  - Works and external fees - £14.07m
  - Staff costs - £0.78m

26. 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 changes to the programme, it is likely that forecasted fee expenditure with Capita, Atkins and the Strategic Landscape Architect will increase. These potential additional costs are being evaluated, but are likely to be in the order of £250,000. Should these additional fees crystallise, then further reports will be submitted to the Service Committee, Resource Allocation and Project Sub Committees, seeking additional funding and the relevant approvals.

### **Corporate & Strategic Implications**

27. 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**

28. The risk of embankment failure at Hampstead Heath is assessed as a high risk on the City of London Corporations 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**

29. The design process is continuing, following the Design Flood Assessment approval by the Hampstead Heath, Queen's Park and Highgate Wood Committee in May 2013. The revised project timetable provides stakeholders with time to consider technical documents, which will assist the development and agreement of the design. In the meantime, the appointment of the main contractor will be undertaken and the Emergency Action Plan continues to be reviewed and tested.

### **Appendices**

- Appendix 1 and 2 – Dr Andy Hughes correspondence
- Appendix 3 Strategic Risk 11

**Background Papers:**

Details of the legislative background and mitigation measures can be found in previous reports submitted to the Audit & Risk Committee on 22 February 2012 and 12 December 2012.

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