



Executive Committee

All Wards

12 August 2009

WORCESTERSHIRE LAND DRAINAGE PROTOCOL

(Report of the Director of Housing, Leisure and Customer Services)

1. Summary of Proposals

To formally adopt policies and protocols for Land Drainage maintenance and enforcement in response to the Government's Pitt Review and the Draft Flood and Water Management Bill following the July 2007 flooding.

2. Recommendations

The Committee is asked to **RECOMMEND** that

subject to the Council's subsequent approval of the financial implications, the land drainage and flooding policies and protocols attached at Appendices 1 to 5 to the report, as recommended by the Overview & Scrutiny Committee on 17 June 2009, be approved.

3. Financial, Legal, Policy, Risk and Sustainability Implications

Financial

- 3.1 There is an obvious increased burden to be placed on Local Authorities following the Government's Pitt Review and the Draft Flood and Water Management Bill. Detailed funding arrangements have not yet been specified by DEFRA. Officers advise Members that the most effective solution would be to collaborate with a number of neighbours to share this additional burden and to jointly minimise financial impact.

Legal

- 3.2 The Council currently has a responsibility to ensure the proper and effective drainage of the Borough in accordance with powers conferred by the Land Drainage Act 1991. It is recognised within the Worcestershire Land Drainage Partnership (WLDP), that we are currently relatively proactive. There are significant changes in powers and responsibilities proposed by the Draft Flood and Water Management Bill which will place additional burden on all Local Authorities locally, regionally and nationally.

- 3.3 Appendix 5 to this report is exempt in accordance with S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, as it contains information relating to the financial or business affairs of particular persons (including the authority holding that information). For the Council to reveal this information could prejudice the financial status of these other parties. It is therefore felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Policy

- 3.4 The Council has previously adopted a semi-formal policy which subject to the recommendations in 2 above, a more rational approach can be adopted to reflect the recommendations of the Pitt Review and the forthcoming changes set out in the Draft Flood and Water Management Bill (provisionally expected to become statute by summer 2010).

Risk

- 3.5 If not supported the two-tier system of control proposed by the Draft Flood and Water Management Bill may result in actions being taken by the upper tier (Worcestershire County Council) authority which by virtue of the Draft Bill, will have powers to recover both costs of any associated works, including relevant fees and charges from the Council.

Sustainability / Environmental

- 3.6 The proposed recommendations and appendices set out a framework of initiatives which allows all riparian landowners to maintain their land in a more effective manner to reduce environmental impact from flooding. In addition, where possible to incorporate measures and initiatives to improve biodiversity, landscape maintenance and recognising that water management is an increasingly important role. This has a corresponding important interface with Climate Change policies in reducing the effects of poor water management practices.

Report

4. Background

- 4.1 The Council has for many years adopted a proactive role with regards to Land Drainage maintenance. Whilst this did not eliminate flooding in July 2007, certainly the capital and revenue works carried out over recent decades considerably reduced, but did not entirely

eliminate, the effects of extreme events such as the July 2007 floods.

- 4.2 Weather patterns are, for whatever reason, clearly changing and there has been an increased response to rainfall from mainly rural, undeveloped areas outside the Borough in recent years. This has had the effect of partially reducing the benefits of earlier works to alleviate flooding.
- 4.3 As a result of the floods in 2007 the Government commissioned a report, The Pitt Review, and following its recommendations, the Draft Flood and Water Management Bill was published on 21 April 2009 for consultation by 24 July 2009. Unfortunately this timescale doesn't allow Members to be directly consulted but Officers are nevertheless aware of the work implications that have been identified, undertaken by the Joint scrutiny by Members as well as the on-going work with the Council's Overview & Scrutiny Committee.

5. Key Issues

- 5.1 As a part of changes in legislation, each authority will be required to produce Surface Water Management Plans (SWMP). These will embrace planning, resilience and hydrology matters. Unfortunately, the latter does not directly relate to administrative areas. Officers within WLDP consider it would be more appropriate to consider river systems on a catchment basis, these being allocated by WLDP but requiring joint funding. Clearly, this element of SWMPs could be shared on a proportional basis relative to the incremental contributory areas. Results would be shared for including those results applicable to an individual authority's area.
- 5.2 Redditch Borough Council is the largest local authority riparian landowner in Worcestershire, being directly responsible for 44km of main river and ordinary watercourses. This represents nearly 44% of the total land drainage assets within the Council's administrative area. Officers have as part of their work within WLDP being trying to establish what other front line criteria apply for its Worcestershire neighbours. Similarly, Redditch Town, is the second largest urban conurbation within Worcestershire.
- 5.3 Arising from the work of the WLDP, a lead role has been developed by Wychavon District Council from a technical perspective. With reference to the plan in Appendix 6, this is no doubt due to Wychavon being the largest individual administrative area component within Worcestershire. Redditch for the reasons set out in 5.2 above has demonstrated as being the second lead by virtue of its current policies, practices and responsibilities. This suggests a possible north/south split for Worcestershire.

- 5.4 Clearly any new shared arrangements would need to be on an agreed basis for sharing costs. This will hopefully allow the burden of any increased costs associated with the implementation of the Flood and Water Management Bill to be reduced for partners within such shared arrangements.
- 5.5 Members are reminded that DEFRA has notionally indicated that either Unitary or where there is none, County Councils will take the lead from an accountability perspective. This is no doubt to sit alongside their existing responsibilities for Resilience matters. DEFRA has already indicated, albeit informally, that they perceive the major delivery role being delivered at local levels. If district councils elect to take a more distant position, they will lose leadership and possibly have a less influential effect in possible future funding distribution.
- 5.6 Authorities in North Worcestershire should work to jointly promote flood and drainage concerns, as recommended by the Overview and Scrutiny Committee of 17th June 2009 to minimise the likely financial impact of legislative changes, by means of exploring potential improved collaborative working arrangements.

6. Other Implications

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| Asset Management | - | No implications have been identified |
| Community Safety | - | The proposals improve the Council's existing arrangements for managing land drainage assets and reducing any future impact from flooding. |
| Sustainability | - | Improved flood defences and management practices reduce the magnitude and frequency of flood risks thereby giving further protection against the future effects of Climate Change to vulnerable properties and associated hazards from flood waters affecting highways and public open spaces. |
| Human Resources | - | No implications have been identified. |
| Social Exclusion | - | No implications have been identified. |

7. **Lessons Learnt**

- 7.1 The significant progress made through liaison with neighbouring Authorities who may either affect Redditch Borough Council or who we may affect, has led to working towards a more consistent approach to land drainage matters within Worcestershire.
- 7.2 The Draft Flood and Water Management Bill encourages groups of Local Authorities to consider alternative ways of delivering a more effective regime in respect of land drainage maintenance and enforcement procedures.
- 7.3 There has been a corresponding improvement in liaising with the Local Resilience Forum to ensure that there is a more coherent approach to the management and recovery for future flooding incidents.

8. **Background Papers**

Relevant documents on file (some exempt / confidential) in the Asset Maintenance office.

9. **Consultation**

- 9.1 The basis of this report was presented and considered by the Overview and Scrutiny Committee on 17 June 2009.
- 9.2 Informally, Officers have been liaising with the Environment Agency, Worcestershire County Council, local Ward Councillors and Feckenham Parish Council. In addition, Officers have been actively participating with the Worcestershire Land Drainage Partnership.

10. **Author of Report**

The author of this report is Clive Wilson, Operations Manager Asset Maintenance, who can be contacted on extension 3379 (e-mail: clive.wilson@redditchbc.gov.uk) for more information.

11. **Appendices**

Appendix 1 – Worcestershire Land Drainage Protocol – May 2009, WLDP/LDT

Appendix 2 – Ditches and Other Minor Watercourses – RBC (03/06/09)

Appendix 3 – Landscape & Land Drainage Maintenance Policy - RBC (18/02/09)

Appendix 4 – Dredging (Land Drainage) Maintenance Policy – RBC
(05/06/09)

Appendix 5 - Flood Resilience Analysis – RBC (05/03/09) (This Appendix is confidential in view of the fact that it contains information relating to the financial or business affairs of particular persons (including the authority holding that information))

Appendix 6 – Worcestershire County Administrative Boundaries
– RBC (June 2009)

Appendix 7 – Key for Appendix 6

Appendix 8 – Minutes of meeting of Overview and Scrutiny
Committee, 17 June 2009