

## **Wiltshire Council**

### **Cabinet (Capital Assets Committee)**

**15<sup>th</sup> November 2011**

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**Subject: Rural Estate Issue**

**Cabinet member: (Councillor Toby Sturgis – Cabinet Member for Waste, Property and Development Control Services)**

**Key Decision: No**

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#### **Purpose of Report**

1. To highlight an issue associated with the Council's ability to meet the requirements of the Nitrate Pollution Prevention Regulations 2008 ("the Regulations") on its Rural Estate and to recommend a solution.

#### **Background**

2. The Regulations were introduced under the direction of the EU Nitrates Directive and stipulate that in certain circumstances from the 1<sup>st</sup> January 2012, farm waste storage must be provided for certain waste types during the winter months.
3. The liability for funding such storage facilities on farms on the Rural Estate varies. In some instances it falls on the Council as Landlord and in others, on the Tenant.
4. Failing to comply with the Regulations could result in prosecution and a fine, the loss of Single Farm Payment and reputational damage upon whom the liability falls. The Environment Agency will deal with enforcement of the Regulations.

#### **Main Considerations for the Council**

5. Specialised legal advice has been sought on where the liability lies to provide waste storage. Officers have applied this advice, together with their knowledge and understanding of the nature and character of each farm on the Rural Estate to develop a risk based approach to establish a minimum investment requirement.

#### **Environmental and climate change considerations**

6. The Regulations have been enacted to protect the water Environment. The proposal will ensure that where the liability to provide storage lies with the Council, it is adhering to the Rules. The design of the structures will

be carried out in accordance with the industry accepted criteria in consultation with the Environment Agency.

### **Equalities Impact of the Proposal**

6. There are no equality impacts with this Proposal.

### **Risk Assessment**

7. A risk assessment has been prepared which has been used to understand and narrow down the levels of risk across each farm on the estate. This has taken into account the legal advice received, the nature and character of each farm, the terms of the tenancy on each farm, the enterprises run on each farm, the level of previous investment and the status of the farm in the Asset Management Plan.

### **Legal Implications**

8. The Proposal is based on the advice of the Council's legal team and their specialist lawyers.

### **Options Considered and Financial Implications**

9. Due to the current difficult financial position, the only option put forward in this report is to allocate funding for those farms deemed to be of highest risk. The cost of this is £225,000 in 2011/12 and across the three financial years £820,000. The need for this work is of a high priority within the Council's allocation of capital funding due to the Health and Safety requirement. This will need to be funded from within the capital programme. At present there is scope within the scheme to manage this due to reprogramming recommended to the CAC on the same agenda as this report.

### **Conclusions**

10. There is a need to allocate the following funding for investment in infrastructure on the Core Estate Farms.

<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>
<b>£0.225m</b>	<b>£0.4m</b>	<b>£0.195m</b>

11. Officers have been informed that revisions to the NVZ regulations will be consulted upon in the New Year and it is proposed that this funding allocation be reviewed during Autumn 2012 to ratify its continuing need and/or adequacy as the zone boundaries may be altered.

### **Proposal**

12. To recommend, via Cabinet, that Council approve the allocation of the additional capital funding as set out in paragraph 10.

## **Reason for Proposal**

13. To reduce the risk of prosecution, loss of income and to safeguard the Council's reputation.

**Dr Carlton Brand**  
**Director of Transformation and Resources**

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## **Background Papers**

The following unpublished documents have been relied on in the preparation of this report:

None.

## **Appendices**

There are no Appendices to this report.

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