

Wiltshire Council

Environment Select Committee

10 December 2013

Subject: Drainage Byelaws

Cabinet Member: Councillor Jonathon Seed – Cabinet Member for Communities, Campuses, Area Boards, Leisure, Libraries and Flooding

Key Decision: No

Purpose of Report

1. To advise the Committee of the Council's intention to make Byelaws in connection with drainage.

Background

2. Flooding is considered to be serious issue in Wiltshire, and the Council has had to respond to a number of significant flooding events which have affected communities in recent years.
3. The Flood and Water Management Act 2010 amended section 66 of the Land Drainage Act 1991 to allow local authorities to make land drainage byelaws. These byelaws also create criminal offences which can be prosecuted in the Magistrate's Courts. The Council is now intending to use its powers to make byelaws to help it carry out its duties effectively and in doing so assist with reducing flood risk for local communities.

Proposed Byelaws

4. The Flood and Water Management Act 2010 allows local authorities to make byelaws for the following purposes:
 - To secure the efficient working of a drainage system in its area;
 - To regulate the effects of a drainage system on the environment;
 - To secure the effectiveness of flood risk management work
5. The proposed byelaws for Wiltshire (See **Appendix 1**) are based on the Defra set of model Land Drainage byelaws which are broadly similar to the byelaws which have been used for many years by the Environment Agency. They cover matters such as changes to flows in watercourses, obstructions, vegetation, damage to river banks and other issues which will be of help to the Council in carrying out its duties.
6. The first stage of this process is to forward the proposed draft byelaws to Defra which is followed by a formal consultation with Natural England and the

Canal and River Trust (the local navigation authority in Wiltshire). Although the Council are not required to do so, the Council has also chosen to informally consult with Parish and Town Councils through the Parish Newsletter before the proposed byelaws are considered by the Council.

7. Subject to the outcome of the consultation with Natural England and the Canal and River Trust and having considered any responses received to the informal consultation, a decision on whether or not to make the byelaws will be taken by the Council. Under the Council's constitution a decision on the making of byelaws is reserved to full Council.
8. If the Council decides to make the byelaws, the formal (statutory) consultation will then be undertaken, before the byelaws (and any unresolved objections) are forwarded to the Secretary of State for confirmation. The byelaws cannot come into operation until they are confirmed by the Secretary of State.
9. The draft byelaws may also be viewed on the Council's website where comments may be made:

www.wiltshire.gov.uk/consultations

The deadline for responses to the informal consultation is 10 December 2013. Consultees will need to inform the Council if they also wish for their comments to be forwarded to be considered as part of the formal consultation which is anticipated will take place in spring 2014.

Environmental and Climate Change Considerations

10. Environmental and climate change has serious implications for the Council as Lead Local Flood Authority, and the introduction of the proposed Byelaws will help the Council carry out its duties and reduce the flood risk for communities in Wiltshire.

Financial Implications

11. There are not anticipated to be any serious financial implications with regard to the making of the byelaws, which will assist the Council in carrying out its duties as Lead Local Flood Authority for Wiltshire.

Legal and Procurement Implications

12. The new contract will help ensure that the Council meets its obligations under the Flood and Water Management Act 2010, Highways Act and other legislation.

Equalities Impact of the Proposal

13. There are considered to be no equalities impacts in connection with making the proposed byelaws, which will be subject to formal consultation in due course.

Safeguarding Implications

14. There are no safeguarding implications.

Public Health Implications

15. The Byelaws could potentially reduce flood risk for some properties, which would have benefits for those residents.

Risk Assessment

16. There are no significant risks attached to making the proposed drainage byelaws, which will help the Council reduce flood risk for local communities, and will

Conclusion and Recommendations

17. The Committee should note the intention of the Council to make the proposed Byelaws, which will assist the Council in carrying out its duties as Lead Local Flood Authority under the Flood and Water Management Act 2010.

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

None

Appendices:

Appendix 1 – Draft byelaws