

Wiltshire Council**Environment Select Committee****10th 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 in recent years the Council has been required to respond to a number of significant flooding events which have affected communities.
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 these byelaws to help it carry out its duties effectively and in doing so assist with reducing of 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 as Highway and Lead Local Flood Authority.

6. There are a number of stages to this process which are set out below;
 - i. The proposed draft byelaws are forwarded to Defra
 - ii. Formal consultation with Natural England and the local navigational authority (in Wiltshire the Canal and River Trust). The Council has chosen to informally consult with Parish and Town Councils through the Parish Newsletter before the proposed byelaws are considered by the Council.
 - iii. Having considered any responses received to both the formal and informal consultations, the Council will take a decision as to whether or not to make the byelaws. Under the Council's constitution this decision is reserved to full Council.
 - iv. If the Council decides to make the byelaws a formal (statutory) consultation takes place where the byelaws are made, sealed and deposited for one month. If any objections are received the Council will be expected where possible to resolve the objections, 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.
 - v. Confirmation by the Secretary of state where the byelaws will, unless otherwise decided, come into operation at the expiration of one month from the day on which they are confirmed by the Secretary of State
8. The draft byelaws may be viewed on the Council's website which allows comments to 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

7. 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

8. There are not anticipated to be any immediate and serious financial implications arising from the making of the byelaws because they will assist the Council in carrying out its duties as Lead Local Flood Authority for Wiltshire.

Legal and Procurement Implications

9. The byelaws are made under the Flood and Water Management Act 2010, Land Drainage Act 1991 and the Local Government Act 1972. The byelaws will also create criminal offences which can be prosecuted in the Magistrate's Courts. The new byelaws are expected to help ensure the Council meets its obligations under the Flood and Water Management Act 2010, Land Drainage Act 1991 and Highways Act 1980 and any other relevant legislation concerned with land and highway drainage.

Equalities Impact of the Proposal

10. There are considered to be no equalities impacts in connection with making the proposed byelaws.

Risk Assessment

11. There are no anticipated significant risks attached to making of the proposed byelaws.

Conclusions

12. The Committee should note the Council's intention to commence the process for making the proposed land drainage byelaws which, if made and confirmed following the public consultation, will assist the Council in carrying out its duties as Highway and 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

