

Flood Prevention – What are our land drainage responsibilities?

Cabinet Member(s): Cllrs Neal Davey and Richard Chesterton
Responsible Officer: Nick Sanderson – Head of Housing and Property Services

Reason for Report: To inform Members of the Council's responsibility for flood prevention.

RECOMMENDATION: That Members note the content of the report.

Relationship to Corporate Plan: The report relates to work that supports sustainable development and improves the well-being of our communities.

Financial Implications: None.

Legal Implications: The Council's legal obligations are set out in the report.

Risk Assessment: Failure to fulfil legal obligations will expose the Council to risk and its community at risk.

1.0 Introduction

1.1 This paper advises on the Council's obligations for flood prevention and provides an overview on flood risk management locally. The principal legislation applicable is the Flood and Water Management Act 2010 and the Land Drainage Act 1991.

1.2 It also gives a summary of how the Council fulfils its role operationally and current work.

2.0 Flood and Water Management Act 2010

2.1 Requires the Council to prepare development plans and make decisions on planning applications based on planning policy.

2.2 Requires the Council as a Risk Management Authority to cooperate with the Lead Local Flood Authority (see 5.2) in its investigation of flood events and its conducting of its work.

3.0 Land Drainage Act 1991

3.1 The Council has no responsibility (except where it is landowner) for land drainage.

3.2 Where the Council is the landowner, the responsibility is to maintain ordinary watercourses (non-main river) to allow water to pass without obstruction.

3.3 Provides the Council with powers to implement and maintain flood defences including clearing of obstructions on ordinary watercourses to mitigate the effects of flooding if it chooses to do so.

3.4 Provides the Council with powers to ensure riparian owners fulfil their own obligations to maintain watercourses.

4.0 **Riparian and Private Responsibility**

4.1 The maintenance of land drainage and watercourses on private land to prevent flooding is the riparian responsibility of the owner of the land it crosses.

4.2 The protection of private property from flooding is the responsibility of the owner. The Council has no obligation (and no longer does) to provide sand bags for the protection of private property.

5.0 **Flood Risk Management in Devon**

5.1 Environment Agency

5.1.2 The Environment Agency is responsible for implementing policies set by Defra. The flood risk management activities the Environment Agency are responsible for carrying out include:

- Adopting a strategic overview for all flood risk management issues, as set out by the Flood and Water Management Act
- Developing long-term plans for sustainable flood risk management
- Building physical flood defences
- Maintaining designated main rivers, including flood defences
- Flood forecasting and producing flood risk maps
- Issuing flood warnings and ensuring public awareness of flood risk
- Advising on waste disposal practices to prevent pollution and harm to human health

5.2 Devon County Council – Lead Local Flood and Highway Authority

5.2.1 Devon County Council is responsible for managing local flood risk in Devon from surface water, groundwater and consenting and enforcement on Ordinary Watercourses.

5.2.2 Devon County Council is responsible for maintaining and repairing highway surface water drainage systems and planning for and responding to flood emergencies. It is required to:

- Investigate all significant flooding incidents

- Maintain a register and record of important flood defence assets
- Work towards becoming the Sustainable Urban Drainage (SUDs) Approving Body (SAB) to ensure use of sustainable drainage on new developments, approve, adopt and maintain
- Build effective partnerships between the authorities that have control over flood risk
- Undertake specific tasks associated with the Flood Risk Regulations, including completing a Preliminary Flood Risk Assessment and identifying local Flood Risk Areas
- Develop, maintain and apply a Local Flood Risk Strategy.
- Undertake works to manage flood risk from surface runoff and groundwater, consistent with the local strategy for flood risk management for the area.

5.3 Devon Flood Risk Management Strategic Partnership

5.3.1 The Devon Flood Risk Management Partnership is an informal arrangement which brings together the key stakeholders in flood risk management to meet the Lead Local Flood Authorities statutory duties. The partnership provides a coordinated and collaborative approach to flood risk management across the County. Devon County Council has an overseeing and coordinating role on a local scale within the partnership.

5.3.2 Much of the local knowledge and technical expertise necessary for Devon County Council to fulfil their duties as Lead Local Flood Authority lies with the District Councils and other partner organisations. It is therefore crucial that Devon County Council work alongside these groups and organisations as they undertake their responsibilities to ensure effective and consistent management of local flood risk and to contribute to the provision of a coordinated and holistic approach to flood risk management across the county.

6.0 **Mid Devon fulfils its responsibilities by:**

6.1 Undertaking routine and pre/post storm event inspections of land drainage assets – these include ordinary watercourses, flood defence grids on our land and others in the interest of public protection. During periods of storm this will include monitoring of critical locations.

6.2 Working with flood victims, those at risk of flooding and partnership agencies to reduce flood risk. This includes administration of grants provided by DeFRA and DCC for the provision of individual property protection measures – flood boards and other measures to prevent water entering property.

6.2 Supporting local flood prevention action groups. Active support currently being given to Newton St Cyres Parish Council.

- 6.3 Encouraging awareness, education and self-protection via Emergency Planning Workshops to reinforce the responsibility for flood prevention of private homes.
- 6.4 Leading on delivery of flood improvement schemes including the sourcing of funding from partner agencies. These include recent works at Arnold Crescent and Newte's Hill/Atherton Way (ongoing) in Tiverton (funding secured from DCC Flood Risk Management and South West Water), commissioning reports and studies for those schemes and schemes at Ashleigh Park Bampton (contribution secured from DCC Highways and seeking implementation via the Environment Agency), Newton St Cyres (contribution secured from DCC Flood Risk Management and Highways), Hemyock and others.
- 6.5 Supporting partner agencies in the delivery of their projects. This includes a financial contribution to a public/private collaborative project led by the Environment Agency at Tiverton Business Park and support in kind to enable Environment Agency works at Rivermead and Knightswood Cullompton protecting our own housing.
- 6.6 Works to maintain and secure the integrity of its own assets – revetments and bank protection to watercourses and clearance of obstructions, dredging and grid maintenance.
- 6.7 Investigation of flood incidences and conducting surveys to establish responsibilities and advise on solutions – ensuring riparian owner responsibilities are fulfilled. Recent and ongoing works include locations at Knowle, Copplestone, Morchard Bishop, Willand and Cullompton.
- 6.8 Preparation of a Strategic Flood Risk Assessment in Forward Planning and embedment of sustainable drainage infrastructure requirements in planning policy for development control.
- 6.9 Applying planning policy in the consideration of planning applications for development.
- 6.10 Property Services support Planning Officers in the consideration of applications for smaller development (the Lead Local Flood Authority is a statutory consultee for larger development) and inspection and enforcement matters relating to drainage infrastructure.

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