

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Land Drainage Advisory Group
AUTHOR/S: Chief Environmental Health Officer

14 October 2005

COVELL'S DRAIN SWAVESEY

Purpose

1. To consider a request from the Environment Agency to reduce the height of the recently reconstructed Covell's Drain embankments on the Swavesey side of the award drain. The request has been made following consideration of a retrospective planning application to Cambridgeshire County Council that relates to filling operations within the river Ouse floodplain.

Effect on Corporate Objectives

2. Quality, Accessible Services	The new embankments have created a stable environment from which the Council can carry out its statutory maintenance function.
Village Life	Many Fen Drayton residents believe that the lowering of the embankment will add to their level of protection from flooding. Conversely, residents on the Swavesey side of the watercourse feel that lowering the embankment will increase the risk of flooding within the parish.
Partnership	The Environment Agency has overall supervisory responsibility for drainage in the area and the Council relies on its advice and expertise throughout the planning process. It is important, therefore, to continue working in partnership with the Agency to ensure a satisfactory outcome to the planning application.

Background

3. The flooding pattern of the river Ouse in the Fen Drayton/Swavesey area is quite complex. Although the area is regularly subjected to flooding within the Great Ouse floodplain, the number of properties under direct threat is small. The Standard of protection for Fen Drayton village has been estimated at 1 in 30 years. However, none of the embankments in the area provides any form of protection to the village of Fen Drayton as these are completely overtopped by the Great Ouse before the first properties in Fen Drayton are threatened.
4. The Covell's Drain embankments have been the source of problems for a number of years and serious breaches occurred to the Swavesey embankment in April 1998 and again in January 2003. Although the past breaches have been serious and costly to repair, properties in Swavesey have not been threatened and only agricultural land within the floodplain has been flooded.
5. In Autumn 2000, Mr J Johnson, of Friesland Farm Swavesey, approached the Council with a view to undertaking repair works along the Swavesey side of the Covell's drain embankments. Over previous years, slips had occurred along the embankment and the high water levels of Autumn 2000 made a breach a distinct

possibility. The Council agreed to carry out repairs and the attached letter in Appendix A outlines the arrangements that were made with the landowner.

6. Substantial quantities of a clay material were imported by Mr Johnson following the issuing of exemption certificates by the Environment Agency. Most of the work along the 475m section shown on the enclosed plan was undertaken by the landowner's contractor. Following these works, the Council re-graded the embankment to remove slips and bulges and placed the 'arisings' on top of the bank, which is normal practice.
7. Over the following 2 – 3 years the landowner continued to import substantial quantities of material and placed this along further stretches of embankment. In total, approximately 2 km of embankment were stabilised and raised in height. The Council did not object to this work as it was seen as beneficial and it would be fair to say that all works were given the tacit approval of the Council.
8. Approximately 18 months ago, the Environment Agency (Enforcement Section) visited the site and became concerned at the quantity of material that had been placed within Mr Johnson's fields (on main river floodplain) as well as the height of the new embankments. The Enforcement section of the Agency decided against using their by-laws to enforce removal of the fill material and instead, felt the best course of action was the planning process. It was agreed between the Agency, Cambridgeshire County Council and the landowner that a retrospective planning application should be made to the County by Mr Johnson. This application excluded the new embankments, but the Agency now wishes to see the embankments lowered sufficiently to allow water to flow over the top and flood into the original floodplain. It is due to the initial involvement of the Council with Mr Johnson that the Agency has asked South Cambs to remove sections of the embankment to a predetermined level. The level suggested by the Agency is 5.6m ODN and this appears to be approximately 200mm below original levels at the locations suggested. This in turn, has caused a great deal of concern among residents in the Swavesey area and with the Swavesey Internal Drainage Board because of flooding fears. On the other hand, the Fen Drayton residents on the opposite side have voiced concerns that their parish will be subjected to additional flooding if the embankment is not reduced in height.

Considerations

9. The removal of any section of the Swavesey embankment will cause a considerable adverse reaction from residents, the Parish Council and the Swavesey Internal Drainage Board. The new embankment is regarded as a vitally important flood defence barrier for both property and the IDB area. The miniscule area to be returned to floodplain is seen as insignificant when the total area of Great Ouse floodplain is considered. The Swavesey view is that the added protection of the higher embankments far outweighs the small loss in floodplain. Any proposal to remove or reduce the embankment height is likely to be strongly resisted by Swavesey residents and their public representatives.
10. The view from Fen Drayton Parish Council and two of the landowners along the Fen Drayton side of the award drain is very different to that in Swavesey. The embankment is seen as protecting the Swavesey side at the expense of Fen Drayton. Although this view is understandable, there is no evidence to support it. Studies commissioned by the Environment Agency have shown that all the embankments on the Fen Drayton side of Covell's Drain are overtopped by the Great Ouse before the first properties in Fen Drayton are threatened. It is possible that a

combination of simultaneous flood events on both the Ouse and Covell's Drain could increase the risk of flooding to Fen Drayton parish. This is highly unlikely as the Fen Drayton embankments have traditionally been at a lower level than those on the Swavesey side. However, the only way to confirm this is to carry out a further study along the Covell's Drain so that both catchments can be modelled. The cost of this study is likely to be in the region of £15,000 - £20,000.

11. It is important to consider the role of the Environment Agency in this case and its relationship with the Council. The Agency is acting as statutory consultee for the County Council on the planning application through its development control section. Agency officers from development control have been invited to the meeting to outline the Agency view on flooding patterns and the advice that will be given to the County Council on the planning application. The same service is provided on an ongoing basis to the District Council for all planning applications that involve surface water considerations at South Cambs. Other sections of the Agency e.g. Enforcement, Operations Delivery (works) and the Asset Management sections, are not directly involved with the application and the development control section is anxious to avoid any confusion with other issues in the Fen Drayton/Swavesey area. A further point the Agency wish to make is that if the Swavesey embankment is not reduced in height, then the land behind the embankment will be re-classified as 'defended' thus allowing the land to be considered for development purposes.

Options

12. It is considered that the following options are available to the Council;
 - a) Do nothing. It is reasonable to argue that the Council only carried out maintenance works in line with its duties along the awarded watercourse and that the planning application need not involve the Council. There is no evidence of any adverse impact to either agricultural land or to property. Additionally, the applicant for the planning consent is claiming that compensatory measures will be put in place to allow areas of land to flood and therefore return to the status quo. However, the Agency is not happy with these proposals and wishes to see sections of the bank returned to their original levels.
 - b) Remove sections as directed by the Agency. There is a strong tradition at South Cambs of working closely with the Environment Agency on a variety of issues. The Council depends on the Agency for drainage advice on most planning applications and it is important that cooperation with the Agency continues into the future. In normal circumstances, the Council would take guidance from the Agency and if possible, action the advice given. However, in this particular case, there are concerns regarding the increased flooding potential to the Cherry Trees estate in Swavesey as well as concerns involving the Swavesey Internal Drainage Board. It would be vital, therefore, that any agreement to carry out works should address these concerns.

Financial Implications

13. It would be possible to absorb the costs associated with works into the existing awards budget.

Legal Implications

14. The Head of Legal Services at the Council has advised on both options outlined above as follows:

- a) Works are carried out and flooding occurs. The advice here is that the Council is likely to be liable if flooding causes damage to land or property and should, therefore, only be undertaken under the direction of the Environment Agency. The Agency would be expected to indemnify the Council in writing against all future liability for flooding resulting from the embankments being overtopped.
- b) If no works are carried out. The legal advice in this situation is that the Council may have some liability but that due to the discretionary nature of land drainage powers, it would be difficult for a potential litigant to sustain an action for negligence.
(See reply from Head of Legal Services – Appendix B)

Staffing Implications

- 15. None

Risk Management Implications

- 16. Normal Health and Safety issues associated with the award drainage system.

Consultations/Summary

- 17. Over the past two years, discussions have taken place with both the County Council and the Environment Agency at officer level and these are continuing. Regular discussions and negotiations have taken place with District, Parish and County representatives for the area, representatives from the Swavesey IDB and landowners from Fen Drayton and Swavesey parishes. This has proven to be one of the more difficult and contentious issues to resolve in recent years.

Recommendations

- 18. It is recommended that Members discuss the Environment Agency's request and advise the Portfolio Holder on a suitable response.

Background Papers

None

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