

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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

24 January 2006

COVELL'S DRAIN, SWAVESEY

Purpose

1. To re-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 following the Environment Agency's refusal to indemnify the Council.

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.
Sustainability	
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. Members considered this request at their meeting dated 14 October 2005 and agreed to recommend to the Portfolio Holder that the embankments should be lowered subject to the Environment Agency providing an indemnity to cover possible future legal action from Swavesey residents or the Swavesey Internal Drainage Board. The Agency has not provided the indemnity and is very unlikely to do so. As a result, it is clear that the Advisory Group's recommendation cannot be carried out and a new meeting is required to advise on the way forward.
4. A number of individuals and organisations have been invited to the Advisory Group meeting to make representations and express their views on the Agency's request for the works.

Considerations

5. The points outlined in the original report dated 14 October 2005 (attached for information as **Appendix 3**) are all still relevant. Additionally, since the October 2005 meeting, strong representations have been received from both the Swavesey and Fen Drayton areas with each expressing their opposing views. Copies of this correspondence are enclosed as **Appendices 1a** and **1b**.

6. Further discussions have taken place between the Council's Drainage Manager and the Environment Agency's development control section. Additional information has been passed to the Agency showing historical structures such as the 'Black Bank' (which defended Swavesey and no longer exists) and the outline of the 1875 flood plain. However, the view of the Agency has not changed and the recommendation is that the Council should lower three sections of embankment to a level of 5.6m ODN. The Council's Drainage Manager is concerned that this level is excessive and represents a reduction in bank height that may be at least 300mm below the pre-works levels. Additional information has also been obtained from the Agency. It is very likely that WS Atkins will be commissioned to undertake further studies along the River Ouse that will include Covell's drain and examine the impact of removing the main river embankments in the Fen Drayton area. The study will be referred to as the Fen Drayton Lakes Improvements Viability Study and the work is likely to commence in April 2006 with completion due in December 2006.
7. Following the last Advisory Group meeting, further advice was sought on the position regarding insurance for the Council to cover the costs of possible legal action from interests in either Swavesey or Fen Drayton. The Council's Finance and Resources Department has confirmed that insurance cover is in place if future legal action were to occur.

Options

8. The two options outlined in the October 2005 report are still applicable – i.e.
 - (a) Do nothing; or
 - (b) Carry out the works as directed by the Agency.
9. Additionally, Members may wish to consider the results and recommendations of the Agency study before advising Cabinet / Council.

Financial Implications

10. The original report advised that it would be possible to carry out works within existing budgets. However, the local landowner is now likely to refuse consent for excavated material to be deposited on his land. Disposal costs may therefore be in excess of £20,000. There is currently no budget to cover these costs.

Legal Implications

11. The Head of Legal Services has confirmed that the advice given in October 2005 is sound. It is recommended that no works should take place without an indemnity from the Environment Agency. Additionally, following claims that the Council may have acted illegally in the past, the head of Legal Services has confirmed that as the works were not carried out under the Land Drainage Act but under Award legislation, the Council's actions were legal. See memo from Head of Legal Services enclosed as **Appendix 2**.

Staffing Implications

12. None.

Risk Management Implications

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

Conclusions/Summary

14. As mentioned in the previous report, this has been one of the most contentious land drainage issues to resolve in recent years. It is of immense help that the proposed study by the Agency may offer a recognised procedure to quantify the level of risk from flooding to both Parishes.

Recommendations

15. It is recommended that Members discuss the Environment Agency's request and advise the Cabinet/Council on a suitable response.

Background Papers: the following background papers were used in the preparation of this report: Letters of representation attached as Appendix 1

Report to Land Drainage Advisory Group 14 October 2005

Contact Officer: Patrick C Matthews – Land Drainage Manager
Telephone: (01954) 713472