

Pat

I send you herewith my further advice in respect of this matter which I understand you will incorporate into your report to the Drainage Advisory Group.

Legal Issues

Covell's Drain is an "awarded drain". This means that the District Council, as the successor in title to the Surveyor of Highways, is under a duty to maintain "awarded drains". The precise duty is set out in the award, and is "The drain shall forever hereafter be repaired cleansed and maintained by the Surveyor (now the District Council) and of such depth and dimensions as shall hereafter appear necessary."

As this is an awarded drain, the consent of the Environment Agency is not required.

It is understood that the Environment Agency is undertaking a study to encompass the Ouse and Covell's watercourses and surrounding areas. This study is expected to start in April and be completed in December 2006.

It can be confirmed that the advice given at paragraph 14 in the report dated 14th October 2005 is sound. I do not recommend that the Council should take action to lower the bank, without a full and clear indemnity from the Environment Agency.

From the information currently before me, I see no reason to believe that the Council has, or is proposing to, act unlawfully.

As always please let me know if I can be of any further help.

Best Wishes,

Colin Tucker
Head of Legal Services