

LAND DRAINAGE - WATERCOURSE MAINTENANCE OPERATIONS

Relevant Portfolio Holder		Councillor Margaret Sherrey
Portfolio Holder Consulted		Yes
Relevant Head of Service		Guy Revans - Head of Environmental and Housing Property Services
Report Author	Job Title: Engineering Team Leader Contact email: pete.liddington@bromsgroveandredditch.gov.uk Contact Tel: 534108	
Wards Affected	All except: Rubery South, Cofton, Wythall East, Wythall West, Drakes Cross, Alvechurch Village, Lickey Hills, Tardebigge, Rock Hill and Perryfields Wards	
Ward Councillor(s) consulted		No
Relevant Strategic Purpose(s)		Communities which are safe, well maintained and green
Key Decision		

1. RECOMMENDATIONS

The Cabinet RECOMMEND that:-

- 1) an additional budget of £45k for Land Drainage – Watercourse Maintenance Operations be included in the general fund for the 2022/2023 financial year; and**
- 2) a budget of £45k for Land Drainage – Watercourse Maintenance Operations be included in the Medium Term Financial Plan for future years.**

2. BACKGROUND

- 2.1 Bromsgrove District Council (BDC) owns approximately 8 km of watercourses, primarily through recreational grounds and as part of adopted open spaces within developments.
- 2.2 In addition to this, North Worcestershire Water Management (NWWM), on behalf of BDC, routinely maintain several stretches of watercourses which are un-registered (with no responsible person(s) being identified through investigations), in order to manage flood risk in those locations. This brings the total length of watercourses maintained by BDC/NWWM to over 9 km. This report does not include third party

locations, BDC owned or maintained ponds, wetlands/SuDS features, or County Council owned roadside ditches.

- 2.3 Recently, several areas of watercourse have required urgent major maintenance work, to address local flood risk issues.
- 2.4 NWWM have produced a detailed Watercourse Maintenance Schedule (Appendix 1), with the aim of the document being to proactively schedule routine inspections and maintenance of each section of watercourse. This should avoid both major maintenance works and several locations necessitating work at the same time, consequently being more efficient and cost-effective. It also allows targeted activities, such as Himalayan Balsam removal, to be scheduled to help reduce growth in future years. (Appendix 2 shows locational details of the watercourses).
- 2.5 The first year of this maintenance plan is to be viewed as a pilot, where there is likely to be more emphasis on inspections. This will allow the operatives to familiarise themselves with each site and its specific requirements, allowing also for prioritisation of any maintenance work which may be required. Some activities may need to be undertaken more or less frequently, depending upon season for instance, and this can be refined over time.
- 2.6 The maintenance schedule should be viewed as a 'live document,' and will be updated as new sites are adopted, or when frequency of a certain activity changes.

3. FINANCIAL IMPLICATIONS

- 3.1 It is anticipated that the maintenance works can be undertaken in the main by the Council's approved Contractor, appointed as the successful tenderer for the Minor Civil Engineering and Ancillary Works Contract (MCEAWC) (2022-2025). This Contract is shortly to be out to tender, and provision has been made for the tenderer to provide their specific rates for this work. Such rates will be fixed for the contract period of three initial years, with an option to extend for a further year. Other minor works associated with these watercourse maintenance operations, will be undertaken and absorbed by the relevant Place or Parks' Team's current operations.
- 3.2 As tenders for the MCEAWC will not be finalised for some weeks, with an appointment being made for the successful Contractor, the tendered rates will unfortunately not be available for the Cabinet meeting date. However, it is estimated at this stage that the figure of £45k/annum will be sufficient to accommodate the required works.

4. LEGAL IMPLICATIONS

4.1 Where the Council owns the watercourse, then they become a Riparian Owner, and as such, they have the following responsibilities:

- You have a duty to pass on flow without obstruction, pollution or diversion affecting the rights of others;
- You must accept flood flows through your land, even if these are caused by inadequate capacity downstream. There is no duty in common law for any landowner to increase the drainage capacity of a watercourse on their land;
- You must maintain the bed and banks of the watercourse, as well as the trees and vegetation growing on the banks. This includes keeping the bed and banks free of debris, both natural and man-made, even if it did not originate from your land;
- You must keep the surrounds of the watercourse free of loose debris which would be washed into the stream during heavy storms or high flows, causing blockages downstream. This also includes debris which could impact on water quality should they be washed into the watercourse (for example, grass cuttings, litter and chemical containers);
- You must keep any structures that you own (for example culverts, trash screens, weirs, mill gates, bridges) free of debris and ensure they are in good working condition;
- You are responsible for controlling any invasive species such as Japanese Knotweed and Himalayan Balsam.

4.3 The various legislation covering Riparian Owner responsibilities are:

- The Public Health Act 1936;
- The Land Drainage Acts of 1991 and 1994;
- Water Resources Act 1991;
- Flood and Water Management Act 2010.

4.2 With regards to un-registered watercourses, these cannot be left without due maintenance being undertaken. Of course, any resultant flooding incidents, which almost certainly will occur during heavy

rainfall events, due to the lack of maintenance, will be seen by the general public as the failure of the Council to act responsibly.

5. STRATEGIC PURPOSES - IMPLICATIONS

Relevant Strategic Purpose

- 5.1 **Communities which are safe, well maintained and green** – keeping watercourses well maintained benefits the community as a whole. If an area experiences frequent flooding, this becomes a nuisance to the community, can restrict access to property, makes everyday living difficult, and results in considerable expense and inconvenience for those that have been flooded. If a watercourse is carefully maintained, it can create an excellent habitat for wildlife including protected species, such as native crayfish, water voles, great crested newts, nesting birds and bats.

Climate Change Implications

- 5.2 Climate predictions indicate more intense rainfall which could lead to increased flooding, especially during the summer months, when vegetation growth is most likely to restrict narrow watercourses. The UK has been on average 6% wetter over the last 30 years, with 2020 being the 5th wettest year on record.

6. OTHER IMPLICATIONS

Equalities and Diversity Implications

- 6.1 There are no equality impacts arising from this report.

Operational Implications

- 6.2 Within the new MCEAWC, provision has been made for the tenderers to provide specific rates for these maintenance works, so that they will be aware of their work requirements from day one of the contract. Had the maintenance works been added possibly mid-way through the existing contract, the incumbent contractor could have been well justified in requesting additional monies, as such works could not have been envisaged at the commencement of their contract. Therefore, it is expected that including the measured work within the new tender document will realise keener rates.

7. RISK MANAGEMENT

- 7.1 As highlighted within the report, failure to adequately maintain these watercourses could well result in flooding events, that may seriously affect buildings and other land. As a consequence, there is always a possibility that a compensation claim could be made against the Council.

8. APPENDICES and BACKGROUND PAPERS

Appendix 1 - Watercourse Maintenance Schedule

Appendix 2 – Drawing No. P2104/3 - Key Plan showing Site Locations

Cabinet

30 March 2022

9. **REPORT SIGN OFF**

Department	Name and Job Title	Date
Portfolio Holder	Councillor Margaret Sherrey	24 February 2022
Lead Director/Head of Service	Guy Revans - Head of Environmental and Housing Property Services	21 February 2022
Financial Services	Peter Carpenter Interim Deputy S151 Finance	22 February 2022
Legal Services	Clare Flanagan Principal Solicitor	22 February 2022
Policy Team	Emily Payne Engagement and Equalities Advisor	16 February 2022
Climate Change Officers	Kath Manning - Climate Change and Energy Support Officer Anna Wardell-Hill Environmental Policy and Awareness Officer	16 February 2022