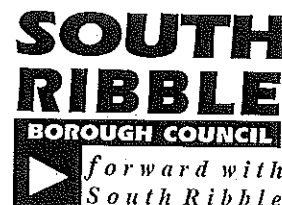


RECORD OF DECISION TAKEN UNDER SCHEME OF DELEGATION BY MEMBER OF SENIOR MANAGEMENT TEAM IN CONSULTATION WITH PORTFOLIO HOLDER/COMMITTEE CHAIRMAN



SMT Member:	Denise Johnson
Service Group:	Regeneration and Healthy Communities
Portfolio Holder/Chairman:	Councillor M Smith
Portfolio/Committee:	Cabinet <i>Healey</i>

Subject: Defective Storm Water Culvert St Mary's High School, & Worden Park Leyland

Decision: To approve additional funding for the Land Drainage budget to cover the cost of the emergency work. To also approve the use of the contractor currently engaged in works on Worden Park.

Details and Reasoning:

There has been repeated internal flooding to properties in Parkgate Drive/Royal Avenue area of Leyland. Following extensive investigation it has been confirmed that a culvert which forms part of the storm water system has been damaged by tree roots, which impede the flow of water, leading to increased incidents of flooding.

The solution is to excavate and remove the offending section of the concrete culvert and replace with a twin wall PVC pipe, and also to prevent reoccurrence of the penetration by tree roots by removing the offending tree (s).

The responsibility to deal with the issue generally falls on the landowner. Ownership has been researched and information supplied by the Land Registry indicates that the land in question is in the ownership of the Council. This information was unexpected as the area in question not only does not appear on our records but also is within the school grounds of St Mary's and was believed to be owned by the diocese or the County Council. Further the information from the Land Registry includes other land which currently has 4 individual houses erected upon it (A map is included with the report). This whole issue of ownership is currently being explored, but is likely to take some time. Ideally we would wait for this to be resolved before undertaking remedial work, but there is a significant risk to the Council particularly at this time of year, of there being a reoccurrence of flooding and the risk of third Party claims at least in the first instance against the Council as land owner. On this basis it is recommended that immediate action is taken to carry out the remedial works. The estimated costs for this are £6,000 and subject to weather conditions the work can be done over the Christmas period thereby reducing the risk when Council staff will not be available.

Wider Implications (including Financial, Legal and Risk): There is a risk that further investigation may reveal that the land does not belong to the council. In this case a land charge can be placed on the land to recover the costs in the

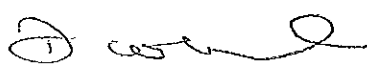
longer term. The risk of waiting until this issue has been fully resolved is identified above.

Report attached?
Exempt from publication?
If exempt, give reason(s):
Signed:

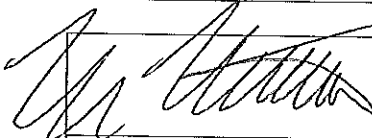
Yes
No

J. Blundell
Date: 23/12/10

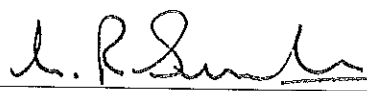
Financial Management


Date: 23/12/10

Legal Services


Date: 22-12-10.

SMT Member


Date: 22 - 12 . 2010

Portfolio Holder/
Chairman

Publication Date (DST use):

24 - 12 - 10

Decision Template revised July 2004

THIS DECISION WILL COME INTO FORCE AND MAY BE IMPLEMENTED FIVE WORKING DAYS AFTER ITS PUBLICATION DATE, SUBJECT TO BEING CALLED IN IN ACCORDANCE WITH THE COUNCIL'S CONSTITUTION

REPORT TO	DATE OF MEETING
Cabinet	February 2011



Report template revised June 2008

SUBJECT	PORTFOLIO	AUTHOR	ITEM
Defective Storm Water Culvert St Mary's High School, & Worden Park Leyland		D.A.Johnson	

SUMMARY AND LINK TO CORPORATE PRIORITIES

This report seeks emergency works to be undertaken to help address flooding of the Parkgate Drive/ Royal Avenue area of Leyland. Extensive investigation has confirmed that a culvert has been damaged by tree roots leading to increased incidents of flooding. Ownership has been researched and information supplied by the Land Registry indicates that the land in question is in the ownership of the Council.

RECOMMENDATIONS

It is recommended that

1. the Chief Executive under Standing Order 38 consults with the Leader of the Council to make an urgent decision to commission the remedial works described above, and for expediency,
2. the Chief Executive waive financial standing orders to utilise the contractor currently engaged in other drainage remedial works on the Worden Park.

DETAILS AND REASONING

There has been repeated internal flooding to properties in Parkgate Drive/Royal Avenue area of Leyland. Following extensive investigation it has been confirmed that a culvert which forms part of the storm water system has been damaged by tree roots, which impede the flow of water, leading to increased incidents of flooding.

The solution is to excavate and remove the offending section of the concrete culvert and replace with a twin wall PVC pipe, and also to prevent reoccurrence of the penetration by tree roots by removing the offending tree (s).

The responsibility to deal with the issue generally falls on the landowner. Ownership has been researched and information supplied by the Land Registry indicates that the land in question is in the ownership of the Council. This information was unexpected as the area in question not only does not appear on our records but also is within the school grounds of St Mary's and was believed to be owned by the diocese or the County Council. Further the information from the Land Registry includes other land which currently has 4 individual houses erected upon it. See attached map. This whole issue of ownership is currently being explored, but is likely to take some time. Ideally we would wait for this to be resolved before undertaking remedial work, but there is a significant risk to the Council particularly at this time of year, of there being a reoccurrence of flooding and the risk of third Party claims at least in the first instance against the Council as land owner. On this basis it is recommended that immediate action is taken to carry out the remedial works. The estimated costs for this are £6,000 and can be undertaken before Christmas thereby reducing the risk over the Christmas period when both Council staff and contractors will not be available.

There is no budget identified to cover these costs and it is recommended that if necessary general reserves should be earmarked.

If the situation with regard to ownership is resolved such that the Council is shown not to be the owner of the land then it would be appropriate to place a land charge on the land in question to recover the costs of the work.

It is recommended that the Chief Executive under Standing Order 38 consults with the Leader of the Council to make an urgent decision to commission the remedial works described above, and for expediency, to waive financial standing orders and to utilise the contractor currently engaged in other drainage remedial works on the Worden Park.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

FINANCIAL	<p>There is currently no budget identified to cover the remedial works which are estimated to cost £6,000. Therefore it is recommended that the 2010/11 Land Drainage budget is increased by £6,000 and this increase be funded from general reserves.</p> <p>If the Council is shown not to be the owner of the land and any costs are recovered in the future then the funding from reserves will be reinstated.</p>		
LEGAL	<p>The ownership of the land in question is being investigated by legal services. Nevertheless the Land Registry records suggest that the land is in the Council's ownership.</p> <p>If the Council is indeed the land owner then it would have the responsibility for maintaining the culvert. On this basis it is prudent for the Council to take urgent remedial action. If it is subsequently shown that the Council is not the owner of the land (and that by extension it does not have responsibility for maintaining the culvert) then the Council could recover its expenditure by entering a charge on the land charges register.</p> <p>The relevant legislation is the Land Drainage Act 1991 Sec 25.</p> <p>The action taken will be reported back to the next Cabinet meeting in February 2011.</p>		
RISK	<p>The full risk assessment forms part of the background papers to this report. The main points for consideration are summarised here:-</p> <p>There is a risk that the Council undertakes the work and is not the owner of the land. However if the situation with regard to ownership is resolved such that the Council is shown not to be the owner of the land then it would be appropriate to place a land charge on the land in question to recover the costs of the work.</p> <p>If the work is not undertaken there is a risk of further flooding and potential claims against the Council.</p>		
OTHER (see below)			
Asset Management	Corporate Plans and Policies	Crime and Disorder	Efficiency Savings/Value for Money

<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

Risk Assessment

