

Community Flood Action programme – Riparian Maintenance Fund

To: Environment and Green Investment Committee

Meeting Date: 16 September 2021

From: Steve Cox; Executive Director – Place and Economy

Electoral division(s): All

Key decision: No

Forward Plan ref: n/a

Outcome: To agree the situations in which funding will be spent on / given to riparian owners to undertake one-off recovery/remedial works on privately owned watercourses.

Recommendation: The Environment and Green Investment Committee is asked to approve the recommended approach for riparian maintenance funding.

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1. Background

Recent Flooding

- 1.1 Cambridgeshire experienced flooding to a great many properties over winter 2020/21. Over 300 homes were flooded internally, along with numerous commercial properties and some municipal buildings. Road and garden flooding was also widespread throughout the county.
- 1.2 The county experienced flooding from Main Rivers and from Surface Water. The Council's duties relating to Flood Risk can be divided into the following types: surface water runoff, ordinary watercourses and groundwater however, this programme will, where possible, cover all types of flood risks to ensure a more comprehensive approach for communities.
 - a. The principal source of flooding in winter 2020/21 was the prolonged rainfall and saturated soils experienced during December and January. This resulted in:
 - a number of heavy downpours causing direct flooding plus surcharging of road drainage which then overtopped the road in many cases
 - a significant overall increase in the amount of water in the environment, leading to significantly increased groundwater levels and greater infiltration of surface water into the foul sewers

These other factors will also have had an impact on the depth of flooding across the county:

- b. A lack of ordinary watercourse maintenance around the county, causing issues like trash screens being blocked with litter which holds water back and causes overtopping of watercourses.
- c. Gradually reducing highway maintenance in line with budget cuts leading to some road gullies being blocked by silt or tree roots
- d. Infiltration of surface water into the foul system around manholes, residential misconconnections, the lifting of foul manholes during flooding, and developments connections allowed under the Water Industry Act; these will all have inadvertently increased the risk of foul flooding as large volumes of rainwater will overwhelm the capacity of the foul sewers.

Riparian Watercourses and Maintenance

- 1.3 There are hundreds of watercourses in Cambridgeshire, **all** of which will have a responsible riparian owner. This is the landowner whose land the watercourse is either in, or neighbours. This concept is well recognised in law with many solicitors producing information online about it, but it is still not common knowledge among communities. This results in many not being aware of their responsibilities and/or trying to deny them. Some landowners are aware but struggle to take on the maintenance that is required to protect their downstream neighbours from flooding.

In addition to having a responsible riparian owner, a few types of watercourses have an additional public body who has been given powers or duties to carry out certain types of maintenance. The responsibilities of the riparian owner **do** still apply even where another body also has a role, for example:

- a. Main Rivers - the EA (Environment Agency) have a power (not a duty) to maintain the watercourse for flood risk management purposes, which means they will prioritise which Main Rivers most need major works or maintenance and carry out those. Otherwise maintenance such as minor river obstructions, bank stabilisation or works

related to water quality and habitat would fall to the neighbouring landowner. The EA's powers, however, do mean that the resident would need permission from the EA to carry out the works. Likewise if the EA wishes to carry out works outside of its standard flood remit, it will request the permission of the landowners

b. Awarded Watercourses – A number of watercourses in the county have been specifically awarded to relevant parties because the risk was deemed great enough to instil a specific legal duty for maintenance on that party. In many (but not all) cases the watercourse is awarded to the District Council who retained their powers to maintain and do works on ordinary watercourses when the Flood and Water Management Act 2010 was enacted. As with Main Rivers regular vegetation clearance, bank stability is still the responsibility of the riparian owner but it is best for residents in this situation to get in contact with the District Council to understand when the local authority maintenance takes place and to agree the best approach.

- 1.4 The County Council only has duties to manage watercourses where it is the riparian landowner, i.e., where our Estates Team own land in an area, or if a drain has been built specifically to drain the highway and has been adopted accordingly as a highway asset.

Full Council Funding

- 1.5 In March 2021 funding was approved by Full Council for the use of improving resilience in communities across Cambridgeshire. This programme has been named the Community Flood Action programme and the subject of this paper forms one part of the programme.

2. Main Issues

- 2.1 Our main goal is to reduce flood risk, and although the County Council has powers to enforce watercourse maintenance and management by riparian owners, this is not always the most efficient way to achieve this goal. There may be situations where riparian owners are unable to carry out their riparian duties for several reasons where enforcement is not the answer. For example, riparian owners may not have the financial means to fund the works, and they may also be unable to carry out the works safely themselves. In addition, enforcement can also be an extremely costly procedure in terms of staff time and legal fees.

By offering funding for such maintenance there are additional benefits other than just reduced flood risk. These include an increase in community awareness of flood risk, the ability for us to encourage communities to prepare a flood plan with funding as an incentive, the ability to encourage greater ecological benefit as a result of the works, and better thought out long-term plans for proposed works taking into account climate change (i.e. not just the bare minimum).

As a result, we are proposing to offer funding to those who are unable to undertake riparian maintenance themselves. Where landowners cannot be identified (either by communities or the County Council), local flood groups or Parish Councils will be encouraged to apply for funding for riparian maintenance activities they can deliver themselves.

Applications for funding will be assessed on the following criteria:

- How does the proposed maintenance activities address recognised flood issues?
- Do the proposed works have strong community support?
- Do the works demonstrate value for money?
- How will the works realise benefits to your local community?

Successful applications will be able to demonstrate the following criteria:

- The works will alleviate a recognised flood risk
- There is an established Community Flood Action Group in the area

The project will include one of the following elements in its technical scope:

- Increases drainage capacity of existing infrastructure
- Makes material improvements to existing infrastructure
- Provides ecological benefit

Each application will require the support of their local County Councillor and all applications that achieve a score of 65 or greater as per the Project Evaluation Scorecard below will be considered.

Project Evaluation Scorecard

		Score for section
Section 1: Property protected	51+ Residential properties	10
Select most appropriate	21-50 Residential properties	9
Use historic flood events to determine answer	11-20 Residential properties	8
	6-10 Residential properties	7
	1-5 Residential properties	6
	Public highways	5
	Public amenities	4
	Commercial premises	2
	Private access	1
Section 1 Total Score:		

Section 2: Community impact	Volunteer working	5
Select those that apply	Match funding	3
	Provision of services to community	2
	Developing a stronger community	5
	Commitment from the community to deliver the project including further maintenance	10
Section 2 Total Score:		

Section 3: Cost of project	<£5k	10
Select most appropriate banding	£5k - £7.5k	9
	£7.5k - £10k	8
	£10k - £20k	7
	£20k - £30k	6
	£30k - £40k	5
	£40k - £50k	4
	£50k - £60k	3
	>£61k	2
Section 3 Total Score:		

Section 4: Previous Flood Funding	<£2k	10
Select most appropriate banding	£2k - £5k	9

Funding relating to flooding already granted by CCC in the parish	£5k - £7.5k	8
	£7.5k - £10k	7
	£10k - £20k	6
	£20k - £30k	5
	£30k - £40k	4
	£40k - £50k	3
	£50k - £60k	2
	>£61k	1
Section 4 Total Score:		

Section 5: Technical evaluation		
Drainage strategy and maintenance	Project is likely to deliver local benefit	5
Select those that apply	Project addresses recognised flood risk	5
Technical scope meets the following elements	Scope proportional to desired outcomes	5
Select those that apply (minimum 1 to be eligible for funding)	Costs represent accepted value for money	5
	Project unlikely to cause domino issues	5
	Project provides ecological benefit	5
	Project makes material improvements to existing infrastructure	5
	Project increases drainage capacity of existing infrastructure	5
	Project likely to provide ongoing benefits	5
Section 5 Total Score:		

Total score for project: /100

2.2 Further to the above, certain applications for funding will be given special consideration to ensure that smaller, more rural, and more isolated communities or residents are not excluded. In these situations we will encourage community representatives and/or residents to contact the Flood and Water Team to discuss their situation. In this situation we may need to employ means testing to confirm that applications are not fraudulent and to ensure that applicants are financially unable to have the works carried out on their behalf. Given that the works are likely to vary in cost, this will need to be assessed on a case-by-case basis. An option would be to bring such applications to the Environment & Green Investment Committee for approval.

2.3 In order to ensure the funding is spent in line with the agreed works, a similar model to the Grant Agreements issued under Section 17 of the Ancient Monuments & Archaeological Areas Act 1979 will be used.

3. Alignment with corporate priorities

3.1 Communities at the heart of everything we do

The following bullet points set out details of implications identified by officers:

- The riparian maintenance criteria set out above encourages communities to work well together to identify risks in their local area.

3.2 A good quality of life for everyone

The following bullet points set out details of implications identified by officers:

- The riparian maintenance programme will help communities understand and take local action to maintain their assets which in turn will reduce their risk but increase their preparedness to flooding
- Enhanced maintenance of watercourses should help to reduce flooding to homes and therefore improve quality of life

3.3 Helping our children learn, develop and live life to the full

There are no significant implications for this priority

3.4 Cambridgeshire: a well-connected, safe, clean, green environment

The following bullet points set out details of implications identified by officers:

- Working with communities to ensure key watercourses are maintained appropriately should help to reduce flooding to homes therefore creating a safer environment

3.5 Protecting and caring for those who need us

The following bullet points set out details of implications identified by officers:

- It is recognised that not all riparian owners are able to maintain their own watercourses for a variety of reasons. Providing funding as a one-off to maintain their watercourses will bring them back to a state where they are far easier to maintain in the future, placing less burden on those owners.

4. Significant Implications

4.1 Resource Implications

The following bullet points set out details of significant implications identified by officers:

- The resource implications are contained within the body of the report and have already been agreed as part of the Full Council budget decision. The grants will only be given to the total amount of funding available.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

The following bullet points set out details of significant implications identified by officers:

- Procurement rules will be followed for the procurement of contractors to work on the delivery of the program's outputs. There are therefore no significant implications within this category.

4.3 Statutory, Legal and Risk Implications

The following bullet points set out details of significant implications identified by officers:

- There is a risk that the decision over whether or not to award funding is challenged by applicants who are unsuccessful. If approved, the criteria in this paper will provide robust justification for allocation of funding in most cases.
- Works will be carried out by communities and there may be a risk of injury or inadvertent increase in flood risk if works are not properly planned. We will seek legal advice to ensure CCC cannot be held accountable in any way for works undertaken by communities using the funding provided by CCC.

4.4 Equality and Diversity Implications

The following bullet points set out details of significant implications identified by officers:

- The report above sets out details of significant implications in paragraph 2.2

4.5 Engagement and Communications Implications

The following bullet points set out details of significant implications identified by officers:

- Appropriate public communication of the policy for riparian asset maintenance funding will be required. This will be worked through with the Communications team.

4.6 Localism and Local Member Involvement

There are no significant implications within this category.

4.7 Public Health Implications

There are no significant implications within this category.

4.8 Environment and Climate Change Implications on Priority Areas

4.8.1 Implication 1: Energy efficient, low carbon buildings.

Positive/neutral/negative Status: Neutral

Explanation: No works are proposed to buildings as part of this programme

4.8.2 Implication 2: Low carbon transport.

Positive/neutral/negative Status: Neutral

Explanation: No works involve transport as part of this programme

4.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Positive/neutral/negative Status: Positive

Explanation: Improved maintenance of watercourses can increase the usability of the open spaces they pass through.

4.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Positive/neutral/negative Status: Neutral

Explanation: No works involve waste management or plastic pollution

4.8.5 Implication 5: Water use, availability and management:

Positive/neutral/negative Status: Positive

Explanation: Improved maintenance of watercourses allows water to be managed more appropriately to reduce flood risk to both properties and land.

4.8.6 Implication 6: Air Pollution.

Positive/neutral/negative Status: Neutral

Explanation: No works will affect air pollution

4.8.7 Implication 7: Resilience of our services and infrastructure, and supporting vulnerable people to cope with climate change.

Positive/neutral/negative Status: Positive

Explanation: Improved watercourse maintenance will provide better management of water and reduce the risk of flooding to properties and infrastructure. The reduced risk of flooding in turn reduces the burden on our response teams such as highways and emergency planning who will be called out less frequently to deal with flooded roads. The purpose of the funding is to assist those who are unable to undertake works themselves, such as vulnerable individuals.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Sarah Heywood

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes

Name of Officer: Henry Swan

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Amy Brown

Have the equality and diversity implications been cleared by your Service Contact?

Yes

Name of Officer: Elsa Evans

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: Amanda Rose

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Emma Fitch

Have any Public Health implications been cleared by Public Health? Yes

Name of Officer: Iain Green

If a Key decision, have any Environment and Climate Change implications been cleared by Not key decision

Name of Officer:

5. Source documents guidance

5.1 Source documents

None