

DUDLEY METROPOLITAN BOROUGH COUNCIL

SELECT COMMITTEE ON THE ENVIRONMENT – 16TH SEPTEMBER 2009

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

DRAINAGE RESPONSIBILITIES

Purpose of Report

- 1 To inform the Committee of the respective roles, obligations and responsibilities of the Council, Severn Trent Water Limited (STWL), the Environment Agency (EA), British Waterways (BWB) and riparian owners in respect of drainage matters.
- 2 To update on the Floods and Water Management Bill (F&WMB).

Background

- 3 Members of the Committee will be aware that unprecedented levels of rainfall were experienced across the country in recent years.
- 4 Worldwide debate continues over the implications of global warming and climate change on weather patterns in the UK and its direct impact on land, the environment and in particular local communities. Whilst views on its long term impact remain divided, instances of extreme weather are continuing to increase.
- 5 Against this background Sir Michael Pitt was commissioned by the Government to review the country's preparedness for catastrophic flooding events with particular reference to their increased likelihood resulting from the effects of 'Global warming'. This led to the introduction to Parliament of the Floods & Water Management Bill (F&WMB).
- 6 Whilst the local authority has a clear responsibility to manage and maintain its drainage infrastructure in a range of differing capacities, other agencies such as STWL, EA, BWB and private land owners as riparian owners also have a range of responsibilities. In addition, those involved in approving planning applications through the Development Control Process have a responsibility to ensure that future developments make adequate provision for site drainage that is not prejudicial to the capacity of the existing infrastructure.

- 7 The report seeks to identify clear lines of responsibility in respect of ongoing management and maintenance of drainage in the borough and details measures that are in place to ensure drainage matters are progressed and effectively co-ordinated.

Highway Drainage

- 8 The Council has a total of 967 km of highway in the borough and is responsible in its capacity as the Highway Authority for maintaining adequate drainage of the highway. The Gully Cleaning Service was the subject of a report to this Committee on 29th January 2007.
- 9 The capacity of the highway drainage system is designed to alleviate surface water ponding on the carriageway to enable safe vehicular and pedestrian passage and not as a flood relief mechanism to surrounding areas.
- 10 Many areas of residential hard surfacing discharge to carriageways something that is not part of the capacity requirement for highway drainage. And it is the case, anecdotally, that over the last few years residential hard surfacing has increased dramatically.
- 11 Gully cleaning is vital in securing improved safety for users of the highway and is an essential part of the Councils Maintenance Programme, as free flowing gullies ensure that water is adequately removed from the surface of the highway. This is particularly important during the winter months as blocked gullies allow water to flow across the carriageway, removing salt and increasing the likelihood of freezing conditions. Blocked gullies can also result in highway waters causing damage to third party land and property.
- 12 In the event of flooding on the highway, whereas the authority will provide an operational presence, activity to reduce the effects of localised flooding is limited, particularly if underground drains are full to capacity. Whilst small quantities of standing water, can be removed, in extreme cases, emergency cleaning teams cannot move in until water naturally subsides. In such cases, support is provided through mechanical sweeping operations, inspections of gullies, the removal of any blockages and in extreme cases support from the Councils Emergency Planning Team.

Watercourses – the Council/Environment Agency

- 13 Put simply the Council is the local Land Drainage Authority and the EA is the strategic Land Drainage Authority.
- 14 Watercourses are the natural lines of drainage that predate the urbanisation of the area. They are the rivers, streams and brooks that comprise the tributaries draining to the River Stour on the western side of the Severn Trent watershed (Sedgley Beacon – Wrens Nest – Rowley – Quinton – Clent) the majority of the borough - and to the River Trent on the eastern side.

- 15 In the Council's area there is circa 35km of Main River and 55km non Main River
- 16 The Council and the EA have similar responsibilities in respect of watercourses under their jurisdiction. A watercourse may be classified as Main River (under the control of the EA) or non Main River under the control of the Council.
- 17 Connections to a watercourse are controlled by a discharge consent controlled (in all cases) by the EA and they are also a statutory consultee in respect of Planning Applications that either affects a flood plain or river corridor.
- 18 Where a watercourse forms a boundary between landowners, each is jointly responsible as riparian owner to keep it clear of obstruction. It is the case, however, that changes of ownership over the years means that in some cases riparian ownership responsibilities do not lie with current owners as would appear to be the case from Land Registry Title, but with the original land owner as such responsibilities were not conveyed. These issues with the registration of land have been noted in the consultation response to the F&WMB.
- 19 As development of the urban area progressed, some of these watercourses were culverted (that is the courses were buried and flow passed through an underground conduit nowadays typically concrete pipes hitherto brick culverts) and became designated as culverted watercourses, being the responsibility of the land owner. The Council assumes such responsibility where it is land owner and one exemplification of this is where a watercourse passes under a highway and the Council as Highway Authority is responsible. Such instances may be a single bridge or part of a longer culverted section. It can be seen, therefore, that an extended length of culverted watercourse may have differing owners as it passes through different ownerships.
- 20 The EA has a presumption against culverting watercourses and where possible seeks, through the Development Control process, to open up lengths that have been culverted.
- 21 It is the case that when the Council had a controlling interest in drainage (prior to 1974 and was what is currently defined as the sewerage undertaker) designation of culverted watercourses as sewers following development had distinct advantages. From 1974 to 2000 the Council acted on STWLs behalf under the terms of an Agency Agreement. However, following withdrawal of the agency arrangements in 2000 a review by STWL declassified many lengths of pipeline previously considered as sewers meaning they are now designated as culverted watercourses. This places a significant liability in respect of maintenance of culverts and pipelines both on private landowners and the Council.

- 22 To the layman, there can be little to distinguish between a culverted watercourse, a surface water sewer (maintainable at STWL expense), a highway drain (being a pipeline that solely serves highway drainage) and a private sewer – this clearly gives rise to difficulties in assigning liability during time of flooding.
- 23 Open watercourses as river tributaries, used to be the responsibility of the local authority, however, directives from DEFRA associated with ensuring greater control over flood risk meant that some of these have now been classified as Main River being under the jurisdiction of the EA with ordinary watercourses remaining under the jurisdiction of the Council (subject to riparian owner responsibilities). This has added further confusion to liability.
- 24 Responsibility arising from clearing up following flooding is complex. Where flooding arises from Main River the EA see community assistance in the immediate aftermath lying with the local authority under its emergency powers - there is no specific budgetary provision for this work. Debris clearance from land lies with the landowner - which may be Council or otherwise. However, matters that are beyond the scope (trees/ cars/large debris) of private (in the main residential properties) landowners the Council (non Main River) and the EA (Main River) has permissive powers to deal with the matter.
- 25 Whilst Main River is maintained by the EA in accordance with their main river criteria (generally dealing with matters beyond the scope of private residential land owners as above) the EA could use their powers to serve notice on the Riparian owner to undertake maintenance works. This may typically be the case where an Industrial riparian owner has tipped waste material alongside the river or has failed to maintain the banks.
- 26 Non Main River Watercourses are maintained by the Council to ensure grids (42No) are kept clear of detritus and cleared on a quarterly basis and following significant storm events. A risk assessment has been undertaken and certain grids defined as critical (9No) merit more frequent attention in particular when adverse weather conditions are predicted being also inspected post storm event. In this regard community support is sought to advise of blockages. Digital photographs and records are maintained before and after to validate actions in case of third party claims. This work is funded from the Land Drainage Budget.
- 27 Letters explaining responsibilities are sent both by the EA and the Council to Riparian Owners where watercourses are obstructed by, in the main, fly tipped material - the recent expansion of the green waste collection service in the borough has reduced the incidence of this problem. It is the case that whilst the Council/EA may use their permissive powers as above, it is the responsibility of the landowner to deal with detritus where it accumulates.

- 28 The incidence of siltation requires a determination of the hydraulic regime requirement of the watercourse to ensure that performance is not prejudiced. This is particularly important to ensure that upstream clearance and associated increase in carry through discharge doesn't prejudice downstream properties.

Riparian Owners

- 29 Private land owners who abut watercourses are riparian owners
- 30 The EA's Living on the Edge annexed to this report as appendix A sets out a guide to the rights and responsibilities of riverside occupation (being the landowners responsibility as riparian owner). This guide is equally applicable to any land that is adjacent to a watercourse.
- 31 The Council is a significant landowner alongside watercourses both main and non Main River and as such has responsibilities associated with maintenance. There are no composite plans that explicitly set out the extent of the Council's responsibilities in this regard.
- 32 As part of investigations undertaken into flooding in Halesowen it was confirmed that the former Halesowen Council had reserved parcels of land alongside the Illey Brook as "flood berms" in this circumstance owners of property flanking the watercourse are not riparian owners as may appear to be the case.

Severn Trent Water Ltd (STWL)

- 33 STWL is the Sewerage Undertaker for the Council's area and is responsible for maintenance of the foul and surface Water sewerage networks maintainable at the companies' expense.
- 34 Foul Water Sewers take foul sewage from properties to the sewage works. These can be overloaded during times of excessive rainfall by drainage from drives and yards that have been illegally connected by private owners. Flooding from these sewers is most distressing as foul sewage can be deposited. Such instances are brought to the attention of STWL and the EA. (Changes in planning legislation now require that householders should no longer pave areas with non permeable materials without seeking planning permission).
- 35 The combined sewers that exist in older parts of the borough take foul and surface water discharge from properties and runoff from highway gullies to the sewage works. As with foul sewers, flooding can result in sewage being deposited.
- 36 Surface water sewers take surface water from properties and the highway and discharge to local watercourses. These sewers contribute to flooding where they run above capacity. It is the case that sewers have a design capacity that is more frequently exceeded under the current climatic conditions being experienced.

- 37 The programme of works now undertaken by STWL is directed by the terms of their licence held with Government - where the investment associated with service standards in the water industry (in connection typically with frequency/scale of flooding and structural deterioration) is set against the background of charges to customers. The next licence review will be for the 2010-15 period and members may be aware of the Governments response to the proposed level of savings that are expected in this period. Clearly the changing climatic conditions are a matter that Government will be seeking to address (or not as the case may be) against the background of affordability by the consumer.
- 38 Enquiries that are received by the Council regarding flooding, which are related to STWL infrastructure, are forwarded to them directly, with many issues jointly discussed between respective STWL officers and Council officers. It is the case that STWL have not been helpful in this regard a matter that the F&WMB seeks to address.
- 39 Any new surface water connection to a public sewer requires approval from STWL. STWL may refuse the request if an uncontrolled discharge prejudices the performance of the sewerage system. In this circumstance they may require expensive attenuation works (provision of storage tanks) to reduce the rate of discharge to the sewer. The F&WMB removes this automatic right of connection necessitating the use of Sustainable Urban Drainage Systems (SUDS).
- 40 To assist members of the public in the event of flooding, the Councils first point of contact is Dudley Council Plus. STWL also provides a Floodline emergency contact number that is held at Dudley Council Plus.
- 41 Responsibility for clearing up debris following flooding from STWL Sewers lies with them and as a private company they are liable for any damage accruing where negligence on behalf of the company can be proven.
- 42 Under the provisions of the F&WMB STWL will be required to provide details of their assets and hydraulic performance to the Council in its new capacity as Lead Local Flood Authority (LLFA).
- 43 As previously discussed the Council acted as agents to STWL until 2000 when responsibility reverted to the company. This meant that not only an integrated approach to drainage was lost (all functions being managed in one unit) but also staff resources capable of assisting in the Land Drainage function were depleted.
- 44 As set out in paragraph 21 It is also the case that following withdrawal of the Agency pipelines historically considered as sewers maintainable at company expense were devested by STWL meaning that they are now classified as culverted watercourses the responsibility of the landowner through which they pass.

British Waterways Board

- 45 BWB own and manage the Canal infrastructure that forms a crucial part of the local drainage infrastructure.
- 46 Bodies of water that provide feeds to the Canals may act as flood balancing facilities typically at Fens Pool and Lodge Farm Reservoir and the canals also act as conduits for surface water receiving discharges from Surface Water Sewers and private premises these being subject to a licence and an annual charge.
- 47 Water from the discharges referred to above maintains water levels in the canals when this is exceeded overflow weirs discharge excess flow to watercourses (being either main or non Main River) such overflows being subject of discharge consents and annual fees. In the majority of cases discharge consents were negotiated in the early nineteenth century and now provide income disproportionate to the liability associated with the discharge.
- 48 Under the provisions of the F&WMB BWB will be required to provide details of their assets and hydraulic performance.

Mines Drainage

- 49 Dudley was heavily mined in the 19th Century and the Mines Drainage Commissionaires were established with responsibility for ensuring the mines were drained. This was achieved by the construction of culverts to divert water from the mine to the adjacent watercourse – often at great depth. The systems were extensive and the conduits were used by successor local authorities to provide convenient outfalls for local drainage. Whilst these systems are mostly now abandoned or replaced (the culvert through Leys Tip being one such example replaced in the early 1970's) in the Wallows Area of Brierley Hill Mines Drainage still comprises the main outfall to the Wordsley Brook
- 50 The system mentioned above is in a state of partial collapse as evidenced by flooding at Foots Hole, being an area to the west of the Dell Stadium.
- 51 The Commission was wound up in the mid 1970's and in researching responsibilities Counsel's opinion was sought. It is the case that as the Commissionaires were assigned by Parliamentary enactment residuary responsibility passed (theoretically) to the Lord Chancellor or his successor in title.
- 52 Notwithstanding the residuary responsibility set out above in the case of Footshole, as the Council is landowner, and as the Mines Drainage serves a land drainage function, responsibility lies with the Council as successor in title to the land. Counsel advised that the Lord Chancellors responsibilities were exercised by the Ministries of State namely the Department for Environment Food and Rural Affairs now by

the EA to whom application could be made for grant under their grant aided land drainage function.

- 53 Accordingly a scheme to replace the Footshole system, in the sum of circa £2.0m, was submitted for funding by way of grant to DEFRA in 2001. However, the national flooding situation has meant that the priority ranking for this scheme is insufficient to attract grant. This situation exacerbates flooding in the immediate environs namely Bryce Road.

Flood Balancing Facilities

- 54 Some of the large bodies of water that exist in the borough, King George VI Park, Sedgley Hall Pool and Milking Bank Pool for example, act as flood storage pools balancing excess discharge during time of storm and in the case of King George VI pool act as a sacrificial facility protecting the downstream watercourse (Dawley Brook) from excess flow. This was demonstrated during the storms in 2007 when the King George Pool filled to capacity and damage to downstream property was significantly reduced from that experienced prior to 1976 when the facility was developed (prior to 1976 there was a Planning Embargo on the Dawley Brook Catchment that prevent development of any kind).
- 55 There is an issue of maintenance for hydraulic purposes versus amenity maintenance where the latter may require a higher level of care to accommodate the prevailing environment this is separate from the matters under consideration in this report.
- 56 Canals also act as balancing facilities and discharge to watercourses via overflow weirs as set out above.
- 57 STWL use underground attenuation tanks to balance flows and regulate storm discharges to downstream systems that would otherwise surcharge and cause flooding.
- 58 Sustainable Urban Drainage Systems as set out below also seek to attenuate peak flow as they retain water in the catchment.

Sustainable Urban Drainage Systems (SUDS)

- 59 It can be seen from the foregoing that there are considerable pressures on the drainage infrastructure.
- 60 In order to mitigate the flows and pollution arising from new development SUDS have been developed to retain water on site and slow release the discharge to the drainage system. Typically for Greenfield sites SUDS seek to replicate the runoff from the site prior to development.
- 61 Accordingly the benefit of properly designed SUDS is to reduce discharges to sewers and watercourses thereby reducing the risk of flooding downstream. The change in the right to a sewer connection set

out in the F&WMB seeks to set the evaluation of SUDS as a prerequisite to a sewer connection.

- 62 Whilst the benefits of SUDS have been recognised in Planning Policy Guidance 25 *Development and Flood Risk* there has been little take up by developers as currently there is lack of clarity on responsibility for maintenance. The F&WMB seeks to place maintenance responsibilities with the Council with no attendant financial provision

Reservoirs

- 63 Lodge Farm Reservoir (and Himley Hall Great Pool in South Staffordshire area) are classified as reservoirs under the provisions of the Reservoir Safety Provisions Act 1976 and as such are under the superintendence of a Panel Engineer who specifies detailed maintenance regimes and can require remedial works to be undertaken by the owner. Specialist maintenance includes assessment of structural and hydraulic integrity of the dam face and any overflow facilities.
- 64 The F&WMB seeks to enhance the requirement for a body of water to be considered as a reservoir from 25,000 m³ to 10,000 m³. For detail implications see later in report.

Emergency Planning

- 65 In extreme cases of rainfall leading to flooding, the Councils operational teams work closely with colleagues from the Emergency Planning Team, the EA, Emergency services and Dudley Council Plus, receiving and responding to calls from concerned residents and members of the public.
- 66 In particular, the Highways Team regularly respond to requests from residents for sand bags where an inspection takes place prior to delivery to ensure support of the request. Should it be necessary, the team will consider and arrange for road closures and traffic diversions and liaise with other emergency services, including supporting the fire service in respect of flooding to properties and dwellings.
- 67 During recent flooding, the Councils Emergency Planning Team liaised with Council Departments, local businesses and community groups to provide support arrangements, advice and temporary accommodation for residents whose properties had experienced flooding.
- 68 In the case of flooding the F&WMB designates local authorities as Lead Local Flood Authorities being custodians of the community and as such to be the lead in dealing with flooding.
- 69 The Pitt review has identified the need for an informed response when dealing with flood emergencies that catchment modelling will inform. There are two aspects to this approach; a joining up of the

Meteorological office and the EA to inform flood consequences thereby enabling actions to be geared to the flood predictions.

Strategic Flood Risk Assessment (SFRA)

- 70 It can be seen from the aforementioned that flooding is complex.
- 71 The aim of a SFRA is to determine whether development policies regarding the allocation of land will increase the risk of flooding, both within the development and the surrounding area. The assessment should also demonstrate that the plans are consistent with national and regional planning policy. Dudley was included in a Black Country SFRA completed by consultants working for the Black Country Consortium.
- 72 The Government has provided guidance (PPS 25) to help planning authorities manage flood risk and direct development to locations least likely to flood. The guidance requires a sequential test for flood risk, based on mapping which divides all land into three zones depending on their likelihood of flooding.
- 73 The sequential test requires land at lowest risk be developed first. Therefore, Zone 1 (lowest risk) should be developed before Zone 2 and Zone 2 before Zone 3. In certain situations the relative risks of sites within Zone 3 need to be examined e.g. development in appropriately defended areas. The EA may however challenge land allocations in Zone 3 to ensure there are no sites available in the lower risk Zone 2.
- 74 The task of identifying and mapping the three flood zones for England and Wales was given to the EA. The maps produced show areas that could be affected by flooding without the presence of defences. The Flood Zones Map gives an indication of the possible flood risk, and can be accessed from the EA's Internet site.
- 75 This strategic approach should guide development away from the flood plain in order to give a long-term solution to flood risk. A robust SFRA will therefore be a powerful driver for sustainable development.
- 76 The F&WMB designate LLFAs as being responsible for developing flood risk strategies.

Flooding in Dudley

- 77 Flooding in Dudley has become more locally focused as more intense localised storms result in capacity within the various networks being exceeded.
- 78 Prior to 2007 much of the localised flooding was related to capacity of the Surface Water Sewers being exceeded and this is still the case in some local areas. Flooding in Gospel End Rd for example arises from capacity of the downstream detention tank (an underground storage facility that balances peak flow) being exceeded. As a recent installation to current design standards this also demonstrates the

effect of high intensity local storms now being experienced on established infrastructure. Similar symptoms exist in other areas of the borough. Flooding of this nature is the responsibility of STWL.

79 There were also local flooding problems arising from either blocked highway drains or the capacity of the drains to intercept excessive levels of surface water.

80 In the above mentioned circumstances it can be difficult to assign responsibility. Nevertheless it is the case that Severn Trent have been reluctant to respond to surface water flooding.

81 Photographs presented at the meeting will demonstrate the blockage that was caused at Halesmere Way by debris washed from the banks of the Illey Brook and other incidents.

82 A brief synopsis of significant events follows – this is not exhaustive;

2007

83 In 2007 a number of high intensity local storms that were focused on Kingswinford and Halesowen.

84 **Kingswinford** - flooding along Dawley Brook resulted in residents having to leave their homes and undertake flood damage repairs. In 1976 the Park Pool in King George VI Park was designed (along with the creation of a further flood area in the vicinity off Prospect Meadow) to act as a balancing pool. Whilst local reports expressed concern at the level of water attained during the storm in the pool it is the case that the pool operated at design capacity (as confirmed by the Head of Engineering who instigated the design) and protected downstream property. This demonstrates the benefits of use storm attenuation to enable existing infrastructure cope with increased flows and is the hydraulic basis of the SUDS principle.

85 **Halesowen** - property flooding in Halesmere Way and Woodman road but more concentrated in the Grange Crescent area. The scale of flooding resulted in many Grange Crescent residents needing to vacate whilst property flood damage repairs were undertaken.

86 There was also significant highway flooding that caused disruption to major routes.

2008

87 Both Halesowen and Stourbridge experienced the consequences of discharges from the upper reaches affecting downstream property.

88 **Halesowen** - experienced a high intensity storm focused on the Clent Hills, that being already saturated with water, resulted in a rapid high level surge along Illey Brook and the River Stour causing flooding at the Athletics Stadium, Manor Way and properties in Woodman Road, Grange Crescent and Halesmere Way.

- 89 This was the second time that properties were flooded in Grange Crescent in less than two years. Although records indicate that the Flooding mentioned above was unprecedented in the last 40 years there is also evidence that insufficient regular maintenance to Illey Brook (that is Main River at this location) was a major contributory factor in this flood event. As mentioned in paragraph 31 the existence of the “flood berm” and associated implications were not appreciated.
- 90 In investigating the flooding the EA are modelling the Illey Brook and this will establish whether it was due to an exceptional event (and beyond the scope of investment criteria) or whether mitigation measures are required that can be justified to provide protection in line with EA policies.
- 91 As this report is presented some residents have not returned to their homes, whilst some homes are continuing with flood damage repairs.
- 92 **Stourbridge** – the river Stour overflowed and flooded the Bonded Warehouse in Canal Street and discharged to the adjacent canal. The canal subsequently breached at Prestwood necessitating expensive and lengthy repairs.
- 93 **Audnum** – arising from the above collapse Audnum Brook burst its banks and flooded inside several properties in Rushall Close. This arose as a result of an unprecedented discharge from the adjacent canal over the overflow weir to Audnum Brook whilst repair works referred to above were being carried out. See liabilities arising from canals above. A high level overflow has now been installed to provide relief if an existing culvert becomes blocked. As an indication of the disregard the community can have for watercourses previously a settee had to be removed from the Audnum Brook that was blocking the outfall culvert.

2009

- 94 In the current year there have been a number of highly localised and intense storms that have caused flooding in Pensnett, Lower Gornal, Kingswinford, Coseley, Woodsetton, and Halesowen (but not to property in Grange Crescent as in previous years). In total some 18 properties were affected by floodwater. These incidents can be attributed to a range of causes; land drainage runoff, system capacity (both highway drainage and sewers) and blocked gullies.

General

- 95 Flooding in Bryce Road Brierley Hill may be considered to be a local capacity problem; however, it is the case that this is the result of the inadequate mines drainage outfall to Foots Hole previously discussed. It is potentially the case that if a high intensity storm affected the Brierley Hill Area that local flooding including the Dell Stadium could occur.

Floods & Water Management Bill

- 96 The F&WMB is the Government's response to the Pitt Review that makes the point that the events of last summer were the country's worst peacetime emergency since World War 2 (appendix B sets out a synopsis). The findings of the review have resulted in the development of a number of recommendations that draw on the experiences of those that were affected as well as service providers, central and local government organisations.
- 97 Appendix C sets out a summary of the F&WM Bill
- 98 Consultation on the F&WMB closed on the 24th July and is likely to be included in the parliamentary programme for 2010 with enactment in April 2011.
- 99 The Council's response is attached as appendix D
- 100 The Bill places significant new burdens on upper tier authorities. (Press releases attached as appendices E&F).
- 101 Typically (but not exhaustively as appendix D sets out the implications in greater detail) - associated with;

Leadership Role in Flood Risk Management

- 102 Dudley becomes a Lead Local Flood Authority and will be required to;
- Lead and work with local partners to develop, maintain and apply strategies for flood risk management,
 - Draw up surface water management plans for those areas where flood risk is significant.
 - Investigate flooding incidents and ensure appropriate bodies play their effective role in effective management of flooding and recovery.
 - Establish asset registers (including third party assets) which may affect flood risk
 - to approve and adopt SUDS see below.
- 103 There will be a need upon enactment of the F&WMB to consider the constitution of the Council's role as LLFA.

Sustainable Urban Drainage Systems (SUDS)

- 104 There is a proposal for SUDS to be adopted with no associated provision for funding.
- 105 The F&WMB encourages the wider use of SUDs as the automatic right of a developer to connect to sewers is withdrawn.

- 106 The F&WMB significantly changes the approval of connections as it will be for the LLFA to determine whether a connection should be permitted taking on board the hydraulic constraints of the area based on information supplied by STWL and the EA. This may be a significant role necessitating an understanding not only of network capacity but also local hydrology. See LLFA responsibilities above.
- 107 Appendix G sets out the existing policy of South Gloucester Council – note the F&W Bill amends the section on adoption and maintenance.

Reservoirs

- 108 The F&WMB sets out a risk based approach to reservoir safety with a requirement that all reservoirs above 10,000m³ be registered. This would typically demand greater consideration of emergency overflow measures and structural stability to enable an understanding and prioritisation of vulnerable infrastructure. As part of the risk assessment it would also be necessary to undertake an inundation assessment to enable contingency plans to be developed to address flooding effects in the event of a breach occurring. The reasoning behind this was demonstrated in the collapse of the Seven Valley Railway Embankment during the recent storms.
- 109 Currently the registration volume is 25,000m³ – Himley Hall Great Pool and Lodge Farm being registered as large raised reservoirs.
- 110 The implications are that (anecdotally as surveys have not been undertaken - assessment being based on surface area) the pools indicated in the following table could be added to the register thereby necessitating a risk assessment.

King George v pool Kingswinford	Mary Stevens Park Stourbridge	Foots hole Brierley Hill
Oak lane Kingswinford	Donkey pool Wrens Nest	Himley Hall Cascade Pool
Leasowes Beech Water Halesowen	Prosper Meadows Dudley	Cotwall End Nature Reserve Sedgley

- 111 It could also be the case that although not a pool Cradley Forge Embankment could be included as a high risk structure requiring overflow arrangements to be put in place. The Council's Capital Programme currently includes £10,000 to investigate this embankment.
- 112 In addition there are proposals for the EA to charge an annual Fee associated with registration for each reservoir this could divert resources away from front line service provision.

Governance - Regional Flood & Coastal Committee (RFCC)

- 113 It is proposed that the RFCC loses its Executive powers and this will remove the last vestige of local control over Flood Defence matters. Against this background, and the proposal to make Upper tier local

authorities Lead Local Flood Authorities, there needs to be constitutional reform of the RFCC as the RFCC is potentially the vehicle by which local authorities can hold the EA to account, being the interface between the EA Board and the constituent authorities. The Council's response to the consultation, appendix D, sets out these concerns in greater detail.

The Way Forward

Multi Agency Working

- 112 Historically flooding on Main River has largely been handled by EA. In the current climate the EA is looking to Council's for local support and this has placed more pressure on the need for development of multi agency working.
- 113 The recent flooding in Halesowen has demonstrated the benefits of multi agency working. The Council have worked closely with the EA to clear debris from the main river channel with the EA providing expertise in the channel clearance works and the Council collecting and disposing of the arisings. The Council has also assisted the EA by undertaking vegetation clearance along a section of the River Stour near Grange Crescent This has worked well and provides a model for the future subject to available funding.
- 114 This provides a good model for flooding arising from Main River.
- 115 Officers are currently working with the EA in developing and implementing a risk based inspection/monitoring programme for ordinary watercourses. This approach will establish high flood risk areas and a prioritisation process for maintenance works.
- 116 Unfortunately STWL are not yet supportive where flooding arises from sewers as set out above

Local Lead Flood Authorities (LLFAs)

- 117 The Government anticipated that upper tier authorities (who become LLFAs under the provisions of the Bill) would take on board the proposals set out in the Pitt Review and now included in the F&WMB voluntarily in advance of enactment (through local redistribution of Area Based Grant). Indeed areas that have suffered significant flooding (Gloucester, Tewksbury, Doncaster etc) have directed significant local resources through this mechanism.
- 118 The existing Land Drainage budgets are as set out in the Finance section and only enable mainly reactive maintenance and some minor proactive maintenance activity and do not provide for the LLFA responsibilities as set out above. In this regard it is recognised that there is a national skills shortage and that there will be a need for LLFA's to recruit appropriately qualified professional resources to implement the range of plans and strategies set out in the Bill. As

rehearsed elsewhere this is not adequately funded and will direct resources away from front line service delivery unless Government is forthcoming with adequate funding provision.

- 119 To respond to the EA's requirement to have a strategic overview, allied to the local leadership role that attaches to unitary authorities for managing flood risk, a WM Drainage Forum (WMDF) has been established under the Chief Engineers & Planning Officer Group (CEPOG) arrangements. (CEPOG is the WM Metropolitan Authorities' officer Group, established to advise and support the West Midlands Planning & Transportation Sub-Committee). The WMDF includes officers from each authority together with officers from the EA and the RFDC Members for the constituent authorities.
- 120 Locally a Dudley Flood Group has been established that enables flood response and cause to be reviewed to enable development of the flood risk management plans. The flood group meet quarterly and is attended by representatives of the EA and STWL.
- 121 Community engagement has been encouraged to address the reporting of debris typically from large tree trunks, timber and other rubbish that has caused restrictions to flow.

Finance

- 122 Currently it is proposed that nationally £15m is to be made available to allow some capacity building in local authorities and funding for 50 Surface Water Management Plans which is inadequate (see appendices E&F).
- 123 The Formula Grant makes retrospective allowance for the expenditure made by local authorities on Land Drainage. The current land drainage budget is £57,800 for professional fees and £82,100 for works. (Namely £1.50 /m - not making any allowance for the Council as Riparian owner to Main River typically at Grange Crescent Halesowen).
- 124 Enactment of the proposed Water & Floods Bill will place significant new burdens on authorities that will need to be addressed as part of the CSR10 Spending review.
- 125 The current funding arrangement through Formula Grant means that funding is set in the CSR07 period to 2010/11. The combination of use of 3 year average spend in the formula with 3 year settlements means that any increased local expenditure will probably not be fully reflected in grant funding for several years – even assuming that the formula continues to operate more or less as now.
- 126 At a Local Government Association Workshop (the Future risk of Flooding – reflections on the Pitt Review) the Director of Water indicated that flooding is seen as a community problem and something

the Local Strategic Partnerships should pick up as part of their freedoms under the Area Based Grant Funding regime.

Law

- 127 The Floods and Water Management Bill seeks to update and consolidate the following legislation; The Reservoirs (Safety Provisions Act) 1975, The Land Drainage Act 1991 and the Water Resources Act 1991.
- 128 The Council by powers vested in them by section 34 of the Land Drainage Act 1976 and as applied by s 98, have issued the “Dudley Land Drainage By Laws 1981” for the purpose of preventing flooding or remedying or mitigating any damage caused by flooding in their area.
- 129 The Council have powers to undertake work on non Main River under provisions within the Land Drainage Act 1991.
- 130 The EA has powers to undertake work on Main River under provisions within the Land Drainage Act 1991.
- 131 The Council have duties as riparian owner, being the owner the land adjacent to a watercourse.
- 132 Section III of the Local Government Act 1972 enables the Council to do anything that is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.
- 133 The provisions relating to works on the highway are contained in the Highways Act 1980.

Equality Impact

- 134 This report takes into account and acknowledges the Council’s Policy in respect of Equality and Diversity in the delivery and maintenance of drainage systems in the borough.

Recommendation

- 135 The committee note and support;
- (i) The contents of this report
 - (ii) The work undertaken by the Councils Street Maintenance and Engineering Sections in respect of managing drainage in the borough.
 - (iii) The additional responsibilities of the Council, assigned by the F&WMB, the role of external agencies and internal and external factors that are adding greater pressure on the capacity of existing budgets to deliver an adequate cleaning and drainage maintenance programme.
 - (iv) Community ownership.
 - (v) The response of the Council to the consultation.

- (vi) That a further report be submitted setting out the budgetary consequences following enactment of the Floods and Water Management Bill



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Background documents used in the preparation of this report:-

The Pitt Review – 25th June 2008
Floods & Water Management Bill 2009-08-04
The Government's response to Sir Michael Pitt's review of the Summer 2007
Floods – progress report June 2009-08-04
Meetings of the Regional Flood defence Committee
Seminar - the future risk of flooding – LGA November 2008
<http://www.lga.gov.uk/lga/core/page.do?pagelid=1232339>