



# EXECUTIVE MEMBER DECISION

**REPORT OF:** Executive Member for Regeneration and Growth

**LEAD OFFICERS:** Director of Growth and Development

**DATE:** 17th April 2019

**PORTFOLIO/S AFFECTED:** Regeneration and Growth

**WARD/S AFFECTED:** West Pennine

**SUBJECT:** Chapel Grange Highways Drainage

## 1. EXECUTIVE SUMMARY

The floods of Boxing Day 2015 highlighted the inadequacy of highway drainage on Greens Arms Road at the junction of Chapel Grange, Chapeltown. The storm caused flooding to two residential properties and subsequent investigations have revealed that highway drainage is inadequate. The Council now seeks to address the situation, with the only option being the progression of a highways drain across land in private ownership to outfall to a nearby brook.

## 2. RECOMMENDATIONS

That the Executive Member for Regeneration and Growth:

- 1) Approves progression of the project and the works to be carried out under the recommended option as set out in this report.
- 2) Approves, under provisions contained within the 1980 Highways Act, the serving of a notice on the landowner to build an appropriate drain for the purposes of improving highways drainage.

## 3. BACKGROUND

The floods of Boxing Day 2015 highlighted the inadequacy of highway drainage on Greens Arms Road at the junction with Chapel Grange, Chapeltown. The storm consequently caused flooding to two residential properties. Subsequent investigation revealed that highways drainage is lacking in two capacities:

- There are too few gullies
- The gullies drain to a derelict culvert, effectively draining to a low grade soakaway

Greens Arms Road is an ancient highway and pre-dates motorised transport by several centuries. Originally constructed as a track, it has been upgraded on a piecemeal basis, and has therefore never having been “designed” in a modern engineering sense.

Drainage in the local area has been affected by nearby housing developments which have caused more water runoff onto Greens Arms Road. Work has also been carried out in relation to highway levels to prevent water running down the farm track adjacent to Chapel Grange.

Following the effects of the Boxing Day 2015 storms, the Council received a request for help from the owner of Long Meadow House because of internal flooding to the property. Investigation revealed that the next-door property, Long Meadow had also experienced problems and the source of flooding was

run-off water from the highway.

On investigation, the gullies outside these properties were found to be full of silt. Highway drainage was cleansed and upon further investigation it transpired that all highway gullies adjacent to these properties drained to a collector pipe that went along the farm track. Continuity stopped approximately 10 metres from the highway. An exploratory excavation was carried out and found that the highway drain at this position was an ancient culvert construction. This culvert was found to be full of tree roots and soil. Large trees lined the lane for a further 30 metres and no outfall was visible in the brook, and it was considered impractical to proceed further. Effectively, the gullies shown as stars on the attached plan are draining to a low grade soakaway.

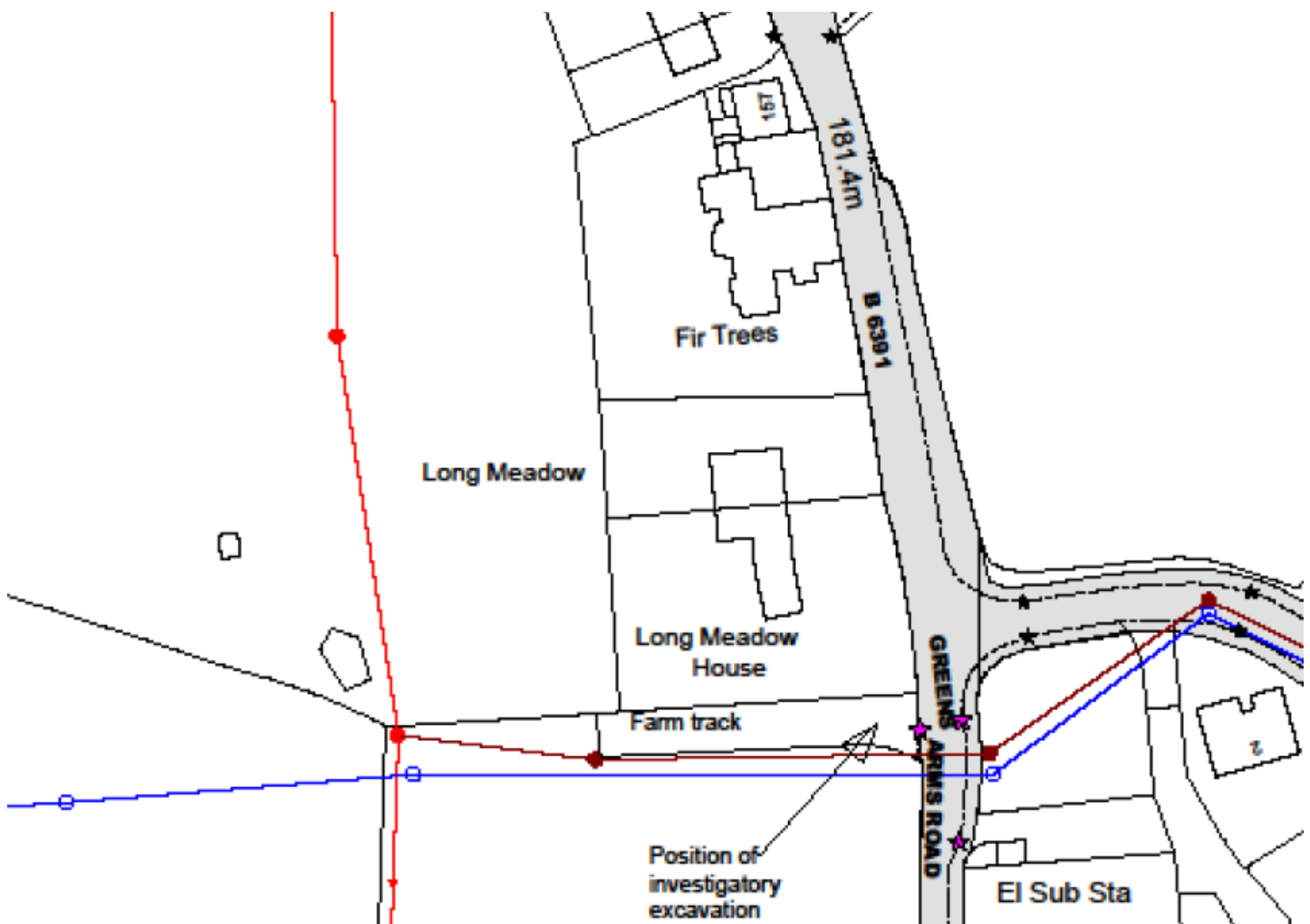
The Council has added gullies at this location to the Council's "Critical List" which ensures they are cleaned twice a year, to help alleviate problems during periods of heavy rainfall.

Scheme plan and key:

Stars: Gullies draining to soakaway

Blue: Surface water sewer

Red: Foul sewer



There are a number of options available to the Council, some of which have been discounted following progression with statutory bodies:

Option 1: The delivery of a new formal highways drainage scheme constructing new gullies, new drain runs and a connection to the surface water sewer in Greens Arms Road. Design has been progressed, however, United Utilities have refused to consent a connection on the grounds that it would cause sewer surcharge. This option has been costed at c.£15,000 but cannot be delivered as

United Utilities have refused to consent connection.

Option 2: To re-connect the existing gullies to the existing highway drainage at Chapel Grange, but highway levels do not permit the effective discharge of water. This option has been costed at c.£17,000 but the option would not work due to highway levels which do not permit water run-off.

Option 3: The construction of a new highway drain across private land belonging to Chetham Farm to give a new outfall to the nearby brook. Informal negotiations have been entered into with the landowner but agreement has not been reached on an acceptable compensation value. The option has been costed at c.£30,000 and whilst it is the most expensive option in cost terms it is the only option which is deliverable.

Option 4: To reinstate original highway levels so that excessive flows during extreme rainfall events run down the farm track onto pasture land rather than flood domestic property. The Council amended the highway originally due to complaints received from the landowner. This option has been costed at c.£1000 but would cause flooding to the Chetham Farm access track, and the Council would be liable.

Option 3 is the only practical option to solve the issue of highways drainage in this location.

The recommendation is therefore to serve a formal notice on the landowner of Chetham Farm, under provisions contained within the 1980 Highways Act, to enable the Council to construct a new highway drain running from Green Arms Road to the brook on Chetham Farm land. New gullies and drain runs will also be constructed to connect with the new off-highway drain.

This course of action is necessary in order to prevent continued flooding of the highway and constant flood risk to four adjacent properties.

#### **4. KEY ISSUES & RISKS**

£75,000 of funding was approved within the 2018/19 Local Transport Plan to deliver three Capital Drainage schemes across the Borough in order to improve water and drainage conditions for residents and businesses at:

- Chapel Grange
- Branch Road
- Chapeltown Road

The issue has been discussed extensively with the owners of Chetham Farm and an offer of compensation was communicated (in line with the provisions of the 1980 Highways Act) to the owners of the land on 5<sup>th</sup> July 2018 and followed up on 20<sup>th</sup> August 2018 to seek agreement to deliver the improved highways drainage project. This offer was declined on 22<sup>nd</sup> August 2018.

The Council has undertaken a further review of the drainage position at Chapel Grange which has reinforced the position that there is no alternative to installing a new drainage outfall pipe across private land at Chetham Farm.

The Council continues to receive correspondence from nearby residents who are seeking a resolution to this ongoing issue.

As such, it is recommended that the Council, under provisions contained within the 1980 Highways Act (Section 100, sub sections 1, 1a, 2 and 3) serves an appropriate notice on the landowners of Chetham Farm to carry out these necessary works, as part of the 2019/20 Local Transport Plan programme which was approved on 11<sup>th</sup> April 2019. Weblink:

<https://democracy.blackburn.gov.uk/documents/s5785/Local%20Transport%20Plan%202019-20%20P1.pdf>

## **5. POLICY IMPLICATIONS**

The scheme directly accords with the Local Transport Plan 3 2011-2021 Strategy.

## **6. FINANCIAL IMPLICATIONS**

The scheme's design and construction will be funded from the 2019/20 Local Transport Plan programme which was approved at the 11<sup>th</sup> April 2019 Executive Board meeting.

The scheme is included within the capital allocation for Capital Drainage Schemes: Completion of 2018/19 schemes, to a value of £50,000. The preferred, and only deliverable option for Chapel Grange has been provisionally costed at £30,000.

Compensation has and will continue to be offered to the landowner, in line with provisions contained within the 1980 Highways Act, and will focus on:

- Designation of the land, currently classified as Greenbelt
- Positioning of the United Utilities drainage outfall pipe on the same section of land which proposed to be used for the highways outfall drain
- The construction cost of the scheme
- The available Local Transport Plan budget for 2019/20
- The cost of reinstatement of the land / farm track on private land following completion of the works

The programme will be closely monitored to ensure full spend and any further variations or amendments will be subject to further Local Transport Plan programme reporting.

## **7. LEGAL IMPLICATIONS**

The scheme will be designed in accordance with relevant highway, transport, traffic and equality legislation; and will need to be procured in accordance with the Council's constitution and; where relevant; European directives; and the grant conditions.

The Council will use its powers as a Highways Authority under Part V of the 1980 Highways Act which provides for the drainage of highways as follows:

### Section 100 Drainage of Highways

- (1) The highway authority for a highway may, for the purpose of draining it or of otherwise preventing surface water from flowing on to it, do all or any of the following:-
  - (a) Construct or lay, in the highway or in land adjoining or lying near to the highway, such drains as they consider necessary
- (2) Where under subsection (1) above, a drain is constructed or laid...for the purposes of draining water from a highway...the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters
- (3) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any power under subsection (1) or (2) above.

## **8. RESOURCE IMPLICATIONS**

All professional fees will be met from allocations detailed, and staff time met from existing resources. Procurement will be in line with current best practices identified by the DfT's Highways Maintenance Efficiency Programme standards.

## **9. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## **10. CONSULTATIONS**

Consultation has taken place with the landowners in question in the period Spring to Autumn of 2018 via face to face meetings with Council Officers and correspondence in relation to offers of compensation.

Ward Councillors have also been made aware of progress and the issues faced in terms of delivery.

The Council does want to work positively and effectively with the landowner to progress the improvements and will liaise closely at every stage of the project with both land owner and main contractor.

## **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	0.1
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<b>CONTACT OFFICER:</b>	Mike Cliffe, Strategic Transport Manager, ext 5310
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<b>DATE:</b>	17 <sup>th</sup> April 2019
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<b>BACKGROUND PAPER:</b>	None
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