



Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	Flood and Water Management Scrutiny Committee
Date:	20 September 2021
Subject:	Lincolnshire Riparian Project Update

Summary:

To discuss steps taken to date to develop the Council's approach to the network of riparian watercourses across Lincolnshire, along with strengthened engagement with riparian landowners. Members' support and guidance in developing the project is sought.

Actions Required:

Members of the Flood and Water Management Scrutiny Committee are asked to comment on the scope and status of the project and guide officers in developing the project further.

1. Background

The latest in a series of significant flooding events in Lincolnshire caused by severe weather and high rainfall took place in the latter part of 2019 and early 2020. As a result, the Council continues to progress a very high number of investigations into each incident. While this process is ongoing, the role of riparian (privately owned) watercourses in surcharging under high rainfall conditions and contributing to localised flooding is apparent in a number of locations.

Owners of land containing or abutting a watercourse are classified as riparian landowners. Where land abuts a watercourse there is a common law presumption that the owner of the land shall be responsible for the watercourse up to its centre point, unless evidence is provided to the contrary. In the context of this topic, watercourse means:

"any river or stream and all ditches, drains, cuts, culverts, dykes, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages through which water flows. Water does not have to flow at all times of the year for it to be considered a watercourse".

Riparian landowners have a number of common law rights and responsibilities, including:
Rights:

- The right to receive flow of water in its natural state, without unnecessary interference in quantity or quality
- The right to protect property from flooding; however, in doing so must not increase the risk of flooding to others

Responsibilities:

- Maintaining the flow of the watercourse without obstruction, pollution or diversion
- The maintenance of flood defences that they are responsible for
- The maintenance of the beds and banks of the watercourse, including the removal of anything that could cause an obstruction

The responsibilities for ordinary watercourse regulation are derived from the Land Drainage Act 1991 as amended by the Flood and Water Management Act 2010. Within Lincolnshire, Lincolnshire County Council, leads on ordinary watercourse consenting and enforcement unless it is in an internal drainage district where Internal Drainage Boards lead on ordinary watercourse regulation. The permissive powers of Lincolnshire County Council with regards to ordinary watercourse regulation are outlined in Table 1.

Table 1 Summary of powers derived from the Land Drainage Act 1991

Land Drainage Act Section	Overview of Powers
21	Makes available powers for Lincolnshire County Council to serve notice on persons failing to carry out an obligation to do any work in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise).
23	Consents to carry out works.
24	Lincolnshire County Council has permissive powers to serve notice for the removal of an obstruction erected, raised or altered without consent under Section 23.
25	Lincolnshire County Council has permissive powers to serve notice on a riparian landowner to ensure a watercourse maintains the free passage of flow.

Since 2014 Lincolnshire County Council has worked closely with Internal Drainage Boards, through a locally agreed Memorandum of Understanding. Under these agreements, Lincolnshire County Council delegates its land drainage powers to the Internal Drainage Boards, which then exercise them consistently on behalf of LCC across the county to manage consenting and enforcement of activities affecting ordinary watercourses.

This method has been effective in discharging LCC's statutory responsibilities, providing a consistent and professional level of service, whilst simultaneously providing value for money for Lincolnshire County Council.

Building upon existing arrangements Lincolnshire County Council has commenced a project with our partners in the Lincolnshire Flood and Water Management Partnership, interested stakeholders plus North and North-East Lincolnshire Councils to better understand the nature and extent of the potential for flooding from riparian watercourses across the Greater Lincolnshire area. These organisations have come together as part of the Lincolnshire Riparian Working Group and are looking at how the above can be managed more effectively, and how we can better engage with riparian landowners to help achieve this.

Overall, we are seeking to develop and implement a co-ordinated partnership approach to reducing the risk of flooding from riparian assets and watercourses to local communities, businesses and public infrastructure, such as the highways network.

Broader context

At a local level this initiative is unique to Lincolnshire – no other area is looking in similar detail at this issue – but there is national interest in a successful project through the Association of Drainage Authorities and also the Environment Agency, which has similar enforcement and consenting roles to those described above in respect of the main river network.

Progress to Date

To date, work completed includes

- Research by WSP on the feasibility of improving mapping of the riparian network and establishing responsibility for maintenance
- Desk-based research to identify and understand factors influencing behaviour change
- National survey of risk management authorities to identify key barriers and opportunities in practice
- Supporting the Environment Agency nationally in updating its guidance to riparian landowners

At present we are undertaking a questionnaire with selected parish and town councils to help identify how engagement with and support from local councils can be enhanced in relation to the riparian network, alongside developing a menu of practical management options, to be informed and shaped by the results of the questionnaire.

The options that could be taken forward currently include:

- Proactive countywide engagement with riparian landowners and where necessary enforcement

- The development and embedding of a countywide enforcement guide
- Strengthening the existing strong culture of co-operation across Greater Lincolnshire
- The extension of Internal Drainage Board operational boundaries
- The refinement of planning policy to ensure due regard is given to drainage and climate change adaptation / mitigation

Project Timeline

It is intended to finalise the short list of options in late October 2021, with commencement of identified options as soon as practicable following approval by the Council and partners, with the aim of implementing them for April 2023.

2. Conclusion

Members are asked to consider these approaches and continue to support officers with guidance and advice throughout the development of the Lincolnshire Riparian Project.

3. Consultation

a) Risks and Impact Analysis

N/A

4. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Ryan Davies, who can be contacted on 07917 520900 or Ryan.Davies@lincolnshire.gov.uk.