

## Notice of Meeting

# Cabinet Member for Highways, Transport and Flooding Decisions

**Date & time**

Wednesday, 9  
November 2016 at  
2.00 pm

**Place**

Members Conference  
Room, County Hall,  
Kingston upon  
Thames, KT1 2DN

**Contact**

Andrew Baird or Joss  
Butler  
Room 122, County Hall  
Tel 020 8541 7609 or 020  
8541 9702

**Chief Executive**

David McNulty

[andrew.baird@surreycc.gov.uk](mailto:andrew.baird@surreycc.gov.uk)  
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This meeting will be held in public. If you would like to attend and you have any special requirements, please contact Andrew Baird or Joss Butler on 020 8541 7609 or 0208 541 9702

**Elected Members**

Mr John Furey

## **AGENDA**

### **1 DECLARATIONS OF INTEREST**

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter

- (i) Any disclosable pecuniary interests and / or
- (ii) Other interests arising under the Code of Conduct in respect of any item(s) of business being considered at this meeting

#### **NOTES:**

- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest
- As well as an interest of the Member, this includes any interest, of which the Member is aware, that relates to the Member's spouse or civil partner (or any person with whom the Member is living as a spouse or civil partner)
- Members with a significant personal interest may participate in the discussion and vote on that matter unless that interest could be reasonably regarded as prejudicial.

### **2 PROCEDURAL ITEMS**

#### **MEMBERS' QUESTIONS**

The deadline for Members' questions is 12pm four working days before the meeting (03/11/2016).

#### **PUBLIC QUESTIONS**

The deadline for public questions is seven days before the meeting (02/11/2016).

## **PETITIONS**

### **Notice of Petition**

Received from Martin Davies, 306 signatures

Please make it illegal for cyclists to use the A24 Dual Carriageway between Givons Grove roundabout, Leatherhead and Ashcombe Road, Dorking. It is very dangerous for all road users, especially the cyclists. There is a very good cycle lane off to both side of this road that many cyclists already use therefore it is clearly fit for purpose. I use this section of road many times each week, including the weekends, and have witnessed many close shaves and dangerous situations and feel it is only a matter of time before there are some serious accidents involving cyclists. One particularly dangerous section is when cyclists don't use the underpass and cross two lanes of 50mph traffic to turn right at the Burford Bridge roundabout to go up Box Hill. It will need 'No Cycling' signposts that will need to be actively enforced and a commitment to ensure the cycle lanes are kept in good repair and fit for purpose.

### **A response will be tabled at the meeting**

#### **3 PROPOSED STOPPING UP OF LAND AT FLINT HALL COTTAGE, FLOWER LANE, GODSTONE** (Pages 1 - 6)

The owner of Flint Hall Cottage, Flower Lane, Godstone has requested the County Council to apply to the Magistrates Court for an order to be made removing (stopping up) the highway rights over a piece of land. Their reason for wishing this to be done is to regularise the title of their property.

The Cabinet Member is asked to decide whether an application for a stopping up order should be made.

#### **4 FLOOD PREVENTION PRODUCTS** (Pages 7 - 10)

In June 2016, Surrey County Council was informed by the Environment Agency that products that restrict airflow beneath a building's floor, such as self closing airbricks, may not be suitable at properties within 250 metres of a current or historic landfill site.

Prior to this time between, 1 April 2014 and July 2015, Surrey County Council administered the Repair and Renew Grant on behalf of the Department for Environment, Food and Rural Affairs (Defra), and, as part of this scheme, grant funding was provided to properties in Surrey to install flood protection products including self closing airbricks.

In view of the amended advice, this paper proposes that Surrey County Council consider offering a financial contribution to residents for the cost of replacing the self-closing airbrick.

**David McNulty**  
**Chief Executive**

Published: Tuesday, 1 November 2016

### **MOBILE TECHNOLOGY AND FILMING – ACCEPTABLE USE**

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It is requested that if you are not using your mobile device for any of the activities outlined above, it be switched off or placed in silent mode during the meeting to prevent interruptions and interference with PA and Induction Loop systems.

*Thank you for your co-operation*

**SURREY COUNTY COUNCIL****CABINET MEMBER FOR HIGHWAYS, TRANSPORT AND FLOODING****DATE: 9 NOVEMBER 2016****LEAD OFFICER: TREVOR PUGH, STRATEGIC DIRECTOR OF ENVIRONMENT AND INFRASTRUCTURE****SUBJECT: PROPOSED STOPPING UP OF LAND AT FLINT HALL COTTAGE, FLOWER LANE, GODSTONE****SUMMARY OF ISSUE:**

The owner of Flint Hall Cottage, Flower Lane, Godstone has requested the County Council to apply to the Magistrates Court for an order to be made removing (stopping up) the highway rights over a piece of land. Their reason for wishing this to be done is to regularise the title of their property.

The Cabinet Member is asked to decide whether an application for a stopping up order should be made.

**RECOMMENDATIONS:**

It is recommended that an application be made to the Magistrates' Court for an order stopping up the land identified on the plan at Annex 1 as highway, in accordance with the provisions of Section 116 and 117 of the Highways Act 1980 and subject to the conditions of the County Council's approved policy on stopping up applications.

**REASON FOR RECOMMENDATIONS:**

The land in question is deemed surplus to highway requirements as the former access way has been functioning as a private driveway for some time. On completion of a successful application the County Council would be relinquished from any future maintenance liability for the land in question.

**DETAILS:**

1. When a request is received for the highway rights over highway land to be removed and the Cabinet Member for Transport, Highways and Environment considers that it is no longer necessary for the land to be part of the highway, the County Council will, subject to the conditions contained in the policy approved by the Cabinet on 21 December 2010, apply to the Magistrate's Court for an order stopping up the land as a highway.
2. The land in question forms part of the former route of Flower Lane, which was diverted during the construction of the M25 motorway. Subsequent land purchases mean that this section of highway now sits within the boundary of a private dwelling, Flint Hall Cottage, and functions as the private driveway.
3. Part of the land is currently unregistered and it is the intention of the applicant to register title to the land on the completion of a successful stopping up

application. The remainder of the subsoil of the land is owned by the applicant.

#### **CONSULTATION:**

4. Before making an application to the Magistrate's Court for a stopping up order the highway authority must serve notice of their intention to do so on the district/borough council and the parish council if there is one. If either council objects to the making of the application within two months of the date of service of the notice it may not be made.
5. At least 28 days before the making of an application for a stopping up order the highway authority must serve notice of their intention to apply for the order on:
  - the owners and occupiers of all lands adjoining the highway;
  - any utility company having apparatus under, in, upon, over, along or across the highway;
  - if the highway is a classified road, the Minister for Transport, district/borough council and parish council if there is one.

Notices must also be displayed on site and published in the London Gazette and at least one local paper 28 days prior to the making of the application.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

6. The County Council's policy regarding applying for stopping up orders on behalf of a third party has been drafted to ensure that the Council is indemnified against all risks associated with the making of an application for a stopping up order. Providing the policies are adhered to and correct procedures are followed any risks will lie with those requesting the stopping up.

#### **Financial and Value for Money Implications**

7. The applicant is to pay all costs associated with the application for a stopping up order. There is no financial cost to the County Council.

#### **Section 151 Officer Commentary**

8. The S151 Officer confirms that all material financial and business issues and risks have been considered in this report.

#### **Legal Implications – Monitoring Officer**

9. The County Council's policy on applying for stopping up orders was drafted to meet the requirements of the Highways Act 1980 ("the Act"). Section 116 of the Act provides the power for a highway authority to apply to the Magistrates' Court for an order stopping up a highway, or part of a highway. Section 117 enables a highway authority to apply for a stopping up order on behalf of a third party. Schedule 12 to the Act determines the form of notices that must be given in connection with an application for a stopping up order.

## **Equalities and Diversity**

10. The equalities impact assessment that was carried out when the County Council's policy on stopping up was approved by the Cabinet in December 2010 identified potential positive and negative impacts on the age, disability, gender and belief/faith strands, as well as potential social exclusion issues. As the process for applying for a stopping up order includes opportunities for anyone who feels they may be disadvantaged to object and, if they wish, be heard in court, the assessment did not identify any actions necessary to address the potential negative impacts.

## **WHAT HAPPENS NEXT:**

11. When the applicant has deposited sufficient monies with the County Council to cover the cost of making an application for a stopping up order, the process of making the application will commence.
12. Before making an application to the Magistrates' Court for a stopping up order to be made the highway authority must serve notice of their intention to do so on the district/borough council and the parish council if there is one. If either council objects to the making of the application within two months of the date of service of the notice it may not be made.
13. At least 28 days before the making of an application for a stopping up order the highway authority must serve notice of their intention to apply for the order on:
  - the owners and occupiers of all lands adjoining the highway;
  - any utility company having apparatus under, in, upon, over, along or across the highway;
  - the Minister for Transport, district/borough council and parish council if there is one, if the highway is a classified road.
14. Notices must also be displayed on site and published in the London Gazette and at least one local paper 28 days prior to the making of the application.
15. In accordance with clause 3 of the County Council's policy regarding requests for the removal of public rights over roads, any unresolved objections will be reported to the Tandridge Local Committee for a decision on whether to continue with the making of an application to the Magistrates' Court for a stopping up order to be made.

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**Contact Officer:**

George Emmett, Highway Boundary Team Leader, 020 8541 7446

**Consulted:**

Trevor Pugh, Strategic Director of Environment and Infrastructure  
Jason Russell, Assistant Director, Highways  
Zena Curry, Area Highways Manager  
Nancy El-Shatoury, Legal Services  
Tony Orzieri, Financial Services  
Helena Windsor, County Councillor  
Eileen Blake-Thomas, Borough Councillor  
Godstone Parish Council  
Piers Mason, Chief Planning Officer, Tandridge District Council  
Highways England  
UK Power Networks

**Annexes:**

Annex 1 – Plan: Land subject of proposed application – Flint Hall Cottage, Flower Lane, Godstone

**Sources/background papers:**

Sections 116 & 117 and Schedule 12, Highways Act 1980:

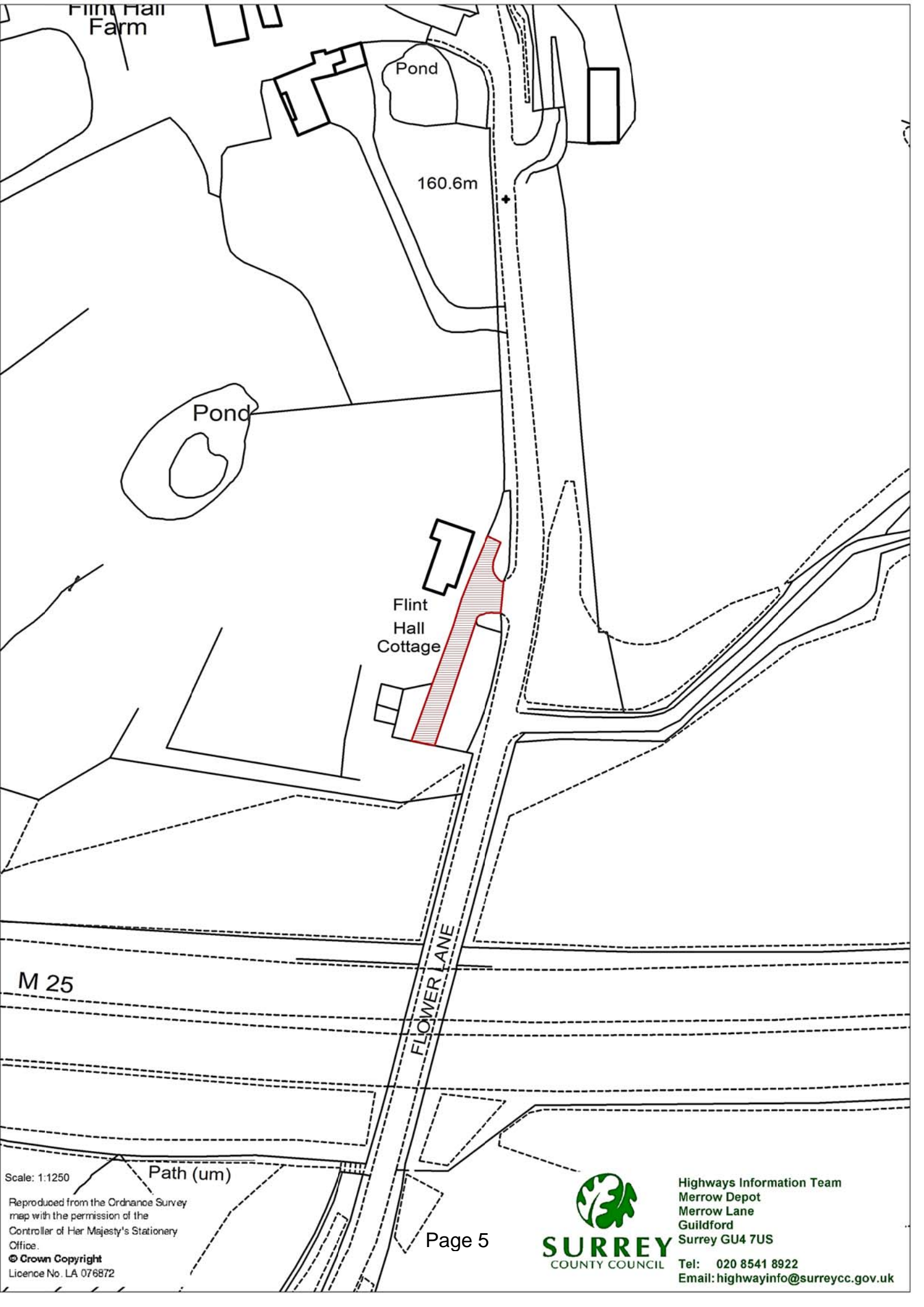
<http://www.legislation.gov.uk/ukpga/1980/66>

Report to the Cabinet on 21 December 2010 titled “Policy Regarding the Removal of Public Rights Over Roads and Highway Land” (item 12).

[http://mycouncil.surreycc.gov.uk/celistdocuments.aspx?MID=466&DF=21%2f12%2f2010&A=1&R=0&F=embed\\$item%2012%20-%20Policy%20regarding%20the%20removal%20of%20Public%20Rights%20over%20Roads%20and%20Highway%20Land.htm](http://mycouncil.surreycc.gov.uk/celistdocuments.aspx?MID=466&DF=21%2f12%2f2010&A=1&R=0&F=embed$item%2012%20-%20Policy%20regarding%20the%20removal%20of%20Public%20Rights%20over%20Roads%20and%20Highway%20Land.htm)

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M 25

Flint Hall Cottage

FLOWER LANE

160.6m

Pond

Pond

Path (um)

Scale: 1:1250

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**SURREY COUNTY COUNCIL****CABINET MEMBER FOR HIGHWAYS, TRANSPORT AND FLOODING****DATE: 9 NOVEMBER 2016****LEAD OFFICER: JAMES PAINTER,  
COMMUNITY PARTNERSHIPS TEAM MANAGER****SUBJECT: FLOOD PREVENTION PRODUCTS****SUMMARY OF ISSUE:**

In June 2016, Surrey County Council was informed by the Environment Agency that products that restrict airflow beneath a building's floor, such as self closing airbricks, may not be suitable at properties within 250 metres of a current or historic landfill site.

Prior to this time between, 1 April 2014 and July 2015, Surrey County Council administered the Repair and Renew Grant on behalf of the Department for Environment, Food and Rural Affairs (Defra), and, as part of this scheme, grant funding was provided to properties in Surrey to install flood protection products including self closing airbricks.

In view of the amended advice, this paper proposes that Surrey County Council consider offering a financial contribution to residents for the cost of replacing the self-closing airbrick.

**RECOMMENDATIONS:**

It is recommended the Cabinet Member for Highways, Transport and Flooding agrees that:

1. Surrey County Council should write to inform affected homeowners who used their Repair and Renew Grant to fit self-closing airbricks to their property, where their property is within 250 metres of a current or historic landfill site them and ask that they consider replacing these products with an alternative flood protection product.
2. Surrey County Council offer a financial contribution to homeowners to assist with replacing the self-closing airbricks fitted with grant funding from the Repair and Renew Grant, where their property is within 250 metres of a current or historic landfill site. It is proposed that £65 per airbrick is provided to enable, at the residents' discretion, either direct replacement with a standard airbrick or an alternative flood prevention product.
3. Surrey County Council identifies a budget of £30,000 in order to cover the costs of any financial contribution to homeowners and that authority is delegated to the Community Partnerships Team Manager to authorise and manage expenditure against this budget.

**REASON FOR RECOMMENDATIONS:**

Following advice from the Environment Agency received in June 2016 that products installed through the Repair and Renew Grant Scheme, administered by Surrey County Council on behalf of Defra, may not be suitable for properties within 250 metres of current or historic landfill, it is considered that a responsible public authority should provide a financial contribution to either return the property to its original condition or an alternative flood protection product.

#### **DETAILS:**

1. In June of this year it was brought to the attention of Surrey County Council (SCC) by the Environment Agency (EA) that products that restrict airflow beneath a building's floor, such as self closing airbricks or airbrick covers may not be suitable for properties within 250 metres of a current or historical landfill site. It is understood this is in line with the guidance provided by the Construction Industry Research and Information Association (CIRIA).
2. The EA has now written to residents under the Property Level Products River Thames Scheme and is currently seeking to arrange for replacement of the measures which it has installed.
3. Self closing airbricks and airbrick covers were identified as applicable measures within the original Defra Repair and Renew Grant (RRG) guidance, and as such were permissibly installed at properties in Surrey paid for through the RRG.
4. Since this matter has been brought to SCC's attention by the EA, the Council has reviewed all cases where self closing airbricks and airbrick cover measures were granted to properties within 250 metres of a current or historic landfill site, under the RRG scheme in line with the original Defra guidance provided.
5. As a public body SCC considers that it is reasonable to write to affected homeowners who used their RRG to fit self closing airbricks to their property to inform them about this issue and ask that they consider replacing these with an alternative flood protection product which does not restrict airflow underneath the floor of their property, or reinstall a non closing airbrick.
6. Whilst SCC has not directly installed any measures to properties and is not responsible for the flood protection and resilience measures residents have installed to their properties, SCC consider it reasonable to offer a contribution of £65 per airbrick to the resident to install an alternative flood protection product or replace the self closing airbrick. It would be the responsibility of the property owner for works to be undertaken. SCC consider this reasonable as property owners, when originally installing self closing airbricks or airbrick covers, were following the Defra RRG guidance.

#### **CONSULTATION:**

7. SCC has conducted a series of multi-agency discussions since being made aware of this issue, with the EA, Runnymede Borough Council and Spelthorne Borough Council.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

8. The EA has identified that products that restrict airflow beneath a building's floor, such as self closing airbricks, may not be suitable at properties within 250 metres of a current or historic landfill site.

### **Financial and Value for Money Implications**

9. This matter will have direct financial implications upon SCC as it is understood that the cost of replacement and installation of alternative measures will cost the authority in the region of £30,000.

### **Section 151 Officer Commentary**

10. SCC is currently under severe financial pressures and seeking to make further in year savings. This £30,000 will add to this pressure, although not in a material way.

### **Legal Implications – Monitoring Officer**

11. The Council's role was to administer the Repair and Renew Grant Scheme and it did not enter into any contract with or provide advice to homeowners. The Monitoring Officer does not therefore consider that the Council has any legal liability arising from the changing advice regarding the suitability of self closing airbricks in some locations. . Nevertheless, in the circumstances that have been outlined in this report the Cabinet Member may consider that it would be a reasonable exercise of the Council's general power of competence to provide small financial payments to affected homeowners to facilitate the replacement of self-closing airbricks with a more suitable product.

### **Equalities and Diversity**

12. It is not expected that this proposal will have any negative impact on those with protected characteristics. It has therefore not been deemed necessary to conduct an Equalities Impact Assessment regarding this proposal.

### **Public Health implications**

13. The EA has identified that products that restrict airflow beneath a building's floor, such as self closing airbricks, may not be suitable at properties within 250 metres of a current or historic landfill site. This report proposes measures to address this.

### **WHAT HAPPENS NEXT:**

- Mid-November 2016: Replacement Scheme Offer letter to be sent to affected residents.
- Mid-January 2017: Deadline for return of Offer Acceptance Form
- End of January 2017: Payment of all Acceptance Applicants Received

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#### **Contact Officer:**

James Painter, Community Partnerships Team Manager  
01372 832539 / 07968 833907

#### **Consulted:**

#### **Surrey County Council**

Jason Russell, Assistant Director for Environment & Infrastructure  
Anne Charlton, Director of Legal, Democratic and Cultural Services  
Alan Stones, Planning Development Team Manager

David John, Audit Performance Manager  
Andy Tink, Senior Principal Accountant  
Kevin Kilburn, Deputy Chief Finance Officer  
Carmel Briody, Principal Lawyer

**Environment Agency**

Malcolm Smith, Ruth Eales, Sameena Khan, Penny Yorath

**Runnymede Borough Council**

Pat Hollingsworth, Duncan Cairns, Sarah Keenan, Andrew Davidson & Jane Margetts,

**Spelthorne Borough Council**

Sandie Muirhead, Siraj Choudrey

**Sources/background papers:**

- All background papers used in the writing of the report should be listed, as required by the Local Government (Access to Information) Act 1985.
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