

Allowenshay Private Water Supply (PWS)

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Purpose of the Report

1. To agree financial support that the Council can provide to residents of Allowenshay, Dinnington and Hinton St George in relation to improvements required to their private water supply.

Forward Plan

2. This revised report appeared on the District Executive Forward Plan for September 2019.

Public Interest

3. One of the statutory functions of the Council is to regulate private water supplies within the district. This falls under the Council's public health responsibilities in ensuring that private water supplies are healthy for users and do not pose any health risks, which includes actual risks and potential risks that may arise. A private water supply may come from a spring, well or borehole and will be under the control of private individuals or companies. Where such a supply provides water to more than one dwelling, or commercial premises, the Council has duties and powers to ensure it is wholesome, sufficient and safe for use.

To achieve this Environmental Health staff routinely sample water from such supplies and carry out risk assessments of such supplies. Where problems are identified, notices can be served on the persons responsible for the provision of the water requiring them to carry out work needed to improve the supply.

This report relates to the private water supplies in Allowenshay where there have been ongoing concerns with the supply over a number of years. Most recently a Notice was served requiring works to improve the supply. Due to the extensive works required this is causing financial difficulties and concerns for residents who will need to meet the costs of improving the supply. The Council has been asked to consider if there is any assistance that can be provided to the residents given the critical public health need for them to have a safe water supply.

Recommendations

4. That the District Executive:
 - a. Agree that the Exceptions and Appeals Panel be asked to vary the policy for this case only for the approval of a Home loan through Wessex Resolutions CIC to make it available to all residents served with the Notices regardless of the vulnerability or financial status;
 - b. Alternatively agree to approve the provision of a one-off capital grant of £26,100 towards the infrastructure cost of providing mains water to Allowenshay village to support those who have been the subject of the Notice requiring improvements to be made;

- c. In the case of b, also approve the Supplementary Budget addition of £26,100 (rounded) to the Capital Programme, to be funded from the Capital Receipts Reserve, for “Water Infrastructure Improvement Grants” to provide the necessary budget approval for recommendation (a);
- d. In the case of b and c to note that a further request may come forward from other residents subject to the same Notice, for assistance with the cost of remedial works in future, and to agree to consider such a request if received. This should be limited to a proportionate amount based upon the houses affected of £21,000.

Background

5. The Allowenshay PWS is fed by a number of spring features that originate some distance south of the village of Allowenshay in Somerset. The water from the spring features flows via various storage and distribution arrangements to feed some properties in Dinnington and Allowenshay. Over time, several properties within Allowenshay have chosen to seek alternative private supplies of water and as a result, only some of the properties within the village are still on the Allowenshay PWS. Additionally, the Allowenshay PWS was previously supplemented by a borehole that was sunk in 1990; since 2017 this has no longer been the case. The supply consists of 5 wells in Halcombe Copse on Windwhistle Hill from which water is piped 3km to Allowenshay via Hill Farm. At Hill Farm the water is held in a reservoir tank with the overflow filling a second reservoir that feeds Allowenshay.
6. The Council are the regulatory authority responsible for ensuring that private water supplies do not pose a risk to health in accordance with the Private Water Supply (England) Regulations 2016. The Council also has powers under the Water Industry Act 1991, to deal with a private water supply which is failing or unwholesome.
7. Following issues of insufficiency and unwholesomeness the Council served a Notice requiring improvements in 2015. There was only partial compliance with the Notice and further enforcement was considered by District Executive in February 2017. The decision at the time was to take no further action.
8. Following ongoing issues with the supply the matter was considered again and a further Notice served in 2018. For legal reasons this Notice was served on consumers of the supply as well as the company considered to exercise management and maintenance of the supply. Numerous representations were made against this Notice and it was considered by the Drinking Water Inspectorate (DWI). The conclusion was that a Notice was appropriate for this supply to ensure the water is wholesome and sufficient. The Notice was therefore confirmed with modifications in February 2019. Following discussions with the DWI a further Notice was also served on the same persons due to a potential danger to health of the consumers.

Action to date

9. The confirmed Notice gave the relevant persons three options for compliance:
 - a) Source water from the public supply by way of a connection to mains water; or
 - b) Connect to the other private water supply operated by the Allowenshay Water Company once the Council has confirmed the supply is wholesome; or
 - c) Source a sufficient and wholesome supply of water from a private water supply and implement a programme of ongoing and appropriate maintenance of that supply to ensure the supply continues to remain sufficient and wholesome.
10. DWI also recommended that the Council supports the relevant persons as a collective, so much as is possible, to ensure the delivery of the outcome of the Confirmed (with modifications) Notice to secure wholesome and sufficient water.

11. Officers from the Council held a public meeting on 27th March 2019 to which all "relevant persons" (users and the company considered to exercise management competence over the water supply) were invited. This allowed discussion of the situation along with some initial dialogue regarding what further support the Council may be able to provide. A query was raised regarding any financial help that may be possible and an undertaking was given to look into this possibility.
12. The relevant persons have been considering their options and a number have decided their wish is to follow option a) to connect to mains water. They have explored various ways to keep the costs as low as possible but the total cost is still significant. The residents involved in this scheme, many of whom no longer work, are struggling to fully finance this and there is currently a shortfall on this scheme of £26,100.
13. There are other relevant persons who live some distance from Allowenshay village itself and connection to mains water is unlikely to be viable for those persons due to the distance and cost involved. These residents are therefore still to determine what course of action they wish to take. There may be other costs for other schemes yet to come forward over the next four to six months. Taking a pro-rata approach an amount of £21,000 should be set aside should it be requested from those other residents who have been subject to the same Notice. Any other such proposal coming forward would still be subject to approval by the appropriate committee.
14. The case has been very involved with complicated legalities. The DWI have been involved giving advice and guidance to all parties in addition to their role in considering representations made against the Notices. They have commented on how complex this case has been and its unusual nature, and they have had to dedicate considerable time themselves to considering all the factors involved.
15. It is in this context that officers have discussed the situation and, with the agreement of this Committee, believe that given the circumstances of the case financial assistance should be offered to help cover the shortfall of £26,100 in the cost of the infrastructure to allow essential works to go ahead. Providing assistance will allow some of the recipients of the s 80 Notice to meet their obligations, and will open up an option that some of the remaining residents could use to meet their obligations if they choose. Officers believe any assistance offered should also be made available to the remaining residents, if requested, once a suitable scheme has been agreed. drawing to a conclusion a longstanding matter.
16. Whilst the Council has no statutory obligation to fund improvements to private water supplies, provision of such assistance is in accordance with the Councils functions and legal powers of both the Water Industry Act 1991 and the Private Water Supply Regulations 2016. In addition provisions of The Local Government Act 1972 and The Localism Act 2011 support the allowance of this expenditure.
17. Should the Notice not be complied with the Council will have to consider again its enforcement options and further action that may be required to ensure a safe and wholesome supply of water. These options would include the carrying out of works in default of the Notice and recovering costs from relevant persons. Such a route could entail considerable cost and time resource and so it is the officers view that an appropriate and proportionate route would be to support residents in meeting the requirements of the notice.

Further information

18. When this item was considered by The District Executive at its July meeting officers were advocating the provision of a grant to meet the funding shortfall. At that meeting the item was deferred and officers were asked to provide further information about the availability of offering a low interest loan through the Wessex Home loans scheme, as a preferred mechanism for providing assistance. Officers were also asked to provide more information about other private water supplies in the district.

19. The total cost of the works is £199,100 to bring mains water into the village with the necessary connections. This includes money required to pay for easements and compensation to landowners whose land the water main will have to cross. The current scheme has been negotiated with Wessex Water. There are 15 residents wishing to join this scheme although this is still leaving a shortfall of £26,100. If this shortfall cannot be found then 5 of the residents have stated they will not be able to proceed on financial grounds meaning the cost to the remaining residents would increase further. This may make the scheme unviable.
20. Concerns have been raised by one of the Directors of the Allowenshay Water Company (AWC) regarding the recommendation in the previous report to make public money available to help finance a scheme. A number of residents set up and paid for the AWC infrastructure some years ago and continue to use, maintain and pay for it. No financial support was provided to those residents at the time. Connection to and use of the AWC supply is one of the options that was given in the Notice.

Wessex Loans

21. Wessex Resolutions CIC work in partnership with the Council to offer low interest loans (known as Wessex Home Loans) to bring privately owned properties up to the Decent Homes Standard. The need to provide a suitable and safe water supply would meet this criteria. Under the current policy for offering such loans, the applicants must have sufficient disposable income to cover the loan repayments and must have sufficient equity in their property to secure the loan. The current maximum loan is £15,000 per property. To meet the current funding shortfall of £26,100 this would be sufficient for each household.
22. Homeowners assisted by this scheme should normally be considered to be vulnerable by virtue of age, disability or financial circumstances. It is understood that some residents may fulfill this criteria but most are unlikely to. It is also understood that some residents do not wish to take out a loan given their personal circumstances and they may withdraw from this scheme if that is the only assistance available. If this were to happen it would increase the pro-rata cost to the remaining residents and may make it less affordable for them. Without a full assessment from Wessex it is difficult to be sure how many would qualify under the current criteria.
23. There is provision in our policy for the Exceptions and Appeals Panel to agree to deviations from the set policy to allow financial and other assistance to be given in exceptional circumstances where it is clearly to the benefit of the Council and the applicant to do so. It is considered elsewhere in this report that this situation provides exceptional circumstances.

Other Private Water Supplies

24. Information was requested about the number of private water supplies across the district with an indication of whether there may be the potential for similar claims for help with funding for improvements on these supplies.
25. There are currently 432 private water supplies in the district that we are aware of. The vast majority of these (327) are supply single households only and no sampling or risk assessment of these is required. Any works to these supplies would be down to the sole owner and user of the supply.
26. Of the remaining supplies around two thirds are classed as 'small supplies'. This means they are supplying less than 10m³ (approx. 2 – 12 houses) water per day and there is no associated commercial or business activity. The rest are known as 'large and commercial supplies'. The original supply at Allowenshay falls into the latter category.
27. Of the large supply group the majority are designated as such due to a commercial or business activity being supplied. There are only 7 supplies with similar numbers of residential properties to

that in Allowenshay. As far as the latest risk assessment and information shows, none of these have issues similar to those at the Allowenshay supply.

28. There are around half a dozen small supplies which have known ongoing problems that need attention, however we do not believe these have the same complexities as is the case at Allowenshay and should be resolved through usual regulatory measures.
29. In addition to the above information, the DWI have considered this case following appeals made to the service of Notices by this authority, on three occasions now,. They have stated in a published case study that ‘This case study highlights the complexities involving a large private supply which becomes insufficient and/or unwholesome due to ambiguities around who is a relevant person and the wide differences in deeds and easements’. They have also made reference to ‘... particular legal complexities surrounding this case.....’. It has been recognised that this has been an unusual case with such complexities and their investigations into this case will now help inform future confirmation decisions. It is unlikely therefore that a similarly complex case will arise in our district

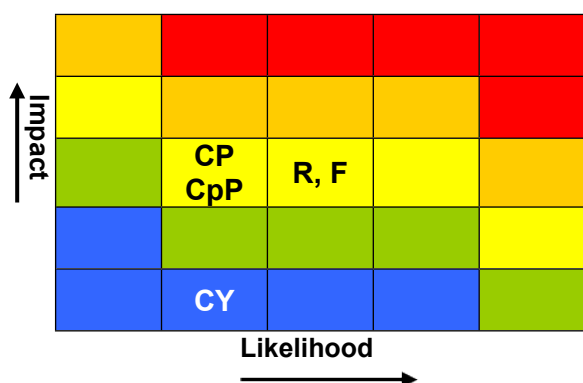
Financial Implications

30. For the scheme currently being considered there are 12/15 houses within Allowenshay village who would wish to connect to the public supply. With this scheme there is a funding shortfall of £26,100 that the residents are unable to meet with their own funds.
31. There are a further 12 households outside of the village that are yet to confirm their proposed course of action to comply with the notice. Further schemes may still come forward from these relevant persons. Costs of these schemes are not yet known.
32. Should members agree recommendation a) in this report the provision of a loan through Wessex CIC is at no additional cost to the Council. The loan is taken from a capital fund held and administered by Wessex CIC on behalf of the Council. The loans are offered at 4% interest. Affordability will be assessed by Wessex CIC who will fully administer the drawn down of the loan, and the collection of its repayments. The capital fund held is currently £175,883. VAT may need to be added to the £26,100 for this option which would also be met from the loan offered.
33. Should Members decide to agree recommendations b) and c) in this report, the total grant of £26,100 will be allocated from the useable capital receipt reserve and added to the capital programme for monitoring. This would be paid to a community benefit society set up by the residents and would not be subject to VAT.

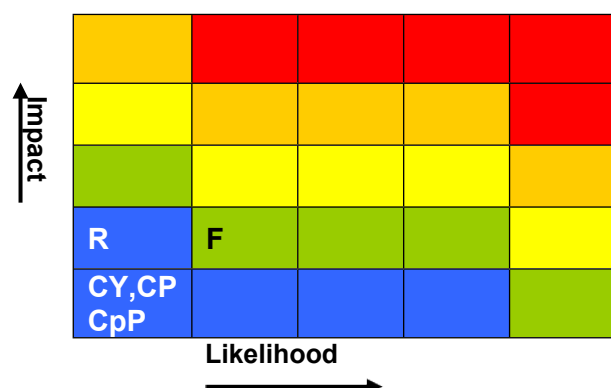
Risk Matrix

The risk matrix shows risk relating to the Council Plan 2016-21 headings.

Risk Profile before officer recommendations



Risk Profile after officer recommendations



Key

Categories	Colours (for further detail please refer to Risk management strategy)
R = Reputation	Red = High impact and high probability
CpP = Corporate Plan Priorities	Orange = Major impact and major probability
CP = Community Priorities	Yellow = Moderate impact and moderate probability
CY = Capacity	Green = Minor impact and minor probability
F = Financial	Blue = Insignificant impact and insignificant probability

Council Plan Implications

34. This links to the Council Plan 2016 – 2021 focus area: Healthy, self-reliant communities - To enable healthy communities which are cohesive, sustainable and enjoy a high quality of life

Carbon Emissions and Climate Change Implications

35. There are no specific carbon emission implications. The provision of a public water supply will significantly reduce the risk of lack of water supply should the spring water sufficiency be affected by climate change.

Equality and Diversity Implications

36. An Equality Impact Relevance Check Form has been completed for this proposal which has identified that there are no negative impacts for anyone from the Protected Characteristics in view of the positive benefits it will bring. To this end a full Equality Impact Assessment is not required. A copy of the Equality Impact Relevance Check Form is appended to this report.

Privacy Impact Assessment

37. The Council already holds non-sensitive personal data of the majority of the residents effected by this water supply issue, which was obtained with the consent of those residents. In implementing this decision of the District Executive, Council staff will need to process personal data for purposes that may include informing residents of the decision, the serving of further notices, and other related activities. Only staff in the Environmental Health and Legal services are able to access, control and process the personal data. This data will be retained until no longer required in relation to the Allowenshay water supply issue, where after it will be destroyed in accordance with Council policy

Background Papers

38. District Executive Report Allowenshay Private Water Supply 2nd February 2017
39. District Executive Report Allowenshay Private Water Supply 4th July 2019
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