

**IMPROVING PLACES SELECT COMMISSION
Tuesday 19 September 2023**

Present:- Councillors Wyatt (Chair), Andrews, Atkin, Aveyard, Bennett-Sylvester, T. Collingham, Cowen, Havard, Jones, McNeely, Reynolds and Tinsley, and co-opted members Mrs. Kay Bacon and Mrs. Mary Jacques.

Apologies for absence were received from Councillors Barley, C Carter, Castledine-Dack, Ellis and Khan.

The webcast of the Council Meeting can be viewed online:-

<https://rotherham.public-i.tv/core/portal/home>

20. MINUTES OF THE PREVIOUS MEETING HELD ON 11 JULY 2023

Resolved:-

That the minutes of the previous meeting held on 11 July 2023 be approved as a true and correct record of the proceedings.

21. DECLARATIONS OF INTEREST

There were no declarations of interest.

22. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

The Chair advised that there were no members of the public or representatives of media organisations present at the meeting and there were no questions in respect of matters on the agenda.

23. EXCLUSION OF THE PRESS AND PUBLIC

The Chair advised that there were no items of business on the agenda that would require the exclusion of the press or public from the meeting.

24. FLOODING ALLEVIATION UPDATE

Consideration was given to an update report regarding the six priority flood defence works ongoing in the Borough as well as other works that had been delivered. The Chair noted the members' site visit to the Ickles Lock and the engineering of the defence. The Cabinet member noted the recent £1.9 million added funding which had been secured from the Yorkshire Regional Flood and Coastal Committee. This was a testament to the confidence placed in the Council for its track record for delivering on large scale projects, such as at Ickles Lock.

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In discussion, Members requested additional information about opportunities to maximise public enjoyment of the pathways and waterways which had been revitalised through these projects. The Chair noted that recreation around the areas was a topic for another conversation.

Members requested additional information around how the drainage team were communicating with other services around any issues seen. The response from the Head of Highways and Flood Risk noted that the service receives many reports from officers who are out in the Borough as part of their duties. The team noted that the works were on a cyclical basis, and that many gullies were designed to hold some water to create an airlock, so sometimes reports were received that gullies are blocked when they are working as they should. The service are always ready to provide information regarding when the drain was last maintained.

Members also expressed curiosity of the economic impact of flooding alleviation. The response from the Strategic Director of Regeneration and Environment noted that the business case for external funding involved establishing the economic benefits. The cost benefit ratio outlines had to be provided in the application process. This affected how much funding could be obtained.

Members asked what programmes are being used to slow down the movement of water to aid absorption. The response from the Head of Highways and Flood Risk noted the tree planting that has been done and the partnership working with experts coordinated by Sheffield. Planning were also consulted in this process.

Members also asked if there was learning from the June floods that had been captured. The response from the Strategic Director noted that many new developments are responsible for the attenuation of water from the site. Planning conditions were placed on the site.

The chair sought additional information regarding capacity to work with residents around their flood plans. The Cabinet Member noted that Rotherham lead on community resilience, this involved understanding the capacity of parish councils to build resiliency to respond quickly. This involved helping people know where to go to get information and supplies. The Assistant Director of Community Safety and Street Scene noted examples of engagement events and activities and the partnership working to deliver these events. The Head of Highways and Flood Risk noted that the interest of the public in the topic was extremely valuable in growing local awareness and participation.

Resolved:-

1. That the report be noted.

25. COMBINED SEWER OVERFLOWS (CSOS)

Consideration was given to a slide presentation presented by the Environment Agency's Area Environment Manager with responsibility for the Land and Water Portfolio for Yorkshire who was in attendance at the meeting. The presentation was accompanied by a written briefing from Yorkshire Water's Head of Corporate Affairs.

The Chair noted that partners had been invited to the meeting for a scrutiny discussion of combined storm overflows following on from a motion of the Council on 19 July 2023.

The Chair also noted that Severn Trent's Head of Government Affairs & Responsible Business had corresponded regarding the small coverage area southeast of Rotherham served by Severn Trent. As this was considered a very small part of the Severn Trent service area, a representative had not been sent to the meeting on this occasion. However, reporting was encouraged if Members became aware of any specific drains within these areas that were experiencing issues. Severn Trent had published its corporate ambition around rivers and reported annually on progress against targets. More information was available on the Severn Trent website.

The Chair expressed appreciation for the attendance of the EA's Area Environment Manager and the representative of the River Network.

The presentation illustrated the impact of mitigation and enforcement work that the EA had done and how this had evolved in recent years. EA data showed that storm overflows were the fourth reason for waterbodies failing to reach Good Ecological Status, accounting for 7% - behind agriculture at 40%, the wider water industry at 36%, and urban and transport at 18%, which have significantly higher levels of pollution. The presentation noted that discharges from storm overflows under permitted conditions were not illegal and were an essential part of the combined sewer network in England. The Environment Agency had procedures in place for investigating potentially illegal storm overflow discharges.

The Environment Agency released its annual report on the environmental performance (EPA) of all water and sewerage companies in July 2023. Yorkshire Water was rated a 3-star company in 2022, an increase from the 2-star rating in 2021.

To drive the required improvements, the EA took action to

- Undertake robust regulation to minimise impacts;
- Respond to environmental incidents and carry out thorough investigations to mitigate any impacts;
- Take enforcement action to hold water companies to account when there is a pollution event;
- Drive long term investment through the AMP process (WINEP).

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The presentation further described increased monitoring and transparency from water companies in recent years. This included EDM, Flow to Full Treatment monitoring, responding to incidents and carrying out thorough investigations, robust regulation and EA routine monitoring, data analysis, site inspections/audits, incident response, Operator Self Monitoring (OSM), and consistent engagement with YWS with technical and strategic engagement to maintain oversight and action on key issues. A case study of compliance and enforcement action at Lundwood in Barnsley was provided to illustrate the effectiveness of the monitoring approach.

The presentation described regulation activities as well. The Environment Agency had to focus its resources where there was likely to be the greatest risk to human health, quality of life and the environment. Water discharge activities and point source groundwater activities were regulated with an environmental permit in a way that was consistent, transparent, and proportionate. A generic approach was then adapted according to the specific discharge, its location and receptors.

Regarding enforcement, the EA was working to hold water companies to account to reduce pollution, tackle storm overflows and invest more of their profits into the environment. If the EA identified illegal discharges from storm overflows, these were investigated, and action was taken in line with the EA Enforcement and Sanctions Policy. The EA responded to environmental incidents (one every 45 minutes) to stop and reverse damage to rivers. The EA carried out a major industry-wide criminal investigation into potential non-compliance by water companies at wastewater treatment works. The EA prosecuted the most serious polluters. There had been 58 prosecutions against water and sewerage companies since 2015 securing fines of over £147m, with Enforcement Undertakings of £1.9 million in Yorkshire.

Regarding permit breaches, the EA permitted discharges under the Environmental Permitting Regulations (EPR) 2016. When a permit condition is believed to have been breached, the EA

- recorded the failure on the Compliance Classification System (CCS), including any breaches observed during site inspections.
- took appropriate enforcement action depending on the impact of the breach and any mitigation measures taken by the Operator, in accordance with the Environment Agency Enforcement and Sanctions Policy.
- used CAR forms to notify operators of all permit condition breaches (generally within 14 days); we may also use CAR forms to highlight any other issues (good or bad) observed during a site inspection. Operators had 28 days to challenge the results of a compliance assessment.
- could serve an enforcement notice requiring the operator to complete specified steps by a specified date under Regulation 36 of the Environmental Permitting regulations 2016. The EA could do

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this where an operator was already not complying with a permit condition or when there was reason to believe that they would not comply in the future.

The presentation further described the enforcement response of the EA. Where the EA identified non-compliances, the enforcement response was proportionate and appropriate to each situation. The first response was usually to give advice and guidance or issue a warning to bring an offender into compliance where possible, with timescales within weeks or months. The EA could prosecute when there was evidence of significant environmental risk or harm combined with deliberate, reckless or negligent levels of culpability. The timescales for this could be years. Other offence response options included

- Compliance Notices
- Enforcement Undertaking
- Formal Caution
- Fixed/Variable Monetary Penalties

Regarding long term investment, the Price Review produced an Asset Management Plan (AMP) for each water company, which covered capital maintenance, supply/demand balance, quality enhancement and enhanced service levels for the next five years. The WINEP set out actions water companies must take to protect and improve the environment in the five-year AMP. Penalties were incurred by water companies should they fail to deliver on the specified actions within the WINEP.

In discussion, Members sought further assurances that the EA was monitoring the damage to aquatic life caused by pollution events including improper discharges. The response from the Area Environment Manager described the increased transparency that characterised the live monitoring of the overflows. The published data led to greater understanding of the problem and causation. Furthermore, community awareness had driven increasing visibility, such that, monitoring was now in place and active. There would be full coverage for holding water companies to account.

Members also requested additional assurances that the monitoring system did not rely entirely on self-reporting by the water companies. The response from the Area Environment Manager noted that enforcement looked collectively at evidence to consider fully the systematic failures by the water companies. This did not rely on self-reporting because the data was freely and continuously available and public. Because of this transparency, however, the EA had observed increased proactiveness around self-reporting. This formed part of the Environmental Performance Assessments.

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The representative of the River Catchment Partnership noted river ranger schemes, CSO safaris, and other schemes provided opportunities for people to play a role locally to do their part to help improve river health and sought additional information on how people can get involved in helpful ways. The response from the Area Environment Manager noted that monitoring by community members was very helpful intelligence. Great Yorkshire Rivers was an example of a partnership programme organised around responding to the biodiversity crisis and impacts from pollution events. The community engagement has gathered pace through one-off ad hoc town hall meetings, and there was a desire to do this more proactively. The EA had area teams delivering regulation enforcement, but the connected overview was delivered through the catchment coordinators. Area Environment Management was patch-based in South and North Yorkshire, for example. When individuals were reporting in, they were encouraged to note which community group they were a part of, to help ensure these groups become known and can be brought together, which can be very effective. Liaison meetings with Yorkshire Water have benefitted from information and learning gathered from engagement work, resulting in internal restructuring of River Health team and leadership, incorporating Rangers. It was felt that this had also played a role in the increase in self-reporting.

Members sought further clarification around the figures regarding fines, and whether discharges were ever responded to with full enforcement measures. The response from the Area Environment Manager noted that the prosecution was sought for category one or two. Last year, the area had experienced three serious pollution events, so those three would be progressed. This went through internal governance structures to ensure a consistent and proportionate approach. This was not taken lightly nor was enforcement an easy way out. Regulation requires informed change within companies. This must be done with ongoing engagement and transparency. Visibility of EA regulation is an area that has been a learning point. All compliance is kept on a full public register which can be requested and reviewed. Behaviour change is most important alongside accountability for pollution.

Members sought additional clarification of whether these enforcement efforts and investment by the water companies had actually reduced the amount of sewage going into rivers. The response from the Area Environment Manager noted that as part of the enforcement processes that result in prosecution, requirements were set out as part of sentencing that had to be complied with by the water companies, but this could take time. Enforcement Undertakings were not accepted if they company had not rectified the situation. There were two-part criteria. Notices were also served that required improvement. There were several kinds of enforcement activities, and more investigation would be carried out if it was uncertain what improvement had been done. The governance process operated to seek the best outcome through enforcement, which included behaviour change. More engagement, messaging and focus of resources in the right place was necessary, but there was not a limit on

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enforcement activity. Improvements were often seen before the proceedings came to a close as a result of these additional types of enforcement action that were sometimes less obvious. Inappropriate overflows did still happen, which was not acceptable, but the EA had observed a reduction in the number of events since the increased transparency and monitoring had been implemented as part of a holistic approach to improving water quality.

Clarification was sought regarding the differences between three- and four-star performance by a water company and how this reflects accountability. The response from the Area Environment Manager reaffirmed that the goal is accountability for keeping our water clean, and that a proportionate response meant that prosecution was not appropriate in every case. Additional context was provided around the three-star rating of Yorkshire Water, and a hypothetical example was provided as to how a less severe pollution event could result in a monetary penalty. Notices requiring improvement actions were the most frequent form of enforcement issued by the EA.

Members requested to know whether customer satisfaction was built into the assessment framework for water company performance where the water company has a monopoly. The response from the Area Environment Manager, whilst unable to comment on the business or financial arrangements of the water companies, affirmed the benefit of participation in community meetings to gain insight into what additional action was needed to give people the confidence that robust regulation was being carried out. This helped ensure that EA investment in infrastructure improvements would achieve the desired outcomes in the short as well as the long term. This was relevant and important to people's livelihoods, leisure and wellbeing.

Members requested more information about how the EA was responding to significant pollution via agriculture that was happening alongside the overflows. The response from the Area Environment Manager noted that the attention to the topic of overflows had helped to drive significant change and increased transparency. Additional government investment had enabled additional resource within the EA to carry out more intense regulation and enforcement on farms where there were infrastructure improvements required. Because of agriculture's usual proximity to waterbodies, there was a greater risk of catastrophic water pollution events caused by agriculture. There was therefore more engagement work going on with farmers around land management practice. This focus addressed impacts through regulation through understanding where the pollution was most significant. National teams were also looking at Persistent Organic Pollutants (POPs) to find out the impacts and increase holistic awareness of all the different factors that might impact water quality.

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Members requested clarification of statistics around contributing factors to poor river water quality, specifically the 36% caused by the wider water industry, as this figure had not been included within the written briefing supplied by Yorkshire Water. The response from the Area Environment Manager noted that this could be caused by sewage pumping stations, treatment works, or network failures at any stage of the treatment process. Network maintenance had a significant impact. Regulation efforts had examined specific parts of the process to target the areas where these incidents happen. This included looking at frequent low-impact incidents. Telemetry was important in monitoring these areas and to ensure the right maintenance actions in response.

The Chair thanked the Area Environment Manager for attending and noted the outstanding questions which would be addressed to Yorkshire Water for response, specifically the request for more information regarding the River Health Team and how this team would engage with the community members and stakeholders. The Chair also expressed an intention to ask Yorkshire Water to respond to the question regarding the impacts of wider water industry.

Resolved:-

1. That the presentation be noted.
2. That the relevant outstanding questions be submitted to Yorkshire Water for response.

26. WORK PROGRAMME

Resolved:-

1. That the report and proposed schedule of work be noted.
2. That authority be delegated to the Governance Advisor in consultation with the Chair and Vice-chair to make changes to the schedule of work as appropriate between meetings, reporting any changes back to the next meeting for endorsement.

27. URGENT BUSINESS

The Chair advised that there were no urgent items of business requiring the Commission's consideration.

28. DATE AND TIME OF THE NEXT MEETING

Resolved:-

That the next meeting of the Improving Places Select Commission will take place on 24 October 2023, commencing at 1.30 pm in Rotherham Town Hall.