

Record of operational decision

Decision title:	Decision to serve Notice on the landowners under section 25 of the Land Drainage Act 1991
Date of decision:	27 May 2026
Decision maker:	Steve Hodges, Directorate Services Team Leader, Economy and Environment
Authority for delegated decision:	Directorate scheme of delegation: Paragraph 77, updated 14/05/2026 Directorate: Economy and Environment, section 77. This is an exercise of the delivery of a duty under the Flood and Water Management Act 2010.
Ward:	Weobley
Consultation:	Legal Services
Decision made:	To issue a Notice under section 25 of the Land Drainage Act 1991 requiring works to be carried out to reinstate the natural flow of the original watercourse.
Reasons for decision:	<p>Under the Land Drainage Act 1991, Herefordshire Council, in its capacity as the Land Drainage Authority, has a statutory duty to ensure that ordinary watercourses are maintained in a condition that permits the free and natural flow of water.</p> <p>Alterations to watercourses, including modifications such as straightening or culverting, can increase flood risk both locally and downstream. At present, the council holds no record of any consent or approval having been granted for the alteration of the adjoining culverted watercourse beneath the A4110, upstream of the village of Canon Pyon.</p> <p>The council has written to three separate addresses in an attempt to contact the landowner, but no response has been received. Those letters set out the landowner's responsibilities as a riparian owner and explained that, although the council's preferred approach is to resolve such matters informally and collaboratively, it may be necessary to consider formal enforcement action under section 25 of the Land Drainage Act 1991 where issues remain unresolved.</p> <p>Given the continued inaction, the council now intends to exercise its statutory powers under section 25 of the Land Drainage Act 1991 by serving a legal notice requiring works to be undertaken to reinstate the natural flow of the original watercourse.</p> <p>As the landowner has been unable to be traced, despite reasonable attempts to ascertain ownership, the notice will be addressed to 'Owner/Occupier' and served by affixing it in a conspicuous position on the land.</p> <p>Should the landowner fail to comply with the requirements of such a notice, the council may carry out the works in default and recover all reasonable costs from the landowner. In addition, non-compliance may give rise to prosecution.</p>

<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>The decision to serve Notice does not discriminate, harass or victimise nor encourage conduct prohibited under the Equality Act 2010. It also does not unfairly impact upon anyone with a relevant protected characteristic nor hinder relations between persons sharing such a characteristic.</p> <p>There could be cost implications in the event of non-compliance as the council may need to undertake the works and recover the costs. Recovering costs may require further legal proceedings and incur additional costs.</p> <p>If council funding is to be used, it will be met from the £1,580,000 allocation for scheme delivery within the £2,055,000 Flood Response Programme budget.</p>
<p>Details of any alternative options considered and rejected:</p>	<p>None. The unauthorised alterations to the watercourse are increasing flood risk in an area that has experienced repeated flooding. A decision not to pursue legal proceedings would undermine the council’s land drainage duties and could be interpreted as acceptance of non-compliance.</p>
<p>Details of any declarations of interest made:</p>	

Signed..... Date: