CABINET (HARBOUR AUTHORITY) COMMITTEE:

3 APRIL 2003

AGENDA ITEM: 10

PORTFOLIO: CULTURE, SPORT & ENTERPRISE

SUBJECT: POST IMPOUNDMENT GROUNDWATER SURVEYS

Background

1. Paragraph 4 (1) (b) of Schedule 7 of the Cardiff Bay Barrage Act 1993 required the County Council, as successor to Cardiff Bay Development Corporation, to arrange for a survey of every building within the protected property area, during the period beginning two years and ending three years, after the commencement of impoundment (that is, between 4 November 2001 and 3 November 2002). In accordance with Paragraph 5(3), the County Council was to arrange for a survey of buildings outside the protected property area but within the City of Cardiff, the Community of Penarth and the Community of Llandough provided that a request in writing was received together with payment of £40, and a survey was undertaken prior to impoundment.

Issues

2. The post impoundment survey programme has been completed. The property surveys were undertaken by eight surveyor organisations under contracts let by the former Cardiff Bay Development Corporation. A summary of the surveys completed is as follows:

<table>
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<tr>
<th>No of Surveys Scheduled</th>
<th>No of Surveys Undertaken</th>
<th>% Completed</th>
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<tr>
<td>21,519</td>
<td>20,498</td>
<td>95.2%</td>
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3. The total number of surveys undertaken pre-impoundment was 22,267. The number scheduled to be completed post-impoundment (21,519) was less primarily because a significant number of owners/occupiers or properties located outside the protected property area did not request a survey to be undertaken. Although not a requirement of the Cardiff Bay Barrage Act 1993 or the Groundwater Provisions Code of Practice, letters were sent to each owner/occupier reminding them that a notice requiring a survey, accompanied by a payment of £40 in respect of the survey, must be received by the County Council for a survey to be arranged.

4. The number of surveys undertaken post impoundment is less than that programmed because owners/occupiers did not always respond to the letters sent by the surveyors, which sought to make arrangements for a survey. In these situations the following actions were undertaken:

   • Groundwater Team Officers made visits to these properties in an attempt to secure survey appointments.
   • If there was no answer, correspondence was left which requested that the owner/occupier telephoned the groundwater help line in order to make an appointment.
   • If a phone call was not received by the Harbour Authority Officers, a letter highlighting the powers of entry was sent by first class post.
   • If contact by the owner/occupier was still not received further visits were then made by officers.
   • If these visits failed to result in a survey appointment being made, a letter which detailed the attempts made to arrange for a survey to be carried out was hand delivered.
   • If no response to this letter was received, a final letter informing the owner/occupier of the consequences of not having a survey (in terms of the possible loss of right to protective works etc) was sent.

5. Excluding the letters sent by the surveying companies, Officers sent a total of nearly 19,000 items of correspondence to properties, and additionally made more than 17,000 property visits.

6. In order to raise public awareness regarding the survey programme, various public relation exercises were undertaken. These included:

   • The hiring of public halls at 11 different venues for the purpose of addressing any public queries to the commencement of the survey programme.
   • The placement of articles in the Capital Times.
   • Working with Quadrant in order to get groundwater related articles in the local press.
Radio advertisements on Red Dragon and Talk Radio over a two week period in August 2002.

7. Only one building surveyed under the post-impoundment programme has been identified as suffering groundwater damage. However, the issue is not new as groundwater damage to this building was identified very soon after commencement of impoundment on 4 November 1999. There are a number of occupiers who are querying the survey report conclusion that groundwater damage has not occurred. Some of these occupiers have already sought to have their query resolved using the ‘determination of disputes’ procedure identified in Paragraph 25 of Schedule 7 of the Cardiff Bay Barrage Act 1993.

8. It should be noted that in accordance with paragraph 4(2) of Schedule 7 of Cardiff Bay Barrage Act, the owner/occupier of, or any part of, a building within the protected property area may during the period beginning three years, and ending twenty years, after the commencement of impoundment require the County Council to arrange one further survey of the building at no cost to himself. Furthermore, under paragraph 4(3) the owner occupier of, or any part of, a building within the protected property area may at any time during the period beginning with, and ending twenty years after, the commencement of impoundment may require the County Council to undertake a further survey if he is able to show justifiable concern that this building has suffered or is likely to suffer groundwater damage.

9. The above provisions comply to all buildings located within the protected property area (regardless of whether they had the post impoundment survey). However, these provisions do not apply to a building outside the protected property area whose occupier paid for the pre impoundment survey but not the post impoundment survey.

Reasons for Recommendation

10. The purpose of the report is to inform Cabinet of the number of post impoundment property surveys undertaken.
ADVICE

This report has been prepared in connection with Corporate Managers and reflects their collective advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the advice contained in this section.

The Corporate Manager responsible for this report is Tom Morgan.

Legal Implications

Schedule 7 to the Cardiff Bay Barrage Act 1993 makes provision for ascertaining, and preventing or repairing, damage to property resulting from any alteration of groundwater levels which may occur in consequence of the construction of the barrage. Groundwater damage means damage caused or probably caused by an alteration of groundwater levels occurring in consequence of the construction of the barrage. During the period beginning two years, and ending three years, after the commencement of impoundment, the Council must as the successor to the Development Corporation arrange for a survey of every building within the protected property area. Where a survey of a building has been carried out prior to impoundment outside the protected property area the owner or occupier of, or of any part of, the building may during the period beginning two years, and ending three years, after the commencement of impoundment require the Council to arrange a survey of the building.

All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Standing Orders and Financial Regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council’s fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

This report does not result in any additional financial implications.

Consequences

The post impoundment survey programme has been completed. Further surveys of properties may be undertaken as identified in the report.

BYRON DAVIES
Chief Executive
17 February 2003

Background Papers: None
RECOMMENDATION

Cabinet (Harbour Authority) Committee is requested to note the contents of the report.

COUNCILLOR MARION DRAKE