

# North Somerset Levels Internal Drainage Board

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## Land Drainage Consents - Guidance Notes for Applicants

### 1. Introduction

- 1.1 The purpose of this document is to provide general guidance on the procedures to be followed when making an application for works to Viewed Rhynes and Ordinary Watercourses within the North Somerset Levels Internal Drainage Board District under the provisions of the Land Drainage Act 1991.
- 1.2 Matters that the Board will take into account when considering an application are also outlined.

### 2. Legal Requirements

- 2.1 Under the provisions of the Land Drainage Act 1991, Internal Drainage Boards have a duty to exercise a general supervision over all matters relating to the drainage of land within their Drainage District. In addition to this, the North Somerset Levels Internal Drainage Board (in common with many other Boards) has made Byelaws under Section 66 of the Act, to further control works carried out and activities undertaken by others affecting watercourses within its Drainage District. In particular, the Byelaws permit the Board to control the rate of surface water run-off from development sites into the Drainage District.
- 2.2 To meet the requirements of the Act and the Byelaws, any person proposing to undertake any works affecting a watercourse within the North Somerset Levels Internal Drainage District must submit details of their proposals to the Board. Before granting a Consent allowing the works to proceed, the Board may request any modifications to the proposals, which it considers necessary to satisfy its environmental duties and to control flood risk.
- 2.3 Riparian owners, developers, and all other persons proposing to carry out any works affecting a watercourse must, therefore, obtain Land Drainage Consent from the Board **before** the work commences.
- 2.4 There are three different classes of watercourses - Main River, Viewed Rhynes and Ordinary watercourses, and different requirements apply to each.

### 3. Main Rivers

- 3.1 Main Rivers are designated as such on maps held by the Department for the Environment, Food and Rural Affairs (DEFRA) and by the Environment Agency. Works in or near Main Rivers require the consent of the Environment Agency, either under their Byelaws or under Section 109 of the Water Resources Act 1991. These Guidance Notes do not cover works affecting Main Rivers and the Environment Agency should be consulted before any work is undertaken.

### 4. Viewed Rhynes

- 4.1 Viewed Rhynes are watercourses under the direct operational control of the Internal Drainage Board and a map showing these can be inspected at the Board's Office by prior appointment. The Board has permissive (not mandatory) powers to carry out maintenance and improvement works on Viewed Rhynes.

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- 4.2 In addition to the control of surface water run-off (See Paragraph 1.1 above) the Land Drainage Byelaws, which require persons to obtain Consent for all activities in or adjacent to Viewed Rhynes and their floodplains. Such activities include the erection of fences, the construction of culverts or bridges, the construction of outfalls, the placing of pipes or cables below the bed of Viewed Rhynes, tree planting, disposal of rubbish, and excavation which may affect the bed and banks of Viewed Rhynes.
- 4.3 A copy of the North Somerset Levels IDB Byelaws is available on request to the Clerk to the Board (Telephone 01934 833388).

### 5. "Ordinary" Watercourses

- 5.1 The term "Ordinary" watercourse describes all other remaining watercourses, streams, ditches, ponds, etc. within the Drainage District some of which may be tributaries of Main Rivers or Viewed Rhynes.
- 5.2 The Board has regulatory powers in respect of all "Ordinary" watercourses within its Drainage District and may also carry out works on any "Ordinary" watercourse if it so chooses.

### 6. Application Fees and Other Charges

- 6.1 Under Section 23 (2) of the Land Drainage Act 1991, the Board is authorised to charge an application fee in relation to an Application for Consent. The fee payable is to cover the cost of examining and approving the proposals. The fee amount is currently £50.00 (VAT exempt) and is payable in respect of each separate structure, channel, pond or other element forming the project.
- 6.2 Fees are non-refundable in the event that an application is refused.
- 6.3 The Consent Application Form should be completed, detailing the number of structures (e.g. culverts, outfalls, new or re-aligned channels, ponds, etc.) forming the elements of the project, as appropriate. Applicants are advised to confirm the fee payable with the Board's Engineer before submitting an application.
- 6.4 Where an application involves the construction of new surface water outfalls, modifications to existing watercourses or the construction of new watercourses, the examination of proposals relating to new development sites, or the examination of proposals relating to Flood Risk Assessments, the Board may also make separate charges in respect of its costs in carrying out a technical assessment of the proposals.
- 6.5 Where extensive works are proposed, the Board may also make separate charges for site inspections whilst the works are in progress and on completion. Applicants are advised to confirm what additional fees may be payable with the Board's Engineer, before submitting an application.

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### 7. How to Obtain a Consent

- 7.1 Completed Application Forms should be submitted, with the appropriate fee and supporting drawings, calculations and other documentation to the Board's Engineer. Upon receipt of a full and complete application the Board has two months in which to grant or refuse Consent (unless an extension of this time is agreed).
- 7.2 This time period does not start until the Board is satisfied that the application including, where necessary, all plans, drawings, flood risk assessments and design calculations, as may reasonably be required by the Engineer in order to properly assess the proposals, is complete in every respect.
- 7.3 4No. copies of all drawings are required and these shall not exceed A1 in size. Oversize drawings will be returned.
- 7.4 The grant of Land Drainage Consent may be subject to Conditions such as to the time and manner in which the works are to be carried out, forms of construction, environmental mitigation works required, and the provisions to be made for future maintenance of the completed works.
- 7.5 Applicants are advised to discuss their proposals with the Board's Engineer before submitting an application, to ensure they are aware of the principal requirements for the work envisaged.
- 7.6 A Consent granted by the Board is given solely for the purposes of the Land Drainage Act 1991 and the Board's Byelaws, and should not be regarded by the applicant as in any way approving the design and soundness of any proposed structure, other than in relation to its impact on flows and its effects on the watercourse.
- 7.7 The Board accepts no liability for the structural integrity, the future stability or the future maintenance of any works for which Consent may be given. These matters are the sole responsibility of the applicant and his technical advisers.
- 7.8 Applicants are advised that a Land Drainage Consent does not override an adjacent landowners' rights nor does it permit interference with legally protected wildlife habitats.
- 7.9 If the Board fails, two months after of receipt of a full and complete application, to notify the applicant in writing of their determination with respect to the application, then the Board is deemed to have granted Consent.

### 8. Standards of Protection

- 8.1 Where appropriate, and when required by the Board's Engineer, applications for Land Drainage Consent shall include hydrological and hydraulic calculations consistent with the Environment Agency's 'Interim procedure for rainfall runoff management for developments'.<sup>1</sup>
- 8.2 The objectives of this procedure are:
- For stormwater runoff discharged from urban developments to replicate or achieve a reduction from the 'greenfield' response of the site over an extended range of storm probabilities (return periods;
  - To manage run-off on site for extreme events.

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8.3 This requires:

- The peak rate of stormwater run-off to be controlled;
- The volume of run-off to be reduced;
- The pollution load to the receiving waters from stormwater run-off to be minimised;
- The assessment of overland flows and temporary flood storage across the site.

For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of run-off discharged from the site into a Viewed Rhyne or ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.

8.4 A minimum of three annual probabilities shall be considered:

- The 100% annual probability (1 in 1 year storm event)
- The 33.3% annual probability (1 in 30 year storm event)
- The 1% annual probability (1 in 100 year storm event)

In specific circumstances, the Board's Engineer may also specify that annual probabilities of 20% (1 in 5 year storm event) and 2% (1 in 50 year storm event) are also considered.

8.5 The analysis of overland flows within the development site should use short high intensity rainfall events of between 15 and 60 minutes duration, with appropriate intermediate increments.

8.6 The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes. No allowance for climate change shall be made in calculating the 'greenfield' run-off.

8.7 In no case shall the level of protection of the proposed works be lower than the existing level of flood protection.

8.4 Applicants are advised that where proposals involve new development, a copy of the Flood Risk Assessment undertaken for the site accordance with the Environment Agency Guidance Relating to Planning Policy Guidance Note 25: 'Development and Flood Risk' should be submitted with the Land Drainage Consent Application, together with a copy of the Agency's 'Letter of Compliance'.

8.5 Applicants are also advised that the Board supports and advocates the use of sustainable drainage systems to minimise the impact of surface water run-off on the environment. Applications for Land Drainage Consent should, therefore, demonstrate that appropriate techniques have been applied to achieve flow reduction.

## 9. Nature Conservation

9.1 Applicants should be aware that the Board has a duty under the Land Drainage Act 1994 and other legislation, to conserve and enhance the natural environment. The Board will, therefore, consider the nature conservation implications of any proposal, when determining a Land Drainage Consent Application.

9.2 In cases of doubt the Board may require the applicant to obtain a letter from English Nature indicating their approval of the proposals, and to append this letter to the application. The Board may also consult English Nature directly on any application it receives.

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### 10. Right of Appeal

- 10.1 If an applicant believes that Land Drainage Consent had been unreasonably withheld, or that the conditions imposed are unreasonable, then the applicant has a right of appeal. This must be notified to the Engineer in the first instance. Under Section 23 of the Act, if agreement cannot be reached an independent arbitrator will be appointed to settle the matter.

### 11. Failure to Obtain Land Drainage Consent

- 11.1 The failure to obtain Land Drainage Consent prior to carrying out the works may be a criminal offence. Under Section 24 of the Land Drainage Act 1991, if works are executed in contravention of Section 23, or without first obtaining a formal Land Drainage Consent, the Board has the power to serve a Notice requiring abatement of the nuisance within a specified time.
- 11.2 Any person acting in contravention of Section 23 of the Land Drainage Act 1991, of any of the Board's Byelaws, may be liable, on conviction, to fine not exceeding level 5 on the standard scale. Any further failure to comply may result in an additional fine not exceeding £40 per day for every day during which the default continues.
- 11.3 Under Section 24 of the Act, the Board may also remove, alter or pull down any unauthorised work and recover the expenses reasonably incurred in the process, from the person in default.

### 12. Other Consents and Permissions

- 12.1 The issue of a Land Drainage Consent by the North Somerset Levels Internal Drainage Board does not absolve a person proposing to execute works from the need to obtain such other licences, consents or permissions which may be required by law.
- 12.2 If the consent or approval of a third party is required before the applicant is able to carry out any of the works proposed, documentary evidence of this consent or approval must be submitted with the application.
- 12.3 Reference should also be made to 'Policy Regarding Culverts and the Culverting of Watercourses', 'Summary of Requirements for Small Pipe Outfalls' and 'Policy and Requirements for Environmental Mitigation'.

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For further information and guidance in individual cases, please contact:

#### **Engineer to the Board**

North Somerset Levels Internal Drainage Board, The Cider House, The Grange Business Park,  
Hewish, Weston-super-Mare, Somerset BS24 6RR

Tel 01934 833388  
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Preliminary rainfall runoff management for developments (EA/DEFRA W5-074/A)

<sup>1</sup> Available on application to the Environment Agency