



Walsall Council

Guidance on Development and Flood Risk for Developers

March 2013

FINAL



About this document

This document has been prepared to assist those proposing development within the Borough to understand the requirements of the Council in regards to development and flood risk. This guidance should not be interpreted as policy itself, rather it is advice to developers. This advice is subject to change on the release of the final National Standards for Sustainable Drainage Systems and enactment of Schedule 3 of the Flood and Water Management Act (2010).

Contact us

Planning helpline

01922 652677

Planningservices@walsall.gov.uk

Contact Highway Maintenance for specific advice with regards to flood risk assessment, drainage and land drainage consents

FloodRiskManagement@walsall.gov.uk

Please tell us if you have any communication needs such as needing information in a different language or alternative format (for example, in large print, in Braille or on CD).

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1. Development and flood risk policy and requirements

New development and redevelopment offers an opportunity to reduce flood risk to both users of a development, neighbouring third parties and the wider community. It can do this by both managing the risk of flooding to the site and the risk of flooding from the site elsewhere. Those proposing development should consider the risk of flooding from all sources, seeking to develop in the lowest flood risk areas, proposing mitigation measures where appropriate and managing the surface water runoff generated from development. Links to the documents and websites referenced below can be found at the end of this guidance document.

National policy is set out in the National Planning Policy Framework (2012) and accompanying documents. The technical guidance to the previous Planning Policy Statement, PPS25 (2009), is also a useful source of reference. The National Planning Policy Framework sets out two key tests: the Sequential Test looks to allocate development to the lowest flood risk areas and in exceptional circumstances where certain types of development are proposed in the highest flood risk areas, the Exception Test will also apply.

Local Policy is set out in the Black Country Core Strategy (2011), policy ENV5. The policy approach is to avoid inappropriate development in flood risk areas, again applying a sequential approach that steers development to the lowest possible flood risk areas. It also encourages the uses of sustainable drainage systems and restoring watercourses and development sites to function more naturally in terms of drainage and flood risk.

To check planning application requirements for a site please refer to section V20 L of the Black Country Joint Validation Checklist (2012). Section 2 of this document contains more information for applicants, together with example planning conditions that the Council may use. Developers are also advised to refer to the Environment Agency Standing Advice. This includes information on site specific Flood Risk Assessments and other general advice for applicants and agents.

The Environment Agency are Statutory Consultees in terms of development and flood risk for non-minor development in Flood Zones 2 or 3 and where a site is greater or equal to 1 hectare in size. The local office for Walsall is Central Midlands and the Environment Agency can be contacted on 03708 506 506. The Council also consults Severn Trent Water and the Canal and River Trust on relevant applications.

There is pending legislation in respect of sustainable drainage systems (for example swales, ponds and permeable paving) (Schedule 3 of the Flood and Water Management Act (2010)). See Section 3 for more on the interim position with regards to sustainable drainage. Section 4 contains information on the requirements of the Council for drainage details for planning applications.

Developers can also refer to the Black Country Strategic Flood Risk Assessment (2009) and Outline Water Cycle Study and Scoping Surface Water Management Plan (2009). Please be aware that some of the information in these documents is now out of date and you are advised to check with the Council about the source(s) of latest information. At the time of writing, the Strategic Flood Risk Assessment is currently being updated for the Borough and the Council are likely to undertake a Detailed Water Cycle Study.

In addition to the above, where your proposals include works to watercourses you may need to get consent from the Council where this is an Ordinary Watercourse or the Environment Agency where this is Main River. For more information on this please see Section 5.

2. Guidance for applicants and typical conditions

Sequential and Exception Tests

For those proposing development sites where the Council has not already applied the Sequential Test when allocating land for development, it will be necessary for applicants to demonstrate that sites for development have been sought firstly within the lowest flood risk zone (Flood Zone 1). Only if it can be shown that reasonably available sites for the proposed development are not available within this zone can alternative sites be considered within the areas that are at greater risk of flooding (considering first Flood Zone 2 and then Flood Zone 3).

The Council will apply the Sequential Test through the development of the Sites and Allocation and Walsall Town Centre Area Action Plan Development Plan Documents. The latest information on the timescales for these documents can be found on the Council's website.

If following the Sequential Test it is necessary to develop in higher probability Flood Zones, then the Exception Test may need to be applied depending on the vulnerability of the development to flooding (refer to Table 3 in the Technical Guidance to the National Planning Policy Framework, 2012).

Flood Risk Assessment

The requirements for site specific Flood Risk Assessment are set out in the National Planning Policy Framework (2012) and V20 L in the Joint Black Country Validation Checklist (2012). In most cases this will be where a development is in Flood Zones 2 and 3 or otherwise a site is one hectare or above in Flood Zone 1.

The purpose of a site specific Flood Risk Assessment is to assess the flood risk both to and from a proposed development. The Environment Agency Standing Advice, Planning Policy Statement 25 Practice Guide (2009) and the Black Country Strategic Flood Risk Assessment (2009) are helpful sources of advice with regards to Flood Risk Assessments.

A Flood Risk Assessment must demonstrate:

- The risk of flooding both to and from the site from any source and how these risks will be managed over the lifetime of the development, considering climate change.
- That development is safe, where possible reduces flood risk overall, and that within the site a sequential approach has been taken to place the most vulnerable parts of the development in the lowest flood risk areas.
- Whether it will increase flood risk elsewhere.
- Mitigation measures such as flood resilient design and construction, including appropriate Finished Floor Levels, sustainable drainage systems, land drainage improvements, an emergency flood plan, flood defences, flood storage etc. An opportunity should be taken to reduce flood risk, enhance biodiversity and amenity, protect the historic environment and seek collective solutions to managing flood risk.
- How surface water flows will be reduced back to greenfield rates.

The layout of a site should be informed by the assessment of flood risk based on a detailed topographic survey, pre and post development layouts and in accordance with the National Planning Policy Framework (2012) and associated guidance. It will always be preferable to design the site around flood risk and drainage constraints rather than try

to retrofit such measures to a fixed layout. Developers are therefore encouraged to contact the Council and Environment Agency for advice at the earliest opportunity.

Surface Water Management

The purpose of Sustainable Drainage Systems (SUDS) is to mimic natural drainage and significantly reduce surface water runoff and improve water quality. SUDS should seek to minimise the amount of surface water entering the drain, sewer and watercourse network. The Council actively promotes the use of Sustainable Drainage Systems to the benefit of users of developments, reducing flood risk in the wider community and improving the local environment. In accordance with the Black Country Core Strategy policy ENV5, where sites require a Flood Risk Assessment runoff should be limited to equivalent greenfield rates.

Once commenced, Schedule 3 of the Flood and Water Management Act (2010) will establish the Council as a SUDS Approving Body (SAB). The SAB will be responsible for approving drainage systems in new developments and redevelopments before construction can start (in line with National Standards), and for adopting and maintaining SUDS serving more than one property. The right to connect surface water to the public sewer network will be conditional on SAB approval.

The latest indication is that this will take place in April 2014, although the exact form this will take is unknown at this time. It is also noted that the funding for long-term maintenance is still to be determined. Before this date the Council is not the SAB and hence is not required to adopt and maintain SUDS on new development under the Flood and Water Management Act. The Council has developed an 'Interim Position Statement on the approval, adoption and maintenance of Sustainable Drainage Systems for new development' which is set out in Section 3.

Drainage for development sites should be designed at the current time in accordance with relevant national and local planning policy and widely used design guidance (for example the CIRIA suite of SUDS guidance documents and Sewers for Adoption as is suitable). Adoption and maintenance arrangements and consequent funding arrangements should be set out by the developer. The drainage layout will need to be carefully considered to ensure that there will not be an adverse impact on surface water flow paths both on and off site. Section 4 contains Surface Water Drainage Strategy requirements for both outline and full planning permission.

Consultation with the Local Planning Authority is strongly advised to discuss the use of Sustainable Drainage Systems as part of the drainage design process.

Other measures set out in the Core Strategy policy ENV5

Many of the watercourses in the Borough have been heavily modified over time. Watercourses may have been piped (culverted), straightened, narrowed, disconnected from their floodplains by land raising and the shape of the channel may have been artificially altered. Where a watercourse passes through a development site an opportunity exists to restore the watercourse to a more natural condition, for example by opening up culverts, reinstating a natural, sinuous channel and restoring functional floodplain (places where water is designed to flow or be stored at times of flood). Doing so can help to reduce flood risk, improve water quality, benefit biodiversity and add amenity value.

Where a watercourse passes through a site (open or culverted) the developer should demonstrate that they have considered the above matters in developing their proposals for development.

Land drainage considerations

The responsibility of the Environment Agency in issuing land drainage consents for works affecting flows on Ordinary Watercourses transferred to the Council as Lead Local Flood Authority in April 2012. Activities on ordinary watercourses requiring consent are those likely to cause an obstruction to flow or that would restrict storage. Consent under the amended Land Drainage Act (1991) is required for both permanent and temporary works. Such consent is required to avoid increasing flood risk both locally and to those upstream and downstream of the proposed works. Consent is still required from the Council even if the applicant has secured Planning Permission and/or other consents that may be required.

If culverts or bridges are to be retained within a development site then the condition and capacity of these needs to be surveyed and considered to be appropriate for the lifetime of the development. Due consideration of likely loading etc. on crossing structures needs to be taken into account. Safe passage across access structures, such as bridges during times of flood, will also be required and should be considered as part of mitigation measures for flooding from a watercourse.

The Council will usually require an easement in relation to Ordinary Watercourses (including where they are culverted) and this should be confirmed in each individual circumstance. This is likely to be 5m for open watercourses to allow sufficient space for maintenance and to encourage green and blue corridor open space. For culverted watercourses, this is likely to be 1.5 times the depth of the culvert to allow sufficient working space for repairs and maintenance. Advice on this matter for Main Rivers can be obtained from the Environment Agency.

In some circumstances it may be necessary to removed permitted development rights from properties to protect surface water drainage features and easements from watercourses.

Where watercourses pass through new development, whilst the site is being developed the developer/ landowner will be the riparian owner. Once the plots are sold on, future landowners will become riparian owners. Riparian owners have the ultimate responsibility for maintaining watercourses (including culverted ones) and it is important that everyone is made aware of their responsibilities.

Consultation with the Lead Local Flood Authority is strongly advised to discuss land drainage considerations as part of the development design process.

Typical planning conditions

Sustainable Drainage

- a) Prior to the commencement of any part of the development hereby permitted, drainage plans for the disposal of surface water and foul sewage shall have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include sustainable drainage and shall:
 - i. provide information about the design storm period (being 1, 30 and 100 years with an appropriate allowance for climate change) and rate of rainfall intensity, pre and post development surface water run-off rates and volumes, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and

- iii. provide a management and maintenance plan for the development which shall include the arrangements for adoption by an appropriate authority, body or statutory undertaker.
- b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained and maintained thereafter.

Reason: To ensure that the drainage for the development is suitably catered for as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Flood mitigation measures

- a) Flood resilience measures shall be incorporated into the development in accordance with the recommendations of the approved Flood Risk Assessment (FRA) (insert references to the report) undertaken by (insert author), together with [any other requirement e.g. an emergency flood plan and/ or land drainage improvements] that have been approved in writing by the Local Planning Authority.
- b) The approved flood resilience measures shall be put in place prior to the commencement of the use and retained and maintained thereafter.

Reason: To reduce the risk of flooding to the proposed development, future users and the wider community.

The above may be modified in relation to restricting permitted development rights to manage flood risk e.g.

- c) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within <insert description of area with no permitted development e.g. below a certain level or within a certain flood zone> as delineated on <figure xx in Flood Risk Assessment>.

Flood Risk Assessment

A site specific Flood Risk Assessment for applicable sites is a fundamental requirement of national planning policy and therefore cannot be conditioned. The level of detail within a Flood Risk Assessment depends on the type of development, size of site and level of flood risk.

When applying for outline planning permission, it is likely to be acceptable to undertake a Scoping Flood Risk Assessment largely based on available qualitative information. If applying for detailed planning permission, then a detailed Flood Risk Assessment is likely to be necessary. CIRIA document 'Development and Flood Risk' (2005) is a useful reference about the level of detail that is appropriate for different types of Flood Risk Assessment.

Undeveloped buffer zone for a watercourse, pond or wetland

- a) Prior to the commencement of any part of the development hereby permitted, a scheme for the provision and management of a n <x> metre wide buffer zone alongside the <watercourse / pond / wetland> shall be submitted to and agreed in writing by the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:
- i. plans showing the extent and layout of the buffer zone.
 - ii. details of any proposed planting scheme (for example, native species).
 - iii. details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan.
 - iv. details of any proposed footpaths, fencing, lighting etc.
 - v. where a green roof is proposed for use as mitigation for development in the buffer zone, details of an appropriate substrate and planting mix.
- b) The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained and maintained thereafter.

Reason: To ensure that there is no detrimental impact on ecological value.

3. Interim Position Statement on the approval, adoption and maintenance of Sustainable Drainage Systems (SUDS) for new development

The purpose SUDS is to mimic natural drainage, significantly reduce surface water runoff and improve water quality. SUDS should seek to minimise the amount of surface water entering the drain, sewer and watercourse network.

Once commenced, Schedule 3 of the Flood and Water Management Act (2010) will establish the Council as a SUDS Approving Body (SAB). The SAB will be responsible for approving drainage systems in new developments and redevelopments prior to construction starting (in line with national standards) and for adopting and maintaining SUDS serving more than one property. The right to connect surface water to the public sewer network will be conditional on SAB approval.

The latest indication is that this will take place in April 2014, though the exact form this will take remains unknown. It is also noted that the funding for long-term maintenance is still to be determined. Before this date the Council is not the SAB and hence is not required to adopt and maintain SUDS on new development under the Flood and Water Management Act.

Promoting the use of Sustainable Drainage Systems

The Council actively promotes the use of SUDS to the benefit of users of developments, reducing flood risk in the wider community and improving the local environment.

Policy in the Black Country Core Strategy Policy ENV5 (adopted 2011) states that all developments should “*Incorporate Sustainable Drainage Systems (SUDs), unless it would be impractical to do so, in order to significantly reduce surface water run-off and improve water quality. The type of SUDs used will be dependent on ground conditions*”. The policy also advocates a return to a more naturally functioning water environment and promotes the creation of green spaces (that could be used to intercept or store water). Sites that require a Flood Risk Assessment are required to reduce surface water runoff rates to equivalent greenfield rates.

In addition, all major planning applications must include details setting out how SUDS are proposed to be incorporated. If the use of SUDS is not possible, justification will need to be submitted to this effect (Joint Black Country Validation Checklist 2012). Major developments are 10 or more houses, buildings over 1000 sq m or land over 0.5 hectares.

In relation to the above, relevant site constraints will need to be considered when SUDS are designed. In particular, Walsall has some areas of very contaminated land that are likely to affect the use of SUDS. Developers are advised to contact the planning department to discuss any concerns about the impact of using SUDS on the viability of a development.

Drainage for development sites needs to be designed at the current time in accordance with relevant national and local planning policy and widely used design guidance (for example, the CIRIA suite of SUDS guidance documents and Sewers for Adoption as is suitable). Relevant guidance on SUDS retrofit (e.g. CIRIA) is also of relevance to sites where existing building(s) are to be retained. The drainage layout will need to be carefully considered to ensure that there will not be an adverse impact on surface water flow paths both on and off site.

Consultation with the Council is strongly advised to discuss the use of SUDS as part of the drainage design process. The Council is able to offer general advice but is not in a position to undertake a detailed technical review of designs in relation to applicable guidance at this

time. Such work will be undertaken at the cost and liability of the developer and/ or their professional advisers as suitable.

Adoption and maintenance of SUDS

Adoption and maintenance arrangements and consequent funding arrangements should be set out by the developer. The Council is not currently the SUDS Approving Body and is under no obligation to adopt SUDS on development sites at this time under the Flood and Water Management Act (2010). The Council does not currently have the resources and processes in place to adopt SUDS in respect of this legislation. It is expected these will be put in place before the commencement of the legislation to enable us to meet anticipated legal responsibilities.

It is also understood that subject to future legislation changes, the Council is under no obligation to adopt current SUDS schemes as of the date of future enactment, where these have not been constructed in line with national standards and have not been approved by the SUDS Approving Body.

Dependent upon future enactment of the legislation, the Council would only need to adopt and maintain SUDS that are approved by the SAB. The Council could voluntarily adopt SUDS where these do not meet national standards subject to a separate legal and associated funding agreement for maintenance.

Developers are also advised to refer to the policy of Severn Trent Water in respect of adoption of SUDS, which can be found on their website.

Special circumstances

Where open space in new developments is to be adopted by the Council then there may be the potential for the Council to adopt SUDS should they fall within this land.

Where SUDS take purely highways drainage there may be facilities to adopt such features using existing highways legislation.

Detailed discussions with relevant departments within the Council would be necessary to inform such decisions.

Please note the following

This note should not be interpreted as legal advice or policy, rather advice to developers during the interim period before the SUDS legislation is expected to be enacted. It has been developed with reference to draft legislation and consultations therefore the Council is presently unsure of timescales for implementation, funding mechanisms for approval, adoption and maintenance and development thresholds requiring SAB approval.

It will be updated as necessary as more certainty emerges as to the date of implementation and the form in which the SUDS Approving Body will be enacted.

4. Requirements for Surface Water Drainage Strategies

This section sets out the Council's expectations in terms of the drainage details submitted with a planning application. This Section should be read in conjunction with the Interim Position Statement for Sustainable Drainage Systems in Section 3 that relates to requirements of the Flood and Water Management Act (2010) and the anticipated future role of the Council as SUDS Approving Body.

The Council is able to offer general advice but is not in a position to undertake a detailed technical review of drainage designs in relation to relevant guidance, software and design parameters. It is expected that such work will be undertaken at the cost and liability of the developer and/or their professional advisers as suitable.

The future role of the Council as SUDS Approving Body will involve undertaking an assessment of proposed SUDS solutions in relation to National Standards that are yet to be published in final format.

All major planning applications must include details setting out how SUDS are proposed to be incorporated. If the use of SUDS is not possible, justification will need to be submitted to this effect (Joint Black Country Validation Checklist 2012). Major developments are 10 or more houses, buildings over 1000 sq m or land over 0.5 hectares.

Table 1 contains Surface Water Drainage Strategy requirements for both outline and full planning permission.

Table 1: Surface Water Drainage Strategy requirements for applications for planning permission

Reference	Area of work	Outline	Full
1	<p>Site information relating to:</p> <ul style="list-style-type: none"> • Location • Existing land use • Area (hectares) • Soil type and method of determination • Topographic survey • Flood history and risk of surface water flooding 	Yes	Yes
2	Details of existing drainage for the site (both land and highways)	Description	Drawing
3	<p>Information about the method employed to delay and control the surface water discharged from the site:</p> <p>Outline drainage designs showing types of drainage element that will be used and preliminary sizing and volumes of storage</p>	Yes	
4	<p>Information about the method employed to delay and control the surface water discharged from the site:</p> <p>A fully labelled network drawing showing all dimensions (pipe numbers, gradients, sizes, locations, manhole details, volume of storage etc.) of every element of the proposed drainage system (including sustainable drainage elements, control structures and outfall(s)).</p>		Yes

Reference	Area of work	Outline	Full
5	<p>Information about the design storm period and rate of rainfall intensity and pre and post development surface water run-off rates and volumes:</p> <p>Brownfield sites are strongly encouraged to discharge at the original pre-development (greenfield) rate where possible. If the site requires a Flood Risk Assessment as per the National Planning Policy Framework (2012) then the Core Strategy requires equivalent greenfield runoff rates to be achieved. If greenfield runoff rates are not required, a significant reduction in the current rate of discharge should be sought and agreed with the relevant Risk Management Authority (e.g. Severn Trent Water when proposing to discharge to a sewer system, the Council for discharge to an Ordinary Watercourse.)</p> <p>Information that the SUDS hierarchy has been considered (store water for later use e.g. rainwater harvesting, infiltration (e.g. permeable paving, attenuation on site e.g. swales and ponds then regional storage e.g. pond serving a number of sites) should be provided.</p> <p>Calculations should be undertaken with reference to the latest available and relevant hydrological methodology. Storm design return periods should be confirmed with the relevant Risk Management Authority but the following are likely to be applied:</p> <p>No flooding on the site in a 1 in 30 year design storm (i.e. network design criteria)</p> <p>No flooding to properties in a 1 in 100 year design storm.</p> <p>An appropriate allowance for climate change should be accounted for.</p> <p>Drainage designs should account for a surcharged outfall where the system is discharging into a watercourse or a sewer near to capacity, unless supporting information can be provided that this will not be necessary.</p>	Yes	Yes
6	<p>Information about where the drainage system will discharge to:</p> <p>The disposal of surface water should be considered in the order of discharge to the ground (infiltration), then a watercourse, then a surface water sewer and then a combined sewer. Surface water cannot be disposed of into a foul sewer.</p> <p>The capacity of the system and sensitivity to flooding downstream should be checked with the relevant Risk Management Authority e.g. Severn Trent Water for sewers, Walsall Council for Ordinary Watercourses, Environment Agency for Main Rivers.</p>	Statement of Intent	Written confirmation

Reference	Area of work	Outline	Full
	<p>Discharge into any watercourse will need to consider whether the velocity of the discharge causes any erosion at the point of discharge or downstream.</p> <p>Confirmation of the discharge rate should be provided as agreed by the relevant receiving Risk Management Authority e.g. Severn Trent Water for sewers, Local Planning Authority for watercourses and infiltration as suitable</p>		
7	<p>Information about the measures taken to prevent pollution of the receiving groundwater and/or surface waters:</p> <p>Information to show how the drainage design caters for the presence of any contamination affecting the site that may be present. This includes an assessment of the treatment stages depending on the potential hazards to water quality on the site and the sensitivity of the receiving water body to pollution.</p>	Yes	Yes
8	<p>Where the use of soakaways for infiltration into the ground is proposed:</p> <p>Information to demonstrate that soakaways will provide a satisfactory means of draining the site (e.g. percolation tests and information about groundwater levels). When proposing to discharge to soakaways, percolation tests should be submitted in accordance with BRE Digest 365/ CIRIA guidance R156/ CIRIA guidance C697 as suitable.</p> <p>Evidence is required that soakaways are at least 5m from the foundation of the buildings and that any other relevant requirements, for example in relation to Building Regulations, have been taken into account.</p>	Yes	Yes
9	<p>Exceedence flows:</p> <p>Information on how exceedence flows in case of a system failing or being overwhelmed and overland flows will be managed on site, accounting for any land raising as part of the site. Development must not increase flood risk elsewhere.</p> <p>Floodwater should be managed to be safe and not enter any buildings or disrupt emergency access routes. The volumes, depths, velocity and extent should be mapped on a topographical plan of the site. If flooding is extensive the hazard should be considered in line with the latest guidance from the Environment Agency/Defra.</p>		Yes
10	Implementation of drainage on site:		Yes

Reference	Area of work	Outline	Full
	A timetable for the implementation of the drainage system. This needs to take into account considerations for site phasing and construction of the drainage network, allowing for an interim network capable of managing a larger silt load during the development stage as is suitable. This is more likely to be applicable to larger and strategic sites.		
11	<p>Adoption and maintenance:</p> <p>Arrangements for the adoption and maintenance of the surface water drainage system. It is necessary to examine how the maintenance and asset replacement requirements in respect of the design life of the drainage system will be dealt with, set against the longer term design life of the development where relevant and how these will be accounted for.</p>	Statement of Intent	Written confirmation
12	<p>Integration into wider environmental infrastructure:</p> <p>The Council will seek, where possible, a sustainable drainage solution for development sites that improves the local environment, is integral to a solution to wider site constraints, including, but not limited to, landscaping, ecology, water quality and groundwater, contaminated land and past mining activity and reduces flood risk in the wider area. Evidence should be provided that such matters have been considered.</p>	Yes	Yes

5. Land Drainage Consent

About land drainage consent

Since 6 April 2012, as a Lead Local Flood Authority (LLFA) the Council have been responsible for granting consent to individuals, group of individuals, companies and public bodies, who wish to carry out changes to an ordinary watercourse that may affect flow or flood risk.

Therefore, those who wish to make changes to an ordinary watercourse must gain written consent from the Council prior to carrying out such works.

The regulation consists of:

- Issuing consents for any changes to ordinary watercourses that might obstruct or alter the flow of an ordinary watercourse
- Enforcement action to rectify unlawful and potentially damaging work to a watercourse.

The Environment Agency regulate works on Main Rivers.

What is the difference between Main Rivers and Ordinary Watercourses?

Main Rivers are typically (but not always larger) watercourses and those in the Borough include the River Tame, Darlaston Brook and the southern part of the Ford Brook. A non-statutory map of Main Rivers can be found using the “What's in your back yard?” facility on the Environment Agency website.

www.environment-agency.gov.uk

Main rivers are regulated by the Environment Agency, who can be contacted on 03708 506 506.

Ordinary Watercourses are harder to define since an ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than public sewer) and passage through which water flows which does not form part of a Main River.

If you are in doubt about the status of a watercourse please contact the Council's Engineering and Transportation services for clarification.

What type of works require consent?

Activities on ordinary watercourses that require consent are those likely to cause an obstruction to flow or restrict storage.

Under the Land Drainage Act 1991 Section 23 the erection or alteration of any:

- mill dam
- culvert
- weir
- or other like obstruction

affecting the flow of an ordinary watercourse requires consent from the Lead Local Flood Authority (us).

Consent under the above legislation is required for both permanent and temporary works.

You can find examples of the type of works that would require consent in the appendix to the advice note for Lead Local Flood Authorities on the Environment Agency web-site

<http://www.environment-agency.gov.uk/research/planning/136423.aspx>



This should be used as a guide and you are encouraged to contact the Council's Engineering and Transportation Services for further clarification.

An authorised consent from the Council for any such changes to the watercourse is important, as any changes have the potential to increase flood risk to people and property, either those upstream or downstream and often unconnected to the works in question.

Even if you have planning permission or other consents you will still require consent for work

to ordinary watercourses.

Undertaking works without consent

In the case of works undertaken without consent, and where it is deemed that consent would have been required, works cannot be retrospectively consented.

Enforcement action may be taken by the Council where damaging or potentially damaging works on ordinary watercourses have been undertaken without the necessary consent that are likely to increase flood risk.

How to apply

You are encouraged to contact the Council in advance of applying for consent in order to discuss your requirements, provide advice and ensure that your application is completed correctly. Before completing your application please review the application guidance notes about ordinary watercourse land drainage consents. Copies of the application form and guidance are being made available on our website and can also be requested from Engineering and Transportation Services.

6. Further information

Black Country Core Strategy Policy ENV5 (2011), available on www.walsall.gov.uk

Black Country Joint Validation Checklist reference V20 L (2012), available on www.walsall.gov.uk

Black Country Strategic Flood Risk Assessment (2009)

<http://blackcountrycorestrategy.dudley.gov.uk/>

Black Country Scoping Surface Water Management Plan and Outline Water Cycle Study

<http://blackcountrycorestrategy.dudley.gov.uk/>

BRE Digest 365 (Soakaway Design)

CIRIA guidance documents

www.ciria.org.uk

Draft National Standards for sustainable drainage systems – Designing, constructing, operating and maintaining drainage for surface runoff (Dec 2011)

Environment Agency advice for riparian owners <http://www.environment-agency.gov.uk/homeandleisure/floods/31626.aspx>

Environment Agency standing advice for developers <http://www.environment-agency.gov.uk/research/planning/82587.aspx>

Environment Agency Standing Advice for Local Planning Authorities

www.environment-agency.gov.uk/research/planning/82584.aspx

National Planning Policy Framework and associated documents (2012)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Policy Statement 25 Practice Guide (2009)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7772/pps25guideupdate.pdf

Preliminary rainfall runoff management for developments R&D Technical Report W5-074/A/TR/1 Revision E (2012)

http://geoservergisweb2.hrwallingford.co.uk/uksd/information/SR744_Flood%20Risk%20User%20Guide.pdf

RIBA: Designing for Flood Risk

<http://www.architecture.com/FindOutAbout/Sustainabilityandclimatechange/Flooding/Flooding.aspx>

Severn Trent Water policy on adoption of SUDS <http://www.stwater.co.uk/developers/new-developments-sewer-connections/> (see guidance note on adoption of sewers)

Severn Trent Water website for developers <http://www.stwater.co.uk/developers/>.