
Guidance Notes

Ordinary Watercourse Flood Defence Consent

Introduction

These guidance notes provide information to help you complete your application for Flood Defence Consent. If you are unsure about anything in these guidance notes, please [contact us](#).

You are encouraged to [contact us](#) for advice on the proposed works before applying. Under Section 23 of the Land Drainage Act 1991, consent is required for the erection or alteration of any culvert, mill dam, weir or other like obstruction that would be likely to affect the flow of any watercourse. It is essential that you obtain consent **before** starting the work.

We will not under any circumstances issue retrospective consent. Under Section 24 of the Land Drainage Act 1991, Herefordshire Council has the power to remove unauthorised work and recover the costs of doing so.

When making an application it is essential to complete the application form accurately and for any accompanying information, including drawings, maps and calculations submitted to be clear.

The direct and indirect environmental impacts of the proposed works should be considered. Details should be provided of any measures being undertaken to minimise disruption to the environment and to reduce any unwanted impacts whilst the work is being carried out. If it is felt that the proposed works would present environmental risks, then further environmental appraisal works may be requested.

How to obtain consent

Fees will be charged at £50 per structure, we would recommend that you [contact us](#) if you are unsure about the correct fees. Applications for Flood Defence Consent should be submitted online wherever possible. Please make sure you have a valid credit or debit card. You must have electronic copies of your supporting documents ready before you apply. Alternatively, Flood Defence Consent application forms can be returned to the email or postal address given in the form.

Determination

Upon receipt of a valid application, we have two months in which to determine (grant or refuse) a consent. An incomplete application can be determined by refusal.

You should be aware that in accordance with the council's environmental duties, Flood Defence Consent may be refused if the proposed works are considered detrimental to the environment.

The council issues Flood Defence Consents solely on flood risk, sustainability and environmental consideration. The granting of consent should not be regarded by the applicant as in any way approving the engineering design of the proposed works.

Right of appeal

If you believe that a Flood Defence Consent has been unreasonably withheld, or that the conditions imposed are unreasonable, then you have the right to appeal. The appeal must be in writing and addressed to the Directorate Services Team within 28 days of the date of the council's refusal to grant consent. The council will arrange a meeting with the applicant to look at a resolution. Under Section 23 of the Act, if agreement cannot be reached an independent arbitrator will be appointed to settle the matter.

Other permissions

The granting of Flood Defence Consent by the council does not absolve a person proposing to execute works from the need to obtain any other licences, consents or permissions which may be required by law. The council issues Flood Defence Consents under the Land Drainage Act 1991. It is the applicant's responsibility to ensure that any other necessary permission from other authorities or undertakers is obtained.

Likewise, Planning Permissions and 'Consent to Discharge' in an ordinary watercourse obtained from the Planning Authority or the Environment Agency does not absolve anyone to carry out works in an ordinary watercourse.

How to make an application for Flood Defence Consent

The following notes are intended to assist in the completion of the application form and the submission of supporting documentation:

1. Details of Applicant

This is the name of the individual, organisation or company applying for consent. This should be given along with the name, addresses and telephone number of a person who can be contacted to discuss the proposal(s).

You must give us your full UK address. The address you give here will be the address your Flood Defence Consent will be registered to and will be shown on any Flood Defence Consent we grant.

2. Agent Details

The Agent acting on behalf of the applicant should enter their full details.

3. Applicants interest in the land

We need to know what interest you have in the land where the works will be carried out (for example, whether you are the landowner or tenant). If any work will be carried out on land that you do not own, you will need permission from whoever owns the land.

4. Location

We need to be able to easily identify where the proposed works will be carried out. Please give as much detail as possible under the four headings.

5. Description & purpose of proposed works

It is important that you accurately describe the proposals for the application being made. Please tell us the purpose of the works and the number of structures that you need consent for.

6. Description & reference number of all plans & sections submitted

To consider your proposals we need to receive plans and drawings, drawn by a competent engineer or surveyor and showing Ordnance Datum Newlyn (the height above sea level).

You need to provide three copies of all relevant drawings. The drawings must be no larger than A0 size, and they need to include the following;

- **Location Plan** – This must be at an appropriate scale and be based on an Ordnance Survey map. It must clearly show the general location of the site where the proposed works will be carried out and include general features and street names. It must also identify the watercourse or other bodies of water in the surrounding area.
- **Site Plan (general arrangement)** – The plan should be drawn to an appropriate scale, which must be clearly stated. You must provide a plan of the site showing:

- The existing site, including any watercourse;
 - Your proposals;
 - The position of any structures which may influence local river hydraulics, including bridges, pipes and ducts, ways of crossing the watercourse, culverts and screens, embankments, walls, outfalls and so on; and
 - Existing fish passes or structures intended to allow fish to pass upstream and downstream;
- **Cross Sections** – Where works encroach into any watercourse, then you should provide cross sections both upstream and downstream of the proposed works. Cross sections should be drawn as if looking downstream on the watercourse and should include details of existing and proposed features and water levels.
 - **Longitudinal sections** – Longitudinal sections taken along the centre line of the watercourse are needed. These must show the existing and proposed features including water levels, bed levels and structures. They should extend both upstream and downstream of the proposed works.
 - **Detailed drawings** – These are to show details of the existing and proposed features such as the following:
 - The materials to be used for any structures;
 - The location of any proposed service pipes or cables which may affect the future maintenance of the watercourse;
 - Details of any tree, shrub, hedgerow, pond or wetland area that may be affected by the proposed works;
 - Details of any planting or seeding; and
 - Dams and weirs. (We need a plan showing the extent of the water impounded (held back) under normal and flood conditions so that we can assess the possible effect on land next to the river. The plan must also show any land drains to be affected).

Where relevant, details of consultation/permissions with other professional bodies should be included with the application. For example, this may include detail of consultation with Natural England or detail of a planning approval from a Local Authority.

7. Construction details

You may need separate consents for the permanent works and any temporary works that do not form part of the permanent works. Temporary works could include, for example, cofferdams (watertight enclosures) across a watercourse, or temporary diversions of water while work is carried out.

For any temporary work, we need to know how you are proposing to carry out the work. So you need to send us a 'method statement' that includes details of the specific measurements you plan to take to keep disruption to a minimum and reduce any unwanted effects while the work is being carried out.

We need to know when you are proposing to carry out the work and how long you think it will take. When you are planning the work you need to make sure that you have allowed enough time for us to consider your application.

8. Environment Agency Interests

Please tick the appropriate boxes. If you answer 'yes' to any of the questions, you will probably need extra licenses or consent from the Environment Agency before you start work. You should make sure that you have enough time to get all approvals you need before you start work. If you don't, this could delay the work.

9. Planning Approvals

Please provide details of any planning permissions you may have or are applying for that relate to this proposal.

10. Maintaining the structure

We need to know who will be responsible for maintenance both during construction work and after the work has finished.

11. Effects on the environment

We have a legal duty to protect and improve the environment, so we must consider the environmental effects of your proposal. You may need to carry out an environmental appraisal to assess the effects of your work. You should [contact us](#) before you send us your application so that we can give you advice on this. If you don't, your application could be delayed.

The environmental appraisal should identify all likely effects on the environment. The direct and indirect environmental impacts of the proposed works has on sites and features of interest and species of particular value should be considered. Details should be provided of any measures being undertaken to minimise disruption to the environment and to reduce any unwanted impacts whilst the work is being carried out. The free passage of fauna must be maintained at all times, including when Temporary Works are in place. If White Clawed Crayfish are identified at the site, a Crayfish licence will be required. The impact of the works should be assessed on fish spawning seasons and works scheduled in accordance with the Salmon and Freshwater Fisheries Act 1975 as appropriate. If it is felt that the proposed works would present environmental risks, then further environmental appraisal works may be requested.

Set out any opportunities for you to improve the environmental value of the site. This may include creating water features, planting trees and shrubs that would normally grow at the site, providing bird nesting boxes or creating sustainable places for wildlife to live

If as part of a planning permission we have asked for an environmental appraisal, you must send it to us with all the other supporting documents we need.

If your site falls within, or next to, or is linked to, a nature conservation site, [contact us](#) as soon as possible to discuss your proposals before you send us your application.

Under the European Habitats Regulations, we must make sure that Flood Defence Consent does not have a direct or indirect negative effect on any site specified in the regulations, including:

- Sites of Specific Scientific Interest (SSSIs);
- Designated Special Areas of Conservations (SACs);
- Special Protection Areas (SPAs);

- Listed RAMSAR sites; and
- Scheduled Ancient Monuments (SAMs).

Under the Habitats Regulations, we must consult Natural England or Countryside Council for Wales. You may want to contact these organisations yourself to get their views on your proposal.

12. Flood Risk Considerations

Please provide details of any flood risk considerations, together with your proposals for mitigation of flood risk.

13. Checklist

Tick the relevant documents in this section so that we know what you are sending.

14. The Data Protection Act 1998

This section sets out our rights and responsibilities under the Data Protection Act 1998.

15. Declaration

By signing this section you are declaring that, as far as you know, the information you have provided, including the map and any supporting documents, is true. We will not accept any application that is not signed.