

**APPLICATION FOR CONSENT FOR WORKS
AFFECTING WATERCOURSES AND/OR FLOOD DEFENCES
EXPLANATORY NOTES**



**ENVIRONMENT
AGENCY**

1. INTRODUCTION

Responsibility for flood defence matters now rests with the Environment Agency. It is essential that anyone who intends carrying out works in, over, under or near a watercourse or flood defences (including sea defences), contacts the Agency to obtain any necessary consents before starting the work. The reason for this is to ensure that any works do not endanger life or property by increasing the risk of flooding or cause harm to the water environment.

Please note when making an application it is essential to fill in the application form accurately and for any accompanying information, including drawings, maps and calculations submitted to be clear. Further details of the information required by the Agency are given in these notes. In order to ensure that proper details are submitted you may wish to discuss the information required with our officers before you make your formal application.

2. HOW TO MAKE AN APPLICATION FOR CONSENT

The following notes should assist you in the completion of the application form and the submission of supporting documentation: -

Details of Applicant

The name of the individual, organisation or company applying for consent should be given along with the name, address, email address and telephone number of a person who can be contacted to discuss the proposals.

Agent's Details

Agents acting on behalf of an applicant should enter details. If this section is completed, all correspondence will be sent to the Agent. Leave blank if not applicable.

Applicant's Interest in Land

Please state the applicant's interest in the land, i.e. owner, tenant etc.

Location

The name of the watercourse as shown on the Ordnance Survey map should be given if known (many minor watercourses are unnamed). The location of the proposed works should indicate the nearest town/village, the address of the site or sufficient description to enable the site to be identified easily. The OS grid reference should include two prefix letters, (indicated in the corner of OS maps) followed by eastings and northings e.g.: SK 123 456.

Description and Purpose of Proposed Works

It is important to accurately describe the proposal(s) for which application is being made on the application form. State the purpose of the works and indicate in the box the number of structures for which consent is being sought.

Description and Numbers of Plans and Sections Submitted

If you include a drawing which has been prepared for some other purpose it is requested that those items for which consent is being sought should be highlighted in colour. Three copies of all relevant drawings are required. The drawings should not be larger than A0 size and should include: -

a) Location Plan

This should be based on an Ordnance Survey map if possible and should show clearly the general geographic location of the site where the works are to be constructed.

b) Site Plan

This should be drawn to scale, which must be clearly stated. Ordnance Survey maps or engineering drawings to a scale of 1:1250 or larger are recommended.

c) Detailed Drawings (Plans and Sections)

Provision of the following details will assist in the determination of your application: -

- Plan(s) and cross section(s) showing details of existing and proposed features. Cross sections should be drawn looking downstream on the watercourse where appropriate.
- Details of existing and proposed water levels, shown on cross sections or a longitudinal section of the relevant length of watercourse where appropriate.
- Calculations to demonstrate the hydraulic capacity of any channel works, culverting or bridge works.
- Land surface contours, where appropriate.
- 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 which may be affected by the proposed work.
- Details of any planting or seeding within the river channel or adjacent to the watercourse within the floodplain.
- **Bridges and Culverts** - Additional cross sections upstream and downstream of the proposed works and/or a longitudinal section along the centre line of the watercourse are required sufficient for the average channel bed gradient to be determined.
- **Dams and Weirs** - A plan showing the extent of the impoundment under normal and flood conditions is required in order to assess the possible impact on riparian owners.
- **Mineral Extraction/Land Filling** - Contour surveys of the existing site are required in addition to details of the proposed filled site. Details of interim levels including temporary stock pile works are required where such works are in flood plain areas.

d) Sketches

Legible sketches clearly illustrating the proposed works and adequately dimensioned will be acceptable.

- Construction Details**
Separate consents are required for both the permanent works and for any temporary works which do not form part of the permanent works. Please state whether the works are to be permanent or temporary and the anticipated construction start date. If works are to be temporary state duration required.
- Other Environment Agency Interests**
Tick appropriate box(es). If you answer YES to any of these questions it is likely that you will require additional consents or approvals from the Environment Agency before commencing your works. You will be contacted and advised as soon as possible, if additional details are needed.
- Planning Approval**
Some works may also require local authority planning approval in addition to consent from the Environment Agency. If you already have planning approval, please indicate the name of the planning authority, application reference number and date approval obtained.
- Name of Person/Organisation Responsible for Maintaining the Structure on Completion**
This will normally be the applicant. Please indicate if responsibility is to pass to others. Please also indicate who is responsible for maintaining temporary works during the construction period.
- Brief Details of Environmental Impact of Works etc.**
The Environment Agency has a duty to conserve and enhance the natural environment, and must therefore consider the environmental implications of any proposal.
- Declaration**
Enter the value of the cheque you are enclosing with your application, and sign and date the form.

3. APPLICATION CHARGE

The Environment Agency are authorised by Section 23(2) of the Land Drainage Act 1991 and Section 110(1) of the Water Resources Act 1991 to charge an application fee in relation to the consents required. These fees are payable to cover our costs for examining the proposals and **the amount of the fee is £50 for each application for consent for each structure**. Value Added Tax is not applicable. Cheques should be made payable to "Environment Agency".

You should note that this charge is payable in respect of each structure and the box on the application form should be completed as appropriate. Some types of work are exempt from fees and you will be advised as to whether a fee is appropriate when you request an application form.

Please consult your local Environment Agency office if you are in doubt about the fee applicable.

4. HOW TO OBTAIN CONSENT

When you have fully completed your application form please send it with the fee and supporting documents to the appropriate Environment Agency office as listed on page 4 of the application form.

5. DETERMINATION

Upon receipt of an application the Agency has two months in which to grant or refuse consent. Such consent shall not be unreasonably withheld.

The granting of consent should not be regarded by the applicant as in any way approving the design

and soundness of the proposed structure other than in relation to its impact on flows and its effects in the watercourse and its floodplain. You should be aware that in accordance with the Agency's conservation and fisheries duties, consent may be refused if the works proposed might prove detrimental to the environment.

6. RIGHT OF APPEAL

If you believe that consent has been unreasonably withheld or conditions unreasonably imposed then you have a right to appeal.

7. OTHER CONSENTS

You may also require further consents from the Agency under the Water Resources Act 1991 (e.g. for impounding, water abstraction etc.), under the Salmon and Freshwater Fisheries Act 1975 in respect of fish passes and/or under the Environmental Protection/Waste Regulation legislation.

8. FURTHER INFORMATION

If you are in any doubt about whether you need to apply for a consent, how to complete the application forms or any other aspect of your application please contact the appropriate Environment Agency Office as listed on page 4 of the application form.

LEGAL PROVISIONS

For your information the legal provisions are as follows:

Land Drainage Act 1991 (LDA91)

Section 23 of the Land Drainage Act 1991 provides:-

"No person shall:

- a) erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction, or*
- b) erect any culvert that would be likely to affect the flow of any ordinary watercourse or alter any culvert in a manner that would be likely to affect any such flow.*

without the consent in writing of the drainage board concerned".

Water Resources Act 1991 (WRA91)

Section 109 of the Water Resources Act 1991 provides:-

- (i) "No person shall erect any structure in, over or under a watercourse which is part of the main river except with the consent of and in accordance with plans and sections approved by the Authority.*
- (ii) No person shall, without the consent of the Authority, carry out any work of alteration or repair on any structure in, over or under a watercourse which is part of main river if the work is likely to affect the flow in the watercourse or impede any drainage works.*
- (iii) No person shall erect or alter any structure designed to contain or divert the floodwaters of the main river except with the consent of and in accordance with plans and sections approved by the Authority".*

Environment Agency (NRA) Byelaws

Schedule 25, Section 5(1) of the Water Resources Act 1991 provides:-

"The Authority may make such Byelaws in relation to any particular locality or localities as it considers necessary for securing the efficient working of any drainage system including the proper defence of any land against sea or tidal water".

Section 23 (LDA91) relates to an ordinary watercourse (other than main river) whilst Section 109 (WRA91) is restricted to main rivers. Information on the main river status of a watercourse and copies of the Agency Byelaws can be obtained from the appropriate Environment Agency office.

FAILURE TO APPLY FOR A CONSENT

Under Section 23 (LDA91) if works are executed without first obtaining a formal written consent from us we have the power to serve a notice under Section 24 (LDA91) requiring you to abate the nuisance within a specified time. Should you fail to comply with the notice then we can take the matter to Court. Whether or not you are taken to Court, steps may be taken to abate the nuisance and recover from you the expenses so incurred.

Under Section 109 (WRA91) the Agency may remove, alter or pull down any unauthorised work and recover from you the expenses incurred in the process.