

LAND DRAINAGE CONSENTS INFORMATION SHEET

Under the Land Drainage Act 1991 Drainage Boards have a duty to exercise a general supervision over all matters relating to the drainage of land within its district.

In order to carry out this role successfully, the relevant Board must receive details of any proposed works affecting watercourses, and grant permission for the work to proceed, requesting any modifications, which may be necessary. Consequently, riparian owners and developers must obtain a Land Drainage Consent from the Board **before** the work commences. (Where the watercourse is a “Main River”, consent from the Environment Agency, rather than the Board, is required.)

A consenting system exists to ensure that any proposed works do not endanger life or damage land and property elsewhere by increasing the risk of flooding.

There are three different classes of watercourses — **Main River, Viewed Rhynes and Ordinary Watercourses**, and different rules apply to each. Further information on these different watercourses is set out overleaf.

1. How to Obtain Consent

Applications for Consents should normally be made by the landowner or their agent (with the landowners counter-signature) and should only apply for works on land owned by the applicant. Application for Consent for works on land not owned or under the control of the applicant will only be accepted with written agreement of the third party and appended to the application. Application forms for Land Drainage Consents may be obtained from the Clerk to the Board or downloaded from the Consortium website www.somersetdrainageboards.gov.uk.

The Boards have 2 different forms to suit the activity requiring consent. These are listed below –

- Agricultural Gateway & Culvert form
- General form for all other works

Upon receipt of the application, accompanied by the application fee, the Board has a target of two months in which to grant or refuse a Land Drainage Consent (unless you agree to an extension of this time). This time does not start to run until the Board is satisfied that the application (including all necessary plans and calculations) are complete in every respect. The granting of a Land Drainage Consent may be subject to conditions such as the time and manner in which the work may be carried out.

You are strongly advised to discuss your proposal with the Board’s Development Control officer before submitting your application to ensure you are informed of the principal requirements for the work you envisage.

Applicants should be aware that any correspondence or information relating to a formal application, decision and appeal will be in the public domain.

2. Consents relating to the Environmental Stewardship Higher Level Schemes (HLS)

If you are applying for consent for works associated with an HLS application then please note the following requirements:

The Board will need to be assured that any changes to the operation of drainage and water level management that occurs as a result of an Environmental Stewardship HL Scheme will not lead to adverse affects. Applications for Consent will need to show the extent of **all** land affected by the change in water level management as well as the total extent of the applicants land holding in the adjacent area.

The plans must show the location of all water level control structures, existing or proposed, and works to be undertaken (this includes any bunds).

Details of how the area will receive any water for achieving higher levels in winter as well as irrigation needed in the summer period must be set out.

Operating arrangements for any structures will also need to be set out for agreement by the Board. Details of previous Consents relating to the land contained within the application will assist in minimising the time required to process the application. The Board would wish to see that local consultation with adjacent owners or occupiers has occurred and that any adverse impacts have been mitigated for and are acceptable to affected parties.

3. Right of Appeal

If you believe that a Land Drainage Consent has been unreasonably withheld, or that the conditions that have been imposed are unreasonable, you have a right of appeal to an independent arbitrator.

4. Failure to Obtain Land Drainage Consent

The failure to obtain a Land Drainage Consent prior to carrying out the works is a criminal offence. Any person acting in contravention of any of the Board's Byelaws, or Section 23 of the Land Drainage Act 1991, may be liable, on conviction, to an unlimited fine, and to a further fine of up to £40 for every day on which the contravention is continued after conviction.

Under Section 24 or 66 of the Land Drainage Act 1991 the Board has the power (without prejudice to any other criminal proceedings) to take such action as may be necessary to remedy the effect of the contravention or failure to obtain consent, and to recover the expenses reasonably incurred by it in so doing from the person in default.

5. Other Permissions

The issue of a Land Drainage Consent by the Board 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 Board issues consents under the Land Drainage Act and Drainage Board Byelaws. It is the applicant's responsibility to ensure that any other necessary permissions from other authorities, occupiers or undertakers are obtained.

6. Nature Conservation

The Board has a duty under the Land Drainage Act 1991 and 1994 to conserve and enhance the natural environment and must therefore consider the nature conservation implications of any proposals when determining Land Drainage Consents. In cases of doubt the Board may require you to obtain a letter from Natural England indicating their approval of your proposals and to append this to your application.

In cases where proposed works are in, or near a Site of Special Scientific Interest (SSSI) the Board will require confirmation from Natural England that the works will not adversely affect the features or management of the SSSI. In such cases it is recommended that you obtain a letter from Natural England indicating their approval of your proposals and append this to your application.

7. Main Rivers

Main Rivers are designated as such on maps held by the Environment Agency. The term also includes any structures in the bed or banks for controlling or regulating the flow of these watercourses. The Environment Agency has permissive (not mandatory) powers to carry out maintenance and improvement works on Main Rivers. Any works in, or near, Main Rivers requires the consent of the Environment Agency under the Environmental Permitting Regulations 2016. The Board will be happy to advise you if this applies to your application.

8. Ordinary Watercourses

The term ordinary watercourse describes **all** the remaining watercourses that are not Main Rivers. These may include all tributaries, streams, rhynes, ditches and those watercourses that have been culverted or piped. The Board has certain regulatory powers to control activities on all Ordinary Watercourses. Under Section 23 of the Land Drainage Act 1991, any proposals to construct or alter any mill dam, weir or similar obstruction to flow re-

quire consent from the Board. The erection of, or alteration to, a culvert likely to affect the flow also requires consent from the Board.

The Board has Land Drainage Byelaws, which require persons to obtain the Board's consent for activities in, over, under or within 9 metres of an ordinary watercourse. Such activities include the erection of fences, the construction of bridges or culverts, the placing of pipes or cables over or under viewed rhynes, tree planting, disposal of rubbish, excavation affecting the bed and banks of viewed rhynes, the erection of jetties or walls, etc. Copies of the Byelaws are available on request. Depending on the size and location of an Ordinary Watercourse the Board may waive its right to consent the works if the impacts of the proposals are insignificant.

9. The Board undertakes its consenting and enforcement powers on all Ordinary Watercourses.

The Board has permissive (not mandatory) powers within its byelaws to undertake consenting and enforcement on all Ordinary watercourses in its area. The Parrett and Axe Brue Boards have taken up those powers.

10. Viewed Rhynes

Viewed Rhynes are Ordinary Watercourses (both open and culverted) that undertake a significant function in the drainage or irrigation of an area. Viewed Rhynes are maintained by the Board on a regular or infrequent basis. A map showing these rhynes can be inspected on the Consortium website and also at the Consortium's offices in Highbridge. The term also includes any structures in the bed or banks for controlling or regulating the flow of these watercourses.

The Board has permissive (not mandatory) powers to carry out maintenance and improvement works on Viewed Rhynes.

11. Standards of Protection

For most consent applications, the Board is seeking to improve or maintain standards of protection to people, property and land and the designs submitted must reflect the standards set out below. However where the application relates to projects specifically designed to provide flood storage or environmental improvement then special standards will apply. Applicants or their agents are requested to contact the Board at an early stage to discuss engineering standards. This is particularly important where Farm Environmental Plans (FEPs) are being prepared.

Where appropriate, an application for Land Drainage Consent should include hydraulic capacity calculations consistent with the Board's standard of protection aims. These are expressed as the annual probability or chance of a flood occurring.

1 in 100	Urban areas and villages
1 in 50	Agricultural land of high value and isolated properties
1 in 25	Agricultural land (mainly arable)
1 in 15	Agricultural land (mainly pasture)
1 in 5	Grass floodplain

12. Further Information

Advice and further information may be obtained from any of the Boards Officers.