



## **Middle Level Commissioners and Administered / Associated Internal Drainage Boards**

### **Byelaw Consent Advice (Consent for works in and around watercourses)**

#### **Introduction**

Please read these notes and the application form carefully before completing the form. Some of the terms used are explained on our glossary, which you can find on our website. You can also find 'General guidance notes on development in or close to a Board Maintained watercourse' under 'Planning and Development Matters' on the consent page of our website. Please contact us if you are still unsure about anything. Separate forms are required if more than one Board is involved. You may find it useful to employ a suitably qualified agent with knowledge of water level and flood risk management, to help with your application. Please note that unless adequate plans and information are supplied with the application, it will be returned.

In this document, 'The Board' may refer to the Middle Level Commissioners, an Internal Drainage Board or District Drainage Commissioner, as appropriate. It is essential that anyone intending to carry out works in, over, under or near a watercourse, contacts the Board to obtain any necessary consents, before starting the work. This ensures that the works do not endanger life or property by increasing the risk of flooding, or harm the water environment, or interfere with public rights of navigation.

#### **Contravention of Byelaws**

Consent is generally required for any structure within the channel of any watercourse, or any structure on the banks or within the protected strip of a protected watercourse. It is a criminal offence to undertake works without the necessary consent and the Board can take appropriate action, at your expense, to put right any works carried out without consent.

**Please refer to our glossary for the definition of many terms used in this document.**

#### **How to make an application for consent**

The following notes should help you complete the application form:

1. Applicant's details  
The details of the individual, organisation or company applying for consent. Include, if appropriate, the name and contact details of the person who should be contacted to discuss the proposals. The consent (if approved) will be given in the Applicant's name.
2. Agent's details  
Agents acting on behalf of an applicant should put their details here. If this section is completed, all correspondence will be sent to the Agent.
3. Applicant's interest in the location of the works  
E.g. owner, tenant, licensee etc. If any work is carried out on land you do not own, you will need permission from the landowner. The granting of consent does not give you any rights of entry or rights of property.
4. Location of proposed works  
The name of the watercourse as shown on the Ordnance Survey map should be given, if known (many smaller watercourses are unnamed). The location should include the nearest town/village, address, postcode, or enough detail to allow the site to be easily identified. The OS grid number should give the two prefix letters from the

corner of the map, followed by Eastings and Northings, e.g. TF 1234 5678. This will help us identify where the proposed works are.

5. Proposed works

Please describe accurately the proposal, including the reason for the works, and the number of structures. Will the works be permanent (without time limit) or temporary (only for a specific time)? If temporary, state for how long.

6. Supporting evidence

You must include proper plans and drawings, produced by a suitably qualified person, showing the layout of the works and, if applicable, the distance(s) to the Board's drain. Three copies of each relevant drawing must be included. They should not be larger than A0 size, and should include:

- Location plan – to a recognised scale of 1:10,000 or larger, based on an OS map. It should clearly show the general geographical location of site of the works, and include general features including street names (if applicable). It must also identify the relevant watercourse(s).
- Site plan – drawn to an appropriate scale. OS maps or engineering maps at a scale of 1:1250 or larger are recommended.
- Detailed drawings (plans and sections) to recognised engineering scales. The following details will help in the processing of your application:
  - Plans and cross sections showing existing and proposed features. Plans should extend up- and down-stream of the proposed works.
  - If the works are in the watercourse, cross-sections up- and down-stream of the proposed works are required. Cross sections should be drawn looking down stream.
  - Details of existing and proposed water levels, shown on cross-sections or a longitudinal section of the relevant length of watercourse, if necessary.
  - 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 might be affected by the proposed works.
  - Details of any planting, seeding or landscaping within the channel or next to the watercourse.
  - Survey of the channel, including bank and bed levels taken at regular intervals of less than 50m and at changes of direction, and cross sections, generally taken at 100m distances. Cross sections should extend into the adjacent land far enough to show any proposed works. Bed and bank levels and/or cross section are needed at other locations likely to affect the design, e.g. headwall, pipe invert, road levels, locations of utilities etc. The survey drawing should be plotted to a datum of -100 ODN.
  - 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, to be able to calculate the average bed gradient. Please note, the minimum size of culverting allowed is 600mm.
  - If a culvert or pipe is to be installed, the following information is also required:

- Details of the proposed structure, including pipe size, length, levels, type, bagging and backfill, and gradient, methods and materials used.
- Details of the existing channel, bed levels, details of existing structures, cross sections across the channel, and the direction of flow.
- Calculations to show the hydraulic capacity of any channel works, culverting or bridge works.
- Dams and weirs – a plan showing the extent of the impoundment under normal and flood conditions is required to show the possible impact on riparian owners. The plan must also show any affected land drains.
- Mineral extraction/land filling – contour surveys of the existing site and the proposed filled site are needed. Details of interim levels including temporary stockpile works are required if works are in a flood plain area.
- Sketches, which are legible and adequately dimensioned, should clearly show the proposed works

7. Planning permission

Please state if planning permission has been sought, and if so, please provide the reference number. Please contact your local planning authority if you are unsure whether planning permission is needed. Planning permission does not remove the need to obtain consent from the Board.

8. Future maintenance

Who will be responsible for maintaining the works and any associated structures, and when and how this maintenance will be done? This is usually the Applicant, but could be a third party. Name and address and contact details must be given. If no details are given, it is presumed that the applicant is responsible. In certain cases, legal action can be taken against those not carrying out the maintenance work they are responsible for.

9. Environmental impact

The Board has a duty to conserve and enhance the natural environment, and must therefore consider the environmental implications of any proposal. We require a statement outlining the environmental impact of the proposals, identifying all likely effects on the environment, including opportunities for improvement. In some cases, the Board may require a formal Environmental Assessment. Under the Habitats Regulations we must ensure that any consent does not have a negative effect on any specified sites, including Sites of Specific Interest (SSSIs), designated Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Listed Ramsar sites and Scheduled Ancient Monuments. In these cases, we will consult Natural England on your application. You must also fully consider the effect of the proposed works on the obligation under the Water Framework Directive, to prevent the deterioration in the overall status of water bodies. Any application not properly considering these obligations may be refused.

## 10. Risk Assessments

- Risk assessment - an appropriate method of ensuring safety both during and after the works, identifying sensible measures to control any risks.
- Method statement - include full details of how you intend to carry out the works, specific measures to avoid or minimise disruption, and the proposed timing and duration of the works. The method statement should include: construction methods; any temporary works; programme of events; management of flood risk during construction; pollution protection arising from the construction; how issues of flora and fauna will be managed.
- Flood risk assessment – Please show how flood risk will be reduced if the application is granted, reflecting the scale, nature and location of the development, in accordance with relevant water level and flood risk management guidance.

## 11. Navigation

The majority of the main watercourses looked after by the Middle Level Commissioners are statutory navigations, and if your proposed works are to take place on or near one of these watercourses, you must look at the impact and risks of the works on navigators. Works that prevent or interfere with navigation will not be allowed. You must include a risk assessment for any proposed works on or near to a navigable watercourse. Please note that if a navigation closure is requested, it will only be granted if no other option for undertaking the works properly and safely is available. Except for emergency works, this will not be allowed in the main boating season. If the closure is agreed, the applicant is responsible for the costs related to closing the navigation.

## **Other information**

### **Data protection**

This section details our rights and responsibilities under the General Data Protection Regulations 2018 and Data Protection Act 2019

### **Application declaration**

Please enclose the payment of £50 (no VAT needed) per structure with your application. The payment must be made to the relevant Board. If you are not sure which Board your application relates to, please contact the Middle Level Offices, or check on our website.

By signing the application, you are confirming that so far as you know, the information you have provided, including plans and other supporting documents, is true. An unsigned application will be returned.

When you have fully completed and signed the form, please send it with the fee and all supporting evidence to the Middle Level Offices.

### **Determination**

When the Board has received your application, it will, as soon as possible, grant or refuse consent. The consent will not be unreasonably withheld, and will be subject to conditions.

If consent is granted, it must not be seen as an approval of the design or soundness of the proposed structure, other than relating to its impacts on the flow of water, and the effects in the watercourse and its floodplain. Consent may be refused if the proposed works may be harmful to the environment.

### **Right of appeal**

If you feel that consent has been unreasonably withheld, or conditions have been unreasonably imposed, then you have a right of appeal, usually to an arbitrator.

### **Other consents**

You may also require further consents. For example, from the Environment 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 Town and Country Planning Acts.

Any consent granted from this office is only for the purpose of the Land Drainage Act 1991 and any associated byelaws, or for the purpose of consents to be granted under the Water Industry Act 1991 or the Highways Act 1980.

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