

Ordinary Watercourse Land Drainage Consents in Warwickshire advice note

What requires a consent?

Section 23 of the Land Drainage Act 1991 requires that before the erection or alteration of any obstruction to the flow in an ordinary watercourse, a written consent is obtained from the Lead Local Flood Authority (LLFA) for the area. These obstructions include; any mill dam, weir or like obstruction, or a culvert.

In some cases, your proposed structure itself may not require a consent as it does not affect the flow in the watercourse, however the temporary works to construct the structure may include obstructing the flow to make a dry working area. If this is the case, a consent application should be made.

What information must be submitted?

The amount of information required to support an application is generally proportionate to the complexity of the proposals and the flood risk associated to the location or proposals.

As a minimum, a complete application should include;

- A completed application form
- A location plan (showing coordinated positions of the structure(s) covered by the application)
- Plan and section drawings of the structure(s), including how it will fit into the existing watercourse.
- A method statement and site specific risk assessment detailing how works will be done. Particular consideration should be given to what measures are in place both during and after the works to address;
 - pollution to the watercourse (silt, spillage, etc),
 - damage to the watercourse (scour, destabilising the bank, etc),
 - damage to the environment (surveys, habitats, vegetation, etc),
 - an increase in flood risk during and after the works particularly if the work area is to be dewatered (monitoring of flood alerts, weather forecasts, evacuation plans, etc).
- application fee (see section below)
- details of who will be taking ownership of the structure and will be responsible for its ongoing maintenance

Additionally, if the watercourse is not within your ownership, we will need to see some form of written agreement from the landowner that they are happy for you work on their land and construct the structures.

Please note that until all of this information is received an application may not be considered 'live' and the determination period referred to below will not have started.

Culverting Ordinary watercourses

WCC does not favour the culverting of ordinary watercourse and there is a preference of an increased naturalisation of them. Culverts destroy wildlife habitats, damage natural amenity and interrupt the continuity of the linear habitat of a watercourse. Culverts can also impact on water quality due to the change in structure of the watercourse bed and removal of natural systems to benefit water quality.

However WCC recognises that there may be instances where culverting is unavoidable, such as short sections to accommodate highway access. WCC prefer a single span bridge rather than a culvert, i.e. keeping a more natural embankment to facilitate habitat. If a culvert is required, it should be the minimum length possible. Oversized box culverts sunk 300mm below bed level are preferred to round pipe sections. This reduction in flow area should be accounted for when calculating the flow capacity.

The sizing of culverts should be done by calculating the contributing flow rates. however, maintenance should be considered and a practical minimum pipe size to reduce the likelihood of blockage.

How to pay

There is an application fee of £50 per structure, if you are unsure what the total fee will be, please contact the consenting team to discuss the proposals.

The preferred method of payment is via a cheque made payable to Warwickshire County Council. We are also able to accept payment via BACS, invoice, or over the phone, please let us know if you would prefer one of these methods and somebody will be in touch to arrange payment.

Standard determination period

A determination period from the date both the application **and** fee are received is set out within the act. Applications are usually determined well within this period, particularly if any additional information requested is provided promptly. If further information is not forthcoming and the two month period expires, we may decide to refuse the application or give the applicant the option to withdraw the application until such time that the information is available.

Other approvals

If your proposed works are on or over the Warwickshire boundary, depending on the location of the structure, you may need approval from the neighbouring Lead Local Flood Authority. This is because as Lead Local Flood Authority for Warwickshire, we are only able to consent structures in Warwickshire. In situations like this, we are likely to discuss the application with the neighbouring LLFA, so if you have contact details of anybody you may have been dealing with, please provide them to speed things up.

In addition to an Ordinary Watercourse Land Drainage consent, some works may also require planning permission. The two approvals are separate and the granting of one does not necessarily indicate that the proposals are acceptable for the other. If you are unsure whether planning permission is required, please contact your local planning authority to discuss further.

Some works in and around a watercourse also fall within the Environmental Permitting regulations managed by the Environment Agency. If your proposed works involve or affect the following, please contact the Environment Agency;

- Impounding (holding back a watercourse),
- Abstracting (removing) water,
- Fish or fisheries,
- Disposing of waste material,
- Water quality

More information on Environmental Permitting can be found on the Gov.uk website.

As mentioned above, this consent only relates to works within an ordinary watercourse and not main rivers. Main rivers are the responsibility of the Environment Agency and further details can be found on the Gov.uk website.

Unconsented works / retrospective applications

No provision has been made in the Land Drainage Act that allows the LLFA to retrospectively grant consent for works that have already begun construction or have been completed.

Works on ordinary watercourses that take place without consent or that are allowed to remain without enforcement action can result in increased flood risk or environmental damage. Section 24 of the Land Drainage Act allows the LLFA to serve a notice for the watercourse to be restored to its previous condition within a specified time. If this is not done, the LLFA can carry out these works and recover the costs.

Dependent on the nature of the unconsented works, it may be possible to undertake appropriate remedial works with the LLFA consent. If this is not possible, the applicant may choose to provide evidence that the unconsented works have not increased the flood risk. However, as retrospective consent cannot be granted, this evidence will not remove liability for any future flooding found to be a result of the unconsented works.

The LLFA does not accept any responsibility for the design and construction of the works that are the subject of the consents they grant, and any liability for any loss or damage which may arise out of their design, construction, maintenance or use.

Historic structures and consent applications

The LLFA were given consenting responsibilities in the Spring of 2012 so we only hold records of applications since then. The Environment Agency held this responsibility prior to us so they may hold records of applications and structures built pre-2012.

For further information, please contact FRMConsenting@warwickshire.gov.uk and we will get back to you.