

ENVIRONMENT AGENCY PLANNING APPLICATION GUIDANCE

The following guidance provides information on environmental issues within our remit which need to be considered as part of a planning application. This is not an exhaustive list so we may request additional information to proceed with the advisory process.

The information below forms part of the free service we offer to applicants / developers. If our technical advice is required outside of the statutory planning process, then our charged service may be applicable. Please contact us using the details at the end of this guidance note if you have an enquiry about our charged service.

CHECKING ENVIRONMENTAL RISK

Maps showing areas with environmental risk are available online¹. Applicants and developers should assess their site against the information found on these maps. Particular attention should be given to the Flood Map for Planning, Groundwater Source Protection Zones and Aquifers. Planning applications will need to demonstrate that environmental risks can be managed, through design and construction, for the development's lifetime.

Guidance follows on particular aspects of environmental risk.

FLUVIAL AND TIDAL FLOOD RISK

Sequential Test

Paragraphs 100-102 of the National Planning Policy Framework (NPPF)² and the Planning Practice Guidance³ require LPA to steer new development to areas at lowest probability of flooding by applying a flood risk sequential test. We recommend applicants / developers discuss this matter with the relevant Local Planning Authority (LPA) if a proposed site is located within Flood Zone 2 and / or 3 (medium and high probability of flooding) on our maps.

Exception Test

If the LPA confirm that the Sequential Test has been passed, the development will need to pass the Exception Test in accordance with Paragraph 103 of the NPPF. The first part requires demonstration of the development providing wider sustainability benefits; this should be agreed with the LPA. The second part requires the production of a site specific Flood Risk Assessment.

Flood Risk Assessment (FRA)

Information on which developments require a FRA and what to include is available online⁴. We have produced guidance for LPAs on assessing applications where the flood risk is deemed to be low. This is called Flood Risk Standing Advice⁵. We will only be consulted and comment on applications where the risk is sufficiently great.

Applicants / developers are strongly recommended to view the LPA's Strategic Flood Risk Assessment (SFRA) as this may contain pertinent information such as defended areas, functional floodplain and developer guidance.

¹ <https://www.gov.uk/check-local-environmental-data>

² <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

³ <http://planningguidance.planningportal.gov.uk/>

⁴ <https://www.gov.uk/flood-risk-assessment-for-planning-applications>

⁵ <https://www.gov.uk/flood-risk-assessment-local-planning-authorities>

For sites located in the Borough of King's Lynn and West Norfolk, planning applicants must refer to the flood risk information on the Borough Council's website⁶ for guidance.

FRAs should be undertaken by suitably experienced professionals. We do not recommend consultants but a simple web search may help you to source a competent individual or company.

Flood Levels

If you wish to enquire about the availability of modelled or historic flood levels to assist with a FRA, please e-mail ANC.enquiries@environment-agency.gov.uk. There may be a fee for this data.

SITE DRAINAGE

Surface Water

The implementation of Sustainable Drainage Systems (SuDS) should be carefully considered. These techniques can provide a method for reducing runoff that could otherwise lead to flooding. They can also minimise pollution impacts, improve biodiversity and provide amenity areas.

If infiltration drainage is proposed then it must be demonstrated that it will not pose a risk to groundwater quality. We consider any infiltration SuDS greater than 2.0 m below ground level to be a deep system and generally not acceptable. All infiltration SuDS require a minimum of 1.2 m clearance between the base and peak seasonal groundwater levels. All need to meet the criteria set out in our Groundwater Protection: Principles and Practice (GP3) document⁷. In addition, they must not be constructed in ground affected by contamination.

National standards on SuDS are currently being produced. Design guidance is available on the internet.

Foul Drainage / Wastewater Network

In accordance with the NPPF Planning Practice Guidance, new development should be connected to the public mains (with the prior written approval of the statutory undertaker) where possible. Proliferation of individual treatment plants can cause deterioration in local water quality (ground and surface water). This would be contrary to the principles of the EU Water Framework Directive⁸. Some 'non mains' foul water drainage systems will require our prior written Consent. Consent is required irrespective of planning approval.

The LPA is likely to have a Water Cycle Study (WCS) which will indicate any constraints in wastewater networks and the available headroom at some Water Recycling Centres (Wastewater Treatment Works). We recommend that the applicant / developer checks the WCS to ascertain if capacity is available and also contacts the sewerage undertaker about connection to the public sewer. Confirmation from the sewerage undertaker should be submitted with your planning application.

POLLUTION PREVENTION

Contaminated Land

The NPPF takes a precautionary approach to land contamination. Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of clean up (remediation).

Where contamination is known or suspected a desk study, investigation, remediation and other works may be required to enable safe development (Paragraph 121 of the NPPF). Our minimum requirements for submission with a planning application where contamination is suspected are a desk study and preliminary risk assessment such as a site walkover or

⁶ https://www.west-norfolk.gov.uk/info/20173/information_for_planning_agents/231/flood_risk_information

⁷ <https://www.gov.uk/government/publications/groundwater-protection-principles-and-practice-gp3>

⁸ <http://ec.europa.eu/environment/water/water-framework/>

conceptual model. Site Investigation and Remediation Strategy reports may be required for submission with a planning application for sensitive land use types or where significant contamination or uncertainty is found. The local council's Environmental Health team may hold records on locations of known / potential land contamination. If during site works contaminated material is suspected, you are advised to stop works and seek further guidance. Remediation of contaminated land may require an authorisation under environmental permitting legislation.

Further information can be found in our GP3 document which is referenced on Page 2 of this guidance note.

Contaminated land assessments should be undertaken by suitably qualified persons. We cannot recommend individual consultants but a simple web search may help you to source a suitably qualified individual or company.

BIODIVERSITY & PROTECTED SPECIES

Where a proposal may have a negative impact on local ecology or fisheries, an assessment of the potential risks should be carried out. This would need to show that the development can proceed without demonstrable harm and propose mitigation, compensation or enhancements where required.

A survey should be carried out if protected species are thought to be present within the proximity of a proposed development. If the survey confirms the presence of protected species or their habitat, measures should be taken to manage the risks posed by the development. These measures may include compensation, mitigation or enhancement.

GUIDE FOR DEVELOPERS

We have produced a guide for developers⁹ which describes our role in development and how we can help the planning application process run smoothly. This document includes further information on environmental considerations for new developments.

OTHER CONSENTS / PERMITS REQUIRED IRRESPECTIVE OF PLANNING PERMISSION

The Environmental Permitting (England and Wales) (Amendment) Regulations 2016

You might need an Environmental Permit from us for your proposed development to cover water discharges, groundwater activities, radioactive substances, waste, mining waste, installations and work on or near a main river or sea defence.

EPR - Flood Risk Activities

Our prior written permission is required for any proposed activities which will take place:

- within, under or over a main river
- within the flood plain of a main river
- within 8m of the river bank or flood defence structure/culvert
- within 16 m of a tidal defence structure/culvert
- for quarrying or excavation, within 16m of a remote defence, flood defence structure or culvert

Please visit our website for further information on Environmental Permitting¹⁰

Works Affecting Ordinary Watercourses

Any works affecting an ordinary watercourse, including culverting, may require prior written consent from the Lead Local Flood Authority (LLFA) under the Land Drainage Act 1991 (as amended by the Flood and Water Management Act 2010). Further information can be obtained from the relevant LLFA which, in general, is the upper tier authority (ie. County or Unitary).

⁹<https://www.gov.uk/government/publications/planning-a-guide-for-developers>

¹⁰<https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>

CONTACT DETAILS

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