

**MIDDLE LEVEL COMMISSIONERS AND
ADMINISTERED/ASSOCIATED INTERNAL DRAINAGE BOARDS**



**Explanatory Notes to be read in conjunction with
Application For Consent For Works In And Around Watercourses and
Consent Validation Form**

A. INTRODUCTION

Please read through the guidance notes and the application form carefully before you complete the form. The application form should be completed as fully as possible. If you are not sure about anything in these guidance notes please contact us.

Please note that separate applications are required if more than one Board is involved.

Responsibility for the supervision of flood risk management within its area rests with the relevant Internal Drainage Board ("the Board"). Unless stated otherwise the term "Board" may refer to the Middle Level Commissioners, and Internal Drainage Board or District Drainage Commissioners, as appropriate in the context used.

It is essential that anyone who intends carrying out works in, over, under or near a watercourse, contacts the Board 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 or interfere with public rights of navigation

Please note that 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 Board 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. The notes give you information to help you fill in the application form. ALL sections must be filled in. Any section not relevant to the particular application should be marked "not applicable".

Contravention of byelaws

Consent is generally required for any structure within the channel of any watercourse and in addition for any structure on the banks or within the statutory access width of a protected watercourse. It is a criminal offence for such works to be undertaken without the necessary consent and the Board may, in addition, undertake any necessary remedial works.

In order to improve submissions and reduce delays in obtaining approvals the employment of a suitably qualified agent with suitable knowledge of water level/flood risk management may be appropriate.

B. ADVICE/DEFINITIONS

Structure: Any construction to include outfall pipes, headwalls, inlet works, weirs, dams, culverts, bridges, underground services, fences, roads, overhead services, buildings, or any shrubs, trees, excavations or other works which might affect the flow of a watercourse or be positioned within the access strips which are required to be kept clear and allow watercourses under the jurisdiction of the Boards to be maintained.

Watercourse: This includes the channel of the watercourse itself and any structure or appliance for controlling the flow of water into, or out of the channel. It also includes the banks of a channel. Any proposed works which affect the banks or the channel of a protected watercourse or a flood defence structure, usually require the consent of the Board.

Protected Watercourse: A watercourse for the time being vested in, or under the control of, the Board and shown on the Board's drain map available from the Middle Level offices or at www.middlelevel.gov.uk.

C. 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:

1. Details of Applicant

The details of the individual, organisation or company applying for consent should be given along with, where different or appropriate, the name, address and contact details of an appropriate person who can be contacted to discuss the proposals. The consent will be granted (if the application is approved) in the name of the Applicant.

2. Applicant's Interest in Land

This should be given as applicable, eg owner, tenant, licensee etc. Please note that if any work would be carried out on land in which you do not have a sufficient interest to undertake the works you will need permission from whoever is the landowner. The granting of a consent does NOT confer any rights of entry or rights over property.

3. Location of Proposed Works

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, postcode 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 eg TF 1234 5678. We need to be able to easily identify where the proposed works will be carried out.

4. 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.

5. 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 the number of structures for which consent is being sought. You should indicate whether you wish for the works applied for to be permanent (ie without time limit) in nature or temporary (ie only for a specified period). If temporary, state the duration of the period for which the works are required.

6. Supporting Information

In all cases this application is to include proper plan(s) and drawings produced by an appropriately qualified person showing the layout of the proposed works and, where applicable, the distance(s) to the Board's maintained watercourse(s) 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. **Four 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 to a recognised scale 1:10,000 or larger and should be based on an Ordnance Survey map. It should show clearly the general geographic location of the site where the works are to be constructed and include general features and (where applicable) street names. It must also clearly identify the relevant watercourse(s).

(b) Site Plan

This must be drawn to an appropriate 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. All drawings should be to recognised engineering scales:

- Plan(s) and cross section(s) showing details of existing and proposed features. Any plans should extend both upstream and downstream of the proposed works. Where the proposed works would encroach into any watercourse you should provide cross sections both upstream and downstream of the proposed works. Cross sections should be drawn looking downstream on the watercourse.

- Details of existing and proposed water levels, shown on cross sections or a longitudinal section of the relevant length of watercourse where appropriate. Longitudinal sections should be taken along the centre line of the watercourses and should extend both upstream and downstream of the proposed 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, seeding or landscaping within the channel or adjacent to the watercourse.
- **Survey of Channel** - The exact requirements are variable depending upon the size of the watercourse/embankment concerned but any survey should consist of bank and bed levels, taken at regular intervals not exceeding 50m and also at changes of direction, together with cross sections, taken about 100m apart but is dependent upon the watercourse/embankment profile. Cross sections should extend into the adjacent land far enough to incorporate any watercourse/embankment improvements. Bed and bank levels and/or a cross section should be undertaken at other locations likely to affect the design, ie: a discharge headwall. Any other physical changes and other features that could influence the watercourse/embankment design, ie: pipe inverts and sizes, water levels, road/track levels, pipe outfalls and sizes, locations of utilities etc. Low land levels and floor levels, if appropriate, are also useful to make a full assessment. The survey drawing should be plotted to reasonable scales and to a datum of –100m 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 sufficient for the average channel bed gradient to be determined. **PLEASE NOTE THAT THE MINIMUM SIZE OF CULVERTING THAT WILL BE PERMITTED IS 600mm.**
- Where it is proposed to install a culvert or pipe, information is also required as to:
 - Details of the proposed structure, pipe size, length, levels, type, bagging and backfill, and gradient.
 - Details of the existing channel, bed levels, details of existing structures, cross sections across the channel and the direction of flow.
 - The methods and materials used in its construction.
 - Calculations to demonstrate 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 in order to assess the possible impact on riparian owners. The plan must, in addition, show any affected land drains.
- **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 stockpile works are required where such works are in a flood plain area.

(d) **Sketches**

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

7. **Planning Permission**

Please state if planning approval has been sought. Planning permission is required (subject to certain exceptions) for any building, engineering or similar operations. If planning permission has been granted please provide the details requested. Enquiries on the need for planning permission should be referred to the local planning authority. **Planning approval DOES NOT remove the need to obtain consent from the Board.**

8. **Future Maintenance**

It is very important for us to know who will be responsible for maintaining any works and associated structures for which permission is applied and when and how such maintenance will be undertaken. This will usually be the applicant but could be a third party and the name and address and contact details – telephone and e-mail address of the responsible person should be given. If no details are given, it will be presumed that the applicant will be responsible. In certain cases legal proceedings can be taken against those not carrying out maintenance work for which they are responsible.

9. **Environmental Impact**

The Board has a duty to conserve and enhance the natural environment, and must therefore consider the environmental implications of any proposals and may require the provision of formal Environmental Assessment. **A proper statement outlining the environmental impact of the proposals and identifying all likely effects on the environment, including opportunities for enhancement is, however, required in every case.** Under the Habitats Regulations, we must ensure that any consent does not have a negative effect on any specified sites, including Sites of Special Scientific Interest (SSSIs), designated Special Areas of Conservation, (SACs), Special Protection Areas (SPAs), Listed Ramsar Sites and Scheduled Ancient Monuments. In these cases we must consult Natural England on your application. In addition the effect of the proposed works on the obligation under the Water Framework Directive to prevent deterioration in the overall status of water bodies must be fully considered. If the application does not properly consider this obligation it **MAY BE REFUSED**.

10. **Risk Assessments**

Risk Assessment - An appropriate assessment of how it would be ensured that both during and after the works there would be no material prejudice either to the Board's or to private systems and operations should the application be granted, **MUST** accompany the application.

Method Statement – This should include full details of how you would intend to carry out the work, specific measures to avoid/minimise disruption and the proposed timing and duration of the works. A non-exhaustive list of issues that the Method Statement should cover includes:

- Construction Methods
- Temporary Works
- Programme
- Management of flood risk during construction
- Pollution protection arising from the construction of the works
- How issues with flora and fauna will be managed

Flood Risk Assessment - An appropriate Assessment reflecting the scale of development, its nature and location in accordance with relevant water level/flood risk management guidance showing how flood risk would be reduced/mitigated should the application be granted, **MUST** accompany the application

11. **Navigation**

The majority of the main arterial watercourses under the jurisdiction of the Middle Level Commissioners are statutory navigations and the impact of the proposed works on and any risk caused to navigators must be assessed in such cases. Works that materially impede or interfere with navigation will not be permitted. The applicant is responsible for producing a proper risk assessment for any proposed works on or adjacent to a navigable watercourse and any application not including such assessment will be returned to the applicants. Please note that if a navigation closure is requested this will only be granted where no other method of undertaking the works properly and safely is available and save for emergency works, will not be granted in the main boating season. The applicant is responsible for the costs incurred in closing the navigation, where this is agreed.

NB: PLEASE NOTE THAT UNLESS ADEQUATE PLANS AND INFORMATION ARE SUPPLIED WITH THE APPLICATION, IT WILL BE RETURNED.

D. DATA PROTECTION

This section sets out our rights and responsibilities under the General Data Protection Regulations 2018 and Data Protection Act 2018.

E. APPLICATION DECLARATION

Enclose the payment with your application, and sign and date the form. If it is not clear to which Board the application should be made please enquire at the Middle Level Offices or check the website at www.middlelevel.gov.uk. By signing the application you are confirming that so far as you know the information that you have provided, including plans and other supporting documents, is true. **An unsigned application will not be accepted.**

F. APPLICATION CHARGE

The Land Drainage Act provides for the charging of £50 for consent for works in and around watercourses. This fee is fixed and does not require Value Added Tax (VAT). This charge is payable in respect of each structure.

G. HOW TO OBTAIN CONSENT

When you have fully completed your application form, please send it with the fee, completed validation list and supporting documents to the Middle Level Offices.

H. DETERMINATION

Upon receipt of an application the Board will, as soon as practicable, grant or refuse consent. Such consent shall not be unreasonably withheld and will be subject to conditions.

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 Board's conservation duties, consent may be refused if the works proposed might prove detrimental to the environment.

I. RIGHT OF APPEAL

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

J. OTHER CONSENTS

You may also require further consents eg from the Environment Agency under the Water Resources Act 1991 (eg 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 purposes 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 by an authority administered from this office.