

Development Guidance

Environment Agency (West Midlands Area)

Revised: September 2021

This is to guide on environmental planning issues & other regulatory links, at pre-planning application and application stages.

This guidance and attachments on specific matters form our **preliminary pre-planning advice service**.

More detailed **pre-planning advice may be provided as part of our cost recovery service**. This is a discretionary service and not always available. General national information is available at:

<https://www.gov.uk/government/publications/planning-and-marine-licence-advice-standard-terms-for-our-charges/planning-and-marine-licence-advice-standard-terms-for-our-charges>

For any planning matters please contact our Area Sustainable Places (Planning) Teams at

Flooding and Flood Risk Assessments (FRAs) incl. Climate Change:

For information on which 'flood zone' and river classification (main or ordinary watercourse) is relevant see our website:

<https://flood-map-for-planning.service.gov.uk>

The National Planning Policy Framework (NPPF) and associated National Planning Practice Guidance (NPPG) provide consideration of flood risk matters. They include information on climate change (Section 14 of the NPPF) and flood risk (Flood Risk and Coastal Change section of the NPPG); and, specifically, the Sequential & Exception Tests (Para. 161 - 165 of the NPPF) and flood zones and the vulnerability of land use types (paragraphs 065 - 067 of the flood risk section of the NPPG). The NPPG also includes information on the preparation of detailed FRAs (paragraph 068).

<http://planningguidance.communities.gov.uk/blog/guidance/flood-risk-and-coastal-change/>

FRAs must assess the risks of river (fluvial), sea (tidal) as appropriate, surface water and all other sources including groundwater flooding. Once the risks have been assessed mitigation measures should be identified to reduce/manage the risk on and off site to an acceptable level. Sustainable Drainage Systems (SuDS) should be included to manage surface water run-off and to prevent it from exacerbating flood risk. They can also help protect and improve water quality, and add amenity value. See SUDS Manual (C753) updated November 2015. For guidance view: <http://www.susdrain.org/>

For advice on 'flood proofing': http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf

New Climate change allowances for planning matters were published on 27 July 2021:

<https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>. **For local application of these see the Climate change guidance that we have attached with this note if it appears appropriate.**

National 'flood risk standing advice' (FRSA) can be viewed at: <https://www.gov.uk/flood-risk-standing-advice-frsa-for-local-planning-authorities>. This is to provide upfront advice to the Council without the need for consultation. In the West Midlands area, we use a detailed local version of FRSA. We may/may not be consulted or make comment on some applications or enquiries. This does not remove the need to submit FRAs for consideration by the Council.

We have produced local FRA Guidance notes e.g. to assist production of an FRA in Flood Zone 2 or 3. This will have been attached if deemed appropriate. See references to floor levels, safe access, flood storage compensation and where appropriate the use of our Flood Warning system to assist in evacuation.

Where a proposal would seek to rely upon our Flood Warning system or protection from an existing Flood Defence we may seek a financial contribution towards its provision, maintenance or enhancement. A S106 agreement would be sought to secure this.

You will need to contact the Lead Local Flood Authority (LLFA) land drainage team to discuss proposals in or adjacent to ordinary watercourses and related local flooding issues. They may also advise on detailed surface water management proposals. Your County Council or Unitary Council is the authority to contact.

Flood data:

We may have flood level data to assist in preparing a FRA. Also flood warning trigger levels where Flood Warning exists, to help prepare potential Flood Evacuation Management Plans. This can be provided through our Area Customers & Engagement Team on 03708 506506: Enquiries_WestMids@environment-agency.gov.uk

We do not recommend individual FRA consultants but the following website may help you to source a suitably qualified person <http://www.endsdirectory.com/>

Land Contamination:

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 (Para. 178 of the NPPF). Minimum requirements for submission with a planning application are a desk study and preliminary risk assessment, such as a site walkover or 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. You should contact the Council Environmental Health or Contaminated Land team who may hold records on 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 also require an authorisation under environmental permitting legislation. For information: we do not recommend individual environmental consultants but the following website link may help find environmental consultants that undertake contaminated land assessments <http://www.endsdirectory.com/>

Further advice on how land contamination should be assessed is available in our local ***Land Contamination Guidance note, attached if deemed appropriate.***

Foul Drainage – domestic and trade effluent

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297:2007+A1:2008 and Approved Document H of the Building Regulations 2015. You should also have regard to the advice within the 'Water supply, wastewater and water quality' section of the PPG in respect of planning requirements for non mains sewerage.

We have prepared a ***Foul Drainage Assessment Form*** to assist in your consideration and potential submission with your application. This is attached for your use if seen as appropriate. Alternatively, the Council may have its own assessment form. The Council's Building Regulations team may also advise. The treatment of trade effluent will often require an environmental permit which may not be granted. Please see contact details below.

Water Protection

It is a requirement of the **Water Framework Directive (WFD)** to cause no overall deterioration in water quality or the ecological status of any waterbody. Information on WFD and the current status of water bodies can be found in our River Basin Management Plans at: <https://www.gov.uk/search?q=River+Basin+Management+Plans>
Use of SUDS in development, removal of structures in watercourses and habitat enhancement are examples of how to help deliver the WFD aim of 'good' status/potential by 2027.

You should incorporate pollution prevention measures to protect ground and surface water. Previous ***Pollution Prevention Guidance*** maintained by the Environment Agency has been withdrawn but is still available in the national archives at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

We would refer you to the latest Pollution Prevention Guidance targeted at specific activities, available at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

The location of features such as **Source Protection Zones** can be found at <https://www.gov.uk/guidance/groundwater-source-protection-zones-spzs> These zones indicate that an area is very sensitive to pollution risks due to the proximity of drinking water sources.

Our approach to **Groundwater protection** can be seen at <https://www.gov.uk/government/publications/groundwater-protection-position-statements>

This guidance replaces Groundwater protection: Principles and practice (GP3). For below ground petrol tanks or storage of contaminants, a Groundwater Risk Assessment report, including water features survey, may be required to address Position statements D2 and D3.

Cemetery/burial site

A tier 1 hydrogeological risk assessment should be undertaken, including a water features survey. Where the tier 1 risk assessment shows that there is a need for more detailed assessment (i.e. the best practice controls cannot be met) a tier 2 risk assessment may be required. Information requirements for tier 1 and tier 2 assessments are set out within our guidance 'Cemeteries and burials: prevent groundwater pollution'. <https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

Water Resources

We encourage water efficiency in all development. Minimum residential requirements (125 litres per person per day) will be secured through Building Regulations, with Local Plans able to secure a higher standard (of 110 l/pppd). Code for Sustainable Homes will only apply to legacy cases. For info see: <https://www.gov.uk/government/publications/2010-to-2015-government-policy-energy-efficiency-in-buildings/2010-to-2015-government-policy-energy-efficiency-in-buildings>

For commercial use, please refer to www.breeam.org and consider rainwater harvesting and grey water recycling.

Ecology

The NPPF aims to conserve and enhance biodiversity. Biodiversity Net Gain is considered an important issue and most development proposals should not only plan to mitigate but provide betterment on existing provision by a minimum of 10%. A biodiversity metric tool (see Natural England website) may be appropriate to use.

An ecological survey, including water based life and its habitat may be required. This would help inform necessary 'protected species' assessment and wider biodiversity enhancement.

A Water Framework Directive (WFD) compliance assessment may be required for some projects. A consultant may advise you on this. Existing gov.uk web guidance covers Estuarine and Coastal Waters but can assist in consideration of other watercourses/ bodies. (<https://www.gov.uk/guidance/water-framework-directive-assessment-estuarine-and-coastal-waters>)

To assist we will also attach an internal **WFD compliance guide** for your consideration – titled 'Protecting and Improving the Water Environment: WFD Compliance of Physical works in Rivers', if it appears appropriate.

Landfill/Landfill Gas

Proposals near to a landfill site can be affected by gas or contamination issues. Environmental consultants that undertake technical assessments can be found at: <http://www.endsdirectory.com/> For information about authorised and historic landfills see: <http://apps.environment-agency.gov.uk/wiyby/37823.aspx> and <http://apps.environment-agency.gov.uk/wiyby/37829.aspx>

Authorised and Historic Landfill data is available to download under an Environment Agency Conditional Licence <https://www.gov.uk/government/publications/environment-agency-conditional-licence> from DATA.GOV.UK, please see:

Historic - (<https://data.gov.uk/dataset/17edf94f-6de3-4034-b66b-004ebd0dd010/historic-landfill-sites>) Authorised - <https://data.gov.uk/dataset/ad695596-d71d-4cbb-8e32-99108371c0ee/permitted-waste-sites-authorised-landfill-site-boundaries>

Environmental Permits – (Note: this is separate to any need for planning permission)

For advice on the need for a Standard/Bespoke Environmental Permit (EP) or Exemption see:

<https://www.gov.uk/topic/environmental-management/environmental-permits>

These may have been known by a different name including flood defence consents, discharge consents, abstraction licences, and waste management licences.

Flood Risk Permit – Works in, on or adjacent to a Main River/ Flood structure or Main river Floodplain may need a permit. For guidance see <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> and for area advice

contact the local Partnerships and Strategic Overview Team. For advice on the need for related WFD risk assessment please see <https://www.gov.uk/government/publications/water-framework-directive-how-to-assess-the-risk-of-your-activity>

(Note: Flood Defence Consents still apply to Ordinary watercourses – Contact your Lead Local Flood Authority as the determining authority on these).

To discuss our role in **reservoir management** contact the EA Reservoir Safety Team <https://www.gov.uk/reservoirs-a-guide-for-owners-and-operators>

For other initial permit advice ring 03708 506506 and ask for the EA National Permitting Service.

Detailed pre-permit application discussion may then be referred to the relevant Area Team. There may be a charge for this service. Examples:

Discharge of trade or 'domestic' effluent to ground or surface water - You may need a Permit or Exemption if you wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch or to allow discharges to ground.

Intensive Pig & Poultry activities – some of these activities will be regulated by us and require an EP.

Industrial and Waste management facilities - If you are proposing a waste management facility e.g. landfill, energy from waste incinerator, transfer/recycling centre, scrap yard, contaminated land remediation site, anaerobic digestion plant, composting area, or select industrial process plant an EP will be required.

Waste – Importing waste material (e.g. hardcore for construction) will require an EP or registered Exemption. Some projects might benefit from a Site Waste Management Plan to document reuse, recycling and disposal of waste.

Mining Waste - <https://www.gov.uk/government/publications/regulatory-framework-for-the-implementation-of-the-mining-waste-directive>

Water – You may need an EP to abstract ground or surface water, or to impound/obstruct/transfer water e.g. as part of a hydro electric power project. <https://www.gov.uk/government/collections/hydropower-schemes-guidelines-and-applying-for-permission>

Other Agricultural regulation - Proposals for slurry lagoons and field silage stores need to comply with the **Water resources (control of pollution, silage, slurry and agricultural fuel oil) regulations (SSAFO)**. 14 day prior notification must be provided to us. See: <https://www.gov.uk/guidance/storing-silage-slurry-and-agricultural-fuel-oil> For advice contact the Local Land and Water Team.

For guidance on Water Storage Reservoirs and Rural SuDS to help meet **Water Framework Directive** objectives please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291508/scho0612buwh-e-e.pdf and <http://www.ukia.org/>

Environment Agency West Midlands Area
National Customer Services line: 03708 506506 Email: WestMidsPlanning@environment-agency.gov.uk
<https://www.gov.uk/government/organisations/environment-agency>