

Land Drainage Act 1991

Flood and Water Management Act 2010

Regulation of Ordinary Watercourses

Blackpool Council policy and process

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Introduction

On the 6th April 2012, powers that were vested in the Environment Agency regarding the consenting of certain works on ordinary watercourses under the Land Drainage Act 1991, as well as the relevant enforcement powers, were transferred to Upper Tier Local Authorities as specified in Section 6(7)(a) of the Flood and Water Management Act 2010. As a unitary Authority, this means that Blackpool Council is now the Local Lead Flood Authority (LLFA). Section 6(13)(b) also makes Blackpool Council the Risk Management Authority (RMA) regarding coastal erosion risk. For convenience, reference to Blackpool Council refers to these roles, unless otherwise indicated. This legislation arose due to work carried out by Sir Michael Pitt in light of the 2007 floods, and implements the recommendations of his report.

These new powers mean that Blackpool Council is now the body that assesses consents on ordinary watercourses which impact on flow of the watercourse, and may affect the flooding risk within its area.

Permission to consent on Main Rivers remains under the authority of the Environment Agency. Statutory Main River maps are held by the Environment Agency. Please visit <http://www.environment-agency.gov.uk/contactus/default.aspx> to view a copy of the map.

This document will provide a brief outline in setting out how Blackpool Council intends to implement these powers. It is being kept brief to allow Blackpool Council flexibility in how it allocates resources to assess applications. To enable Blackpool Council to do this, the approach it takes will have to be not only robust to ensure that consents aren't given when they should not be, but be predicated on the foundations of risk assessment and proportionality.

Blackpool Council Functions

Blackpool Council is having a number of powers in relation to flooding transferred to it, all of which impact on its ability to assess applications for consent for certain works. However, the main focus of this document is in relation to the consenting and enforcement powers that are being transferred.

Consent for certain works on ordinary watercourses.

In pursuance of its new functions, Blackpool Council will take a risk based approach to assessing consents, and use a process based on that used by the Environment Agency when it was undertaking these functions. This will enable people who have previously submitted applications for consents to utilise similar application forms and understand how the application will be assessed. Blackpool Councils aim will be that the applicant should notice very little difference between now and when the Environment Agency was assessing applications.

Pre-application talks

It is highly advisable to approach Blackpool Council before submission of an application form so that we can advise you on your application, and potentially overcome any obstacles that may result in refusal of your application.

Consideration of a detailed consent application.

An application for consent for works on an ordinary watercourse must meet some criteria to enable Blackpool Council to consider it. It must be:

- In writing
- Accompanied by the appropriate fee.

A Blackpool specific application form is included at the end of this document in Appendix B. Although it is not necessary for you to utilise this form, using it will ensure that you have included all the information you need to provide us to allow us to assess your proposal. Guidance in filling out the form is included in Appendix C.

Being granted consent for certain works on an ordinary watercourse does not mean that you do not have to apply for any other permissions that you may need; for instance under the Town and Country Planning Act, the Environment Act, The Habitats Regulations, the Countryside Rights of Way Act, the Salmon and Freshwater Fisheries Act, the Eel Regulations, etc. You must also ensure that any works you undertake do not pollute the watercourse. Your application will be assessed by Blackpool Council to determine whether a Water Framework Directive assessment is required or not. Blackpool Council will do its best to advise you of any other permissions you may require, but cannot be held responsible for anything we may miss. It is your duty to find out what other permissions you may need. It is also your obligation to determine whether the works fall under the Construction (Design and Management) Regulations.

To determine whether your application requires consent, Blackpool Council will assess whether it is the kind of work that would need consent, and the impact that allowing the work to go ahead will have on the flood risk of the watercourse. In this way, the assessment will be risk based and proportional, and will allow the Council to direct its resources more efficiently.

Council works on Ordinary Watercourses.

As the LLFA, the Council is not able to consent to its own works. Therefore, if the Council intends to undertake any works it will need to be consented by the Environment Agency (unless the works are for flood and coastal erosion risk management purposes).

Consent and refusal of an application.

Upon being granted consent for works, Blackpool Council will formally write to you informing you of the outcome. Blackpool Council may find it appropriate to attach conditions to your permission, as well as informatives. Blackpool Council can only condition certain issues, but can produce informatives that the applicant may find useful.

Enforcement Action on Ordinary Watercourses

Blackpool Council will use its enforcement powers where the proper flow of water in the course is impeded, and where the flood risk is increased. It is possible that where there is an imminent risk of flood, Blackpool Council can use its powers to enter land and undertake works as it sees fit. However, Blackpool Council will only use its powers as a last resort, and will actively seek a path of negotiation in the first instance.

Blackpool Council

In assessing the need for negotiation or enforcement action, Blackpool Council will use a risk based and proportionate approach so that it will allow its resources to be utilised more efficiently.

In using its enforcement powers, Blackpool Council will follow the policy of its Enforcement and Quality Standards Department.

Consultations

The Council is obliged to consult with a number of bodies on a number of issues. It is possible that the Council will have to consult with Natural England, as well as its own staff in other areas of the Council whose assets, works or obligations may be impacted by the proposed works.

As stated above, it is the applicant's responsibility to source all other permits and consents that may be needed. Consent to undertake certain works on an ordinary water course does not override the necessity to have other permissions. Whilst Blackpool Council can help you identify what else you may need, it is your duty as applicant to undertake this, and Blackpool Council will not be held responsible for anything that has been overlooked.

Time Scales

Blackpool Council has a time limit in which to assess your application; this is two months. At the end of this two month period, we will have written to inform you of the outcome of your application. A failure on behalf of Blackpool Council to notify you of the outcome after this period has expired will mean that your application is automatically consented.

Appendices

Appendix A: What needs consent?

What works actually need consenting is identified below (sourced from the Environment Agency's Advice Note). Note: This is based upon Environment Agency interpretation of legislation and "flow" should be determined as bank full flow conditions.



Pipe Culvert (including extension and removal of) - **Consent Required** under Section 23(1)(c).



Oversized Box Culvert (including extension and removal of) - **Consent Required** under Section 23(1)(c).



Trash Screens - **Consent Required** as it is an alteration to a culvert and has the potential to obstruct flow under Section 23(1)(c).



Bank Protection Works - **Not Consentable** under LDA 91. (Temporary works may require consent).



Pipe Crossing (in channel) - **Consent Required** under Section 23(1)(a) if placed on bed and under Section 23(1)(b) if above bed.



Pipe Crossing (above bank) - **Not Consentable** under LDA 91 as it does not affect the watercourse.



Pipe Crossing (below bed) - **Not Consentable** under LDA 91 as it does not affect the watercourse - Potential temporary works consent.



Protruding Pipe Outfall - **Not Consentable** under LDA 91 as it will not act like a dam/weir or like an obstruction.



Outfall within Bank profile - **Not Consentable** under LDA 91 as it does not act like a mill dam or weir.



Weir/Dam or impoundment or temporary works that obstruct flow - **Consent Required** under Section 23(1)(a).



Bridge (where soffit level is below bank top level) - **Consent Required** under Section 23(1)(b) as it acts like a culvert.



Bridge (abutments not reducing flow area/width) - **Not Consentable** under LDA 91 as does not interfere with flow.



Bridge (Abutments restricting flow) - **Consent Required** under Section 23(1)(b) as it acts like a culvert.



Clear span bridge - **Not Consentable** as it does not affect the watercourse.



Bridge with support in channel - **Not Consentable** under LDA 91 as it will not act like a dam/weir or like an obstruction. Need to consider size of pier against size of watercourse, but would want to discourage the use of a pier in the watercourse.

Note: This is based upon Environment Agency interpretation of legislation and 'flow' should be determined as bank full flow conditions.

Pipe Culvert (including extension and removal of) – **Consent Required** under Section 23(1)(b).

Oversized Box Culvert (including extension and removal of) – **Consent Required** under Section 23(1)(b).

Trash Screens – **Consent Required** as it is an alteration to a culvert and has the potential to obstruct flow under Section 23(1)(b).

Bank Protection Works – **Possibly consentable** under LDA 91.

Pipe Crossing (in channel) – **Consent Required** under Section 23(1)(a) if placed on bed and under Section 23(1)(b) if above bed.

Pipe Crossing (above bank) – **Possibly Consentable**.

Pipe crossing (below bed) – **Possibly consentable**.

Protruding Pipe Outfall – **Possibly Consentable** under LDA91.

Outfall within Bank Profile – **Possibly consentable** under LDA91

Weir/Dam or impoundment or temporary works that obstruct flow – **Consent Required** under Section 23(1)(a)

Bridge (where soffit level is below bank top level) – **Consent Required** under Section 23(1)(b) as it acts like a culvert

Bridge (abutments not in flow) – **Possibly consentable** under LDA91

Bridge (abutments in flow) – **Consent Required** under Section 23(1)(b) as it acts like a culvert

Clear span bridge – **Possibly consentable** under LDA91

Bridge with support in channel – **Possibly consentable** under LDA91

Appendix B: Application form

Application for Ordinary Watercourse Land Drainage Consent

Land Drainage Act 1990

Before completing this form you are recommended to contact us for advice on your proposal

LDA1991 application form: to be completed by the operator. See guidance note for details		
For Local Authority use Only		
Application reference	Officer reference	Date received

1. THE APPLICANT

Are you applying as a company, an individual, a group of individuals (partnership) or a public body?

(To apply as a company, you must be a registered company formally registered with Companies House. Please see [Companies House website](#) for more information.)

Company

Company Name*	
Company Registration No.	

*As registered with Companies House

Individual

Title	
First name	
Last name	

Group of individuals

What type of group are you?	
Name of your group	

Give details of your group's main representative

Title			
First name			
Last name			
Position			
Address			
Postcode		Email	
Country		Fax	
Phone		Mobile	

Public body

Name of the public body	
What type of public body are you?	

2. YOUR ADDRESS

- **Applications from companies** – please provide your office address registered with Companies House. If this address is outside the UK, please also provide the address of your main UK office
- **Applications from individuals, groups of individuals and public bodies** – please provide your main UK business address

Address			
Postcode		Email	
Country		Fax	
Phone		Mobile	

Address			
Postcode		Email	
Country		Fax	
Phone		Mobile	

3. CONTACT DETAILS

Who we can contact about your application

This can be you or someone acting as a consultant or an agent for you during your application process.

Title			
First name			
Last name			
Position			
Address			
Postcode		Email	
Country		Fax	
Phone		Mobile	

4. YOUR INTEREST IN THE LAND

4.1 What is your Interest in the Land?

5. LOCATION OF THE PROPOSED WORKS

5.1 What is the Location of the Proposed Works?

5.2 Name of River or Watercourse (If known)

5.3 National Grid Reference of the Site (12 figures)

6. DESCRIPTION AND PURPOSE OF THE PROPOSED WORKS

6.1 Please provide a description of the proposed works.

6.2 Number of Structures

7. PLANS AND SECTIONS

7.1 Please provide a description and reference number of all plans and sections you have provided (see the guidance notes).

8. CONSTRUCTION DETAILS

8.1 Are the works permanent or Temporary?

If Temporary, For how Long?

8.2 Date Construction Work will start?

9. ENVIRONMENT AGENCY INTERESTS

9.1 Do the proposed works involve or affect the following?

Impounding (holding back a watercourse)

Fish or fisheries

Water Quality

Abstracting (removing) Water

Disposing of Waste Material

If yes, please contact the Environment Agency on 03708 506 506

Planning Approvals

Fill in this Section if you have been given planning permission for the proposed works. Otherwise go to Section 11.

9.2 Planning Authority

9.3 Application Number

9.4 Approval Date

9.5 Are the works associated with the Sustainable Urban Drainage Board (SABS)?

Yes

No

10. MAINTAINING THE STRUCTURE

10.1 Name of Person or Organisation responsible for maintaining the structure

During Construction	
Upon Completion	

11. EFFECTS ON THE ENVIRONMENT

11.1 Please provide brief details of the effect the work will have on the environment together with any proposals for improvements you will make or action you will take to compensate for the effects.

12. FEES

To find out our Land Drainage Consent fees, contact **us** before you sending us this application

13. CHECKLIST

Please read through this list and tick the items you are sending with this application.

- Completed Form with any associated documents and Calculations
- Applicable Fee
- Environmental/Ecological Reports
- Method Statement

14. The Data Protection Act 1998

We will process the information you provide so that we can deal with your enquiry.

We may also process or release the information to:

- offer you documents or services relating to environmental matters;
- consult the public, public organisations and other organisations (for example, the Health and Safety Executive, local authorities, the emergency services, Welsh Government
- carry out research into environmental issues and develop solutions to problems;
- provide information from the public register to anyone who asks;
- prevent anyone from breaking environmental law, investigate cases where environmental law may have been broken, and take any action that is needed;
- assess whether customers are satisfied with our service and improve it where necessary; and
- respond to requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (if the Data Protection Act allows).

We may pass the information on to our agents or representatives to do these things for us.

15. Declaration

By signing below you are declaring that, as far as you know, the information given in this application, including the map and any supporting documents, is true.

Title	
First name	
Last name	
Position	
Signature	
Today's date	

16. Next steps

Please return this form together with any supporting documents to us.

If you need help filling in this form, contact the person who sent it to you or contact us as shown below.

General enquiries: 01253 476090

Email: clare.nolan-barnes@blackpool.gov.uk

Website: www.blackpool.gov.uk

Please tell us if you have any communication needs such as needing information in a different language or alternative format (for example, in large print, in Braille or on CD)

Appendix C: Guidance document for application form

Blackpool Council

Blackpool Council Application for Ordinary Watercourse Land Drainage Consent. Guidance
Please read through these guidance notes and the application form carefully before you fill the form in.

If you are not sure about anything in these guidance notes, contact us using the details at the bottom of this form.

These guidance notes give you information to help you fill in your application for Ordinary Watercourse Land Drainage Consent.

Before completing this form you are recommended to contact us for advice on your proposal. Under the Land Drainage Act 1991, you need consent if you want to build a culvert or structure (such as a weir) to control the flow of water on any ordinary watercourse.

There is a charge of £50 for each structure or operation for applications made under the Land Drainage Act.

Please follow this guidance to help avoid delays in your application.

1. About you, the applicant

Please tick one box to indicate the type of applicant you are.

Applications from companies

- Fill in this section if you would like to apply for Land Drainage Consent as a registered company. To apply as a company, you must be a registered company formally registered with Companies House. Any Land Drainage Consent you get will be in the company name registered with Companies House.
- You will need to give us your company name, as registered with Companies House, your company registration number, and the full name of the company director, and their official position.

Applications from individuals

- Fill in this section if you would like to apply as an individual.
- Give us your full name. The name you give will be the name on any Land Drainage Consent we grant.

Applications from groups of individuals

- Fill in this section if you would like to apply as a charity, group of individuals, club or partnership.
- Tick the relevant box to tell us whether you are a charity, group of individuals, club or partnership.
- Give us the name of your group. The name you give will be the name on any Land Drainage Consent we grant. If you are a limited liability partnership, please give the full name.
- Give us the full name, position, full address and contact details of your group's main representative.

Applications from public bodies

- Fill in this section if you would like to apply as a public body such as a local authority or an NHS trust.
- Please give us the full name of the public body. The name you give will be the name on any Land Drainage Consent we grant.
- Please specify what type of public body you are.

2. Your address

All applicants must fill in this section. You must give us your full UK address. The address you give here will be the address your Land Drainage Consent will be registered to and will be shown on any Land Drainage Consent we grant.

Blackpool Council Application for Ordinary Watercourse Land Drainage Consent. Guidance

- If you are applying as a company, give your office address registered with Companies House. If this address is outside the UK, also give the address of your main UK office. We will not be able to process your application if you do not give us a UK address.
- If you are applying as an individual, a group of individuals or a public body, give the address of your main office in the UK. We will not be able to process your application if you do not give us a UK address.

3. Contact details

Who we can contact about your application

All applicants must fill in this section. You need to tell us who we should contact about your application for Land Drainage consent. You can nominate someone other than the person named on any Land Drainage consent (for example, a consultant or agent). You need to give us your or the relevant person's full name, address and contact details.

4. Your Interest in the Land

We need to know what interest you have in the land where the works will be carried out (for example, whether you are the landowner or tenant). If any work will be carried out on land that you do not own, you will need permission from whoever owns the land.

5. Location of the Proposed Works

We need to be able to easily identify where the proposed works will be carried out. Please give details of:

- The location of the site;
- The name of the watercourse; and
- The National Grid Reference (12 figures)

6. Description and purpose of the proposed works.

It is important that you accurately describe the proposals for the application being made. Please tell us the purpose of the works and the number of structures you need consent for.

7. Plans and Sections

To consider your proposals we need to receive plans and drawings, drawn by a competent engineer or surveyor and showing Ordnance Datum Newlyn (the height above sea level)

You need to provide three copies of all relevant drawings. The drawings must be no larger than A0 size, and they need to include the following.

Location Plan

This must be at an appropriate scale and be based on an Ordnance Survey map. It must clearly show the general location of the site where the proposed work will be carried out and include general features and street names. It must also identify the watercourse or other bodies of water in the surrounding area.

Site Plan (general arrangement)

You must provide a plan of the site showing:

- The existing site, including any watercourse;
- Your proposals
- The position of any structures which may influence local river hydraulics, including bridges, pipes and ducts, ways of crossing the watercourse, culverts and screens, embankments, walls, outfalls and so on; and

Blackpool Council Application for Ordinary Watercourse Land Drainage Consent. Guidance

- Existing fish passes or structures intended to allow fish to pass upstream and downstream;
- The plan should be drawn to an appropriate scale, which must be clearly stated.

Cross Sections

Where works encroach into any watercourse, then you should provide cross sections both upstream and downstream of the proposed works. Cross sections should be drawn as if looking downstream on the watercourse and should include details of existing and proposed features and water levels.

Longitudinal sections

Longitudinal sections taken along the centre line of the watercourse are needed. These must show the existing and proposed features including water levels, bed levels and structures. They should extend both upstream and downstream of the proposed work.

Detailed drawings

These are to show details of the existing and proposed features such as the following:

- 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 that may be affected by the proposed works.
- Details of any planting or seeding.
- Dams and weirs. (We need a plan showing the extent of the water impounded (held back) under normal and flood conditions so that we can assess the possible effect on land next to the river. The plan must also show any land drains to be affected.)

8. Construction details

You need separate consents for the permanent works and any temporary works that do not form part of the permanent works. Temporary works could include, for example, cofferdams (watertight enclosures) across a watercourse, or temporary diversions of water while work is carried out.

For any temporary work, we need to know how you are proposing to carry out the work. So you need to send us a “method statement” that includes details of the specific measures you plan to take to keep disruption to a minimum and reduce any unwanted effects while the work is being carried out.

We need to know when you are proposing to carry out the work and how long you think it will take. When you are planning the work you need to make sure that you have allowed enough time for us to consider your application.

9. Environment Agency Interests

Please tick the appropriate boxes.

If you answer “yes” to any of the questions, you will probably need extra licenses or consents from the Environment Agency before you start work

You should make sure that you have enough time to get all approvals you need before you start work. If you don't, this could delay the work.

10. Planning Approvals

Blackpool Council Application for Ordinary Watercourse Land Drainage Consent. Guidance
Please provide details of any planning permissions you may have or are applying for that relates to this proposal.

11. Maintaining the Structure

We need to know who will be responsible for maintenance both during construction work and after the work has finished.

12. Effects on the environment

We have a legal duty to protect and improve the environment, so we must consider the environmental effects of your proposal

You may need to carry out an environmental appraisal to assess the effects of your work. You should contact us before you send us your application so that we can give you advice on this. If you don't, your application could be delayed.

The environmental appraisal should identify all likely effects on the environment. You should consider the direct and indirect effects the work has on sites and features of interest and species of particular value.

Include any specific measures you plan to keep disruption to a minimum and reduce any unwanted effects while the work is being carried out.

Set out any opportunities for you to improve the environmental value of the site. This may include creating water features, planting trees and shrubs that would normally grow at the site, providing bird nesting boxes or creating sustainable places for wildlife to live.

If as part of a planning permission we have asked for an environmental appraisal, you must send it to us with all the other supporting documents we need.

If your site falls within, is next to or is linked to a nature conservation site, contact us as soon as possible to discuss your proposals before you send us your application.

Under the European Habitats Regulations, we must make sure that Land Drainage Consent does not have a direct or indirect negative effect on any site specified in the regulations, including:

- Sites of Special Scientific Interest (SSSIs)
- Designated Special Areas of Conservation (SACs);
- Special Protection Areas (SPAs);
- Listed RAMSAR sites; and
- Scheduled Ancient Monuments (SAMs)

Under the Habitats Regulations, we must consult Natural England. You may want to contact them yourself to get their views on your proposal.

13. Fees

The fee for Land Drainage Consent, where charged, is £50, contact us before you send us this application.

14. Checklist

Tick the relevant documents in this section so that we know what you are sending

The Data Protection Act 1998

This section sets out our rights and responsibilities under the Data Protection Act 1998.

15. Declaration

Blackpool Council

Blackpool Council Application for Ordinary Watercourse Land Drainage Consent. Guidance
By signing this section you are declaring that, as far as you know, the information you have provided, including the map and any supporting documents, is true. We will not accept any application that is not signed.

- If you are applying as a company which has trustees, all trustees must sign the declaration.
- If you are applying as a limited company, a company secretary or a director must sign the declaration.

Next steps

Please return the application form 'Application for Ordinary Watercourse Land Drainage Consent' and any supporting documents team for your area.

If you need help filling in this form, contact the person who sent it to you or contact us as shown below.

General enquiries: 01253 476090

Email: clare.nolan-barnes@blackpool.gov.uk

Website: www.blackpool.gov.uk

If you are happy with our service, please tell us. It helps us to identify good practice and encourages our staff. If you're not happy with our service, please tell us how we can improve it.

Please tell us if you have any communication needs such as needing information in a different language or alternative format (for example, in large print, in Braille or on CD).