

Agenda Item No. 4(e)

**DERBYSHIRE COUNTY COUNCIL**

**CABINET MEMBER MEETING – HIGHWAYS, TRANSPORT AND  
INFRASTRUCTURE**

**23 March 2017**

Report of the Strategic Director – Economy, Transport and Communities

**AMENDMENT TO THE LOCAL FLOOD RISK MANAGEMENT STRATEGY  
SUPPORTING DOCUMENTATION**

(1) **Purpose of Report** To seek Cabinet Member approval to proposed amendments to:

- Part Two of Derbyshire's Local Flood Risk Management Strategy (LFRMS);
- the process for granting consents for alterations to Ordinary Watercourses under the Section 23 of the Land Drainage Act (LDA, 1991), including the exemption of charitable organisations from licence fees;
- changes to the Enforcement Policy and the use of permissive powers under Section 25 of the LDA; and
- a revised process for responding to general flooding enquiries.

(2) **Information and Analysis** Under the Flood and Water Management Act 2010 (FWMA), Derbyshire County Council, as the Lead Local Flood Authority (LLFA), has a duty to develop and monitor a LFRMS in line with the National Flood and Coastal Erosion Risk Management Strategy. The Council's current LFRMS encompasses all the legal requirements placed on the County Council as a LLFA. The LFRMS is split into two parts:

- **Part One** – Provides general information about flooding and flood risk, who to call and how local people can help themselves to become more resilient to the impacts of flooding.
- **Part Two** – Focuses on the more technical details of understanding flood risk in Derbyshire. It provides an action plan detailing how the County Council intends to coordinate the management of the future risks and how it can fund Derbyshire's flood risk management functions and initiatives.

The two main documents are supported by six Local Objectives, Guidance Notes, a Strategic Environmental Assessment (SEA) and a Culvert Policy.

The LFRMS and Guidance Notes were approved by Cabinet on 28 July 2015 (Minute No. 271/15 refers) and published on the Council's website.

There are currently 27 Guidance Notes which support the LFRMS. These Guidance Notes are non-statutory and designed to be short, readable and informative documents that align with the overall aims and objectives of the LFRMS, support daily service delivery and provide advice to businesses, communities and residents of Derbyshire about how they can be supported and support themselves, before, during and after a flood incident.

Since approval, the LFRMS Guidance Notes and processes continue to be kept under review and, as a result, it is proposed to make changes to the Guidance Notes and processes to improve performance.

The Council is the consenting authority for works in or within close proximity to ordinary watercourses under Section 23 of the LDA and following recent advice and good practice by the Environment Agency, propose to exempt charitable organisations from paying the statutory fee for obtaining consent under the LDA.

The Council also has permissive powers under Section 25 of the LDA to require riparian landowners to maintain the proper flow of ordinary watercourses. This is a contentious issue as it raises an expectation from those affected and places a responsibility on the Council to undertake the works in the event that the riparian landowner fails to. Following recent events it is proposed to amend the Enforcement Powers Guidance Notes to provide greater clarity on the process for possible enforcement.

The Flood Risk Management (FRM) team receives many requests for advice guidance and resolution of flooding issues across Derbyshire. These vary from serious internal flooding of businesses, residential properties and / or critical infrastructure to small springs and high groundwater levels, that whilst inconvenient are not considered to be of sufficient concern to warrant full investigation. As a consequence, and to manage the use of resources to ensure the key aims and objectives of the LFRMS are delivered, the process for responding to flood enquiries has been amended so as to provide a prioritised response. The changes are detailed within the Flood Enquiries and Investigation Guidance Notes.

The Council is also a 'statutory consultee' to the planning process with regard to surface water drainage.

Currently, the role is limited to responding to 'major' applications and in order to ensure the most appropriate response, the FRM team has reviewed the process and consultation matrix used and amended the Planning and Development Guidance Notes. These Guidance Notes will act as an interim

measure in the absence of Local Standards for Sustainable Drainage which is currently in draft form.

### Summary of Proposed Amendments to Guidance Notes:

Guidance Note	Major Amendment Detail
Planning and Development	Incorporates the FRM team review process for all planning applications and the consultation matrix used. The note also includes guidance for developers in the absence of Local Standards for Sustainable Drainage which are currently in draft form.
Flood Reporting and Enquiries Investigation	Incorporates the new process for managing flooding enquiries focusing on a desk based review and use of Guidance Notes to better prioritise site visits. Internal property flooding enquiries remain a priority for the FRM team to investigate.
Fast Track Consenting and Guidance for completing Application Form for Land Drainage Consent	It is proposed that in some exceptional circumstances, charitable organisations will be exempt from paying the statutory consent fee under the Land Drainage Act.
Enforcement Powers	Clarifies the process for addressing concerns / problems over the maintenance of Ordinary Watercourses by riparian landowners.

(3) **Financial Considerations** The use of the LFRMS and Guidance Notes support the majority of the daily functions of the Council's FRM team and changes in process will bring about efficiencies in terms of prioritising team resource. There are financial implications, however, these are not anticipated to be significant as to date, no applications for Ordinary Watercourse Consent have been received.

(4) **Legal Considerations** The Council has a duty under the Flood and Water Management Act 2010 to publish and maintain a Local Flood Risk Management Strategy. There is no statutory duty to publish Guidance Notes, however, they are a resource support mechanism for the FRM team and provide information and advice to the businesses and residents of Derbyshire. The Council also has a duty to consent works on ordinary watercourses under Section 23 of the LDA and permissive powers under Section 25 of the LDA.

(5) **Environmental Health and Social Value Considerations**  
The County Council has produced a SEA as a supplementary document to the LFRMS. The SEA aspires to identify the likely significant effects of the LFRMS and help to demonstrate how the LFRMS can contribute to the achievement of wider environmental objectives.

An Equality Impact Assessment (EIA) has also been undertaken which supports the LFRMS, although raises some concerns in relation to Public Health, in particular issues regarding the impacts of regular / recurrent flooding incidences on mental health. The EIA also raises concerns over the effects of flooding on the elderly, infirm, pregnant and disabled, who may not be so able to adapt to / or be capable of making themselves resilient to the effects of flooding or dealing with flooding should it enter or confine them to their property.

The LFRMS takes on board these two issues and seeks to address them through the strong emphasis on preparation and developing personal resilience in advance of potential flooding, community and partnership working, and effective communication. The FRM team is committed to maintaining an approach which seeks to mitigate the risk to all parties, particularly where flooding cannot be completely removed.

The LFRMS seeks to raise awareness and mitigate flood risk in the areas most prone to flood risk across Derbyshire. However, changes in the Government funding model, policy changes, climate change and new development may increase flood risk, and could make it harder for residents to obtain insurance, and this could reduce the positive impacts of the LFRMS.

Flooding can have profound effects on peoples' welfare, employment, mobility, wellbeing, psychosocial resilience, relationships and mental health. It can pose huge social and welfare problems that may continue over extended periods of time because of not only being flooded (the primary stressor), but also because of the continuing secondary stressors that arise as people try to recover their lives, property and relationships. The LFRMS and supporting documentation endeavours to address these effects of flooding on peoples' lives. There are also positive social implications with regards to exempting charitable organisations from the statutory fee for Consent under the LDA.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, health, property and transport considerations.

(6) **Key Decision** No.

(7) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(8) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Steve Mead, extension 38577.

(9) **OFFICER'S RECOMMENDATIONS** That the Cabinet Member approves:

- 9.1 The additions/amendments to the Local Flood Risk Management Strategy and Guidance Notes.
- 9.2 The delegation of future amendments to Guidance Notes and processes in the light of legislative changes or in the interests of operational efficiency to the Strategic Director – Economy, Transport and Communities in consultation with the Cabinet Member.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Communities**

## Guidance Notes: ENFORCEMENT POWERS

*If you are unsure about anything within these notes then please contact the Flood Risk Management (FRM) team using the contact details at the end of this guidance note.*

In many instances the partial or full blockage of a watercourse can result in flooding to land or in the worst case properties, businesses and/or critical infrastructure. The County Council is committed to raising awareness of riparian responsibilities for flood risk management and produces guidance notes to assist riparian landowners in understanding their responsibilities.

The key aims of enforcement in flood risk management are to ensure the proper flow of water in a watercourse and over the floodplain, the control of water levels and security of existing assets. To achieve these aims, enforcement action may be used to resolve matters, however, this will always be proportionate to the risk and subject to the approach set out below.

Where the FRM team has been made aware of a potential blockage or obstruction to an ordinary watercourse, the team will work with all parties involved to help resolve the problem before considering the use of their permissive enforcement powers.

### The County Council's approach to enforcement

The powers the County Council has in relation to land drainage enforcement are permissive. The County Council does not have a duty to carry out works or to take enforcement action.

It is at the County Council's discretion as to when / if it exercises them.

Prior to any enforcement action being considered:

- it will be necessary to determine the riparian owners of the watercourse in question;
- the riparian owners should be advised of their responsibilities, the risks and the potential consequences of any negation of these responsibilities;



**A partially obstructed  
trash screen**

- the cooperation of the riparian landowner will be sought in resolving the cause / source of the problem.

This may involve site meetings to agree the work required and the timescales for actioning the work. The FRM team will work with all parties involved to help resolve the problem before considering the use of their permissive enforcement powers.

Timescales may be proportional to the risk posed by the problem, although where there is considerable risk to injury, life and / or property there may be limited scope for delay.

Consideration will be given to the effectiveness of the action in managing, mitigating or resolving the problem in the short, medium, long term and whether other options exist to provide a more effective and sustainable solution,

Only where all avenues have been exhausted will the FRM team consider recommending enforcement action.

In negotiating a solution or in exercising the County Council's enforcement powers, it will do so using the following guiding principles:

- **Openness:** Provision of information and advice about how we carry out our work, including consultation with stakeholders.
- **Helpfulness:** Provision of advice and assistance on compliance in a courteous, efficient and prompt manner.
- **Proportionality:** Action taken to be proportional to the risks posed.
- **Consistency:** Duties to be carried out in a fair, equitable and consistent manner, and with arrangements in place to promote consistency.

### Powers under Section 25 of the Land Drainage Act

It is the responsibility of the riparian landowner to ensure that watercourses are maintained properly so that they do not pose a flood risk. For more information regarding riparian landownership please refer to the [Riparian Landownership Guidance Notes](#).

Under Section 25 of the Land Drainage Act (1991) (LDA) the County Council has permissive powers to undertake works to



**A silted box culvert**



maintain the flow of an ordinary watercourse and to carry out the works in default and recover their expenses from the riparian landowner in the event they fail to resolve the problem in a reasonable timescale.

It is at the County Council's discretion as to when it exercises these powers and the County Council will determine whether or not to exercise its permissive powers on a case by case basis. In coming to a decision as to whether to exercise its powers, the Authority will take into account:

- the past compliance performance of the landowner;
- the likely effectiveness and risk associated with enforcement action;
- the consequences of non-compliance; and
- the public interest.

A decision to take enforcement action will only be recommended where all other avenues of communication have been exhausted and/or there is robust evidence to support that five or more residential properties have been affected or at direct risk of internal flooding and /or there is a risk to life and/or critical infrastructure.



### **Powers under Section 24 of the Land Drainage Act**

**A partially obstructed culvert**

Under Section 24 of the Land Drainage Act (1991) (LDA), the County Council has permissive powers where damaging or potentially damaging works have been undertaken to an ordinary watercourse without consent or where works are in contravention to an approved land drainage consent under Section 23 of the LDA.

Failure to secure land drainage consent for a consentable activity prior to carrying out the works may be a criminal offence and any person acting in contravention of Section 23 of the LDA, may be liable, on conviction, to a fine of up to £5,000, and to a further fine of up to £40 for every day contravention is continued after conviction.

Under Section 24 of the LDA, the County Council has permissive



**A blocked culvert**



powers to take any action deemed necessary to remedy the effect of contravention of failure to gain consent, and recover the expense of doing so.

For more information relating to the land drainage / ordinary watercourse consenting process please visit the County Council's **website**<sup>1</sup>.

### **Powers under Section 14a of the LDA**

Under Section 25 of the Land Drainage Act (1991) (LDA), the County Council has permissive powers to carry out improvements and construction works to mitigate flood risk from an ordinary watercourse.

### **Further advice for helping to resolve nuisance flooding**

The County Council is committed to help resolve any flooding nuisance enquiries by mediation and an open and transparent dialogue with all parties. Please contact a member of the FRM team for further support and assistance to resolve flooding enquiries relating to land drainage / ordinary watercourse management.

Where nuisance flooding may be caused by new development (buildings, walls or hard surfaces e.g. driveways, car parks, pavements), you may wish to contact the local planning team at your Borough or District Council to determine whether there has been a breach of planning permission. For further guidance please refer to the **Planning and Development Guidance Notes** or Part 1 of the Local Flood Risk Management Strategy.

There is no legislation to govern the management of surface water. As a property owner you have the right to defend your property from surface water; however, you cannot pipe or transfer surface water in a concentrated manner onto adjacent land.

Historically some surface water issues have been resolved under Case Law and you may wish to seek legal advice should you be minded to pursue your concerns through the civil courts. However, you should be aware that you may be responsible for not only your legal costs but those of the other party if unsuccessful, and you may have to bear some of their costs even if you are successful.

For further guidance please refer to the **Surface Water Guidance Notes**.

The County Council is committed to promoting the awareness of land drainage laws and riparian landowner responsibilities (please refer to the **Riparian Landownership Guidance Notes**). Please also refer to the **Relevant Legislations, Strategies and Plans Guidance Notes**.

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<sup>1</sup> [www.derbyshire.gov.uk/environment/flooding](http://www.derbyshire.gov.uk/environment/flooding)

**Derbyshire County Council**

Flood Risk Management Team

Economy, Transport and Communities

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Email: [flood.team@derbyshire.gov.uk](mailto:flood.team@derbyshire.gov.uk)

## Guidance Notes: PLANNING AND DEVELOPMENT

*If you are unsure about anything within these notes then please contact the Flood Risk Management (FRM) team using the details at the end of this document.*

There is currently a national drive for new housing and Local Planning Authorities (LPAs) are increasingly finding that available land in areas of low flood risk is in short supply. The purpose of the planning system is to help achieve sustainable development whilst ensuring that new development delivers economic, social and environmental benefits. Nationally, flood risk management in the planning process is largely driven by the **Planning Practice Guidance for Flood Risk and Coastal Change**<sup>1</sup>. This guidance provides the criteria with which development should be managed by LPAs and developers to reduce the impacts on local flood risk.

### Planning Permission

Planning Permission is required for most forms of development in Derbyshire and should be sought from the LPA, usually based at your Borough / District Council with the exception of the Peak District National Park Authority, and applications for mining operations, minerals extraction, or a waste management facility, determined by Derbyshire County Council. There are numerous statutory consultees to the planning process.



**Housing development in Derbyshire**

**If you are worried about a planned development then please contact your LPA. If you are unsure who your LPA is please refer to your local council tax bill.**

### Statutory Consultee Role

The County Council's FRM team is a statutory consultee to LPAs on **major development for surface water drainage only**. This means the FRM team is consulted on major planning applications and provides formal comments on surface water drainage to aid the LPA in its decision. It should be noted that the final decision for approval rests with the LPA.

<sup>1</sup> <http://planningguidance.planningportal.gov.uk>

The County Council passes comment on planning proposals and raises an awareness of any local flood risk issues to help inform the decisions of the LPA.

Whilst the County Council is only a statutory consultee for major development, where resources allow, it will try to provide informal comments on minor applications where there is an existing flood history and using a proportionate approach.

### Derbyshire's current review process for planning consultations

In order to review the level of response required, every planning application is reviewed against the FRM Consultation matrix (please see below). The FRM team has two levels of response for planning applications, based on the level of risk.

For applications which may be at a heightened risk of flooding, a bespoke response is sent (identified red in the matrix). This will vary in scope and detail depending on the nature and size of the proposed development.

For applications deemed to be at a low risk of flooding, a copy of our standing advice is currently sent (identified green in the matrix).

### Design standards for development in Derbyshire

The FRM team recommends that developers design drainage systems in line with the current **Non-statutory Technical Standards for Sustainable Drainage Systems**<sup>2</sup>.

Proximity to local ordinary watercourses	There are identified ordinary watercourses within 20m of the site boundary	Nearest ordinary watercourse is greater than 20m away from site boundary
Surface water flood risk	Identified surface water flood risk within the site boundary according to DCC model	DCC model shows no areas of surface water flood risk within 20m of the site boundary
Groundwater flood risk	Officer Judgement used if the site falls within an area identified by BGS data as having groundwater <3m below ground surface	Site does not fall within an area identified by BGS data as having groundwater <3m below ground surface
Presence of historical flooding records	DCC historical flood records present within 100m of the site boundary - for the officers discretion	No DCC historical flood records are present within 100m of the site boundary
Presence of Critical Assets	DCC critical assets are within 100m of the site boundary	No DCC critical assets are within 500m of the site boundary
Proposed Surface Water Destination	Watercourse or infiltration	Sewer
Formal Flood Investigation Areas	Application site is within 500m distance of a formal flood investigation	Does not fall within a close proximity to a flood investigated area
Number of houses	Number of proposed dwellings ≥10	Number < 10 measure against above matrix

### FRM Consultation Matrix

Broadly speaking, these technical standards require developments to be drained appropriately and in accordance with sustainable drainage principles, thereby avoiding adverse impacts on local flood risk.

Developers are encouraged to contact the County Council's FRM team for any advice or queries relating to design principles for developments in Derbyshire.

<sup>2</sup> [www.gov.uk/government/publications/sustainable-drainage-systems-non-statutory-technical-standards](http://www.gov.uk/government/publications/sustainable-drainage-systems-non-statutory-technical-standards)

The Council's current level of service relating to its statutory duty to respond to planning applications can be found in **Part 2 of the Local Flood Risk Management Strategy<sup>3</sup>**.

The County Council is currently drafting local standards for SuDS to better inform local development in Derbyshire.

### *Sustainable Drainage Systems (SuDS)*

The preferred and more sustainable approach for drainage and surface water management is SuDS. SuDS help to slow down the water flow rate to former levels, reduce pollutant loading and, where possible, reduce the volume of water flowing from developments by applying a multi-stage management approach where water is stored, treated and released back to local watercourses or groundwater at a controlled rate. The County Council strongly encourages SuDS to be incorporated, where appropriate, into all planning proposals in accordance with national guidance. For further information about SuDS please refer to the [Environmental Best Practice Guidance Notes](#).

### *Advice for Developers*

Applications requiring a bespoke response should meet the FRM team following minimum requirements before any formal or informal comments can be made:

- Appropriate evidence to support how the site will drain.
- Basic calculations of the greenfield / brownfield runoff and discharge rates for the site.
- An estimate of the required on-site surface water storage volume and an indication of the location of the proposed SuDs solution, the method / type, dispersal volumes for each section of the SuDs surface water system and the final site outfall location and flow rate / volume.



**Example of permeable paving**



<sup>3</sup> [www.derbyshire.gov.uk/flooding/strategy](http://www.derbyshire.gov.uk/flooding/strategy)



These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on-site for surface water drainage approach.

At the outline planning stage, the County Council would expect at least the following information:

- topographical survey of the site;
- site plan and indication of impermeable areas;
- basic ground investigation;
- details on the point of surface water discharge;
- basic calculations of existing runoff rate; and
- calculated discharge / storage / SuDS staged treatment volumes.

More detailed information regarding the above will be required once the planning application progresses.

Developers are encouraged to discuss their proposals prior to submitting applications to the LPA with a member of the FRM team. Where resources allow, this early engagement can identify any concerns regarding the site layout and drainage, and identify any additional information that may be required.

The FRM team recommends that developers design drainage systems in accordance with the current Non-statutory Technical Standards for Sustainable Drainage Systems and encourage developers to:

#### *1. Utilise mini catchments*

Underground tanks and oversized pipes are not considered by the County Council to be classed as sustainable drainage features. Surface water drainage should be designed to follow the existing surface water drainage as close to the surface as possible, prioritising infiltration as a means of surface water disposal and applying the SuDS management train.



**SuDS feature managing a small catchment within a development site catchment**

Applicants should utilise existing landform to manage surface water in mini/sub-catchments across the development site. The County Council seeks to encourage innovative design and actively discourages the use of large, oversized ponds at the development outfall as a drainage strategy. Where possible, surface water should be dealt with at source, utilising techniques such as rainwater harvesting systems, water butts, etc.



## *2. Adhere to the surface water runoff hierarchy*

The runoff destination hierarchy is described in Document Part H of the Building Regulations 2000.

The aim should be to discharge surface water runoff as high up on the following hierarchy of drainage options as reasonably practicable:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;  
and
4. to a combined sewer.

**Please note:** For developments where the identified point of discharge is an ordinary watercourse, the County Council does not have a record of every watercourse within the County. Applicants will be expected to provide proportionate evidence of its existence i.e. photos, mapping, capacity, cross sectional surveys, CCTV surveying etc., even if it is outside of the developable zone and this should include an appropriate assessment of the downstream capacity in design conditions. This is to provide assurance that the watercourse has the capacity to accommodate the additional surface water away and that the site is therefore able to drain sustainably.

## *3. Develop a maintenance and management plan*

The County Council does not adopt any SuDS schemes and it should be clearly identified, prior to the grant of planning approval, which organisation will be responsible for the long term maintenance of drainage systems once the development is completed.

At the detailed design stage of the planning process, a full maintenance and management plan should be submitted to the LPA which shall include the arrangements for adoption by any public body, statutory undertaker, or any other arrangements to secure the operation of the SuDS throughout its lifetime. The plan should also detail a timetable for the implementation of the SuDS prior to construction / occupation of any dwelling.

Please note that the County Council does not currently adopt any permeable paving as part of the Highway.

## *4. Demonstrate exceedance flow paths*

No development should increase or exacerbate the risk of flooding to existing infrastructure. To ensure that the surface water is managed appropriately to avoid on site flooding, and that flood risk is managed safely for events over

the 1 in 100 year event, exceedance routes should be demonstrated that minimise the risks to businesses, residents and property.

The drainage system must be designed so that, unless an area is designated to hold and / or convey water as part of the design, flooding does not occur on any part of the site for a 1 in 30 year rainfall event. In addition, flood water must not enter any part of a building (including a basement) within the development during a 1 in 100 year rainfall event.

The County Council supports the latest guidance on climate change issued by the Environment Agency. As a consequence, all designed surface water systems should be tested for a range of rainfall intensities and a sensitivity test of 40% applied.

### **Flood Risk Assessments and Strategic Flood Risk Assessments**

The County Council does not have a set proforma / layout for the preparation of a Flood Risk Assessment or Drainage Strategy. The Council would expect to receive proportionate sized assessments that encompass all relevant risks to and from the site.

Strategic Flood Risk Assessments (SFRAs) are available on the relevant Borough / District websites where there may also have been a Water Cycle Study undertaken.

### **Land Drainage Consent and Planning**

Planning permission is required for most types of development. However, planning permission does not give the applicant the right to proceed with the approved development if elements of the development require legal consent. This is especially important for Land Drainage Consent which is required under Section 23 of the Land Drainage Act (1991) for works in and around Ordinary Watercourses. For more information please visit the website at

[www.derbyshire.gov.uk/flooding/ordinary\\_watercourse\\_consents](http://www.derbyshire.gov.uk/flooding/ordinary_watercourse_consents) or refer to the **Ordinary Watercourse Consent Application Form Guidance Notes** and/or the **Cross Sections for Consent Activity Guidance Notes**.



**A consentable outfall structure**

Land Drainage Consent is subject to a different legislation to that of planning consent and as such, both are required before development commences. Commonly, development drainage designs rely on headwall structures that discharge surface water to watercourses. These usually require consent and developers are advised to contact the FRM team if this is the case.

Conversely, some structures such as bridges, weirs and mills require Land Drainage Consent and may also require planning permission.

Applicants are advised to contact the LPA, the Local Highway Authority and the County Council's Conservation and Design Section separately, particularly if the works involve a designated or protected historic structure.

### Flood risk management engineering works and planning

Works in and around your property for flood risk management purposes, such as a flood wall or alteration to landform, may also be classed as engineering works and therefore may require consent from your LPA.



### Frequently asked questions

#### A protected bridge in Derbyshire

*My neighbour is extending / paving their property and I have concerns that this could increase surface water flood risk. Is there anything that the County Council can do?*

Works of this nature are often covered by Permitted Development Rights and hence do not need planning permission. You should consult the Planning Portal website ([www.planningportal.gov.uk](http://www.planningportal.gov.uk)) or your relevant LPA if you believe the works to fall outside of Permitted Development Rights.

*I am thinking about paving over the frontage of my property but I am concerned about the increased risk of flooding and planning permissions.*

Property owners can choose to pave over the frontages of their property, normally to create off-street parking. Property owners may also wish to erect extensions to their property, conservatories or patios. This process is often referred to as 'urban creep' and is difficult to account for as usually these small property developments do not require planning permission (*Please contact your LPA to confirm whether any permission are required*). In some cases, urban creep can have a substantial cumulative impact on surface water flood risk locally. Residents should bear in mind that the 'green areas' (e.g. gardens, lawns, verges, etc.) form part of the overall function of the whole site's drainage plan.



#### Another example of permeable paving

Where 'urban creep' is unavoidable, homeowners may choose to consider more sustainable solutions such as permeable paving, which can be used as opposed to bituminous / concrete construction to allow infiltration and reduce the amount of surface water runoff, or by the inclusion of a soakaway or mini SuDs system.

You should also bear in mind that any additional surface water, generated as a consequence of paving a front garden or similar, cannot simply be directed onto the highway as there is legislation in the Highways Act that forbids this.

The Environment Agency has produced **guidance on the permeable surfacing of front gardens**<sup>4</sup> which can be found online.

The Royal Horticultural Society (RHS) promotes the '**Greening Grey Britain**' **campaign**<sup>5</sup> in which it hopes to encourage property owners to maintain and expand planted gardens in urban areas. The RHS estimates that about 25% of most cities are made up of green space, the maintenance of which can have important benefits for flood risk as well as air quality, habitat and air cooling.

If you are concerned about planning permissions obtained relating to urban creep please contact your LPA.

*The development of the fields near my property with paved surfaces will lead to an increased volume of surface water. Surely this will increase local flood risk?*

Paving over a natural surface will increase the rate and volume of water flowing off the site if not managed appropriately. However, under Planning Practice Guidance, developers must provide adequate surface water storage capacity / SuDs management solutions to balance this increase. The aim of this is to ensure that surface water leaves the development at a rate no greater than the existing 'greenfield', with the excess water generated from the development being stored and released more slowly or at a later time.

*I believe that I have evidence that the development near my property will increase flood risk locally. Can the County Council stop the development happening?*

The FRM team provides impartial technical advice to assist the LPA determine a planning application. Its response is based on data available and the information submitted by the applicant.

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<sup>4</sup> [www.gov.uk/government/publications/permeable-surfacing-of-front-gardens-guidance](http://www.gov.uk/government/publications/permeable-surfacing-of-front-gardens-guidance)

<sup>5</sup> [www.rhs.org.uk/science/gardening-in-a-changing-world/greening-grey-britain](http://www.rhs.org.uk/science/gardening-in-a-changing-world/greening-grey-britain)



The FRM team's comments and recommendations are then considered by the LPA who will either refuse permission or grant it, often with specific conditions.

The County Council has to maintain an impartial stance in the event of a legal challenge to the planning process and, regardless of its reasons, cannot act as a consultee to third parties seeking to promote or resist development proposals based on flood risk.

If you have concerns about a development, you are at liberty to make your own representations to the LPA. These can be considered independently by the relevant planning officer and / or the Regulatory - Planning Committee.

*I have concerns over a recently constructed development. Who should I contact?*

The FRM team would advise that in this instance you contact the relevant LPA to determine whether the development has been approved and if conditions are being adhered to that may mitigate your concerns. If not approved, the development concerned may constitute a breach of planning control as defined in Section 171A of the Town and Country Planning Act 1990 and may be subject to possible enforcement action by the LPA.

*I would like to install Property Level Protection (PLP) products (e.g. flood doors, barriers, air brick covers, etc.) on my property to make it more resilient to flooding. Do I need planning permission?*

Usually you do not require planning permission for most PLP products fitted onto most regular properties. The exception to this may be any properties with a statutory designation, such as listed buildings, scheduled monuments, buildings of historical or archaeological significance or buildings within a conservation area. In this instance, these buildings are often protected against even minor amendments without permission, so it is always worth consulting the District/Borough Council. If you are unsure of the District/Borough Council you should contact please refer to you Council Tax bill. For more information regarding PLP please refer to the [Property Level Protection Guidance Notes](#).

*Builders on the development near me have filled in a historic ditch or pond which I fear may impact on local flood risk. What should I do?*

If you feel that during a development a ditch or pond has been damaged, altered or removed, we would encourage residents to contact the FRM team as detailed at the end of these guidance notes.

The works may constitute a breach of land drainage legislation which the Council may choose to investigate further through. For further information please refer to the [Enforcement Powers Guidance Notes](#).

**Derbyshire County Council**

Flood Risk Management Team

Economy, Transport and Communities

County Hall, Matlock, Derbyshire, DE4 3AG

Call Derbyshire: (01629) 533190

Email: [flood.team@derbyshire.gov.uk](mailto:flood.team@derbyshire.gov.uk)





## Guidance Notes: FLOOD REPORTING AND ENQUIRY INVESTIGATION

*If you are unsure about anything within these notes then please contact the Flood Risk Management (FRM) team using the details at the end of this document.*

The extent to which a particular flood enquiry is investigated by Derbyshire County Council's FRM team is determined by a risk based approach considering factors such as size and scale of a flood incident and historical flood events.

An enquiry will result in two distinct approaches:

- Formal investigation - when a flood event has triggered thresholds set out in the Local Flood Risk Management Strategy (LFRMS).
- Informal investigation – reports from members of the public who request help to mitigate or manage a flooding issue.

### Formal flood investigations

One of the County Council's key duties under the Flood and Water Management Act (FWMA, 2010) is to investigate flood events that occur within its area, as it deems necessary. Section 19 of the FWMA states:

*“On becoming aware of a flood in its area, the County Council must, to the extent that it considers it necessary or appropriate, identify:*

- *which Risk Management Authorities have relevant flood risk management functions; and*
- *whether each of those Risk Management Authorities has exercised, or is proposing to exercise, those functions in response to a flood event.”*

Although the FWMA does not specify that the County Council must resolve the flooding issue, the conclusion of any flood investigation findings will try to identify actions or measures which may mitigate or reduce the likelihood of similar events and their impacts. The County Council must investigate the cause, publish the results of the investigation and notify any of the identified Risk Management Authorities.

In some circumstances, a reported flood enquiry in Derbyshire triggers a 'formal investigation' and the trigger for a formal investigation is when the enquiry meets or exceeds following locally agreed criteria (highlighted in the box over the page).

Criteria agreed by the County Council's Strategic Flood Board.

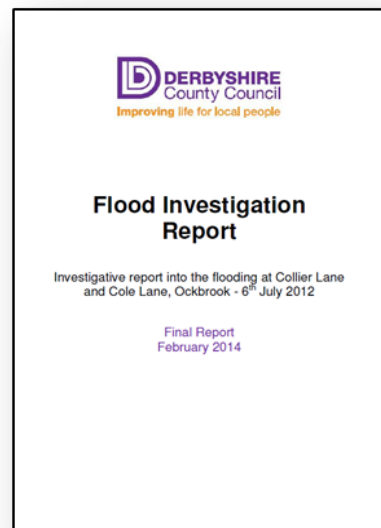
- an event where five or more residential properties, or two or more non-residential (industrial/commercial) have been internally flooded;
- an event where a flooding problem is recurring and is supported by records or anecdotal evidence as having occurred more than once in a ten year return period for any given location;
- an event where threat to life and/or threat of injury or harm has occurred;
- an event which affects an area or community with a concentration or high proportion of vulnerable people;
- an event which impacts on critical infrastructure (water, sewage treatment, electricity/gas distribution, telecommunications and the strategic transport network) for in excess of twelve hours before restoration of service; and
- an event which impacts on essential services (emergency services, NHS, Local or Central Government services) in excess of twelve hours before restoration of service.

A formal 'Flood Investigation Report' undertaken by the County Council may include the following content:

- all available background information and associated historical flooding data;
- a summary of the FRM team's understanding of the event;
- relevant Risk Management Authorities responsibilities;
- a summary of findings; and
- recommended actions.

Responsible Risk Management Authorities in Derbyshire include:

- The County Council and associated Highways Authority
- Highways England
- Yorkshire Water
- Severn Trent Water
- United Utilities
- Environment Agency
- Borough and District Councils



**A Section 19 report**

Following the conclusion of a formal investigation, a 'Flood Investigation Report' will be completed and published on the County Council's website. The findings of the investigation will be communicated to the affected community and key stakeholders, often at a public meeting.

Our Guidance Notes for "**Roles and Responsibilities**" may be useful.

It should be noted a flood event is perceived to have a 'known' cause and a Risk Management Authority acknowledges that cause, no formal investigation will be undertaken.

## Informal flood investigations

The majority of reported flood incidents do not trigger a formal flood investigation. The County Council's FRM team receives a large volume of flooding enquiries and is unable to commit to investigate all the informal enquiries it receives. However, the FRM team will always try to acknowledge a reported flood enquiry either by email, phone or letter.

### *Prioritisation*

To ensure resources are targeted towards those that need it most, the FRM team prioritise responses using a risk based approach.

Our Guidance Notes for "**Communication, Strategy and Prioritisation**" may be useful.

All enquiries where there is reported internal flooding or where there is a very high risk of internal flooding to a number of properties are classed as a high priority. **Please note** that flooding to a domestic garage is not considered to be a high priority.

The remaining enquiries are prioritised using parameters such as vulnerability, historic flood events, size and scale of the flooding. If your enquiry fits into one of the following incidents then the FRM team is likely to conduct further investigations which may involve a call back, a site visit, reference to guidance notes and potential mediation with landowners including written letters, etc.

Incidents likely to trigger further investigation by the FRM team:

1. Two or more properties at risk of internal flooding.
2. Vulnerable resident.
3. Historic flooding enquiry/report within 20m.
4. Involves unconsented works on an ordinary watercourse.
5. Relating to a sustainable drainage system (installed post 15 April 2015 and as part of a planning related development).

6. Relating to the function of a land drainage system such as a culvert, ordinary watercourse, ditch or dyke which threatens to cause internal flooding.
7. Domestic garage flooding.

Based on the nature of your enquiry, and/or the level of resources available, you may only receive standing advice or be directed to Guidance Notes available on the website at [www.derbyshire.gov.uk/flooding/strategy](http://www.derbyshire.gov.uk/flooding/strategy).

**Please note** that the County Council tries to investigate as many flooding enquiries as possible, however, it is not possible to investigate all.

### Site Visits



#### A site visit in Derbyshire

The FRM team undertakes a review of existing data before establishing whether a site visit is appropriate. Consequently, two telephone discussions may take place before a commitment to a site visit is made. If the enquiry is regarded as requiring a site visit, this will be done by means of prioritisation and clustering and consequently, it may be some time before a site visit can be arranged in your area depending on the likely risk, current service demands and resources at the time.

The FRM team can offer residents FloodSax and empty sandbags. This service provides businesses and residents with the means to develop their own protection or personal resilience as the FRM team is not an emergency responder service. For more information please refer to the **FloodSax Guidance Notes** and our Sandbag Policy available online at [www.derbyshire.gov.uk/environment/flooding/emergency\\_preparedness/resilience\\_and\\_sandbags](http://www.derbyshire.gov.uk/environment/flooding/emergency_preparedness/resilience_and_sandbags).

### Public reporting of flooding incidents

Where a flood incident relates to an ordinary watercourse, surface water or groundwater, the public can report the incident to Derbyshire's FRM team by using any of the following methods:



Surface Water



Ordinary watercourses



Ground Water

**Email:** [flood.team@derbyshire.gov.uk](mailto:flood.team@derbyshire.gov.uk)

**Post:** Flood Risk and Transport Asset Management team, North Block (Room 199C), County Hall, Matlock, DE4 3AG

**Online:** [www.derbyshire.gov.uk/environment/flooding](http://www.derbyshire.gov.uk/environment/flooding)

**Call Derbyshire:** (01629) 533190

**If the problem is either an emergency or requires urgent attention, the emergency services should be contacted in the first instance.**

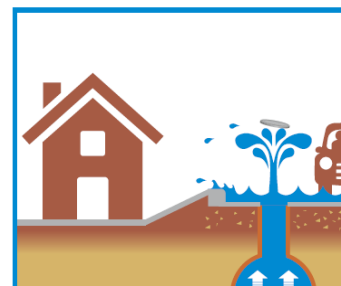
The County Council provides an emergency planning service that can also assist during a serious flood event.

The Emergency Planning team can be contacted via

**Call Derbyshire (01629) 533190**

**Email:** [emergency.planning@derbyshire.gov.uk](mailto:emergency.planning@derbyshire.gov.uk).

Where flooding relates to the **public sewer system** you should contact your local water provider:  
(to identify your water service provider please refer to your water utility bill)



Sewer Water

- Yorkshire Water (0345) 124 24 24
- Severn Trent Water (0800) 783 4444
- United Utilities (0345) 672 3723

Where the flooding relates to the **Highway or a blocked gully** you should contact the Highways Division at the County Council via:

**Call Derbyshire: (01629) 533190**

**Online:** [www.derbyshire.gov.uk/do\\_it\\_now](http://www.derbyshire.gov.uk/do_it_now)



Highway Water

Where the flooding relates to a **large watercourse (Main River) or reservoir** you should contact the Environment Agency.



Main Rivers



Reservoir Flooding

**Phone: (03708) 506 506**

**Email: [general.enquiries@environment-agency.gov.uk](mailto:general.enquiries@environment-agency.gov.uk)**

Where flooding relates to a **private sewer system** this is a private matter and you should liaise with the landowner; often this will be a neighbour or commercial enterprise.

Where the flooding relates to a **motorway or trunk road** you should contact the Highways England:

**Phone: (0300) 123 5000**



Highway Water



Canal Flooding

Where the flooding relates to a **Canal** you should contact the relevant navigating authority (Canal and River Trust or the County Council).

**Phone: Canal and River Trust (0303) 0404040  
Call Derbyshire (01629) 533190**

### The importance of flood reporting

If you experience flooding you are advised to contact the relevant organisation to report the incident. You may be nervous about reporting flooding for insurance or data protection reasons. However, it is important that the relevant responsible organisation is made aware of the incident so that this data can help support future work. Any data held by Derbyshire County Council is managed in accordance with Data Protection legislation.

It is important that you report any flood incident to the correct authority.

*For example:* It is particularly important that you report sewer flooding incidents to the water company. Water companies are privately owned



companies which are monitored by OFWAT (the Water Services Regulation Authority) particularly on how they invest their money. Water companies keep records of properties impacted by flooding and use the records to develop their future maintenance and capital works programmes. If they are not made aware of any problems then addressing your concerns may not be their priority. Due to data protection, the FRM team or even your neighbour is unable to report flooding on your behalf for it to be formally recorded.

## Frequently asked questions

*I reported flooding to my garden weeks ago. Will the Council contact me?*

The FRM team logs all enquires relating to flooding and prioritise responses as soon as possible. If you have reported the flooding during a particularly busy period (i.e. just after a flooding event) then it is likely that contact will be delayed, particularly as garden flooding is classed as a lower priority. You may wish to visit our website where there are a number of other Guidance Notes which may assist you in the meantime. Please visit:

[www.derbyshire.gov.uk/flooding/strategy](http://www.derbyshire.gov.uk/flooding/strategy). Please also refer to the **Garden Flooding Guidance Notes**.

*Water is flowing off the road onto my property. Can the County Council stop this?*

An enquiry of this nature would be dealt with by the Council's Highways Division and should be reported as described above.

*Will my flooding problem be resolved; a lot of time has passed?*

Depending on the nature of your enquiry, it may mean that resources have been diverted to other enquiries that are a higher priority (i.e. internal property flooding). Your enquiry may also be complex and require extensive data analysis and engagement with multiple stakeholders which can take time. Unfortunately, not all flooding enquiries are within the scope of the County Council to resolve.

*I am about to flood internally. Will the Council's Flood Risk Team come out to me now?*

The County Council's FRM team is not an emergency responder, this means that the FRM team does not go to site to assist during periods of bad weather. During periods of bad weather the FRM team will be collating data and liaising with other internal teams to best prioritise resources.

The County Council's Highways Division offers a limited reactive service to deliver sandbags across the entire County for Highways related emergencies.

Its availability for assisting homeowners is limited and therefore members of the public are advised to look for ways to become more self-resilient. Please refer to the **Property Level Protection Guidance Notes** available online at [www.derbyshire.gov.uk/flooding/strategy](http://www.derbyshire.gov.uk/flooding/strategy).

You may also wish to contact your District/Borough Council who may be able to assist you further.

Please also refer to the **Before, During and After a Flood Guidance Notes** available online at [www.derbyshire.gov.uk/flooding/strategy](http://www.derbyshire.gov.uk/flooding/strategy).

Following a flood event, the FRM team may undertake trips to provide residents with flood protection in the form of FloodSax and sandbags. Please refer to the **FloodSax Guidance Notes** and sandbag policy available online at [www.derbyshire.gov.uk/environment/flooding/emergency\\_preparedness/resilience\\_and\\_sandbags](http://www.derbyshire.gov.uk/environment/flooding/emergency_preparedness/resilience_and_sandbags).

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