

Planning Policy Framework Meeting







Graham Brown, Flood and Water Manager Eastbourne Borough Council, Town Hall, Grove Road, Eastbourne, BN21 4UG

13:30, 11 September 2018

Agenda



- Background on drainage and flood risk legislation
- Overview of roles of Risk Management Authorities
- Recap on Board's area and infrastructure
- Board's regulatory purpose and function
- Board's objective in engaging with planning
- Approach to regulatory and planning matters
- Current resource and evidence base
- Next steps

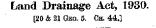


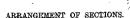


Drainage & flood risk legislation

- Pevensey Levels and Cuckmere Internal Drainage Districts ("IDDs") created under Land Drainage Act 1930
- These IDD's previously administered by The Cuckmere Catchment Board and The Old Haven (Pevensey) and Bulverhythe Stream Catchment Board.
- Following the River Boards Act 1948 passed to The East Sussex River Board.
- Subsequent changes in legislation saw the IDDs managed by the following organisations in turn; The Sussex River Authority, The Southern Water Authority, The National Rivers Authority and the **Environment Agency.**
- In 2016 The Pevensey and Cuckmere Water Level Management Board Order constituted the Board and amalgamated the two IDDs into The Pevensey and Cuckmere Water Level Management District.







PART I.

DRAINAGE AUTHORITIES

1. Drainage districts and drainage boards

CATCHMENT AREAS AND CONSTITUTION AND POWERS OF CATCHMENT BOARDS.

- Constitution of Catchment Boards and appointm
- Schemes for transfer of powers and duties to Catchment Boards and reorganisation of internal drainage boards.
- Maps of catchment areas.
- Powers in relation to main river.
- Supervision of internal drainage boards and districts. Power to vary awards.
- Commutation of obligations to repair by reason of
- Exercise by Catchment Board of powers of drainage
- board in default.
- Power to transfer functions of internal drainage board to Catchment Board.
- Power of Minister to give directions with respect to the performance of daties by Catchment Boards. Provisions with respect to the making and validity
- Provision as to expenses in connection with orders under Part II.

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STATUTORY INSTRUMENTS

2016 No. 854

LAND DRAINAGE, ENGLAND

The Pevensey and Cuckmere Water Level Management Board

22nd August 2016 1st October 2016

Under section 3(1)(a) of the Land Drainage Act 1991 ("the 1991 Act")(a), the Environment Agency has prepared a Scheme making provision for the matters specified in section 3(2)(d),(e), (f),(g) and (i)(b) and has submitted the Scheme to the Secretary of State for confirmation.

The Secretary of State has published a notice of intent to make this Order confirming the Scheme in accordance with paragraph 2(1) of Schedule 3 to the 1991 Act and has sent this notice to the relevant local authorities and other bodies specified in paragraph 2(2) of that Schedule.

Accordingly, the Secretary of State makes this Order in exercise of the powers conferred by section 3(5) and (7) of the 1991 Act and now vested in the Secretary of State(c

- 1.—(1) This Order may be cited as the Pevensey and Cuckmere Water Level Management Board Order 2016 and comes into force on 1st October 2016
- (2) In this Order, "the Agency" means the Environment Agenc

- 2 .- (1) The Scheme submitted by the Agency is confirmed with modification
- (2) The Scheme as modified by the Secretary of State is set out in the Schedule to this Order

3. The expenses of the Secretary of State in connection with the making and confirming of this

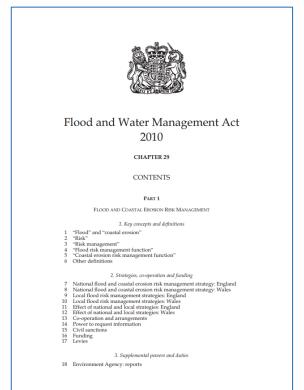




Flood and Water Management Act 2010



- Created Local Flood Risk Surface Run-off, groundwater and Ordinary Watercourses
- County Council created a 'Lead Local Flood Authority' with new statutory duties to manage local flood risk
- A number of organisations (including Drainage Boards) classed as 'Risk Management Authorities'
- Amended roles on ordinary watercourse regulation outside of IDB area
- Led to the creation of the LLFA as a statutory consultee to planning





Risk Management Authorities ("RMAs")



Surface Run-off



Groundwater



Lead Local Flood Authorities ("LLFAs")

Watercourses



LLFAs, Districts, IDBs

Highway flooding



Highway Authorities

Sewers



Water Companies

Main River



Reservoir Failure



Environment Agency ("EA")

Tidal





WLMB's role in Flood Risk Management



- Proactive maintenance of arterial watercourse network aimed at maintaining its standard of protection
- Operation of pumping stations and water control structures to manage water levels for flood risk and environmental objectives
- Proactive monitoring and maintenance of asset condition
- The delivery of capital schemes to improve flood risk mitigation of Board's maintained infrastructure.
- Engagement in the planning process to help shape development allocations and proposals
- The use of consenting and enforcement powers to regulate third party activities and their influence on receiving watercourses
- Engagement in and delivery of multi-agency partnership strategies, studies and projects
- Explore use of public sector co-operation agreements

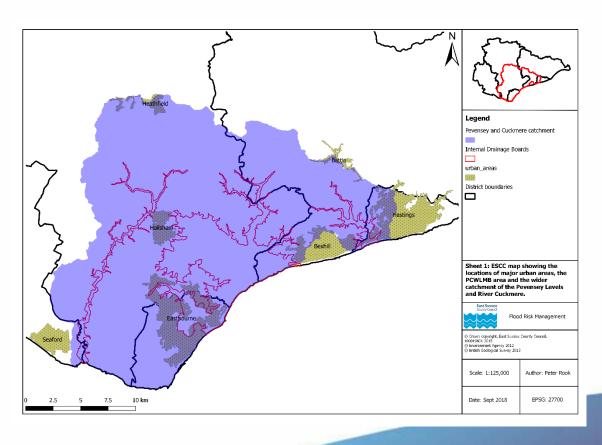




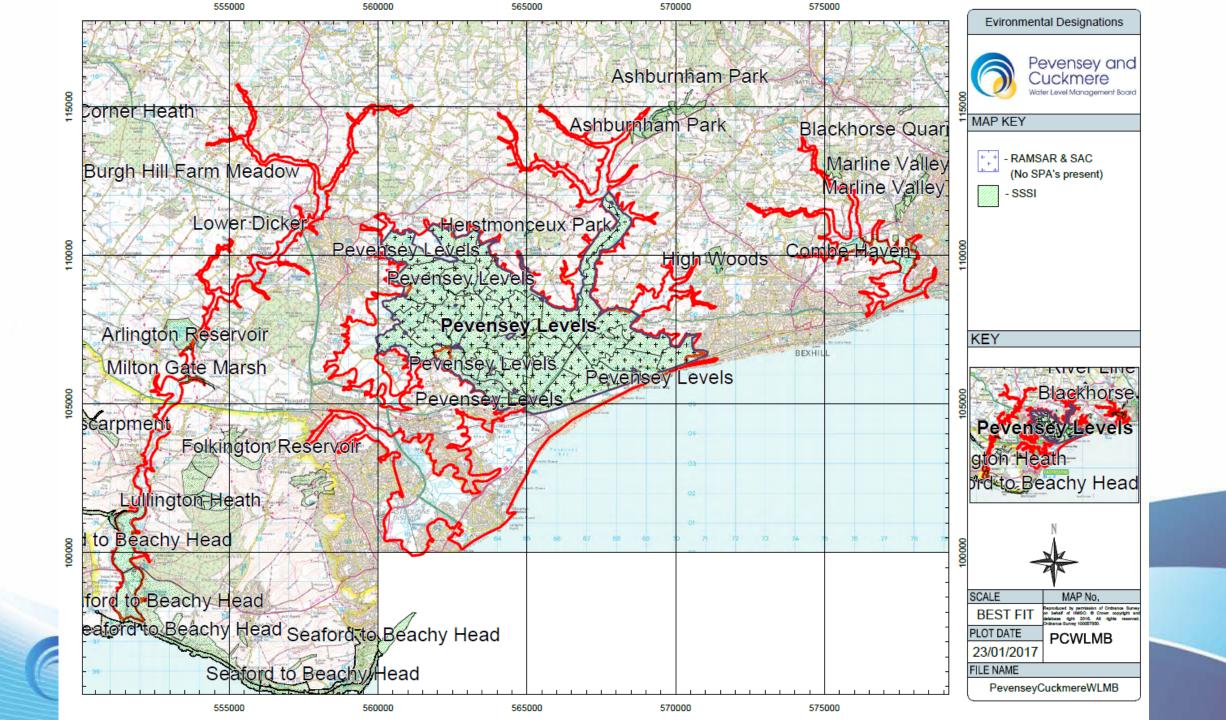
Statistics - Internal Drainage District ("IDD")

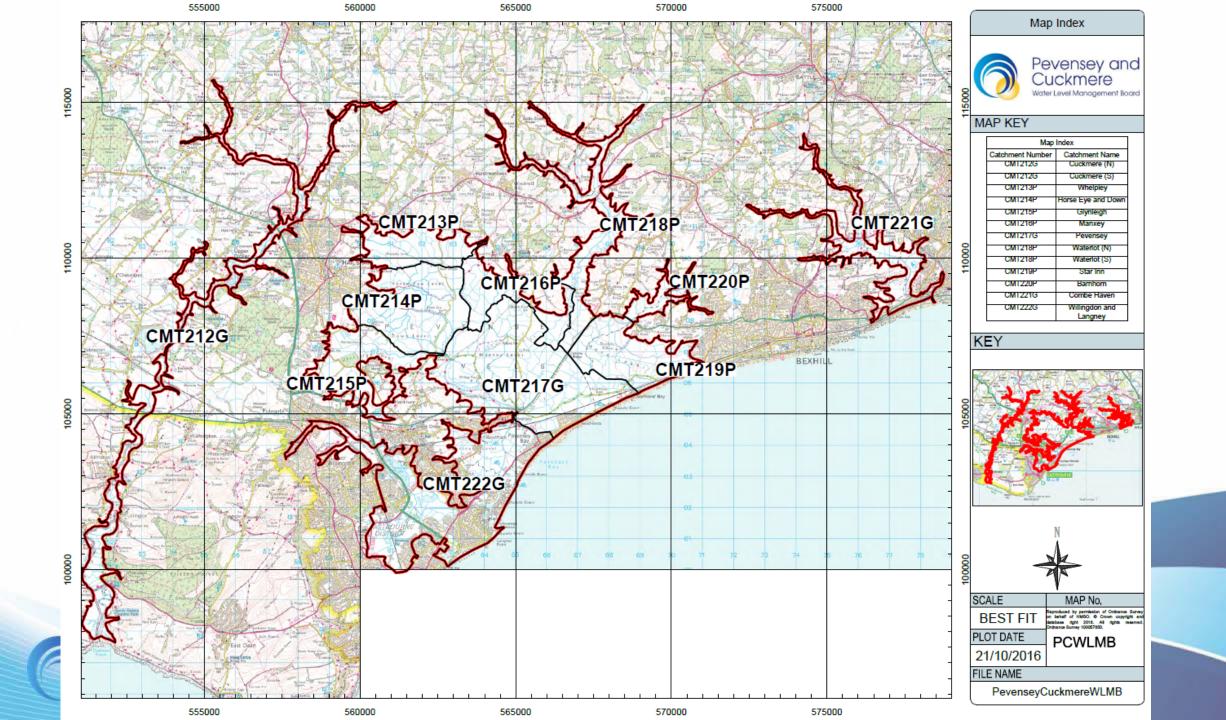


- 7,759 ha Area of Board's district
- 1,582 ha of IDD is industrial / residential property
- 6,177 ha of IDD is agricultural land, (this includes 3,965 ha of designated wildlife sites)
- 46,928 ha Total catchment area draining to and including the Board's district



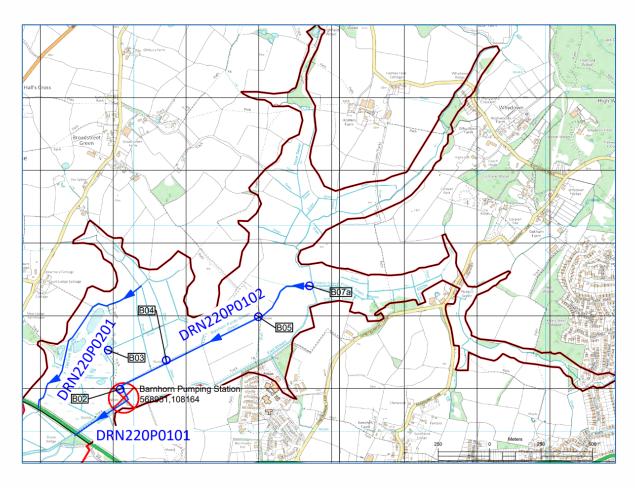






Statistics - Board's infrastructure

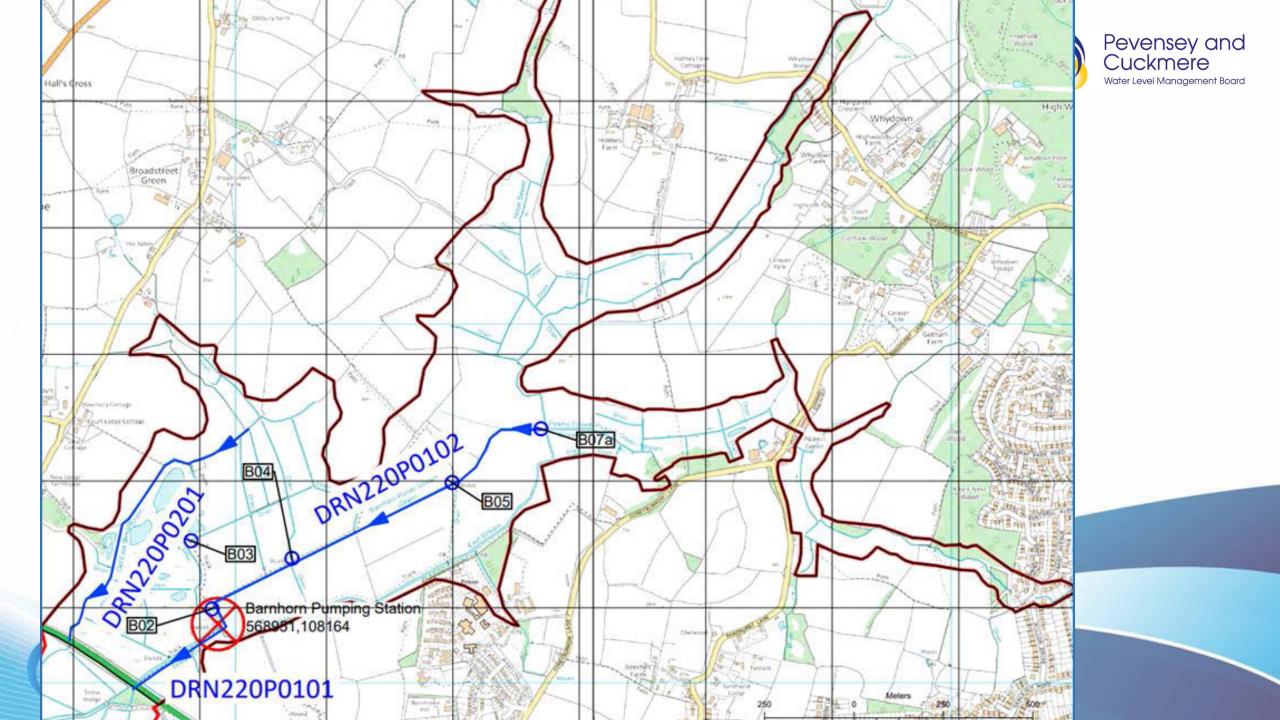




- 6 pumping stations
- 204 other water level control structures
- 103 km of adopted watercourses (of which 90 km deemed high priority)

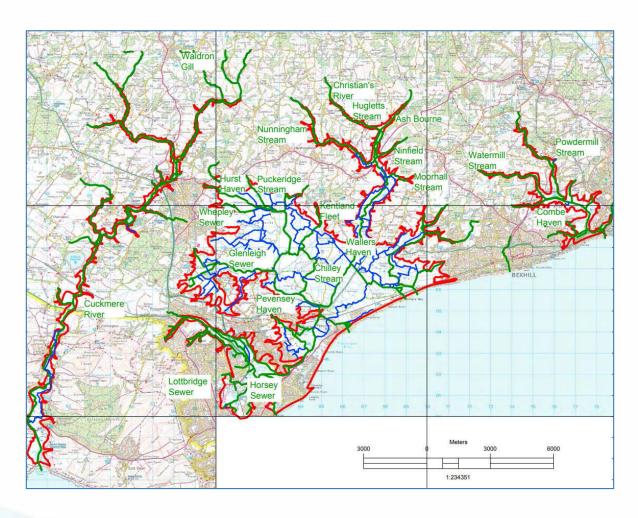




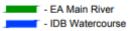


Statistics - EA infrastructure within IDD

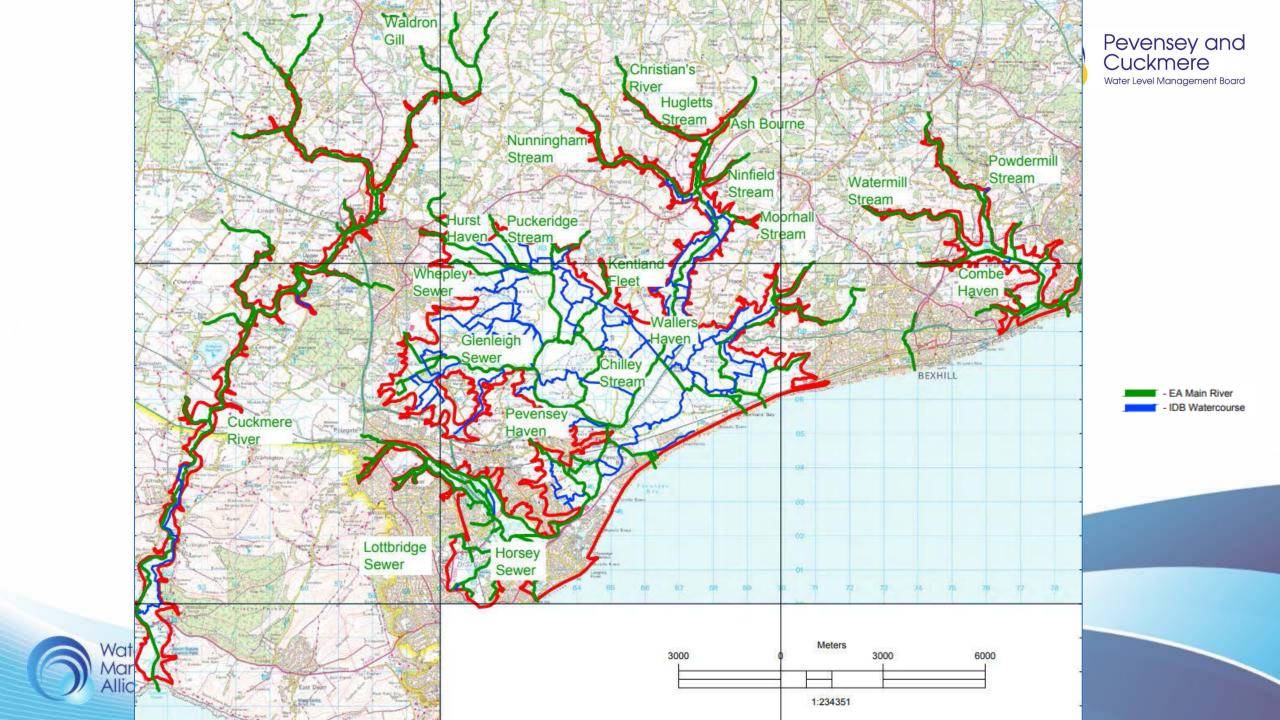




- 191 km of EA Main River (tidal and fluvial)
- 14 km of EA River Raised Embankments
- 18 km of Sea and Tidal Defences









Regulatory purpose and function







Byelaws under Section 66, LDA 1991



May make byelaws to	IDB	DC	LLFA
secure the efficient working of a drainage system in the authority's district or area.	Yes	Yes	No
regulate the effects on the environment in the authority's district or area of a drainage system.	Yes	Yes	No
secure the effectiveness of flood risk management work within the meaning of Section 14A, LDA	Yes	Yes	Yes
secure the effectiveness of works done in reliance on Section 38 or 39 of the Flood and Water Management Act 2010.	No	Yes	Yes

PEVENSEY AND CUCKMERE WATER LEVEL MANAGEMENT BOARD

DEVELOPMENT CONTROL

BYELAWS

WATER MANAGEMENT ALLIANCE Byelaws Made on 3 October 2016

Pevensey and Cuckmere Water Level Management Board, under and by virtue of the powers and authority sestled in them by section for 6 of the Land Drainage Act 1991, to be helpy make the following Byelaws, which are considered necessary for securing the efficient working of the drainage system in their District, regulating the effects on the environment in the Board's District of a drainage system, or securing the effectiveness of flood risk management work within the meaning of section 14A of the



Works powers under Section 14, LDA 1991



Conditions	IDB	DC	LLFA
That the authority considers the work desirable having regards to the LFRM Strategy	Yes	Yes	Yes
The purpose of the work is to manage a flood risk in the authority's area from surface runoff, or groundwater.		No	Yes
The purpose of the work is to mange a flood risk in the authority's area from an ordinary watercourse.		Yes	No
The purpose of the work is to manage a flood risk in the authority's area from the sea and either the work relates to existing works or the EA has consented the work	Yes	Yes	No



Regulatory powers



Consent required for;

- Discharge of surface water run-off and/or treated foul water
- Alterations of watercourses (culverting, headwalls, water level controls, re-profiling etc.)
- Work within 9 m of a watercourse (roads, buildings, fencing, utilities etc.)

Enforcement powers for;

- Unconsented works
- Lack of maintenance of channels and structures





Regulatory powers



Written consent is also required for;

- Byelaw 6 Diversion or stopping up of drainage/flood risk management infrastructure (Diversion, impeding or altering level of or direction of the flow of water in, into or out of any drainage/flood risk management infrastructure)
- Byelaw 15 Not to Dredge or Raise Gravel, Sand etc. from the bed or bank of any drainage/flood risk management infrastructure

2. Application of Byelaws

- (a) These Byelaws shall have effect within the District;
- (b) (i) Byelaws 5, 8, 10-15 and 17-20 apply in relation to any drainage/flood risk management infrastructure which is for the time being vested in or under the control of the Board.
 - (ii) Byelaws 3-4, 6-7, 9 and 16 apply in relation to any drainage/flood risk management infrastructure.





Regulatory powers – Discharge consents



- Byelaw 3 Control of introduction of water and increase in flow or volume of water
- Sets out the requirement for written consent from the Board for indirect or direct increases in flow rate or volume
- The discharge of treated foul water is also controlled using this byelaw.



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Regulatory powers – Discharge consents



Assessment questions

- Does proposed discharge have connection to a wider watercourse network?
- Can receiving water body accommodate a formal connection and is it of a maintainable standard?
- Have run-off calculations been provided? (are they correct - methodology and catchment)
- Does the proposed rate meet the SuDS National Standards?
- Are there environmental reasons for not allowing discharge?



Regulatory powers – Discharge consents



Conditions of discharge consents can;

- require the payment of a Surface Water Development Contribution ("SWDC") for increase in run-off rate/volume
- require the rehabilitation of the receiving watercourse
- set parameters of technical specification (discharge rates / outfall and headwall detail, erosion protection etc.)

All consents state the Board's officers should be allowed to inspect the works, set a 3 year timescale for implementation and include disclaimers regarding limits of operation and maintenance



Regulatory powers – Alterations



- Byelaw 4 Operation of Water Control Structures and alteration, improvement or removal of structures
- Sets out the requirement for written consent from the Board for the alteration, reconstruction, addition, reduction, repair, removal of any culvert, bridge, headwall, water control structure or other structure
- Largely repeats Section 23, Land Drainage Act 1991 that establishes deemed consent after 2 months



Regulatory powers – Alterations



Screening

- Is the proposal altering a Board's adopted watercourse?
- Is the proposal for a replacement culvert or bridge?
- Is the piping/bridge for the sole (minimum) access to a field, property, building plot?
- Is the total length of drain to be piped/bridged 12m or less?

<u>Assessment</u> - Does the proposed structure

- Materially increase flood risk or the standard of local drainage?
- Impact protected species or habitat?



Regulatory powers – Alterations



Conditions of consents to alter a watercourse can;

- require environmental surveys
- confirm the adoption of the asset by the Board and require the payment of a commuted maintenance fee
- set parameters of technical specification (culvert size/length, headwall detail, access chamber sizing and distances, invert level etc.)





Pevensey and Cuckmere
Water Level Management Board

- Byelaw 10 No works within 9 metres of the edge of Board's drainage/flood risk management infrastructure
- Sets out the requirement for written consent from the Board for the erection of any building, road, wall, fence etc. or for the planting of trees/shrubs, the alterations of ground level, the installation of services and the removal or alteration of material, banks etc.
- Has a clear link to the Board's ability to undertake work on the ground





Screening

- Open drain where machinery access is currently available
- Open drain where <u>no</u> machinery access is currently available
- Culvert watercourse where mechanised maintenance (jetting) is possible
- Culverted watercourse where <u>no</u> mechanised maintenance is possible

<u>Assessment</u> - are the proposed works

- Temporary
- Permanent above ground structures
- Permanent below ground structures





Conditions of consents allowing work within 9 m can;

- require confirmation by a structural engineer that works/foundations will no adversely impact Board's watercourse
- require the property owner to enter into a Deed of Indemnity
- require the 9m maintenance strip to be conveyed to the Board
- require a legal/perscriptive right of access over private land to access Board's infrastructure
- Set parameters of works (depth of assets beneath bed level, distance from the brink of above ground structures, depth of works in bank)









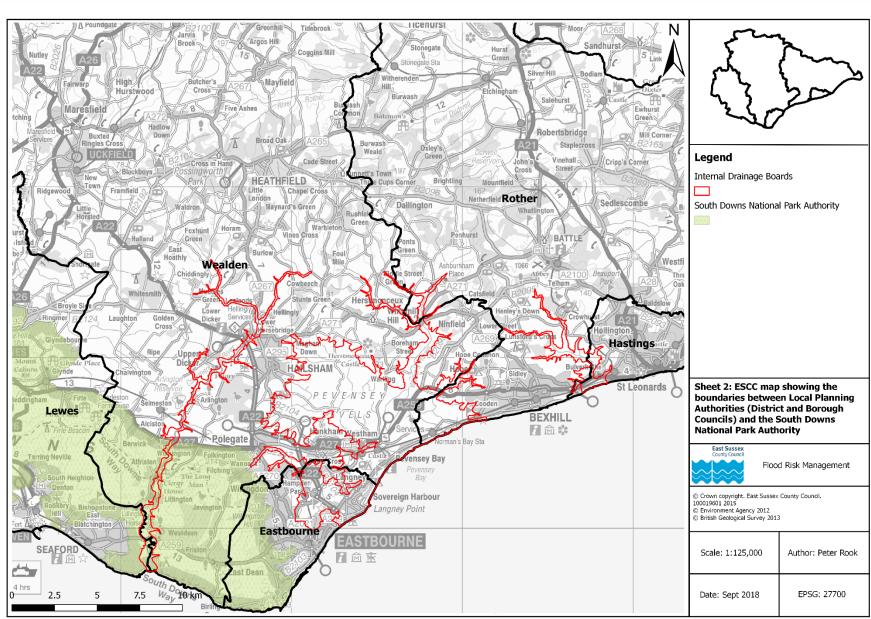
Engaging with planning







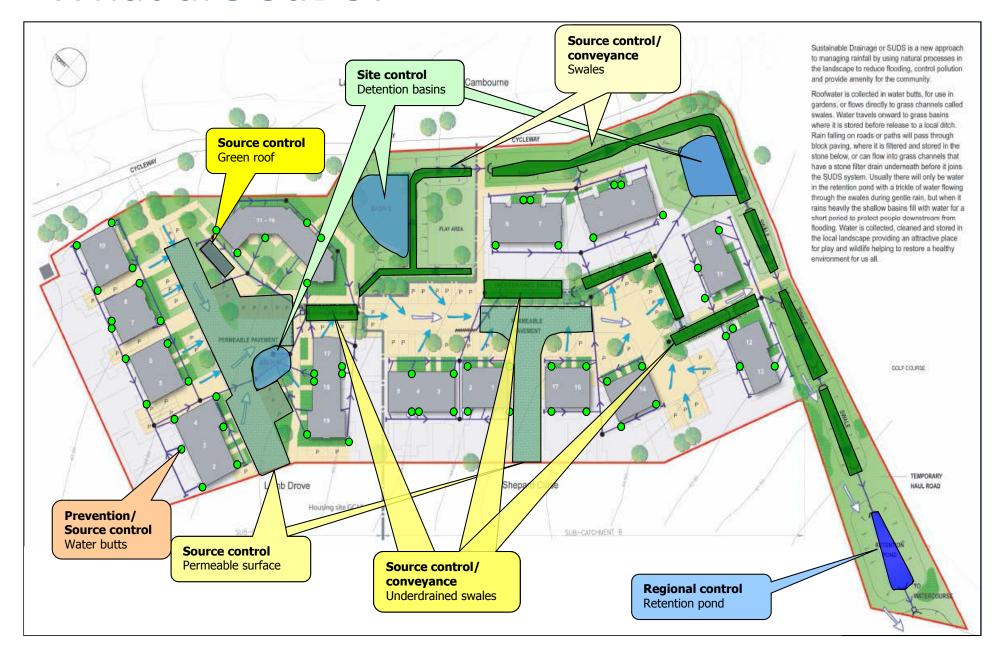
Board's involvement in planning





Board intersects
 with 7 Planning
 Authorities
 including the
 County Council
 and South Downs
 National Park
 Authority

What are SuDS?



Surface water runoff destination hierarchy



PPG Paragraph 080 sets out the hierarchy as;

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

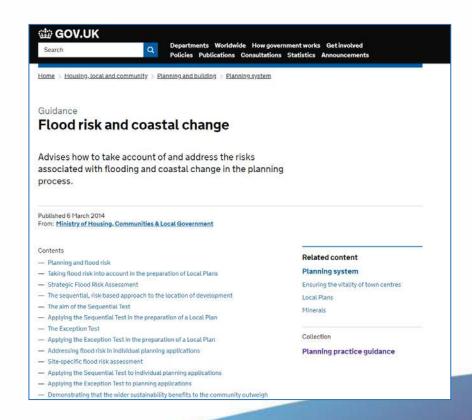
Technical guidance: BRE Digest 365 – sets out best practice for the determination of site suitability for shallow infiltration.



Planning and SuDS



- Government resolved in late 2014 to deliver SuDS on new developments using the existing planning process.
- Planning policy was strengthened to seek the provision of SuDS on new major developments from April 2015.
- Lead Local Flood Authority made a statutory consultee to planning
- Flood Risk and Coastal Change Section of Planning Practice Guidance was updated and non-statutory technical standards for SuDS were published





SuDS National Standards

Pevensey and Cuckmere
Water Level Management Board

- Government published nonstatutory technical standards for sustainable drainage systems as part of its SuDS and LLFA planning changes.
- Provide a link between technical considerations and planning policy outcomes.
- Include parameters of runoff rate and volume

Sustainable [Orainage Systems
Non-statutory drainage syste	technical standards for sustainable ms
March 2015	
Contents	
ntroduction	1
Flood risk outside the dev	elopment1
Peak flow control	1
/olume control	1
Flood risk within the devel	opment2
Structural integrity	2
Designing for maintenance	e considerations
Construction	2



National Planning Policy Framework ("NPPF") Pevensey and Cuckmere Water Level Management Board

- NPPF published 27 March 2012, Revised 24 July 2018
- Government agreed in March 2015 that there are local instances where IDBs should be consulted on new development proposals on a non-statutory basis
- Paragraph 156 of the NPPF and PPG highlights that Strategic Flood Risk Assessments should be prepared by LPAs in consultation with IDBs. PPG also states LPAs should confer with internal drainage boards to identify the scope of their interests.
- Paragraph 163 of the NPPF establishes that when determining planning applications, LPAs should ensure flood risk is not increased elsewhere
- Paragraph 165 incorporates the previous Ministerial Statement on SuDS and states "Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate."



National Planning

Policy Framework

Presented to Parliament by the Secretary of State for Ministry of Housing, Communities and Local Government by Command of Her Majesty

July 2018

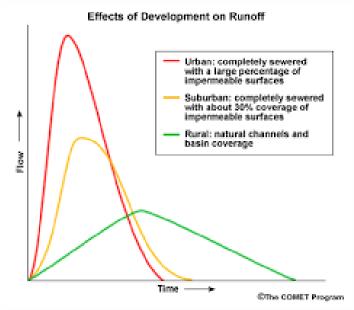
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WMA involvement in planning

- Current Planning Practice Guidance advises LPAs to consult IDBs where the proposed drainage system from a new development may directly or indirectly involve the discharge of water into an ordinary watercourse within the Board's district
- The consequence of unregulated discharges into IDB watercourses in many cases leads to an increase in flood risk on-site or elsewhere. This is a material planning consideration







Determining SuDS on new Developments



LPA makes the final decision about the suitability of the SuDS provision and need to:

- consult the LLFA/IDB on the management of surface water, (where appropriate).
- satisfy themselves that the proposed minimum standards of operation are appropriate.
- ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance (of SuDS) over the lifetime of the development.
- satisfy themselves that the SuDS are designed to ensure that the maintenance and operation requirements are economically proportionate.





Approach to regulation & planning







Approach to regulation

Pevensey and Cuckmere
Water Level Management Board

- Finalising updated application form and guidance
- Currently reviewing WMA 2012 Planning and Byelaw Policy
- Current policy highlights;
 - Applications for discharge consent are determined under delegation unless they are contested or the significance of the discharge rate/volume would not be accommodated
 - Applications for altering non-Board watercourses are determined under delegation.
 - Applications for altering Board watercourses (where they are not a replacement or the minimum length for access) are considered by the Board
 - Applications for works within 9m are generally considered by the Board where permeant above ground works are proposed





Approach to regulation

Pevensey and Cuckmere
Water Level Management Board

- Seek attenuated discharges to maintain the capacity of the Board's drainage network and pumping stations
- Seek to maintain and regularise the current levels of access to the Boards adopted network
- Seek to only allow culverting based on the minimum need for access to retain as much volumetric capacity within the network as possible
- Meet all legal requirements for the recording of consents
- Update Board records to include previously issued consents to aid network understanding and enforcement action
- Seek the timely reporting of contraventions to enable enforcement action to be pursued





Current Evidence base



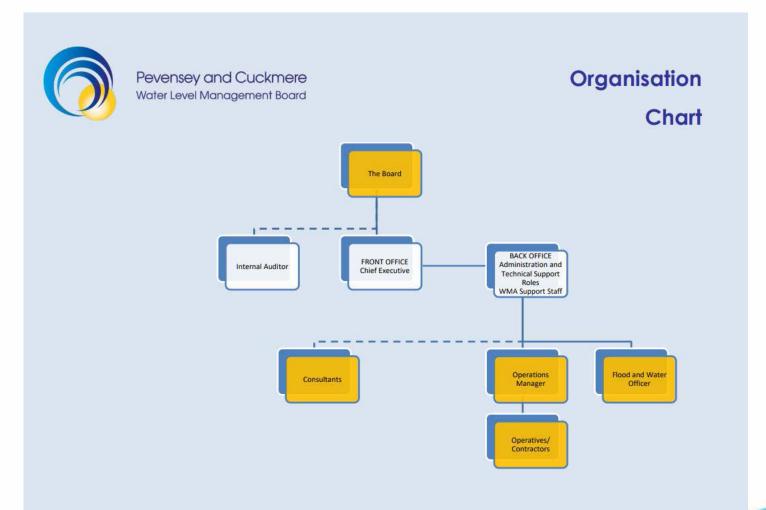
- Pevensey Levels Water Level Management Plan 2006, Reviewed 2014
- EA historic maintenance plans and schedules
- EA pump level schedules
- LLFA land drainage investigations and flood incident database
- Eastbourne Park Technical Assessment
- LLFA Surface Water Management Plans Eastbourne 2012, Hailsham 2015, Bexhill 2016
- East Sussex Local Flood Risk Management Strategy 2016

Currently significant gaps in evidence base



Current Resources





- Operations Manager
- Flood and Water Officer started August 2018 Access to WMA technical support staff including
 - Engineer
 - Flood and Water Manager
 - Environmental Manager



Joint working with the LLFA





Working in Partnership



Mrs C Turner Wealden District Council Council Offices Vicarage Lane Hailsham

16/08/2018

Dear Mrs Turner

SUD/PC/WD/2018/025 - Outline planning application for the erection of up to 142 dwellings with public open space, landscaping...

Location: Land off Eastbourne Road, Westham

Planning Application Reference: WD/2018/1426/MA

Received Date: 6th August 2018

Position of the Pevensey and Cuckmere Water Level Management Board and Lead Local Flood Authority:

No objection	The information provided is satisfactory and enables the PCWLMB and LLFA to determine that the proposed development is capable of managing flood risk effectively.	
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No objection in principle subject to the imposition of conditions	Whilst the application documentation has not met all the County Council's requirements, it is possible that the risk is capable of being mitigated to acceptable levels by the application of planning conditions which are outlined in this response.	
Objection due to Insufficient Information	The applicant has failed to meet the requirements to assess its acceptability in flood risk terms. The PCWLMB and LLFA will respond in 21 days of receipt of the requested information	х
Objection	The application presents an unacceptable on site/off site flood risk.	

Cont./..

Pevensey and Cuckmere Water Level Management Board and East Sussex County Council are working together to advise planning authorities on the impact of development on local flood risk within the Board's catchment

Flood Risk Management, Communties, Economy and Transport Department, County Hall, St. Anne's Crescent, Lewes, East Sussex BN7 1UE



Working in Partnership



Matthew Taylor Wealden District Council Council Offices Vicarage Lane Hailsham

6 August 2018

Dear Mr Taylor

SUD/WD/2017/033 - DEVELOPMENT OF UP TO 90 HOMES WITH FULL DETAILS SUBMITTED OF A NEW VEHICULAR ACCESS ONTO HAILSHAM ROAD.

Location: Land east of Hailsham Road and north of Peelings Lane, Stone Cross, Pevensey

Planning Application Reference: WD/2017/1063/MAO

Received Date: 29th August 2018

Position of the Pevensey and Cuckmere Water Level Management Board and Lead Local Flood Authority:

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Flood Risk Management, Communities, Economy and Transport Department, County Hall, St. Anne's Crescent, Lewes, East Sussex BN7 1UE

- WLMB Flood and Water Officer hosted by East Sussex County Council
- Hosting agreement enables efficient use of knowledge, systems and data
- Liaison with Operations Manager essential



Joint working with the LLFA – reference data

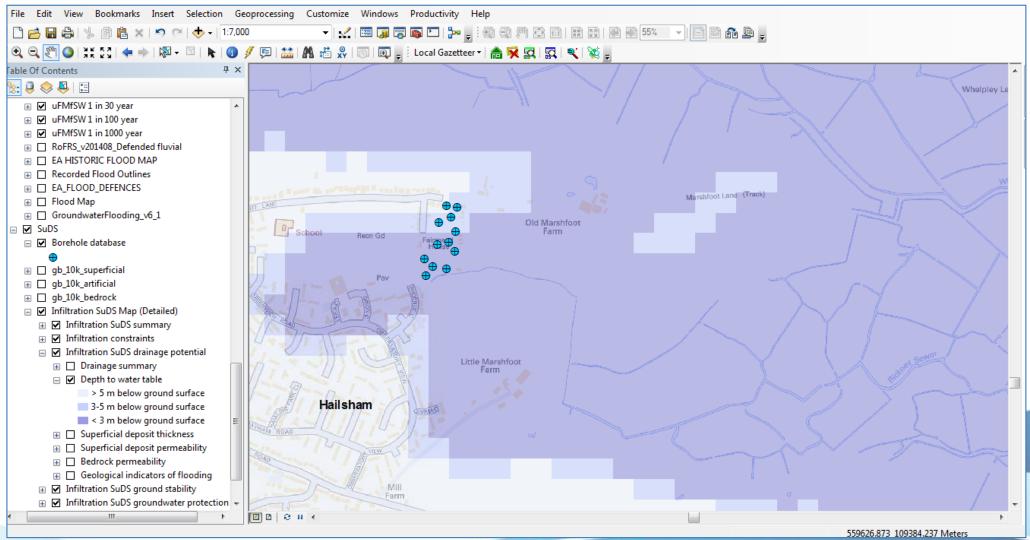


GIS Layer	Implications on SuDS	
EA Lidar data, ground level and surface water map	Natural flow paths and destination	
BGS Bedrock and superficial geology	Feasibility of infiltration	
BGS Infiltration SuDS layers e.g. depth to groundwater, drainage summary, infiltration constraints, ground stability and groundwater protection BGS Groundwater flooding ESI Groundwater flood risk EA Historic Landfill sites		
EA Flood Map	Feasibility and location of	
EA updated flood map for surface water	attenuation structures	
EA Main Rivers	Availability of a surface water discharge point	
EA detailed river network		
Southern Water sewer network		
Highway drains		
ESCC Flood Incidents Database	Existing flooding problems and indications of capacity of existing drainage structures	



Joint working with the LLFA – reference data (







When should the WLMB be consulted



On development located wholly or partly within the Internal Drainage District where;

- The site is adjacent to a Board-maintained watercourse, or
- The proposal includes works within Board-maintained or privately-maintained watercourses that require consent under the Boards Byelaws or the Land Drainage Act 1991, or
- The proposal includes the alteration of site levels that may lead to displacement of flood water
- The means of surface water disposal is indirect or direct positive discharge into a Board-maintained or privately-maintained watercourse and the increase in the site's impermeable area is greater than 60 m², or
- The site is in an area known to suffer from poor drainage

On development within the Board's catchment that has the potential to increase surface run-off - For these sites the Board's officers will assess the significance of the proposed volume of surface water runoff to be discharged and whether to respond to the consultation



Next Steps



- Continue review of Planning and Byelaw policies to present to Board
- Review historic records detailing Board's infrastructure
- Review Pevensey Water Level Management Plan in next 2 years
- Wait for determination of bid to Water Environment Grant (WEG) for funding to secure habitat enhancements on the Pevensey Levels through SuDS. - This project would run 2018-2020 and would involve channel and water control surveying and hydrologic modelling that could be used by the Board to improve its understanding of its catchment management.
- Install telemetry on Board pumping stations
- Secure funding for other catchment surveys and modelling to inform capacity and management of Board's infrastructure



Review of planning and byelaw policies



- Communicate the vision and mission of the WLMB
- Promote the role of our regulatory powers and how they link to planning considerations.
- Set out clearly the local instances where WLMB should be consulted on new development proposals and at what stage (Outline, Reserved Matters etc.)
- Communicate the circumstances where the WLMB would object to technical aspects of development proposals and at what planning stage
- Set out the WLMB approach to determination of our regulatory matters (consents and enforcement)
- Provide other Risk Management Authorities with an opportunity to comment on our approach via consultation
- Highlight the link between planning, regulation, WLMB evidence base and operational matters.





Any questions?



Graham Brown, Flood and Water Manager
Eastbourne Borough Council, Town Hall, Grove Road,
Eastbourne, BN21 4UG
13:30, 11 September 2018