

WMA Planning / Development FAQs

Contents

Part 1: General FAQs.....	2
Q1. Why do the WMA Member Boards comment on Planning Applications?	2
Q2. Which planning applications does the WMA comment on?	2
Q3. Can a WMA Member Board 'veto' a Planning Application?	3
Q4. When do works require the Board's Consent?	3
Q5. How can I apply for Land Drainage Consent from the Board?.....	3
Q6. What is an Adopted Watercourse?.....	3
Part 2: Surface Water Development Contribution FAQs.....	4
Q7. What is a Surface Water Development Contribution (SWDC)?	4
Q8. When is a SWDC incurred?	4
Q9. Why is a SWDC incurred?	4
Q10. How can the WMA Boards charge a SWDC?.....	5
Q11. Isn't the Board already funded to manage the discharge from my development?.....	5
Q12. Has the Planning process already secured the funding for drainage through Section 106 of the Town and County Planning Act 1990?	5
Q13. Has the Planning process already secured the funding for drainage through a Community Infrastructure Levy?	5
Q14. How is the SWDC calculated?	5
Q15. What happens if I do not wish to pay the SWDC?	6
Q16. When should I apply for consent?	6
Q17. When do I receive / pay the SWDC invoice?	6

Part 1: General FAQs

Q1. Why do the WMA Member Boards comment on Planning Applications?

By engaging with the planning process the WMA Member Boards are seeking to:

- Reduce flood risk to communities within its Internal Drainage District and highland catchment.
- Promote sustainable development in sustainable locations by supporting sound planning decisions that can be implemented by applicants and developers.
- Reduce the potential for conflict between the planning process and the IDB regulatory process.
- Develop an understanding within other authorities and third parties of the flood risk and capacity issues within IDB areas so they can be considered through the planning process.
- Make a contribution towards the achievement of Sustainable Development, as per Section 27 of the Flood and Water Management Act 2010.

Q2. Which planning applications does the WMA comment on?

With the aim of promoting sustainable development, each WMA Member Board will aim to review and comment on applications which may increase flood risk within the Board's Internal Drainage District (IDD) in one or more of the following ways:

- The site is adjacent to an Adopted Watercourse
- Works may be proposed to alter any Ordinary Watercourse
- The proposals may result in the displacement of flood water
- The proposals may introduce water to the IDD
- The area is known to suffer from poor drainage

The Board will therefore usually comment on the following applications:

	Inside IDD <i>Adjacent to adopted watercourse or works are proposed to alter a watercourse</i>	Inside IDD <i>Not adjacent to adopted watercourse and no works proposed to any watercourse</i>	Outside IDD <i>Within Watershed Catchment</i>
Major Development	Yes	Yes	Yes
Minor Application	Yes	Yes	No
Householder Application	Yes	No	No

Q3. Can a WMA Member Board ‘veto’ a Planning Application?

No, a WMA Member Board can object to a planning application, but it is the Local Planning Authority’s responsibility to ensure applications do not increase flood risk on site or elsewhere as per paragraph 163 of the National Planning Policy Framework, they may do this under advice from the Lead Local Flood Authority and the relevant Internal Drainage Board.

The Board’s regulatory regime is set out under the Land Drainage Act 1991 and is separate to the planning process, however the ability to implement a planning permission may be dependent on the granting of the Board’s Consents.

As both regulatory regimes should consider the impact of the works on flood risk, it is unlikely that a site should gain 1 form of consent but not the other. However, if a site does receive only 1 of the required consents (e.g. the site received planning consent but not the Board’s consent), an appeal may be heard by either the Secretary of State or the President of the Institution of Civil Engineers (depending on the circumstance) to determine if either consent was granted or withheld unreasonably.

Q4. When do works require the Board’s Consent?

The most common types of work which require the Board’s Consent (Land Drainage Consent) are listed below, for more information please see the WMA’s [Planning and Byelaw Strategy](#).

- Works adjacent to an Adopted Watercourse (above or below ground) require consent as per Byelaw 10 of each Board’s Byelaws.
- Works which will result in water being discharged to the Board’s District (including treated foul water) require consent as per Byelaw 3 of each Board’s Byelaws.
- Works to alter a watercourse require consent as per Section 23 of the Land Drainage Act.

Q5. How can I apply for Land Drainage Consent from the Board?

The forms and guidance are available here:

- [Application Form](#)
- [Application Guidance](#)

Q6. What is an Adopted Watercourse?

The adoption of a watercourse is an acknowledgement by the Board that the watercourse is of arterial importance to the Internal Drainage District and as such will normally receive maintenance from the IDB. This maintenance is not necessarily carried out on an annual basis but on a recurrence deemed necessary to meet water level management requirements. Please be aware that the designations are made under permissive powers (meaning there is no obligation for IDBs to fulfil any formal maintenance requirement and there is no change in the ownership or liability associated with the watercourse).

Part 2: Surface Water Development Contribution FAQs

Q7. What is a Surface Water Development Contribution (SWDC)?

A SWDC is a one-off charge placed on a development by an Internal Drainage Board (“IDB”). The SWDC, net of its collection cost, is intended to reflect and contribute towards the actual or potential cost of work required to be undertaken by the IDB at some stage to manage the additional run-off resulting from the discharge of surface water from new impermeable areas into the Board’s District.

The works described above can include maintenance activities, the operation of structures or the physical improvements of the Board’s drainage/flood risk management infrastructure. It can also include the surveying, monitoring and modelling of infrastructure capacity.

It should be noted that the SWDC does not involve any profit-making for the relevant IDB. Indeed, the likelihood is that the sums paid amount to no more than a part-contribution to eventual works undertaken.

Q8. When is a SWDC incurred?

A Surface Water Development Contribution (SWDC) is payable when the Board grant consent for the discharge of surface water to the district. The payment is required as a condition of the consent.

The aforementioned consent is required as per Byelaw 3 of each Board’s Byelaws, and as per Byelaw 28(c), any consent granted can be subject to conditions as the Board may consider appropriate.

Q9. Why is a SWDC incurred?

Introducing impermeable areas to greenfield sites generally increases the volume of surface water runoff downstream. Even when peak runoff rates have been limited to less than greenfield rates, the actual volume would have been increased. As such, even where attenuated, the discharge will still represent an increase from the agricultural discharge rate and more particularly increase the volume of water discharged into our district.

Where this is the case, the Board can apply a Surface Water Development Contribution as a condition of consent.

By way of an example, increases in the volume of water discharged into pumped catchments could require the relevant Board to operate its pumping stations for longer to maintain the same water levels as prior to development. Alternatively, if the capacity of the station is limited this may require the widening of drains and/or the creation of new off-line storage to ensure the volume of water can be accommodated at the pump

Q10. How can the WMA Boards charge a SWDC?

In line with the provision of Byelaw 28(c) in the relevant WMA Board's adopted Byelaws, any consent granted may be either unconditional or subject to such conditions as the Board may consider appropriate. One of the conditions imposed as part of surface water discharge consent approval is the payment of a SWDC to the Board.

Q11. Isn't the Board already funded to manage the discharge from my development?

Whilst Internal Drainage Board's receive funding from other sources it should be noted that these are specifically designed and calculated to cover the costs incurred by mitigating the effects on the drainage district from the current built and agricultural environment. They are not aimed at reflecting the additional burdens placed on the Board by the creation of additional impermeable areas positively discharged directly or indirectly to our area.

Q12. Has the Planning process already secured the funding for drainage through Section 106 of the Town and County Planning Act 1990?

No, the consenting process under the Land Drainage Act 1991 and the relevant Board's adopted Byelaws is separate to the process of obtaining planning permission. (Much in the same way as any separate agreements/consents required from organisations such as the Highway Authority and utility providers).

Q13. Has the Planning process already secured the funding for drainage through a Community Infrastructure Levy?

No, a Community Infrastructure Levy (introduced by the Planning Act 2008) is a charge levied by some Local Planning Authorities to help them deliver infrastructure needed to support development in their area. Local Planning Authorities (such as District Councils) then use the Levy that has been collected to fund a wide range of infrastructure as defined by section 216(2) of the Planning Act 2008. Drainage and water level management infrastructure are not included within Section 216(2) of the Planning Act 2008, and Internal Drainage Boards do not receive any part of this funding.

Q14. How is the SWDC calculated?

The methodology used to calculate a SWDC is contained and explained within the Board's [Development Control Charges and Fees](#) document.

Q15. What happens if I do not wish to pay the SWDC?

If a developer does not want to pay the contribution, all surface water runoff from the development would have to be stored on the development site with no outfall into the ordinary watercourse or any drainage system which will convey the water to the Board's district.

Alternatively, where developers are confident that their drainage design reduces the rate **and volume** of surface water downstream, they should provide evidence of this in the form of flow hydrographs at the location of each discharge point for the pre- and post-development scenarios. These should demonstrate that there is no change to the areas under the graph (volume) between the pre and post development scenarios.

Q16. When should I apply for consent?

We strongly recommend that applications apply for consent to confirm the viability of the drainage strategy prior to the determination of a planning application. A viable strategy at the outline stage enables both the applicant and the LPA to proceed with increased confidence in the site's ability to drain (and thereby prevent flooding - a material planning consideration) and the ability to implement the outline permission, if granted.

Prior to engagement with the consenting process, no assurance can be provided by the Board that the wider drainage network has sufficient capacity to accept the proposed positive discharge connection.

Q17. When do I receive / pay the SWDC invoice?

The SWDC is payable upon the granting of consent, however we acknowledge that developers may want an assurance that the proposals are acceptable in principle, prior to progressing to formal consent and paying the SWDC, resultantly we utilise the two stage consent process outlined in table 1 overleaf.

Stage 1	<p>If the Board deem that the proposed additional rate or volume of surface water will not lead to an increased flood risk then a '<i>notification of intention to grant consent</i>' letter is sent. In their assessment the Board's officers may cite evidence, such as models and hydrographs, often provided by the applicant.</p> <p>A '<i>notification of intention to grant consent</i>' letter is not the formal consent, but lists conditions such as technical specifications and required development contributions. This letter asks the applicant to sign to confirm acceptance of the conditions, and is only valid for 28 days (to avoid 'reserving' volumetric capacity within the catchment).</p> <p>Previously, it has been considered that the '<i>notification of intention to grant consent</i>' is an assurance to both the applicant and the LPA that the Board considered that the catchment had capacity for the proposals which (at the time of submission) would not lead to an increased risk of flooding elsewhere in the catchment.</p> <p>Developers seeking assurance for outline plans may submit an application based on a likely scenario. This allows the developer and the LPA a level of assurance (not to be confused with evidence) regarding the site's ability to drain ahead of detailed design.</p>
Stage 2	<p><u>If the applicant is ready to accept the conditions</u> and sign the '<i>notification of intention to grant consent</i>' document then the final document is issued and consent is granted.</p> <p><u>Alternatively, if the applicant is not ready to accept the conditions</u> (for example if the proposals were indicative, or the applicant is awaiting planning permission) then the 28 days will elapse and the '<i>notification of intention to grant consent</i>' will become invalid.</p> <p>When ready, the applicant can re-apply for consent with increased confidence regarding the ability of the system to accept surface water from the site (assuming no material changes to the catchment's volumetric capacity has occurred). Please be aware that despite the assurances provided by an elapsed '<i>notification of intention to grant consent</i>', consent is not guaranteed and there remains a risk that the capacity required by the development will not have been retained in the system by the time the applicant (or their successors) wish to re-apply for consent. This is particularly true when discharging increased volumes to pumped or otherwise heavily constrained catchments.</p>

Table 1: The two stage consent process for discharging surface water.