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Water Management Alliance

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Planning and Byelaw Policy

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Cert No. GB11990

**MEMBER INTERNAL DRAINAGE BOARDS**

Broads (2006) IDB, East Suffolk IDB, King's Lynn IDB,

Norfolk Rivers IDB, South Holland IDB



Cert No. GB11991

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**DEFENDERS OF THE LOWLAND ENVIRONMENT**

**This policy has been prepared for the benefit of, and for use by, the Board Members and Officers of the member Boards of the Water Management Alliance, and to assist people and companies who are considering applying to any of those Boards for consent under one of the Board’s Byelaws or the Land Drainage Act. However, the document is merely a guide, and does not prejudice any decision made by any of the Boards or their Officers, nor must it be relied upon as a defence for carrying out works without first gaining written consent from the relevant Board.**

**Where reference is made to the “Board”, this may be the Broads (2006) IDB, East Suffolk IDB, King's Lynn IDB, Norfolk Rivers IDB or South Holland IDB, as appropriate. Where reference is made to a watercourse, but the site is adjacent to more than one drain, the same stipulations must be adhered to for each watercourse. Likewise, where reference is made to an applicant, this should be interpreted in the same way if the applicant is more than one person, or is a company.**

**Neither the whole, nor any part of this policy, or any reference hereto, may be included in any published document, circular or statement, or published in any way without prior written approval from the Water Management Alliance of the form and context in which it may appear.**

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## 1 Introduction

- 1.1 This document has been prepared to assist people who are considering submitting any applications to one of the Water Management Alliance (WMA) Member Internal Drainage Boards (IDBs) for consent under the affected Board's Byelaws or the Land Drainage Act (LDA). It seeks to highlight the most common situations where approval from one of the Boards may be required, and to offer guidance on when consent is likely to be given, and what conditions are likely to be applicable.
- 1.2 The document also stipulates when applications will ordinarily be decided by Officers, and when plans will have to be discussed at a Board meeting. However, Officers may decide to refer any application to the Board for determination, and if an applicant or agent (or if the applicant or agent is a company, where a partner or director thereof) is a Member or employee of the Board, or is related to a Member or employee, then if their application comes within the majority of categories discussed herein, it will automatically be determined at a Board meeting (the only exceptions being application types that have been agreed as being exempt).
- 1.3 It should be noted that Board meetings are usually only held between 2 and 4 times each year, and due to the need to prepare reports, it will not normally be possible to include applications received less than 14 days before a meeting for discussion at that meeting. It may therefore be some time after submission of an application when it is discussed by the Board. If an application is to be determined at a Board meeting, the applicant will be advised of the date of this meeting as soon as possible.
- 1.4 Applications for consent under section 23 of the LDA must be decided within two months of the date they are received by the relevant Board, or the date that the requirement to pay the application fee is satisfactorily discharged, whichever is the later. However, where an application is needed under the terms of a Board's Byelaws, even if this is in connection with proposals that also need consent under section 23 of the LDA, there is no set time limit for determination of the Byelaw application.
- 1.5 It must be remembered that this document is solely for guidance purposes, and specific circumstances may apply that mean consent will not be granted, even if an applicant believes that their proposals meet the criteria set out herein. The WMA IDBs each reserve the absolute right to refuse any application submitted to them, to vary these guidelines to suit a given situation, or to stipulate additional conditions to those listed in this document. All conditions specified as part of any consent, whether or not listed in this document, must be met before the Board's consent is valid.

## 2 When is consent required from the Board?

- 2.1 There are a number of different situations where consent may be needed from the Board, and any one or more of these may apply to a particular site. Firstly, the proposals may include works within 9 metres of the edge of a Board-maintained watercourse, where development is prohibited by the Board's Byelaws unless prior written consent is obtained from the Board. Alternatively the planned works may involve an increase in the rate or volume of water being discharged to a watercourse, or the piping of, or other alterations to, any drain.
- 2.2 It is important to note that even if a planned development is outside of the Board's district; if there will be an increase in flows in the Board's area, the requirement to obtain prior written consent for this still applies.
- 2.3 Although not a complete list of all the situations where the Board's consent might be required, the most common types of development which occur on sites next to Board-maintained infrastructure, may otherwise contravene the Board's Byelaws, or which may require LDA consent, are outlined below. Please note that except where otherwise specified, the requirements given in section 3 only apply to Board-maintained watercourses, although there may be good reasons why development in close proximity to, or affecting, any drain is inadvisable. If you are in any doubt as to whether or not prior approval is needed for your proposed works, please contact the Board for confirmation.
- a) Installation of a treatment plant and associated outfall (private or Board-maintained drains)
  - b) Installation of land tile outfalls
  - c) Erection of fencing
  - d) First-floor extension to a property
  - e) Electricity cables, telephone wires, gas, water or sewerage pipes or any other services crossing, or within 9 metres of the edge of, a watercourse
  - f) Erection of a garage
  - g) Erection of a wall
  - h) Landscaping (including trees, hedges, shrubs, patios)
  - i) Construction of access roads, driveways and parking areas
  - j) Alteration of a watercourse (private or Board-maintained drains)
  - k) Installation of a surface water outfall (private or Board-maintained drains)
  - l) Construction of fishing lakes or reservoirs
  - m) Erection of wind turbines
  - n) Construction of a replacement dwelling
  - o) Construction of a two-storey or ground-floor extension, including conservatories
  - p) Construction of a single new dwelling
  - q) Commercial/Industrial development, including agricultural buildings or glasshouses
  - r) Residential development – multiple dwellings
  - s) Other works e.g. proposals to abstract water (private or Board-maintained drains)

### 3 Consideration of applications, grant of consent and applicable conditions

3.1 Although applications may be submitted for any proposals, the following is a guide to the circumstances when approval is likely to be given by the Board, as well as certain conditions that would be stipulated. The subsection references relate to the same categories listed in section 2.3.

#### *a) Installation of a treatment plant and associated outfall*

##### *i. Privately-maintained drain*

If the proposed treatment plant will only cater for one dwelling, formal consent from the Board will not normally be required. However, for multiple-property, industrial or commercial developments, or certain other sites, an application may be needed. Any applications will be considered by Officers.

##### *ii. Board-maintained drain*

An application will be required for all proposed discharges to a Board-maintained watercourse. Applications will be considered by Officers, and consent will usually be granted provided the following points are complied with:

- All elements of the works except the outfall pipe are to be at least 9 metres from the edge of the drain. In certain circumstances, the Board may agree to the treatment plant being no closer than 6 metres from the edge of the watercourse, in which case the applicant must ensure that the treatment plant is capable of withstanding and supporting the vehicular loads that may be imposed on it during the Board's operations.
- In the case of an open drain, the discharge pipe is to be installed through a pre-cast concrete outfall unit dug in flush with the drain batter, with suitable erosion protection also installed below the headwall down to the toe of the watercourse, again dug in flush with the drain batter.
- In the case of a piped watercourse, the discharge pipe is to be connected into an existing inspection chamber, or a new inspection chamber is to be constructed to the Board's specification to accommodate the outfall (please also see Appendix A, as a Commuted Maintenance fee may be payable if a new manhole is built). In either case, the inspection chamber wall around the incoming pipe is to be repaired to the Board's satisfaction prior to completion of the works.
- The applicant must enter into the Board's standard Deed of Indemnity prior to undertaking the works.

If the Board's Officers consider that the receiving watercourse will not be capable of accepting the planned additional flows, applications may be refused, or drain improvement works may have to be undertaken (to the satisfaction of the Board, but at the applicant's cost) before consent will be granted.

Although a development contribution will not normally be payable for treated foul water discharges, the Board reserves the right to require a payment to be made if it feels it is warranted (such as where the amount of the proposed treated water discharge may be comparable to another development's surface water run-off).

#### *b) Installation of land tile outfalls*

Consent issued by Officers, subject to the outfalls being installed through pre-cast concrete headwall units dug in flush with the drain batter, and subject to the applicant signing and returning to the Board an acknowledgement sheet confirming their agreement to all the Board's stipulations (not just the ones mentioned above), prior to commencement of the works.

***c) Erection of fencing***

Applications will be determined by Officers, and consent granted provided all fencing within 9 metres of the watercourse is “temporary”, with no posts concreted in, subject to the applicant entering into the Board’s standard Deed of Indemnity, and provided that the following stipulations are also complied with:

i. Open drain, no machine access available (or likely to become available)

Fencing is to be no closer than 1 metre from the brink of the watercourse, and no taller than 1.80 metres (6 feet).

ii. Open drain, machine access available (or likely to become available)

All fencing is to be at least 6 metres from the brink of the watercourse, and no taller than 1.80 metres (6 feet). However, if a 6 metre wide strip would equate to more than 5% of the field’s area, and access to that drain is not required more than once a year, then the Board’s Officers, at their sole discretion, may allow the fence to be erected 1 metre from the brink of the drain, provided that lockable access gates (a minimum of 4 metres clear access width) are installed, entirely at the landowner’s cost, at all locations required by the Board to access the drain and provided that the fence is no taller than 1.20 metres (4 feet) to allow the Board to undertake its maintenance works over the fence.

iii. Culverted watercourses

Fencing is to be erected at least 0.50 metres from the nearest outside edge of the pipe.

However the above policy does not apply with new multiple-property residential developments where fencing is used as the boundary treatment. In this case, the Board’s general approach to such residential developments (see section 3.1r) prevails, and all fencing must be 9 metres from the drain brink or nearest outside edge of the pipeline.

***d) First-floor extension to a property***

The Board may not object to such proposals, but will do so if it is considered that the additional loading resulting from the development could pose a risk to the watercourse, or if the proximity of the drain may cause problems unless specific measures are taken to avoid this. A detailed structural survey may be required (at the applicant’s cost) to verify this.

***e) Electricity cables, telephone wires, gas, water or sewerage pipes or any other services crossing, or within 9 metres of the edge of, a watercourse***

If possible all services running alongside a watercourse must be installed at least 9 metres from the edge of the drain (including piped drains) at all points (in the case of an open drain this is 9 metres from an imaginary infinite vertical line running through the drain brink, or landward toe of the embankment if the watercourse is embanked). However, applications for services within 9 metres of the drain will be considered on a case-by-case basis.

In the case of overhead cables crossing a watercourse, these must be installed so that they give a minimum vertical clearance of at least 10 metres from the level of the top of the bank at all times. All underground services must comply with the following requirements:

- The services are to be installed within pipes or ducting;
- The pipes/ducting are to be directionally-drilled beneath the watercourse, with a minimum vertical clearance below the cleaned out bed level of the drain and the top of the ducting/pipe of between 1 and 2 metres (the exact depth will be specified by the Board’s Officers depending on the drain in question).

- Clearances to piped watercourses will be stipulated by the Board's Officers on a site-specific basis, but are always likely to be at least 300mm (outside to outside measurement);
- The location of underground services must also be shown by brightly-coloured (but not green or yellow) marker posts, set in positions specified by the Board.

Consents granted to a utility company will be subject to them entering into a licence agreement with the Board, while approvals issued to an individual or company will be subject to them entering into the Board's standard Deed of Indemnity.

**f) *Erection of a garage***

i. Temporary, sectional garage (on loose-laid paving slabs or other non-permanent base)

Applications determined by Officers, with consent usually granted if the garage will be no closer than 6 metres from the brink of an open drain where machine access is available, or 3 metres from the nearest outside edge of a pipeline or the brink of an open drain where no machine access is available (or likely to become available). Any consent will be subject to the applicant entering into the Board's standard Deed of Indemnity.

ii. Permanent (including any garage with foundations or a concrete base)

Applications determined at a Board meeting on a case-by-case basis, although normally approval will never be granted for anything closer than 6 metres from the edge of the drain. Any approval will be subject to the applicant entering into the Board's standard Deed of Indemnity, and written confirmation being provided by a suitably qualified, independent structural engineer showing that the intended foundation design will ensure the structure does not have an adverse impact on the watercourse, or vice-versa.

**g) *Erection of a wall***

Applications considered at a Board meeting, and determined on a case-by-case basis, although approval will not normally be granted for anything closer than 6 metres from the edge of the drain, or for walls higher than 1.80 metres above surrounding ground level. Any consent granted will be subject to the applicant entering into the Board's standard Deed of Indemnity.

**h) *Landscaping (including trees, hedges, shrubs, patios)***

Applications will be determined by Officers in accordance with the "Landscaping Policy" (see Appendix B), with any approvals granted being subject to the applicant entering into the Board's standard Deed of Indemnity. If an application contravenes the above policy, and the applicant is unwilling or unable to alter it to comply, the matter will be referred to the Board for consideration.

**i) *Access roads, driveways and parking areas***

i. Constructed from Gravel / Tarmac Chippings

Applications determined by Officers, with approval usually given provided the road, driveway or parking area is no closer than one metre from the brink of an open drain, subject to the applicant entering into the Board's standard Deed of Indemnity.

ii. Concrete / Tarmac / Compacted hardcore with insufficient voids for infiltration drainage

Applications considered at a Board meeting. However, approval is unlikely to be forthcoming for proposals within 9 metres of an open drain or 6 metres of the outside

edge of a pipeline, except where the application covers the main access road to the site, and that road runs perpendicular to the watercourse. If works are consented within 9 metres of a drain, this will be subject to the area being constructed so that it slopes away from the watercourse, or to it being built with kerbs and a gully drainage system, and subject to the applicant entering into the Board's standard Deed of Indemnity (except where it will be an adopted highway).

***j) Alteration of a watercourse***

***i. Privately-maintained drain***

Applications determined by the Board's Officers (see Culverting Policy – Appendix A).

***ii. Board-maintained drain***

Applications determined in accordance with the “Culverting Policy” (see Appendix A), meaning that some applications are considered by Officers, while others can only be decided at a Board meeting.

***k) Installation of a surface water outfall***

Applications will be determined by Officers unless it is questionable whether the drain can cater for the proposed discharge, or unless another part of the application requires consideration by the Board, in which case it is likely to be referred to the next Board meeting.

If the Board considers that the receiving watercourse will not be capable of accepting the planned additional flows, applications may be refused, or in the case of privately-maintained watercourses, drain improvement works may have to be undertaken (to the satisfaction of the Board, but at the applicant's cost) before consent will be granted. If the Board has a hydrological model of the watercourse in question, the applicant may be required to pay for updates to that model assessing the impact of the proposed discharge. However, it should be noted that this cost is in addition to any development contribution due (see below), and there is also still no guarantee that the application will then be consented by the Board.

Where proposals will result in an increase in the rate or volume of flows in any watercourse, one of the conditions of any consent granted by the Board will be the payment of a development contribution to the Board (see also section 4 and the Board's Charging Policy for further information about these and the current contribution rate).

The consent will also be subject to a formal agreement being entered into by the person or authority that will be responsible for the new drainage system after its construction and the Board expects any system serving multiple properties to be adopted by a competent authority. Finally, please also see the Appendix A, as a Commuted Maintenance fee may be payable in certain circumstances.

***l) Construction of fishing lakes or reservoirs***

The whole development (including surrounding bunds or banks) must be at least 9 metres from the edge of the watercourse at all points. Retrospective applications within this distance, or cases where an applicant will not alter their plans to comply with the 9 metre distance, should be decided by the Board, although it is unlikely that consent will be forthcoming.



**m) *Erection of wind turbines***

Every turbine (including its foundations) must be at least 9 metres from any Board-maintained drain at all points. Small turbines, where any part of the swept path of the blades could come within the space used by people/machinery when maintaining the watercourse, may have to be located further from the drain so there is no impediment to maintenance operations, or potential danger when carrying out that work.

**n) *Construction of a replacement dwelling***

If possible the dwelling should be sited a minimum of 9 metres from the Board's drain, regardless of the position of the previous building. However, if this is not achievable, the application should be put to the Board, with a recommendation that the new dwelling be no closer than 6 metres, or the same distance as the old dwelling, from the Board's watercourse, whichever is the greater distance.

If a relaxation is consented, the applicant will have to enter into the Board's standard Deed of Indemnity, and written confirmation be provided by a suitably qualified, independent structural engineer showing that the intended foundation design will ensure the structure does not have an adverse impact on the watercourse, or vice-versa.

**o) *Construction of a two-storey or ground-floor extension (including conservatories)***

Proposals in line with or further from the Board's drain than the closest point of the existing dwelling will be decided by Officers, provided the extension will be a minimum of 6 metres from the watercourse and result in an increase in footprint of less than 50% of the initial area of the main dwelling. However, if any part of the extension will be less than 6 metres from the drain, or if it will come nearer than the existing structure at any point, the matter should be referred to the Board, with applications determined on a site-specific basis.

If a relaxation of Byelaw 10 is granted, this will be subject to the applicant entering into the Board's standard Deed of Indemnity, and written confirmation being provided by a suitably qualified, independent structural engineer showing that the intended foundation design will ensure the structure does not have an adverse impact on the watercourse, or vice-versa.

**p) *Construction of a single new dwelling***

If possible the dwelling should be sited a minimum of 9 metres from the Board's drain. If this is not achievable, the application will be determined at a Board meeting. Although decisions will be made on an individual basis, it is highly unlikely that approval will be given for the new dwelling to be closer than 6 metres from the edge of the drain.

Any consent granted will be subject to the applicant entering into the Board's standard Deed of Indemnity, and written confirmation being provided by a suitably qualified, independent structural engineer showing that the intended foundation design will ensure the structure does not have an adverse impact on the watercourse, or vice-versa.

**q) *Commercial/Industrial development (including agricultural buildings or glasshouses)***

If possible the development should be sited a minimum of 9 metres from the watercourse. Where this cannot be achieved, either for a new building or an extension, the matter will have to be discussed at a Board meeting, with decisions made on a site-specific basis.

Any consent granted will be subject to the applicant entering into the Board's standard Deed of Indemnity, and written confirmation being provided by a suitably qualified, independent structural engineer showing that the intended foundation design will ensure the structure does not have an adverse impact on the watercourse, or vice-versa.

*r) Residential development (multiple dwellings)*

Although applications may be made seeking the Board's agreement to parts of the development being sited less than 9 metres from the edge of the watercourse, with the exception of a new access culvert and/or roadway perpendicular to the drain, the Board seeks to ensure that there are 9 metre wide easement strips adjacent to all Board-maintained watercourses where there is a neighbouring development planned, with these strips kept clear of any development.

The Board will usually seek to have the above-mentioned easement strips conveyed to it wherever possible, regardless of whether or not the adjacent drain is owned by the Board. The Board will also normally stipulate that the strips have to be suitably-fenced and gated to all sides, except alongside an open watercourse, and that the transfer is free from encumbrances and completed at no cost to the Board (including the developer paying the Board's legal costs).

*s) Other works e.g. proposals to abstract water*

These matters should be determined by Officers unless their specific circumstances mean it would be preferable for the matter to be determined at a Board meeting.

- 3.2 Where Officers apply the above guidelines and an application is refused as a result, before making a formal appeal to an arbitrator, the applicant first has the right to state why their application should be considered favourably, despite it contravening the approved policies, and the matter will then be taken to the next Board meeting, where Members may either decide to uphold the original decision or to grant consent as an exception to the relevant policy.
- 3.3 All consents granted by the Board are subject to the approved works being completed within a period of 3 years from the date of the Board's decision. The consent also cannot be sold, inherited or otherwise passed on without prior written agreement from the affected Board. If an extension to the 3-year period is requested, or an application made to pass on the consent, the Board's Officers will reconsider the proposals in line with the policies applicable at that time. If this results in the Board refusing to grant a time extension or to transfer the approval to someone else, the original consent will still be valid up to the end of the 3-year period.
- 3.4 Where an approval is subject to the applicant entering into a Deed of Indemnity, this must be completed, signed by all affected parties (including mortgage lenders on the property, if appropriate) and successfully registered against the property at HM Land Registry, before the Board's consent will be valid. Where a property is not currently registered, the Deed will have to be noted on the property's title documents, and written confirmation to this effect be provided by a solicitor.
- 3.5 Under normal circumstances, most Deeds of Indemnity are prepared by the Board's Officers, with administration costs of £50+VAT charged to the applicant, along with the fee charged by Land Registry for lodging the document with them (currently £50). However, if the Deed is particularly time-consuming to prepare, its content more complex than the standard document, or if a solicitor's input is required for any reason, then the administration charge will be increased to reflect the additional costs to the Board.
- 3.6 Finally, although neither the Land Drainage Act (LDA) nor the Board's Byelaws make provision for the submission of "retrospective" consent applications, in certain circumstances the Board may agree to accept such applications. However, even if the Board is willing to accept such an application, this is made without prejudice to the Board's right to take further action regarding the contravention(s) of its Byelaws and/or the LDA if such action is deemed to be appropriate.

#### 4. Surface water disposal and development contributions

- 4.1 The Board has a responsibility to ensure that proposals for surface water disposal from any development are unlikely to adversely affect other people or land. The Board is also designated as an Operating Authority under the Countryside & Rights of Way Act 2000, which means that when a Byelaw or Land Drainage Act (LDA) consent application is received where the proposals may have an impact on the interest features of a Site of Special Scientific Interest (SSSI), or on a European-designated wildlife site, the Board must take due account of the potential environmental implications of that application. Although this could potentially affect any kind of application, it is most common where consent is being sought to discharge water to a watercourse.
- 4.2 When an application for Byelaw and/or LDA consent is submitted, if the works could have an impact on a watercourse within, adjacent to, or draining land forming part of, a SSSI or European-designated wildlife site, the Board will not begin to consider the application until such time as a copy of written approval for the works from Natural England (NE) is provided to the Board. The approval may be unconditional, or subject to such conditions as NE deems appropriate.
- 4.3 Where proposals include a discharge to a watercourse, this may either be directly into a Board-maintained drain, or through systems which are the responsibility of another authority, company or individual which ultimately outfall into a Board-maintained watercourse. If the proposed discharge goes through any system not maintained by the Board, or which is not solely the responsibility of the applicant, then as part of an application for consent, written evidence must be provided from all other people, companies and authorities responsible for the drainage systems leading from the development site up to the point of connection to the Board's system, showing that they are agreeable to the intended increase in flows, and accept any increased maintenance liability arising from this. The Board will not begin to consider any application until such time as this requirement has been complied with.
- 4.4 If the Board considers that any watercourse maintained by a third-party will not be capable of accepting the planned additional flows, it may be necessary for improvement works to be carried out. If this is the case, such works will have to be undertaken to the satisfaction of the Board, but at the applicant's cost, before consent can be granted. The cost of such improvements is in addition to any development contribution due to the Board (see below). The Board may also require the applicant to pay for hydrological modelling work to be carried out, or amendments to be made to an existing model, to assess the impact of the proposed discharge, the cost of which would again be in addition to any development contribution due to the Board.
- 4.5 Where any proposals will result in an increase in the rate or volume of flows in a watercourse, one of the Board's conditions of any approval is the payment of a development contribution to the Board. Such contributions are payable to the Board unless the rate and volume of surface water discharge is limited to the same as that prior to development, and are used by the Board to part-fund improvements required to its maintained drainage infrastructure to cater for the additional rate/volume of flows, in order to try and ensure there is no net increase in local flood risk or adverse effect on the standard of drainage.
- 4.6 The Board sets the development contribution rate on an annual basis, to take effect from 1 April. The full rate is charged for unattenuated discharges, and is set as a rate per impermeable hectare, with actual charges calculated from this based on the development in question. Where a development has a restricted outflow rate, but there will still be an increase in the overall volume of discharge, a development contribution is levied, but is charged at a percentage of the full rate, based on the equivalent run-off (in litres per second per hectare) for the additional impermeable area. Please see the Board's Charging Policy for the current full rate and percentage charges for restricted discharges.

## CULVERTING POLICY

Section 23 of the Land Drainage Act 1991 (as amended) prohibits any obstruction or culvert being placed in a watercourse, or an existing culvert being altered in a manner that would be likely to affect the flow of a watercourse, without the prior consent of the relevant drainage board, although the same section also says that such consent is not to be unreasonably withheld. However, the Environment Agency's "Policy Regarding Culverts" advocates retaining open drains wherever possible, due to their higher flood storage capacity and the potential loss of wildlife habitat if they are piped. Therefore consent will only be granted for proposals which will not unduly increase local flood risk or adversely affect the standard of drainage, and which will not have an unfavourable impact on the local environment or wildlife, and provided the intended length of culverting is minimised.

- ***Applications to alter privately-maintained watercourses***

The application will be considered by the Board's Officers, and consent will be granted, subject to conditions, if the plans are satisfactory or would be if certain amendments are made, or the application will be refused if piping the drain in question is not appropriate.

- ***Applications to alter Board-maintained watercourses***

The application will be determined by Officers if it fulfils one of the following criteria:

- i. The proposal is for a replacement culvert or bridge, or
- ii. The piping/bridge is for the sole access to a field, property, building plot or an estate development, and the total length of piping or width of the bridge is the minimum required for the access, or
- iii. The total length of drain to be piped/bridged is 12 metres or less.

In all other cases, the application will be considered at a Board meeting, although the granting of consent will only be considered where an overriding need for the piping can be demonstrated e.g. for Health & Safety reasons, or where the piping would be of benefit to the Board.

The specification for any culvert in a Board-maintained drain is to be provided by the Board's Officers. The culvert may be constructed by the Board (and must always be if the drain in question is owned by the Board), or alternatively by a contractor previously approved in writing by the Board. The cost of installation must be met in full by the applicant unless there is a benefit to the Board, in which case the Board's Chief Executive may agree to make a contribution towards the works. A Commuted Maintenance fee is also likely to be payable to the Board (see later section).

- ***Applications to construct an outfall in a Board-maintained watercourse***

Outfalls into a Board's drain will only be consented if they do not impede the flow of water, and if they are positioned, designed and constructed to the specification and satisfaction of the Board's Officers and built entirely at the applicant's cost. The outfall must either be constructed by the Board, or by a contractor previously approved in writing by the Board. If the system is not being adopted by another competent authority, the Board may require that the maintenance of the outfall is commuted to it, in which case a Commuted Maintenance fee will also be due to the Board (see below).

- ***Applications to construct a weir or install a flow control structure***

Applications will be considered on a case-by-case basis, but are only likely to be consented if the proposals will not have an adverse effect on any other landowners or properties. A Commuted Maintenance fee is also likely to be payable to the Board where the weir or flow control structure is in a Board-maintained watercourse (see later section).

- ***Calculation of Commuted Maintenance and Wayleave fees***

A Commuted Maintenance fee is a one-off charge payable where the Board will become responsible for the future maintenance costs associated with a new culvert, bridge, weir or outfall structure. In the case of a culvert or bridge, the Board will not be responsible for the wearing surface, and in the case of an outfall, only the headwall structure will be maintainable by the Board.

The Commuted Maintenance fee is paid by the applicant in addition to the cost of construction of the structure, although if the future maintenance of the culvert, bridge, weir or outfall will rest with another authority e.g. the local Highways Department, then no such fee is payable to the Board. Where the affected drain is owned by the Board, then notwithstanding who will be responsible for the structure's future maintenance, a one-off Wayleave payment will also be due to the Board to reflect the fact that the works are within an area of land it owns.

The Commuted Maintenance fee due where a watercourse is not owned by the Board is 130% of the cost of materials, as priced by the Board's Officers, and where the drain is owned by the Board it is 230% of the cost of materials, again as calculated by the Board's Officers. If the structure is being adopted by another authority, but is being constructed on land owned by the Board, then the Wayleave fee will be 100% of the cost of materials (as priced by the Board's Officers).

The relevant fee will be stipulated as part of any approval issued and a period of between 1 month and 3 months will be given for the applicant to accept that figure, depending on the likelihood of increases in materials' costs. At the time of acceptance, the first 50% of the fee becomes due. Beyond this period, the Board's Officers will determine whether the quoted fee is still applicable, or whether it should be revised in light of any changes to the cost of materials. The second 50% of the fee is payable when construction is completed to the satisfaction of the Board's Officers.

Due to the many various designs and differing complexity of sustainable drainage systems and other drainage infrastructure, if the Board agrees to take on the future maintenance of any of these, the Commuted Maintenance fee will be calculated on a case-by-case basis.

- ***Ownership of land over newly-piped watercourses***

Where an application for piping is consented, ownership of the land forming the infilled drain will usually remain with the existing owners of the watercourse. However, if the Board approves the piping of part of a Board-maintained drain, and feels it would be advantageous to own the infilled area, then the Board may seek to have the land transferred to it, subject to the provisions of the second paragraph of section 3.1(r) also applying. If a transfer is sought, the land in question will normally comprise either the full width of the old open channel or 3 metres each side of the pipeline, whichever is the greater width.

## LANDSCAPING POLICY

The following criteria will be used when determining Byelaw 10 relaxation applications for landscaping:

- ***Trees***

No relaxations will be granted for new trees unless exceptional circumstances apply.

- ***Hedges / Shallow-rooted bushes***

- a) Open Drain (no access) - Unless machine access is likely to become available in the short-term, consent will be granted for hedging or shallow-rooted bushes provided that a minimum 1 metre wide clear strip, measured from the drain brink, is maintained in perpetuity, thereby ensuring pedestrian access is retained along that side of the drain, and subject to the hedging/bushes being kept cut so they are no more than 1.80m tall.
- b) Open Drain (access available) - Consent will only be granted subject to a minimum 6 metre wide clear easement strip, measured from the drain brink, being maintained in perpetuity, to allow unimpeded machine access alongside the watercourse, and subject to the hedging/bushes being kept cut so they are no more than 1.80m tall.
- c) Pipeline - Applications considered on an individual basis. Where the pipeline is close to ground level, of a small diameter, and does not drain a large area of land, it may be possible to relax Byelaw 10 to 3 metres from the nearest outside edge of the pipe. However, in other situations, a relaxation to 6 metres may be more appropriate. All approved hedging/bushes must be kept cut so they are no more than 1.80m tall.

- ***Hard landscaping (e.g. patios)***

Where appropriate, relaxations of Byelaw 10 may be granted to the same distances as shown above for hedges / shallow-rooted bushes. However, with open drains, hard landscaping must slope away from the watercourse, to avoid possible saturation of the drain bank by surface water run-off.

The only situation when the above policy does not apply is with new residential developments where hedging is to be used as the boundary treatment. In this case, the Board's general approach to residential developments (see section 3.1(r)) prevails, and the boundary hedge must be 9 metres from the drain brink or nearest outside edge of the pipeline.