



**Lindsey Marsh Drainage Board**

*Water Management Consortium*

# **ADVICE NOTE**

## **AN03:**

# **ENVIRONMENTAL CONSIDERATIONS**

<b>REVISION RECORD</b>				
<b>Version</b>	<b>Date</b>	<b>Description</b>	<b>Originator</b>	<b>Checked</b>
	09.08.11	DRAFT	AMD	--
1	27.09.11	FINAL – BOARD APPROVED	AMD	DJS
2	09.07.13	New logo added	LSQ	DJS
3	23.04.18	Amendments	TR	DJS
4	06.02.2019	Environmental Legislation	LSQ	CJM

The Board reserves the right to update or change this living document at any time without notice.

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## **ENVIRONMENTAL DUTIES**

Legislation places duties on the Board when enacting its general role and supervisory functions in relation to the environment. The Legislation includes the following acts and any subsequent amendments:

**Wildlife and Countryside Act 1981**

**Land Drainage Act 1991**

**Water Environment (Water Framework Directive) (England and Wales Regulations 2017)**

**Natural Environment and Rural Communities Act 2006**

**The Eels (England and Wales) Regulations 2009**

**Conservation of Habitats and Species Regulations 2017**

Each consent application made to the Board will be assessed for its impact upon the environment. If a consent is likely to result in a significant loss of wildlife habitat it will be expected as a minimum that an equivalent, or preferably larger, amount of suitable replacement habitat is provided elsewhere, at the applicant's expense. The environmental considerations part of the application form should provide sufficient details to allow the Board to determine the environmental impact of the application.

Where replacement habitat is required the Board recommends habitat replacement schemes are considered and implemented at the earliest opportunity to allow them to become fully established before the consented activity is commenced

The Board aims to maintain or increase wildlife habitat when carrying out its own works on watercourses. Therefore, where applicants are unable to provide replacement habitat the Board may, by agreement, be able to undertake additional works on nearby watercourses at the applicant's expense.

The advice given by the Board in the remainder of this document should be considered by applicants when considering the environmental impact of their proposals:

## **HABITAT**

### **SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)**

The SSSI designation includes sites protected by European legislation and International Treaties (Special Area of Conservation, Special Protection Area and Ramsar Sites). The Board has a statutory duty under Section 28 of the Wildlife and Countryside Act 1981 to consult with Natural England if a consent application may impact on a Site of Special Scientific Interest, this will include any relevant application within an SSSI Impact Risk Zone.

### **TREES**

Trees may be protected by Tree Preservation Orders (TPO) made by a Local Planning Authority (LPA). TPOs protect specific trees or particular woodland from deliberate damage and destruction. Applicants should contact the LPA before undertaking work involving tree management to ascertain if a TPO is in force affecting their proposals for the consented works.

### **HEDGES**

Hedges may be protected by The Hedgerow Regulations 1997. A separate consent from the Local Authority may be required before any hedgerow covered by this regulation can be removed.

## **SPECIES**

### **BIRDS**

All birds are protected whilst nesting. Therefore, work that could affect nesting birds should generally be avoided during the nesting season (March to August).

### **WATER VOLE**

The Water Vole and its habitat is covered by UK legislation and is likely to be present in many Board maintained and private watercourses. Those proposing works that may disturb the bank of a watercourse are advised to follow guidance given in the Water Vole Mitigation Handbook published by the Mammal Society.

If water voles are present, displacement can only be undertaken under a licence, normally the Class Licence (to facilitate development activities) would be used, this only allows displacement to begin during the period 15<sup>th</sup> February to 15<sup>th</sup> April, inclusive.

The Water Vole Mitigation Handbook recommends two survey visits, one in the first half of the season (mid-April to the end of June) and one in the second half of the season (July to September inclusive), with visits undertaken at least two months apart. In some cases, it may be possible to justify an assessment based on a single visit if a precautionary approach is followed.

Special licences are required for work not covered by the Class Licence and for any activities that require the capture and release of water voles. Translocation of water voles requires a licence and suitable receptor sites to be available. Normally these will have been specially created at least 12 months before needed. Mink control should be considered to ensure water vole mitigation is successful.

## **BATS, GREAT CRESTED NEWTS AND OTTERS**

These species are covered by both UK and European legislation. The Board advises that any proposals affecting these species are almost certain to require professional ecological input and assessment.

The Board also advise that a licence may be required prior to surveying for these species. Natural England's standing advice should be consulted for any work with these species.

Developers are also required to consider the impact that proposals may have upon the wildlife corridor. For example, a new culvert beneath a carriageway may require a mammal ledge or alternative conduit to be included in the proposal to ensure the safe passage of mammals and reduce road kill incidents.

## **EELS**

The Eel is covered by UK legislation and is likely to be present in many watercourses within the Board's District. The consent of the Environment Agency is required before a structure that is likely to amount to an obstruction to the passage of Eels is constructed or maintained.

The Environment Agency can require an Eel pass to be installed, modified and maintained in the future. The Board will liaise with the Environment Agency and advise the applicant if a separate consent from the Environment Agency is required.

## **FURTHER GUIDANCE**

The Board has the following documents available:

- Consent Application Form
- Lindsey Marsh Drainage Board Byelaws
- Planning and Byelaw Policy

The Board has also produced a series of other advice notes including:

- AN01: Buildings, Structures, Planting and Fencing
- AN02: Culverts and Bridges
- AN04: Stability of Garden Fences Close to Board Maintained Watercourses
- AN05: Service Crossings
- AN06: Surface Water

The above documents are available from the Board's office during normal working hours or alternatively, can be downloaded electronically from <http://www.wmc-idbs.org.uk/LMDB/Services/byelaws-and-planning.aspx>

If you would like to discuss any of the information in this document please contact the Board's Environmental Officer or alternatively the Board's Planning and Byelaw Officer.

If you would like to discuss or associated advice notes please do not hesitate to contact the Board's Planning and Byelaw Officer using the details provided below.

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