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FLOOD DEFENCE CONSENTING

(formerly Land Drainage Consenting)



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Before carrying out works in or around any watercourse, an application must be made to the relevant consenting authority. For 'Ordinary Watercourses' in Oxfordshire the consenting authorities are the relevant District Councils, who do the work on behalf of Oxfordshire County Council. There is one exception of Cherwell District Council, which is dealt with by Oxfordshire County Council.

Work **MUST NOT** start before written consent has been issued, or legal action could follow.

What is an Ordinary Watercourse?

An Ordinary Watercourse is any watercourse not shown as a 'Main River' on the map here: <http://www.oxfordshirefloodtoolkit.com/risk/>

A 'watercourse' here means any natural or artificial channel above or below ground through which water flows. This therefore includes rivers, brooks, ditches, mill streams and culverts (but not canals). The channel can be above or below ground and does not have to contain water all year round.

Who issues consents?

For work on Ordinary Watercourses in Oxfordshire, consents are dealt with by District Councils on behalf of Oxfordshire County Council, with the exception of Cherwell District Council which is dealt with by Oxfordshire County Council.

Consent for work on Main Rivers must be obtained from the Environment Agency: <https://www.gov.uk/flood-defence-consent-england-wales>

Timescale and Costs

The statutory consent fee of £50 for each structure/temporary works notice must be sent in with the application.

A decision will be made within 2 months from the date a completed and accepted application is received.

What does the Law say?

Until the proper procedure has been completed, and written consent has been issued, no one is allowed to:

- Erect, raise, or alter any mill dam, weir or similar obstruction to the flow of an ordinary watercourse
- Erect, or alter, a culvert in an ordinary watercourse in a way that could affect the flow of water.

The law applies to temporary works, such as putting up scaffolding for bridge maintenance, as well as permanent changes.

Sometimes special conditions will be attached to the consent issued. For example, the work will be allowed only if it is done in certain months of the year, to avoid the breeding season of protected species.

As well as the above consent, some types of work on a watercourse may need planning permission from the relevant District Council (the organisation to whom the property owner pays their Council Tax).

APPLICANTS NEED TO ALLOW SUFFICIENT TIME FOR ALL THE NECESSARY CONSENTS AND PERMISSIONS TO BE PROCESSED.

Before applying

It is strongly recommended that the relevant District Authority or Oxfordshire County Council (for Cherwell District) is contacted for an informal discussion of the kind of work proposed BEFORE applying for formal consent. For example, current best practice regarding culverting means that:

- Culverts should be avoided wherever possible, because they can increase the risk of flooding, as well as having undesirable impacts on wildlife, human safety and the visual appearance of an area
- A culverting application will usually be approved only if there is no reasonably practicable alternative, or if the risks mentioned above are very minor in nature and the alternative solutions would be unreasonably expensive.

This means that an applicant risks having their application turned down if they don't show they had looked at the costings for solutions other than a culvert.

Early discussion can help to prevent any misunderstandings, as well as avoiding the costs involved in making a second application. Always read the Guidance Notes carefully before completing the form.

All Applicants Must:

- Prove the proposed structure is necessary
- Prove that reasonable and practicable alternatives to any culvert (such as an open span bridge or diversion of the watercourse) have been considered
- Provide information to show that the proposed structure will not increase flood risk
- Demonstrate that the proposed structure will either have no detrimental effect on wildlife/habitats, or that suitable mitigation measures will be undertaken
- Consider the public safety aspects of carrying out works (structures in watercourses can pose a danger to members of the public)
- Include a separate method statement of how the proposed work will be carried out
- Accept sole ownership and responsibility for maintenance of the structure(s) involved.

Refusal

AN APPLICATION MAY BE REFUSED IF THE RELEVANT DISTRICT AUTHORITY OR OXFORDSHIRE COUNTY COUNCIL (FOR CHERWELL DISTRICT) REGARDS THE WORK BEING APPLIED FOR IS UNNECESSARY, OR IF INSUFFICIENT INFORMATION IS PROVIDED WITH THE APPLICATION.

FAILURE TO OBTAIN A FLOOD DEFENCE CONSENT PRIOR TO CARRYING OUT THE WORKS MAY BE A CRIMINAL OFFENCE.

Further Information & Contacts

Application forms and guidance notes can be found here:

<https://www.oxfordshire.gov.uk/cms/public-site/consenting-watercourses>

To have a pre-consent discussion, or to raise any queries, contact your local District Council or for queries in the Cherwell District contact Oxfordshire County Council.

Additional information on national consenting procedures can be found here:

<http://www.gov.uk/flood-defence-consent-england-wales>



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