

STAFFORDSHIRE LOCAL FLOOD RISK MANAGEMENT STRATEGY

2024 Update

Local Policies in relation to Flood Risk Management

1. Policies in Relation to the Flood and Water Management Act

The Flood and Water Management Act¹ 2010 provides a regulatory framework for the effective management of flood risk. It outlines the duties and powers for a number of Risk Management Authorities (RMAs), including Lead Local Flood Authorities (LLFAs), the Environment Agency, Water Companies and Internal Drainage Boards (IDBs).

This section contains specific policies in relation to Staffordshire County Council's responsibilities as LLFA under the Flood and Water Management Act 2010. Each of the following sub-sections contains an extract from the relevant part of the Flood and Water Management Act 2010 where relevant, followed by policy information explaining our approach to fulfilling our Flood Risk Management responsibilities.

1.1. Policy 1: Investigation and Reporting of Flood Events

When Staffordshire County Council becomes aware of internal property flooding, it will endeavour to investigate the source of the flooding and notify the relevant organisations which have specific roles and responsibilities. After a major flood event the council will prioritise its approach based on the number of properties, businesses and infrastructure affected.

¹ [Flood and Water Management Act 2010](#)

This policy relates to Section 19 of the Flood and Water Management Act 2010, which states:

On becoming aware of a flood in its area, a Lead Local Flood Authority (LLFA) must, to the extent that it considers it necessary or appropriate, investigate:

- Which Risk Management Authorities (RMAs) have relevant flood risk management functions, and;*
- Whether each of those Risk Management Authorities (RMAs) has exercised, or is proposing to exercise, those functions in response to the instance(s) of flooding.*

Where an authority carries out an investigation it must:

- Publish the results of the investigation, and;*
- Notify any relevant RMAs.*

Following major flood events, it can often be difficult to identify the source of the flooding and with whom actions to help resolve flooding issues may lie. The purpose of Section 19 of the Flood and Water Management Act² 2010 is to ensure that, where this uncertainty occurs, LLFAs assist with identifying the source(s) of flooding and notifying those Risk Management Authorities (RMAs) which have responsibilities.

When Staffordshire County Council becomes aware of internal property flooding, (classed as 'over the doorstep' level in line with other RMAs), it will endeavour to investigate the source of the flooding and notify the relevant RMAs which have specific responsibilities.

Appropriate records will be kept to monitor the frequency of these problems. These actions will support the justification for flood risk management schemes and other relevant flood risk management actions.

Following major flood events, when the Council is likely to have received a large volume of enquiries, it may not be possible to carry out an investigation into every reported flooding incident. On these occasions we will prioritise our response based on the associated risk to properties and infrastructure.

² [Section 19 of the Flood and Water Management Act 2010.](#)

The Council will undertake a formal investigation for locally significant flood events when one or more of the following criteria are met:

- Five or more residential properties are reported to have been internally flooded during a single flood event in one location; or
- Two or more business properties are reported to have been internally flooded during a single flood event in one location, or;
- One or more items of critical infrastructure are reported to have been adversely affected during a single flood event in one location. Or;
- One or more residential properties are reported to have been internally flooded during a 5-year period in one location.

In addition, to meet the LLFA statutory duties for reporting the above occurrences, the following information will be published on the Staffordshire County Council website³.

Flooding Incident		Flood Risk Management Authorities	
Date	Location	With functions	Functions exercised or planned to be exercised

Figure 1-1: Example of Section 19 Flood Investigations Register

1.2. Policy 2: Register of Structures and Features (Asset Register)

The council will take a risk-based approach to prioritise the collection of data and will use asset information to help raise awareness of the assets that exist to improve community resilience.

³ [Flood studies and investigations](#). Staffordshire County Council.

This policy relates to Section 21 of the Flood and Water Management Act 2010, which states:

A LLFA must establish and maintain-

- *A register of structures or features which, in the opinion of the authority, are likely to have a significant effect on a flood risk in its area, and;*
- *A record of information about each of those structures or features, including information about ownership and state of repair.*

Central to Staffordshire County Council's improved management of local flood risk is a better understanding of the location and condition of important flood defence and drainage assets, both on the surface and below ground. The age and condition of drainage infrastructure varies greatly, from culverts originally constructed more than 100 years ago, to purpose-built sewers and flood defence systems designed to modern day standards. The availability of records for much of the older drainage assets is limited, particularly regarding culverted watercourses. Given the size of Staffordshire County Council's operational area, the lack of available records poses a major challenge in relation to the management of flood risk.

The purpose of Section 21 of the Flood and Water Management Act⁴ 2010 is to ensure that a register of assets that may have a significant effect on flood risk is maintained. Progress has been made on the asset register in the time proceeding this update, and there are a number of old plans sourced, CCTV inspections undertaken, new assets created from schemes and new development, as well as records from other RMAs. However, it should still be recognised that this is an ongoing task to populate the asset register with this missing information.

To help continue with this task we previously undertook an assessment of communities at risk of flooding across Staffordshire (see Maps 6 and 7) and this will be used to prioritise future data collection work. In addition, when undertaking an investigation after a flood event or drainage problem, the Council will continue to obtain information in relation to any important flood risk assets that have not previously been recorded within the asset register. The Council will also continue to update the asset register with details of any flood defence schemes undertaken

⁴ [Section 21 of the Flood and Water Management Act 2010](#)

by the Council as LLFA and any drainage schemes undertaken by the Council as Highway Authority.

In situations where asset information is required to determine suitable drainage outfalls for new development, the Council may require the prospective developer to undertake appropriate survey work and supply this information to us so that our records can be updated.

To assist with planning for flood events, it is crucial that RMAs, emergency responders and communities fully understand the interactions and associated responsibilities of the drainage systems and flood defences in their area. The asset register will be used to inform operational response giving specific information on the location of important drainage and flood defence assets in a particular area and maintenance responsibilities.

It is important that the Council engage with communities to raise awareness of drainage and flood risk assets which are local to them. With a better understanding of the flood risk and the location of important drainage assets, we can help communities to be better prepared for future flood events. This may also encourage communities to take a pro-active role in the monitoring and maintenance of drainage and flood risk management assets.

For the above reasons, the Council as LLFA will obtain and share all available flood defence and drainage asset information from other RMAs and organisations whenever possible with community groups and update this regularly.

Where Sustainable Drainage Systems (SuDS) form part of new developments, this data will be included in the Asset Register.

Currently, the Asset Register is held within Geographical Information Systems (GIS). This means that it can also be viewed in the context of a wide range of other information, such as environmental and land ownership data. Given that much of the Asset Register will be made up from third party data, which may not always be up to date, this information will not be available online. However, the Asset Register will be available for public viewing, at all reasonable times, on request.

1.3. Policy 3: Designation of Structures and Features

The council will consider the need to designate structures or features on a case-by-case basis taking the implications of property flood risk in to account.

This policy relates to Schedule 1 of the Flood and Water Management Act 2010, which includes:

Subject to conditions, a designating authority may designate a structure or a natural or man-made feature of the environment where it thinks the existence or location of the structure or feature affects flood risk.

A person may not alter, remove or replace a designated structure or feature without the consent of the responsible authority.

As part of the review of the 2007 floods it was identified that certain structures or features have the ability to affect flood risk. This can be either intended or coincidental depending on the nature or location of the asset. An example of this is a boundary wall acting as an informal flood defence by redirecting surface water away from properties which would otherwise flood. In this example, whilst the presence of the wall would clearly have an unintended but beneficial purpose in terms of flood risk, there has historically been no legal means through which to prevent its removal or alteration by its owner in the future.

To address this issue, Schedule 1 of the Flood and Water Management Act⁵ 2010 has introduced new powers that enable us to formally designate structures or features which can affect flood risk. By designating these assets, any alteration or removal by existing or future owners will require our formal consent. We will consider the need to designate existing structures or features on a case-by-case basis taking the implications of flood risk in to account.

⁵ [Schedule 1 of the Flood and Water Management Act 2010](#). 2010

2. Policies in relation to the National Planning Policy Framework (NPPF)

2.1. Policy 4: the Role of the Lead Local Flood Authority in the Consideration of Proposals for Sustainable Development

The council will seek to deliver Sustainable Drainage Systems (SuDS) as part of new development in its roles as statutory consultee for major planning applications and non-statutory consultee for non-major planning applications.

This policy relates to House of Commons: Written Statement (HCWS161) made by The Secretary of State for Communities and Local Government (Mr Eric Pickles) on 18 Dec 2014.

...we expect local planning policies and decisions on planning applications relating to major development... to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate.

Working together with Shropshire Council and a number of other LLFAs, Staffordshire County Council have produced local guidance on the use of SuDS by means of the Local SuDS Handbook. The Handbook supports, and should be read in conjunction with, the Non-Statutory Technical Standards for SuDS document that was published by Defra in March 2015.

The Handbook sets out when SuDS should be considered as development proposals progress and what information is required in order for us to advise the Local Planning Authority as consultees. It also sets out Local Standards for SuDS that we expect developers to meet.

Preference will always be given to truly sustainable drainage systems which have been considered from the outset and which demonstrate how the management train approach has been used to manage surface water and pollutants at source. The adequate provision for ongoing maintenance for the lifetime of a development will also be closely scrutinised.

The Local SuDS Handbook is available on the Staffordshire County Council website⁶.

⁶ [Sustainable Drainage Systems \(SuDS\) Handbook](#). 2017. Staffordshire County Council.

3. Policies in Relation to the Land Drainage Act

The Land Drainage Act⁷ 1991 provides the regulatory framework for the effective management of land drainage. It outlines the duties and powers for a number of bodies, including LLFAs, the Environment Agency, IDBs and Borough and District Councils in relation to overseeing the responsibilities of riparian landowners.

The Environment Agency's regulatory functions relate only to the Main River network and IDBs have similar responsibilities for the ordinary watercourses within their operational areas. The regulation of all other land drainage systems within Staffordshire rests with Staffordshire County Council.

This section contains specific policies in relation to Staffordshire County Council's responsibilities as LLFA under the Land Drainage Act 1991. Each sub-section contains an extract from the relevant part of the Land Drainage Act 1991, followed by policy information explaining the intended approach to fulfil the Council's regulatory responsibilities.

3.1. Policy 5: Maintaining, Improving or Constructing Works to Ordinary Watercourses

Where appropriate, the council will use its permissive powers to construct flood alleviation schemes that reduce the risk of flooding to properties. The council will work with partner organisations, community groups and landowners to look for innovative cost-effective solutions and seek funding for schemes wherever possible.

⁷ [Land Drainage Act 1991](#)

This policy relates to Section 14 of the Land Drainage Act 1991

...every local authority acting so far as may be necessary for the purpose of preventing flooding or mitigating any damage caused by flooding in their area... shall have powers to:

- *Maintain existing works;*
- *Improve any existing works;*
- *Construct new works.*

Section 14 of the Land Drainage Act⁸ 1991 gives Staffordshire County Council the permissive powers it requires to carry out improvement and construction works on request from the District Council for Ordinary Watercourse works. Primarily, and where appropriate, the Council as LLFA will use these powers to assist in the undertaking of flood alleviation schemes to reduce the risk of flooding to properties.

The successful delivery of these projects will require innovative ways of working and funding, based on teamwork and trust. Collaborative working and joint funding across partner organisations will be key to maximising the return on investment in flood risk management.

Defra's introduction of the partnership funding approach, in 2011, means that the ability of LLFAs to leverage contributions (both financial and in kind) from local partners or developers could make the difference in progressing locally important projects.

It may be possible to fully fund some projects using only the mainstream dedicated flood risk funding sources such as Flood and Coastal Erosion Risk Management Grant in Aid (FCERM GiA) or Local Levy. However, there will be other projects which require a range of funding sources to make up the total sum required.

The Council will prioritise where funding is directed based on a number of factors and aim to attract additional funding in line with this prioritisation. Funding is typically provided by Central Government in the form of Flood Defence Grant in

⁸ [Section 14 of the Land Drainage Act 1991](#)

Aid (FDGiA) and/or Local Levy funding provided by Regional Flood and Coastal Committees. Schemes generally must meet certain cost benefit ratios in order to be awarded funding.

In the delivery of flood risk management schemes, the Council will aim to work collaboratively with landowners and community groups to deliver the most cost-effective solutions. However, in some cases, it may become necessary to use these powers to deliver schemes that will provide benefit, in flood risk terms, to properties and infrastructure, should landowners be uncooperative.

3.2. Policy 6: Consenting Activities relating to Ordinary Watercourses

The council will seek to preserve the natural state of land drainage systems and minimise the number of man-made alterations to watercourses. Any activity which may affect the flow of an ordinary watercourse will require the council's formal consent.

This policy relates to Section 23 of the Land Drainage Act 1991

No person shall:

- *Erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction, or;*
- *Erect any culvert that would be likely to affect the flow of any ordinary watercourse or alter any culvert in a manner that would be likely to affect any such flow,*

Without the consent of the drainage authority concerned.

Based upon experience to date unregulated work affecting watercourses has, in many cases, been carried out in a manner which has resulted in increased flood risk. Typical issues include:

- Flooding due to inappropriately sized, or poorly constructed, culverts;
- The inability to carry out maintenance due to access restrictions;

- Increased likelihood of blockage due to poor design (e.g. blockage of trash screens, build-up of silt);
- A lack of understanding of riparian landownership responsibilities;
- A lack of records leading to accidental damage by third parties;
- A lack of inspection and monitoring of condition, or;
- Adverse effects to habitat, biodiversity and environment.

In view of this, and the purpose of Section 23 of the Land Drainage Act 1991⁹, we will seek to preserve the natural state of land drainage systems and minimise the number of man-made alterations to watercourses. Any activity which may affect the flow of an ordinary watercourse will require our formal consent. This applies to both temporary and permanent works.

We will, therefore, generally be opposed to the culverting of watercourses and the construction of in channel structures unless there is no reasonable alternative, e.g. where a new road or railway embankment is to cross a watercourse, the use of a culvert may be approved.

Staffordshire County Council would advise anybody intending to carry out works to an ordinary watercourse to contact the Council's Flood Risk Management Team for advice. Further details regarding the consenting procedure are available on our website for the regulation of ordinary watercourse¹⁰.

3.3. Policy 7: Enforcement Activities relating to Ordinary Watercourses

When an issue is raised, the council will take a risk-based approach to determine if enforcement action should be taken.

⁹ [Section 23 of the Land Drainage Act 1991](#)

¹⁰ [Regulation of ordinary watercourses - Staffordshire County Council](#)

This policy relates to Sections 21, 24 and 25 of the Land Drainage Act 1991

- ***Section 21: Enforcement of obligations to repair watercourses, bridges, etc;***
- ***Section 24: Contraventions of prohibition on obstructions etc. (powers to remove unconsented works);***
- ***Section 25: Powers to require works for maintaining flow of watercourse.***

Under common law, riparian land ownership is a legal term given to a landowner who owns land adjacent to a watercourse (river, stream, ditch etc.). To reduce the risk of flooding, riparian landowners are responsible for maintaining the normal flow of water through their land and obtaining prior approval before carrying out any alterations which may affect the normal flow of water.

The Land Drainage Act 1991, particularly Sections 21¹¹, 24¹² and 25¹³ of the Act, provides Staffordshire County Council with permissive powers to carry out regulatory activities on ordinary watercourses. The Council may undertake enforcement action where there is a:

- requirement to carry out repairs;
- requirement to remove or modify unconsented works, or;
- requirement to undertake routine maintenance to maintain the normal flow of water.

Due to the permissive nature of our powers under the Land Drainage Act 1991 we will, when an issue is brought to our attention, take a risk based approach when determining whether enforcement action should be taken. There are many factors that may influence our decision, but key issues include:

- The potential for internal flooding of residential / commercial buildings;
- The potential for flooding of important infrastructure, and;

¹¹ [Section 21 of the Land Drainage Act 1991](#)

¹² [Section 24 of the Land Drainage Act 1991](#)

¹³ [Section 25 of the Land Drainage Act 1991](#)

- The potential for adverse environmental effects.

We will endeavour to resolve the majority of issues through cooperation with riparian landowners, avoiding the need for enforcement procedures to be taken.

In addition to powers under the Land Drainage Act 1991, Staffordshire County Council as Highway Authority, has powers under the Highways Act 1980 in relation to flooding and drainage affecting the public highway. There are also common law responsibilities for landowners to maintain roadside ditches and watercourses. See Roles and Responsibilities document.

4. Policies in Relation to Environmental Opportunities

4.1. Policy 8: Environmental Opportunities

The Council will seek to improve the local environment when delivering flood alleviation schemes, work with natural processes and take a catchment-based approach when considering suitable options for flood mitigation. The Council will also seek to secure flood risk management benefits through ongoing and future programmes of work primarily aimed at improving our natural environment, enhancing our landscape and the wildlife it supports, improving water quality and securing our cultural heritage assets for the future.

The implementation of the Local Flood Risk Management Strategy (LFRMS) provides a significant opportunity to improve the natural, rural, and built environment (including earthworks and other archaeological remains). This includes helping to provide better environments for residents and businesses, as well as improving biodiversity, water quality and local habitats for wildlife and enhancing our landscape. This means ensuring that proposals:

- are sympathetic to local landscape character;
- preserve and enhance the habitat networks that support wildlife species;
- preserve our cultural and historical assets for the future, and;
- can adapt to future changes in climate and land use.

Environmental impacts will be considered as part of any flood risk management activity. An appropriate level of assessment will be made at every stage, starting with a strategic level of assessment for the LFRMS through to environmental considerations during scheme design and whilst considering SuDs proposed for new developments.

A catchment-based approach will be adopted when we are looking at how best to manage flood risk in an area. This includes considering how flooding can be reduced:

- at source e.g. through capturing and storing water upstream and/or increasing cover of woodland or other habitats which hold water and reduce run-off;
- at the pathway for flooding e.g. by building flood defences along a river or restoring a river to a more natural state to slow down flood flows, and;

- at the receptors themselves e.g. through direct works to protect people, properties, businesses, and agricultural land.

Historic approaches to water level management may also need to be considered e.g. through reintroduction of historic water meadows.

In taking a catchment-based approach we will also seek to work with others such as Parish and Town Councils, Staffordshire Wildlife Trust, The Trent Rivers Trust, Woodland Trust, Environment Agency, Natural England, English Heritage, National Farmers Union, etc. and through the Local Nature Partnership as well as community groups to secure a sustainable natural environment.