



North Somerset Levels Internal Drainage Board Policy Statement and Standing Advice to Local Planning Authorities and Developers. Aims, Objectives, Requirements, Standards and Fees.

Part 1 – Advice and Guidance

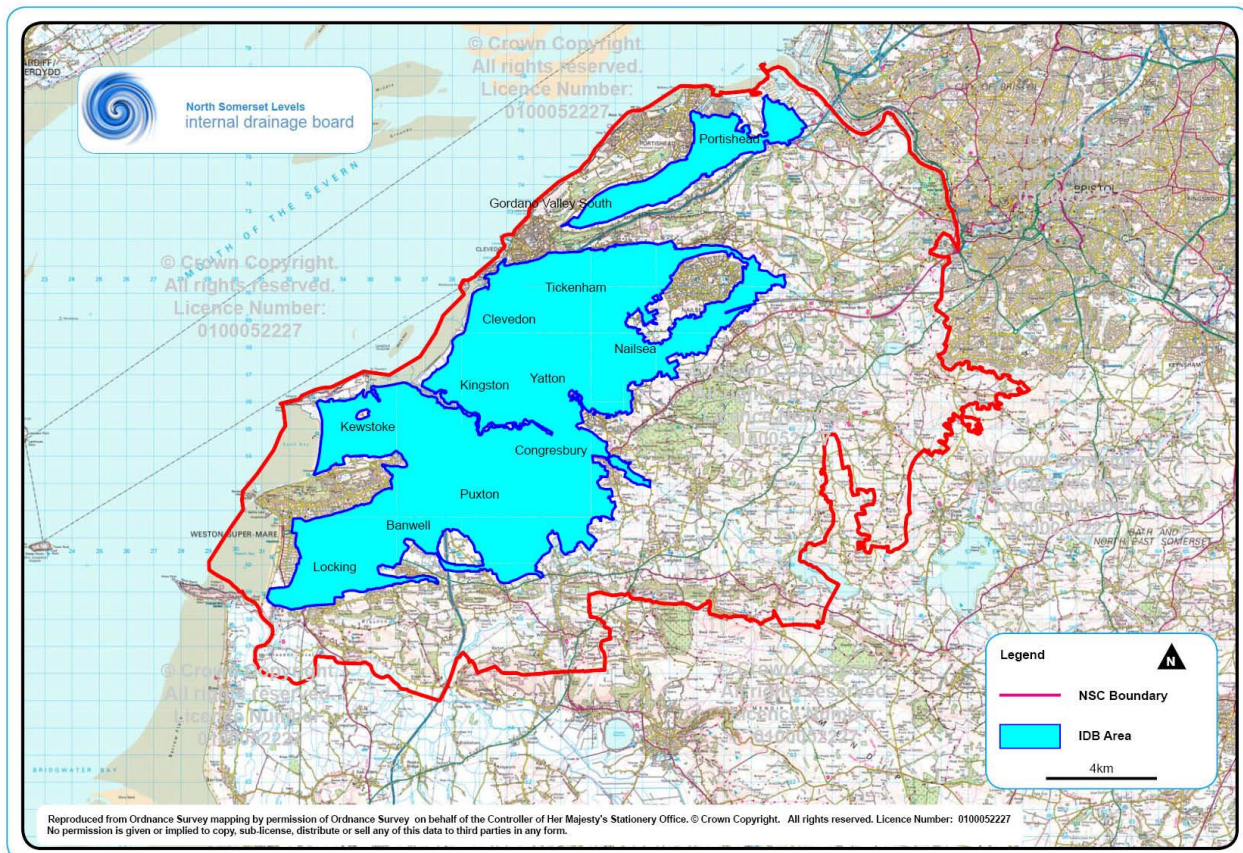
1.0 What is an Internal Drainage Board?

An Internal Drainage Board (IDB) is a statutory local public body with responsibilities for flood risk management, land drainage and the environment. An Internal Drainage Board is also classified as a Flood Risk Management Authority under the Flood and Water Management Act 2010.

Construction in or within a watercourse is likely to require a legal consent from the Board, which is referred to as Land Drainage Consent. This includes any construction within 9m of a watercourse and any surface water or treated effluent discharge into a watercourse in its District.

IDBs are established in areas of special drainage need under the Land Drainage Act 1991. They are required to exercise a general supervision over all matters relating to the drainage of land, and they have permissive powers to undertake maintenance and improvement works to the watercourse network.

The North Somerset Levels Internal Drainage Board operates entirely in the North Somerset Council area as indicated on the plan below.



2.0 Operating Framework

This advice is offered to ensure that local planning authorities and developers understand the Drainage Board's requirements when development is being considered within or affecting the Board's District.

We consider it is essential that the planning of all new development or redevelopment in areas of special drainage need shall take account of drainage when addressing flood risk matters. This should include robust arrangements for the management and maintenance of infrastructure for the lifetime of the development.

Following a Ministerial Written Statement (Sustainable drainage systems: Written statement - HCWS161), in England from 6 April 2015, local planning policy and decisions on Major Developments (10 dwellings or more; or equivalent non-residential or mixed development) are expected to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. Extracts from the Written Statement are below:

“In considering planning applications, local planning authorities should consult the relevant lead local flood authority on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. The sustainable drainage system should be designed to ensure that the maintenance and operation requirements are economically proportionate.”

“For avoidance of doubt this statement should be read in conjunction with the policies in the National Planning Policy Framework. This statement should be taken into account in the preparation of local and neighbourhood plans, and may be a material consideration in planning decisions.”

We expect the planning authority to consult with us regarding development within or affecting the Board's area. As a non-statutory planning consultee, the Board will make representations to the planning authority on planning matters when consulted and will endeavour to operate within the timescales requested.

However, the Board will ultimately control the impacts of development on drainage and flood risk standards within the Board's District through its consenting and enforcement powers under the Land Drainage Act 1991 through Section 23 (Prohibition on obstructions etc. in watercourses) and Section 66 (Powers to Make Byelaws)

Section 23 of the Land Drainage Act 1991

No person shall—

- (a) 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
 - (b) erect a culvert in an ordinary watercourse, or
 - (c) alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse,
- without the consent in writing of the drainage board concerned.

Byelaws under section 66 of the Land Drainage Act 1991

The byelaws that are most applicable to development are:

#3. Control of Introduction of Water and Increase in Flow or Volume of Water

No person shall, without the previous consent of the Board, for any specific purpose, by means of any channel, siphon, pipeline or sluice or by any other means whatsoever, introduce any water in to the District or, whether directly or indirectly, increase the flow or volume of water in any watercourse in the District.

#10 No Obstruction with 9 Metres of the edge of the Watercourse

No Person without the previous consent of the Board shall erect any building or structure, whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where the watercourse is enclosed within 9 metres of the enclosing structure.

Others such as #6, #14, #15 and #17 may also be applicable.

The full list can be found here: <http://www.nslidb.org.uk/Assets/NLSIDB%20Byelaws.pdf>

Consent under Section 23 has a statutory two months period for determination, for Section 66 there is no statutory period for determination but the two month period is aimed for.

The failure to obtain a Land Drainage Consent prior to carrying out the works may be a criminal offense. Any person acting in contravention of any of the Board's Byelaws, or Section 23 of the Land Drainage Act 1991, may be liable, on conviction, to a fine of up to £5,000, and to a further fine of up to £40 for every day on which the contravention is continued after conviction.

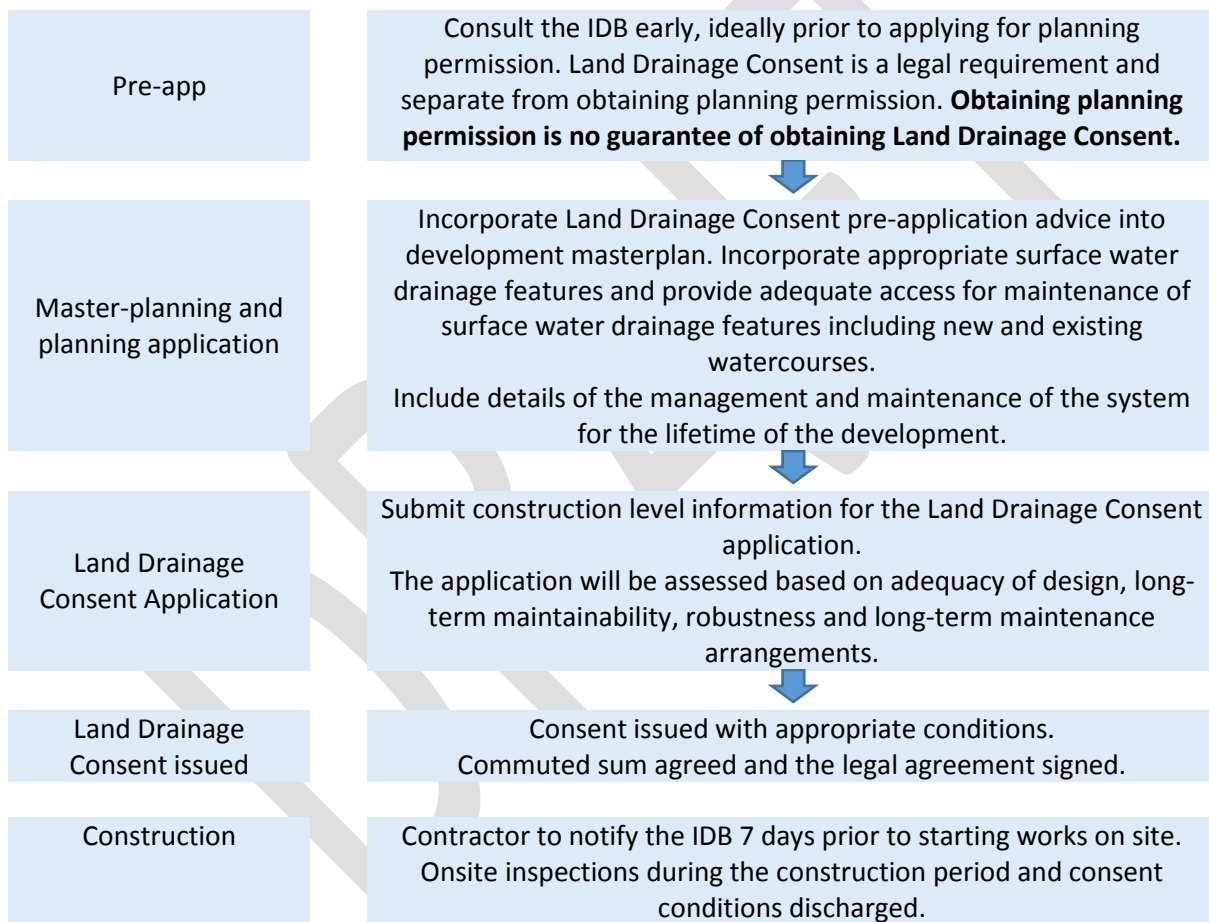
Under Section 24 or 66 of the Land Drainage Act 1991 the Board has the power (without prejudice to any other criminal proceedings) to take such action as may be necessary to remedy the effect of the contravention or failure to obtain consent, and to recover the expenses reasonably incurred by it in so doing from the person in default.

The Board can provide pre-application advice to developers before planning or land drainage consent applications are submitted. We will charge for this advice in accordance with the schedule of rates approved by the Board at that time. The current schedule is included within this standing advice document but will be varied from time to time and will be included within a pre (or post) application advice agreement to be signed by the developer prior to any advice being given. The Board will invoice charges for this advice retrospectively on a monthly basis.

This policy and standing advice will be applied by the Board where it exceeds national or other locally agreed standards and that where no specific advice is provided within this document or through consultation, any relevant national standards will be applied by the Board.

For those areas outside of the IDB District, but still within the catchment area, where impermeable areas are increased, there is the potential for increased runoff, flow and volume of surface water to enter into the IDB District. Ensuring flood risk and drainage standards are not reduced as a consequence of these developments is a primary consideration for IDBs.

Land Drainage Consent application flow chart



3.0 Flood Risk, Drainage and Operational Aims and Objectives

The Board’s principal concern is to ensure that where development is proposed, it is safe from flooding and will not increase flood risk or reduce drainage standards that already exist. The ability to undertake maintenance of flood risk and drainage infrastructure and channels is an important aspect of achieving this goal.

We require the following objectives to be satisfied.

- **Objective 1** - To ensure that suitable flood risk and drainage standards are created within developments and where necessary in the wider catchment(s) through the use of suitable drainage infrastructure and

adequate conveyance and control. Developments should not increase flood risk or cause any deterioration to the wider catchment(s).

- **Objective 2** - To ensure that where flood risk and drainage problems already exist within the relevant catchment(s) the proposed development(s) will where possible, contribute to an overall reduction in flood risk.
- **Objective 3** - To ensure that sufficient storage volume exists for surface water runoff so that the required runoff rates can be achieved and any increased volume of surface water can be stored and managed to avoid increased flooding in the catchment(s).
- **Objective 4** - To ensure that drainage infrastructure of acceptable quality and longevity and which can be operated and maintained without the use of specialist equipment or resource hungry methods of working is provided.
- **Objective 5** - To ensure that adequate access for maintenance work is provided in accordance with the Board's Byelaws.
- **Objective 6** - To establish arrangements for ownership, operation, maintenance, repair and replacement which are clear and robust for the lifetime of the development.
- **Objective 7** - To ensure robust and sustainable funding mechanisms are in place such that no additional financial or resource burden is placed upon the Board or any other authority.

To do this a series of general requirements are set out below. Developers and planning authorities will be required to comply with these.

- **Requirement 1** - Any change of land use that will have an impact on surface water and land drainage will need to consider the future use of the watercourse network and the required standards of drainage and flood protection it will need to provide. Channels may need to be improved if runoff rates and volume are increased as a result of development and this work must be carried out by the developer or fully funded by contributions. Land use or channel changes should also consider the water quality impact to the overall catchment and introduce adequate mitigation where required.
- **Requirement 2** – The responsibility for the management and operation of the surface water and land drainage system once it leaves a major development shall endeavour to be passed to a public authority or drainage body on satisfactory completion of any works required. This will minimise the risk of failure of the system in future in having to rely on individual, private or riparian owners. Acceptance of new maintenance burdens agreed to by the Drainage Board must be fully funded by contributions to them.
- **Requirement 3** - In any new major development where the surface water piped drainage system or SUDs features outfalls to a watercourse maintained and operated by the drainage board the Board will provide continuity of drainage until it discharges to an Environment Agency Main River or to the sea. The drainage system or SuDS features should, where possible, contribute to overall water quality and environmental improvements and lead to no deteriorations in current conditions. Any necessary off-site improvement work carried out by the Board to enable this must be fully funded by contributions to them. The introduction of additional flow into the Board's District requires consent from the Board (Byelaw 3). Application forms and guidance can be found on our website. www.nslidb.org.uk
- **Requirement 4** - Any new drainage system designed must be sustainable and maintainable with future maintenance funding secured for the lifetime of the development, and the responsible party to maintain the system identified at an early stage so that the liability is understood and agreed. New maintenance burdens accepted by the Board must be fully funded by contributions to them.
- **Requirement 5** - In order to allow machinery to gain access to a watercourse to undertake maintenance, all watercourses should have a corridor of uninterrupted and undeveloped land of appropriate width on each side of the watercourse, rhyne or ditch. The widths required will vary depending on the size or importance of the watercourse. However, the Board's byelaws formed under the Land Drainage Act 1991

will require a consent to be granted from the IDB before construction of any sort or any feature is placed within 9m of any watercourse. (Byelaw 10). Application forms and guidance can be found on our website. www.nslidb.org.uk

- **Requirement 6** – Modifications to or construction of works within any watercourse must be consented by the Board under section 23 of the Land Drainage Act before they commence. Application forms and guidance can be found on our website. www.nslidb.org.uk
- **Requirement 7** - All flood risk management assets (including watercourses) require maintenance to fulfil their designed function for their design lifetime. In addition, to take account of predicted and acknowledged climate change. Any drainage channel or defence must allow a margin for future widening or raising.
- **Requirement 8** – Where multiple developments within the same catchment are planned, or encouraged through strategic development plans the planning authority and developers will be required to lead on the development of these plans in consultation with the IDB, to prepare a solution which, at worst has a neutral impact on flood risk and drainage standards. Where existing flooding problems exist, an overall improvement should be achieved.
- **Requirement 9** - Where the Drainage Board agree to implement strategic flood risk and drainage solutions these must be fully funded by contributions to them.

4.0 National Guides, Standards and Specifications.

Developers are expected to comply with current national standards and guidance as a minimum. Some of these are listed below.

- National Planning Practice Guidance,
- Non-statutory technical standards for sustainable drainage systems, March 2015
- Current edition of Sewers for Adoption,
- Civil Engineering Specification for the Water Industry
- CIRIA SuDS Manual (C753)
- CIRIA Culvert design and operation guide (C689)

5.0 Detailed Local Standards and Standing Advice

In addition to any national standards and guidance, where there is a need, and it is reasonable to do so the Board can set its own standards that exceed them.

In this regard, the Board has been a contributor to the West of England Sustainable Drainage Developer Guide, <https://www.n-somerset.gov.uk/my-services/planning-building-control/planning/planning-advice/documents-to-support-an-application/strategies/sustainable-drainage-strategy/> and it supports the principals promoted within it.

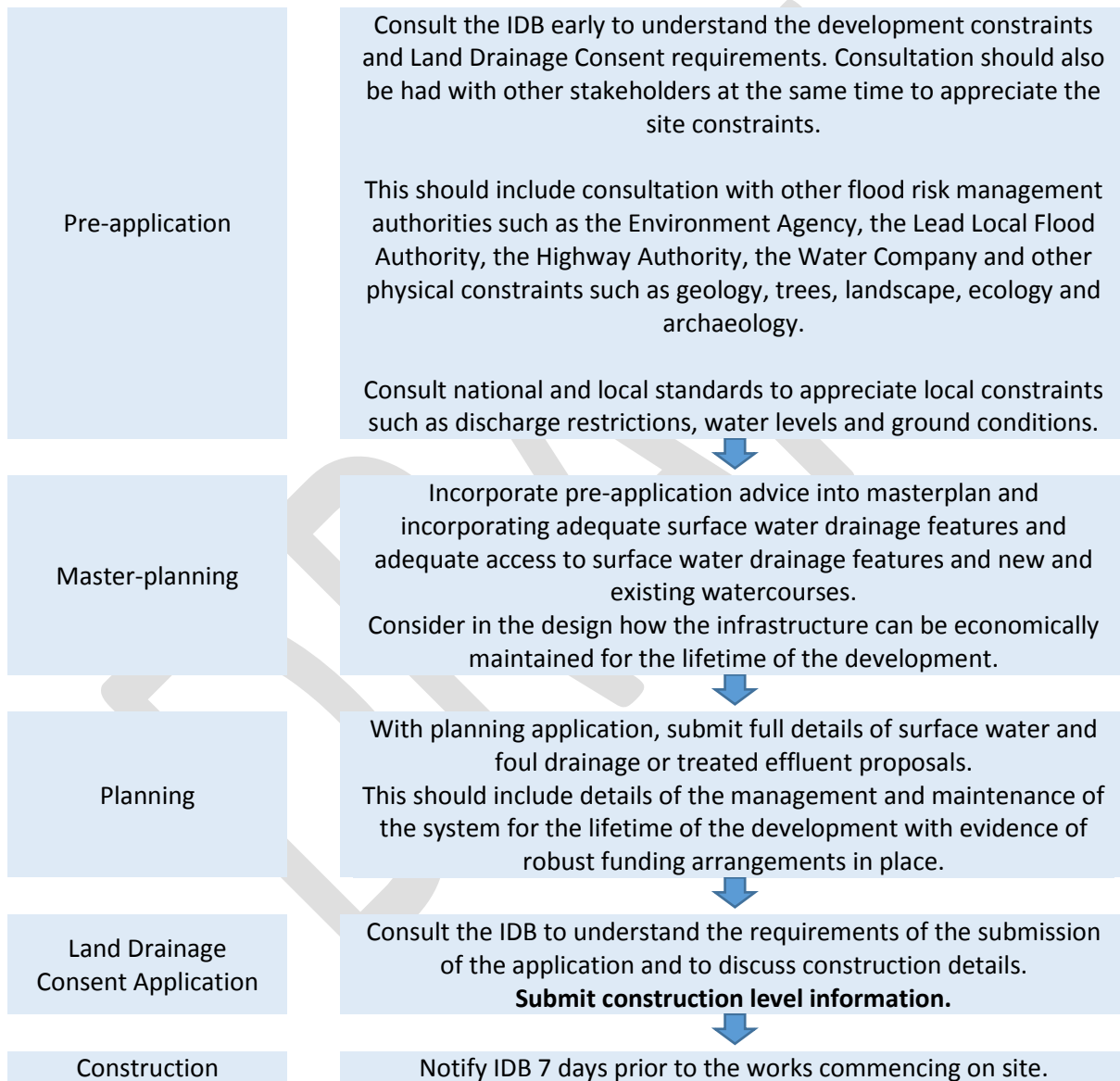
However, we also reserve the right to set site-specific requirements where necessary which may include the following;

- **Drainage Standards** – Runoff rates, volumes for storage, intelligent release/complex control, in consultation with the local sewerage undertaker.
- **Access** – Byelaw widths, features allowed or to be avoided, surfacing and kerbing, planting, fencing, kiosks, lighting, land ownership, easements and tracking routes, buildings.
- **Channels** – Size, shape, batters, bed level, maintainability
- **Structures** – size/shape/headwalls/screen design/construction standards/design life/invert levels, maintainability.
- **Operation and Maintenance** – O&M Manuals, ownership, tasks, frequency, funding, chargeable rates for maintenance.

Guidance has been prepared for the following subjects and should be referred to when undertaking initial site evaluations and due diligence, master planning and when determining an application:

- Maintenance and access requirements
- Culverting
- Surface water drainage
- Treated sewage effluent (where connection of foul sewage to the public system is not practicable in accordance with Building Regulations Part H)

Planning application flow chart



Part 2 – Charges and Fees

6.0 Drainage Board Charges and Fees.

Maintenance Costs

The Board are often considered by the local planning authority and developers to be an experienced and suitable option to undertake future operation and maintenance activities of new or improved drainage infrastructure required to enable development and growth. Furthermore where the drainage arrangements for new development have the potential to impact on other areas the Board may consider it essential that they lead in this regard.

The Board may consider the following options to fund their involvement in additional future maintenance activity.

- Payment of a commuted sum by the developer to fund future maintenance.
- Payment of an annual maintenance fee by the developer.
- Payment of an annual maintenance fee by a management company.
- Increased Special Levy paid by the Local Authority and funded by their increased income from the developed area.
- Cooperating on a Section 106 agreement.
- Contributions from Community Infrastructure Levy (CIL)

Commuted Sums for Maintenance

To determine commuted sums, we will calculate the present day sum of money required to provide a constant annual cash flow which is equal to the increased annualized maintenance costs over the duration of the agreement.

In this calculation, the Drainage Board will use an appropriate interest rate for all durations of any agreement, based on current best practice guidance. We will also need to agree how it is intended that maintenance and operation will be funded and delivered once the duration set in the agreement has expired. However, if the Drainage Board are asked to undertake the maintenance in perpetuity a period of 80 years will be used and a suitable anticipated interest rate over that period will be applied.

Annual Maintenance Fees

Developer

The Board may enter into a long-term legal agreement with a developer or other suitable parties (including a suitably constituted management company) to provide an annual income to the Board, in return for which the Board will undertake the agreed maintenance activity. The agreement must specify the sum to be paid, the tasks to be undertaken and their frequency. It must also specify the duration of the agreement and what arrangements will be made on its termination. Any agreement must take into account inflation and anticipated increases in cost over the duration. It must also be suitably underwritten by the developer to ensure that the funding is still provided should the developer fail to do so.

Management Company

The Board may enter into a long-term legal agreement with a management company or other suitable parties to provide an annual income to the Board in return for which the Board will undertake the agreed maintenance activity. The agreement must specify the sum to be paid, the tasks to be undertaken and their frequency. It must also specify the duration of the agreement and what arrangements will be made on its termination. Any agreement must take into account inflation and anticipated increases in cost over the duration. It must also be suitably underwritten by the developer to ensure that the funding is still provided should the developer fail to do so.

If as part of a management company proposal, an annual fee is to be levied on each property to raise the necessary funds, the Board will require a charge to be attached to each property through the land registry such that it will not be possible for the property to be sold in future if there are unpaid charges against it.

Alternatively, the Board would consider approving delivery of agreed operations and maintenance activity by a suitably constituted and funded management company.

Special Levy

If agreeable to all parties the Board may accept an annual increase in the special levy paid by the Local Authority to the Drainage Board equal to the additional annual expense of operating and maintaining new or improved drainage infrastructure associated with new developments.

Section 106

The Board may enter into suitable "Section 106" agreements to undertake operation and maintenance tasks as long as these are sufficient to cover any additional financial, other resource or liability burden placed upon the Board.

7.0 Consultation, Advice and Fees

The Board provides advice and comment on development and flood risk issues within their areas so far as these relate to their functions.

The provision of this information will be charged on a recovery basis to cover our costs over and above those covered by any statutory fees.

Applications for Land Drainage Consent which are compliant or with our Byelaws, and section 23 of the Land Drainage Act 1991, (or are otherwise acceptable) and the information provided in this Standing Advice will for each item be charged at the standard application fee set down in the Act

Where applications require further consideration by the Board, we are willing to provide further advice to the applicant. **However, this will be at a cost charged to the applicant.**

Our schedule of charges is attached to this advice as schedule 1, and it will be reviewed and updated from time to time.

Pre-Application Advice

The Board encourages pre-application discussion prior to planning proposals and Land Drainage Consent Applications so that drainage and flood risk management issues can be dealt with at the earliest possible stage. Such discussions would be able to highlight potential areas where the consent of the Board would be required and enable preliminary consideration to be given to the likely response to an application for such consent or for any planning permission on which the Drainage Board may comment before the planning application is submitted.

It would also, therefore, mean that an applicant would have the opportunity to prepare an application that meets the requirements of the Board before a formal planning application was submitted.

The early consideration and resolution of drainage and flood risk management issues will also mean that the Board's position on consent applications will be made known at an early stage and that fewer conditions relating to such issues would need to be imposed on planning permissions and that, where such conditions are imposed, they can be more quickly discharged. This will lead to a substantial saving of time and costs for applicants.

The costs of such pre-application discussions will be a cost to the Applicant, but as part of our wish to encourage such discussions, the Board is prepared to offer a discounted rate for our involvement in them.

It should be borne in mind by applicants that, where the Board is requested to advise on the discharge of a condition imposed on a planning permission (other than purely formally following satisfactorily concluded pre-application discussions) prior to formal submission, no discount will be offered, and applicants will be charged at the full rate for any such work.

Post-Application Advice

The Board is also willing to undertake post-application discussions with an applicant to resolve any outstanding issues. It must be borne in mind however that the application will already have been considered by the Board and

comments will have been made. It may then be more difficult to adjust the application to incorporate such comments.

Post application advice is charged at the full rate whereas pre-application advice is charged at a discount.

A planning permission which does not meet the Board's requirements may not be implementable because byelaw consent is refused by the Board.

From the point of view of providing comments to local planning authorities to meet their own targets and ensuring that the Board's own requirements are met, pre-application discussions are therefore encouraged and preferred.

Formal requests for Pre Application or Post Application advice must be submitted on the agreement forms which can be found on the Board's website at www.nslidb.org.uk

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