

Flood and Coastal Erosion Risk Management

Ordinary Watercourses Culverting Policy

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1. Introduction

The Flood and Water Management Act (FWMA) 2010 designated all county and unitary authorities as 'Lead Local Flood Authorities' (LLFAs) and introduced a number of new duties in relation to flood risk management. Sefton Council is the LLFA for the Borough of Sefton.

As the LLFA, Sefton Council is required to oversee and participate in the management of local flood risk, which includes the risk of flooding from surface water and from ordinary watercourses. Ordinary watercourses include every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and passage through which water flows and which does not form part of a main river.

Inappropriate culverting (piping) of ordinary watercourses can significantly increase flood risk to surrounding areas and lead to a legacy of issues relating to maintenance and enforcement.

Historically culverts have generally been used to facilitate development where a watercourse impacted on the site layout or density of housing. Occasionally they have been used to manage flood flows where a natural channel was believed to be inadequate. Culverts can get blocked and restrict flows and contribute to increased flood risk. These blockages are often only identified when flooding occurs. To reduce the risk of blockages inside a culvert a screen is often provided at the entrance to prevent the entry of debris. Unless the screen is well designed and kept clean it can cause blockages and also increase flood risk.

The detrimental effects of inappropriate culverting may include:

- loss of and adverse effects on environmental features and wildlife habitat;
- increased likelihood of flooding due to blockage;
- impacts of flooding moved elsewhere
- loss of floodwater storage;
- increased difficulties in providing for drainage connections;
- difficulties in the repair, maintenance and replacement of culverts;
- increased health and safety hazards;
- reduced groundwater recharge;
- increased difficulty in detecting the origins of pollution and in monitoring water quality.

2. Legislation

There is no legislation preventing the culverting of ordinary watercourses. However, there are other legislative implications and policy statements that are relevant.

2.1 Flood and Water Management Act 2010

Any changes to an ordinary watercourse must seek consent from the LLFA prior to works being undertaken as set out in the FWMA 2010. Sefton Council's position on consenting and enforcement is set out in the Ordinary Watercourse Consents and Enforcement Policy.

2.2 The Environment Act 1995

The Environment Act 1995 places both general and specific duties on Sefton Council relating to environmental, recreational and nature conservation matters. Sefton Council must be mindful of these duties in discharging all its functions, including those relating to flood defence and land drainage.

2.3 Natural Environment & Rural Communities Act 2006

This requires biodiversity to be taken into account in all local authority plans, policies, projects, permits and consents. This is known as the biodiversity duty.

2.4 Policy statement by the Chartered Institution of Water and Environmental Management 2007 on de-culverting watercourses

Specific benefits of de-culverting include:

- Reducing flood risk and creating balancing ponds to help reduce flooding downstream.
- Reducing maintenance and construction costs by using natural bioengineering techniques rather than concrete construction.
- Providing valuable wetland and/or aquatic habitat, aiding fish passage and significantly adding to the visual attractions of the area.
- Complimenting other urban regeneration initiatives and bringing commercial benefits such as enhanced image for properties.
- Using water motion to mask city noise and provide an atmosphere of quiet and calm.
- Giving a place a sense of identity, because each combination of landform, waterway, bankside buildings is unique.
- Offering educational and play opportunities for children, enhancing pedestrian and cycle routes and giving people a touch of the countryside and its seasons in the town.

3. Ordinary Watercourse Culverting Position Statement

- Sefton Council is strongly opposed to the culverting of watercourses and considers that it is beneficial for watercourses to remain open wherever possible for both flood risk management and environmental benefits.
- However, Sefton Council recognise that there may be rare instances where culverting is the only option.
- Sefton Council encourages the de-culverting or the restoration of culverted watercourses to open channels.

4. Ordinary Watercourse Culverting Policy

The FWMA requires anyone wishing to alter an ordinary water course to obtain consent from the Council prior to undertaking the work.

Sefton Council will only consider for approval an application to divert or culvert an ordinary watercourse if there is no reasonably practicable alternative. The application must:

- demonstrate that the alteration is in the overriding public interest.
- provide a reduction in flood risk.
- demonstrate that flood risk will not be transferred to another location
- demonstrate that the shortest length possible has been used
- include a detailed maintenance plan and schedule.
- include additional flood risk mitigation and /or wet habitat added to the system to compensate for the loss of functionality of the section to be altered.
- take into consideration and design for increases in flows, as may reasonably be foreseen, as a result of incremental development not requiring planning permission.
- take into consideration and design for increases in flows, as may reasonably be foreseen, as a result of increased development.
- take into consideration and design for increases in flows, as may reasonably be foreseen, as a result of climate change.
- demonstrate that a Licence to displace water voles for development works or a licence to displace water voles for work on flood defences, water courses or drainage systems has been granted
- secure any other permissions required
**further details are set out in appendix 1*

Sefton Council will not take on any responsibility for the maintenance of the altered sections of watercourse unless this is legally agreed with both parties.

5. Links to the development management process

There will some instances where sites for which planning permission, other permissions and pre-application advice has been sought include or are adjacent to ordinary watercourses or 8 metre buffers around them, or may initially involve culverting of the ordinary watercourses. In such cases the Lead Local Flood

Authority (LLFA) would usually be consulted. This would allow the LLFA to make comments on the planning applications and/or recommend that an “Informative” is added to the planning or other application Decision Notice to state that:

“Any changes to an ordinary watercourse must seek separate consent from the Council as Lead Local Flood Authority prior to works being undertaken, as set out in the Flood and Water Management Act 2010. Sefton Council’s position on consenting and enforcement is set out in its Ordinary Watercourse Culverting, Diverting, Enforcement and Flood Investigation Policies”.

Appendix 1

Further explanation of the criteria for culverting a watercourse

- *demonstrate that the alteration is in the overriding public interest.*
This should clearly show what benefits that the alteration to the ordinary watercourse will have to the local community and/or wider within Sefton.
- *provide a reduction in flood risk.*
The existing level of flood risk must be reduced by the proposed alteration
- *demonstrate that flood risk will not be transferred to another location*
Flood risk must not increase elsewhere as a result of the proposed alteration.
- *include a detailed maintenance plan and schedule.*
The maintenance plan should clearly state what maintenance will be undertaken, including inspections and works. State who is going to undertake these and how it is going to be funded. This will have to be acceptable to Sefton Council.
- *include additional flood risk mitigation and /or wet habitat added to the system to compensate for the loss of functionality of the section to be altered.*
The alteration of the watercourse must be compensated for in the increase of additional flood risk mitigation and/or wet habitat. For example this could include flood storage area, ponds, new habitat, increased capacity of the open section of the watercourse. Consideration of existing environmental status must be included with particular reference to the Licence to displace water voles for development works.
- *take into consideration and design for increases in flows, as may reasonably be foreseen, as a result of incremental development not requiring planning permission.*
It can reasonably be assumed that there will be an increase in hard surfaces within private property that doesn't require planning permission. These will increase flows into the system and must be considered.
- *take into consideration and design for increases in flows as may reasonably be foreseen as a result of increased development.*
An assessment of the catchment served by the watercourse must be undertaken to identify potential developmental increases in that area, whether it be new builds or property improvements/extensions. This increase must be accounted for.
- *take into consideration and design for increases in flows, as may reasonably be foreseen, as a result of climate change.*
As set out in the National Planning Policy Framework and Planning Practice Guidance climate change allowances must be taken into account.

- *demonstrate that a licence to displace water voles for development works or a licence to displace water voles for work on flood defences, water courses or drainage systems has been granted*

Due to the widespread distribution of water voles throughout Sefton's watercourses it is assumed that all watercourses provide habitat or passage for water voles as such the appropriate licences must be gained.

- *secure any other permissions required*

There are a variety of other permissions that may be required dependent upon the location of the watercourse that will need to be secured.