

Pre-application Guidance Note: East Midlands Area

Last Updated: July 2022

This guidance has been produced to help you plan and prepare your development proposal.

It sets out the environmental issues we expect to be considered as part of a planning application. Please be aware that this guide is not exhaustive and further details may be requested by us at planning application stage to address site specific environmental issues.

This guidance is only for use in the Environment Agency's East Midlands (Derbyshire, Nottinghamshire & Leicestershire) Area and should be read alongside our detailed national guidance which can be found on the GOV.UK website.

It can be used by applicants, developers and consultants at the pre-planning stage.

Further bespoke advice

The information provided below details generic information which may or may not be applicable to your development. We can provide bespoke guidance or review technical information prior to the submission of a planning application. This is part of our charged service, which equates to £100 per hour plus VAT.

Further engagement at the pre-application stage will speed up our formal response to your planning application and provide you with certainty as to what our response to your planning application will be. It should also result in a better quality and more environmentally sensitive development. As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems.

If you are interested in finding out more about this service, please email:

planning.trentside@environment-agency.gov.uk

We also recommend that you consult with the relevant Local Planning Authority (LPA) to ensure that your planning application meets their requirements.

Section 1: Flood Risk

The National Planning Policy Framework (NPPF) requires development in areas at risk of flooding to be safe and not increase the risk of flooding.

You can view a site's flood zone on the [Flood Map for Planning](#). If your proposed development is located within Flood Zone 2 or 3 you should consult the [Flood Risk and Coastal Change](#) pages of the National Planning Policy Guidance (NPPG).

The guidance will help you determine whether the flood risk vulnerability of your proposed development and the flood zone are compatible. You can also establish if there are flood risk sequential test and exception test requirements for your proposed development. These are summarised in the table below, which is adapted from [Table 3](#) in the NPPG.

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓ Avoid flood risk from sources other than rivers & sea	✓ Avoid flood risk from sources other than rivers & sea	✓ Avoid flood risk from sources other than rivers & sea	✓ Avoid flood risk from sources other than rivers & sea	✓ Avoid flood risk from sources other than rivers & sea
Zone 2	? Sequential Test required	? Sequential and Exception Tests required	? Sequential Test required	? Sequential Test required	? Sequential Test required
Zone 3a	? Sequential and Exception Tests required	X Development should not be permitted	? Sequential and Exception Tests required	? Sequential Test required	? Sequential Test required
Zone 3b	? Sequential and Exception Tests required	X Development should not be permitted	X Development should not be permitted	X Development should not be permitted	? Sequential Test required

Sequential Test

The NPPF and associated NPPG ([Flood Risk and Coastal Change](#) chapter) requires the sequential test to be applied to planning applications where development is located within Flood Zone 2, 3a or 3b in the circumstances shown in the table above. The only exceptions are sites allocated in an adopted Local Plan which have already been subject to the test, change of use or [minor development](#).

For the site to pass the Sequential Test it must be satisfactorily demonstrated to the LPA that there are no alternative sites available for this development at a lower risk of flooding. It is for the LPA to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk. Therefore, we recommend that you discuss the requirements of the Sequential Test with the LPA at the earliest opportunity.

Sequential Approach

If the sequential test is passed then a sequential approach should be applied within the site to direct development to the areas of lowest flood risk (Flood Zone 1 first, followed by Flood Zone 2). If it is not possible to locate all of the development within Flood Zone 1, then the most vulnerable elements of the development should be located in the lowest risk parts of the site.

Exception Test

The exception test should only be applied in the circumstances shown in the table above following application of the sequential test. The exception test should not be used to justify the grant of planning permission in flood risk areas when the sequential test has not been satisfied.

The exception test is in two parts and both need to be met for the test to be satisfied. It is for the applicant to demonstrate this to the LPA, but we will provide advice on the second part of the test. The second part requires a site-specific Flood Risk Assessment (FRA) to demonstrate that the

new development will be safe over its lifetime (including access and egress), will not increase flood risk elsewhere and, where possible, will reduce flood risk overall. The NPPF states that both parts of this test should be satisfied for development to be permitted.

Inappropriate development in areas at risk of flooding

[Table 3](#) in the NPPG sets out the circumstances where development is inappropriate and should not be permitted.

Flood Zone 3b is land classed as the 'functional floodplain' and is land defined by an LPA's Strategic Flood Risk Assessment (SFRA) as having the highest probability of flooding, and where water has to flow or be stored in times of flood. Only water compatible development and essential infrastructure (subject to the Exception Test) can be acceptable within the functional floodplain.

We would **object in principle** to any development that falls under any other vulnerability. It is important to note that the functional floodplain is not separately distinguished from Zone 3a on the Flood Map for Planning. Instead, areas of functional floodplain have been identified by local planning authorities within their SFRA's.

Highly Vulnerable development, which includes caravans, mobile homes and park homes intended for permanent residential use and basement dwellings, are also not acceptable in Flood Zone 3a.

Flood Risk Assessment (FRA) Requirements

A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3 in accordance with paragraph 167, footnote 55 of the [National Planning Policy Framework](#) (NPPF).

In accordance with the NPPF and associated NPPG, a site specific FRA must clearly demonstrate how you intend to manage flood risk on site to ensure that the proposed development will be safe for its lifetime and that flood risk is not increased on site and elsewhere.

The FRA should be appropriate to the scale, nature and location of the development. While it is possible for applicants to undertake their own assessment, most employ suitably experienced professionals. We are not able to recommend specific consultants, but details of competent individuals or companies can be found online.

As part of your FRA we would expect you to address (but not necessarily be limited to) the following issues:

- Consideration of the level of flood risk and whether the proposed use would be appropriate in accordance with its vulnerability classification outlined within [Table 2](#) of the Planning Practice Guidance: [Flood Risk and Coastal Change](#) (section 25).
- Identification of the level of flood risk on the site and consideration of the impact a range of flood events would have on the proposed development, including an assessment of the impacts of climate change by selecting the appropriate climate change allowances.

- Confirmation of any flood defences and standard of protection provided, to confirm the level of residual risk in accordance with the Strategic Flood Risk Assessment (SFRA) for the local planning authority in which the development is located.
- Estimation of flood depths at the site for a range of flood events, to calculate internal flood depths and level of refuge required in the event of a breach or failure of the flood defences.
- Appropriate and realistic flood mitigation measures based on flood characteristics at site.
- Details of set back of the development from the riverbank / defence.
- Confirmation that a safe route of access and egress with a 'very low flood hazard' rating in accordance with the guidance document '[FD2320 \(Flood Risk Assessment Guidance for New Developments\)](#)' is achievable.

For further information on our flood map products please visit our [website](#). Guidance on the content of a site-specific FRA can be found on the NPPG and at [gov.uk](#).

We can provide any flooding information which we have available – such as predicted flood levels and historical flood data – for use in FRAs. Please contact our Customers and Engagement Team at EMDenquiries@environment-agency.gov.uk for further details.

Modelling

In some instances a detailed hydraulic model or flood modelling work may be necessary, in particular if there are gaps in the data for the area of your planning application or to take into account correct climate change allowances. Please be aware that if you are required to carry out flood modelling as part of your proposal you will need to submit the flood model files to the LPA as part of your planning application.

Climate Change Allowances

In order to demonstrate the risks to the proposal over its lifetime, a site-specific FRA must also consider the impact of climate change on future flood risks. The latest guidance on how to apply the correct, up to date climate change allowance for FRAs is available at [gov.uk](#).

Finished Floor Levels

Raising floor levels above the design flood level is most effective at ensuring development will not be subject to internal flooding. The finished floor levels of new buildings in areas at a high risk of flooding should be at least 300 millimetres above the design flood event, including an allowance for climate change flood level. Where this cannot be achieved due to other planning constraints, we request that floor levels are set as high as possible (for extensions to existing buildings, no lower than the existing floor levels) and that flood resilience/resistance measures are considered, where appropriate, up to the design flood level.

Where floor levels cannot be raised sufficiently, consideration should be given to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding and reduce rehabilitation time in the event of future inundation. We may object unless it can be demonstrated that the safety of occupants can be managed through including other flood resilience/resistance measures up to the design flood level.

Detailed information on flood proofing and mitigation can be found on the gov.uk website in the documents '[Improving the Flood performance of new buildings](#)' and '[Prepare your property for flooding](#)'.

Increase In Built Footprint

Your FRA will need to demonstrate that any increase in built footprint within the 1 in 100 plus climate change flood extent can be directly compensated for, on a volume-for-volume and level-for-level basis to prevent a loss of floodplain storage. If it is not possible to provide level for level flood plain compensation, other forms of mitigation may be considered if agreed with the LPA or there should be no increase in built footprint. It will need to be demonstrated that the proposed development does not impact the flow and conveyance of water.

The use of voids, stilts or under-croft parking as mitigation for a loss in floodplain storage should be avoided, as they may become blocked over time by debris or domestic effects. We would not recommend these methods to the LPA as an acceptable means of compensation.

Safe Access

During a flood, the journey to safe, dry areas completely outside the 1 in 100 chance in any year plus including an allowance for climate change floodplain would involve crossing areas of potentially fast flowing water. Those evacuating on foot in areas where flooding exceeds 100 millimetres or so would be at risk from a wide range of hazards, including for example unmarked drops, or access chambers where the cover has been swept away.

Safe access and egress routes should be assessed in accordance with the guidance document '[FD2320 \(Flood Risk Assessment Guidance for New Developments\)](#)'. Where safe access cannot be achieved, an emergency flood plan that deals with matters of evacuation and refuge to demonstrate that people will not be exposed to flood hazards should be submitted to and agreed with the LPA.

We recommend that you also discuss safe access and egress routes with the local authority emergency planners, as they will be responsible for agreeing to any emergency plan submitted with your application.

Flood Defences

It should be demonstrated that any flood walls/defences are in good enough condition to protect the proposed development for the lifetime of development (this is usually 100 years for residential development). This should be submitted in the form of a survey and should include an assessment of any remedial works or flood defence replacement options required to protect the site from flooding for the lifetime of the development.

The FRA should assess the impacts of the failing flood defence on the proposed development and demonstrate that it will not be at an unacceptable risk of flooding.

Flood Risk Standing Advice for lower risk development

We have produced a series of standard comments for LPAs and applicants to refer to on lower risk development proposals. These comments replace direct consultation with us. These standard comments are known as Flood Risk Standing Advice (FRSA), and can be found on gov.uk. We recommend that you view our standing advice in full before submitting the required information as part of a planning application. The LPA will then determine whether flood risk has been considered in line with FRSA recommendations.

Section 2: Main Rivers & Ecology

Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- In, over or under a main river
- Within 8m of the bank of a main river, or 16m if it is a tidal main river
- Within 8m of any flood defence structure or culvert on a main river, or 16m on a tidal main river

Flood risk activities can be classified as: Exclusions, Exemptions, Standard Rules or Bespoke. These are associated with the level of risk your proposed works may pose to people, property and the environment. Further guidance on applying for flood risk activity permits can be found [online](#).

To identify any Main Rivers in proximity to your proposed development please check our Flood Map for Planning.

Where a Flood Risk Activity Permit (FRAP) is required, it is unlikely that our consent will be granted for works that do not allow access for maintenance or repair purpose or that have an unacceptable impact on flood risk or the natural environment. The permanent retention of a continuous unobstructed area is an essential requirement for emergency access to the river for repairs to the bank and for future maintenance and/or improvement works.

Where development or works are proposed that would require a FRAP, it is recommended that detailed planning advice is obtained from us prior to the submission of a planning application. We may object to a planning application if we do not consider that we can issue a FRAP for a development as proposed. The determination of a planning application could be delayed until our concerns are resolved.

FRAPs are required irrespective of any planning permission and are not guaranteed. You should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise you to consult with us at the earliest opportunity.

Ecological Enhancements & Biodiversity Net Gain

Paragraphs 174 and 179 of the National Planning Policy Framework (NPPF) recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

We recommend that development proposals protect and enhance the local environment and seek opportunities to enhance ecology and provide Biodiversity Net Gains (BNG). The enhancement of biodiversity in and around development should be led by a local understanding of ecological networks, and should seek to include:

- habitat restoration, re-creation and expansion;
- improved links between existing sites;
- buffering of existing important sites;
- new biodiversity features within development; and
- securing management for long term enhancement

River Naturalisation and Culverted Watercourses

Development on sites with existing culverts present opportunities for de-culverting as part of the proposal. De-culverting and river restoration will provide environmental improvements and contribute to the delivery of BNG, will help deliver [Water Framework Directive \(WFD\)](#) improvements and will also reduce the risk of flooding. We would strongly recommend you consider all options to remove any culverted sections of watercourses as part of your proposals, restoring the river to its natural state. If deculverting is not possible on the site we would expect to see adequate justification for this.

We would object to any proposal to culvert any Main River watercourses. Development that involves culverting for land gain purposes is not sustainable. It works against the natural processes of watercourses and can exacerbate the risk of flooding and increase maintenance cost and complexity. It can also destroy wildlife habitats, hinder fish passage, reduce amenity value, interrupt the continuity of the linear corridor of a watercourse and can affect channel stability. It can also significantly reduce resilience to the effects of drought, floods and pollution. Culverting an ordinary watercourse requires the prior consent of the Lead Local Flood Authority.

Buffer Zone

Development adjacent to main rivers should be designed with a naturalised buffer zone of at least 8 metres from the bank top or retaining wall to protect and enhance the conservation value of the watercourse and ensure access for flood defence maintenance. This increases to 16 metres for a tidal main river. Where such a buffer strip does not currently exist, we normally seek that it is established. In urban areas in particular, rivers have often been degraded by past development, and we expect that any new development should go some way to redress the balance.

The buffer zone should be designed and managed for the benefit of biodiversity and should be undisturbed by development with no fencing, footpaths or other structures. It should not include formal landscaping, and should include the planting of locally appropriate native species. Mowing regime should be low intensity, allowing plants to flower. Light spill within the buffer zone from external artificial lights should be kept at an absolute minimum and be located and directed so that light levels of 0-2 lux are maintained. The buffer zone will help provide more space for flood waters, provide improved habitat for local biodiversity and allows access for any maintenance requirements.

We would recommend that you submit a suitably scaled plan showing the distance of the new development from the watercourse.

Nature Conservation & Ecology Surveys

The presence of a main river on or within 8 metres of your proposed development site means an ecological survey should accompany a planning application to establish whether development is likely to have a detrimental impact on the biodiversity of the watercourse. We would not support

development proposals if there was shown to be a likely detrimental impact on the water environment. In accordance with the NPPF, any development proposal should avoid significant harm to biodiversity and instead seek to provide a net gain in biodiversity. Opportunities to incorporate biodiversity in and around the development will be encouraged where appropriate, see examples in our [Estuary Edges Guidance](#).

If there is the potential for protected species or habitats to be present on or adjacent to the site, as part of your planning application you will need to undertake the necessary ecological surveys / assessments to determine if they are present. Where protected species and / or habitats are present, detailed assessments and mitigation measures may be necessary. We may offer advice in relation to water-based species and / or habitats that are within our remit.

Where protected species or habitats are present, works may also require licensing from Natural England and therefore we recommend you contact Natural England for their advice.

You can find a full list of protected sites, species and the precautions required for planning on the [GOV.UK](#) website.

Water Framework Directive (WFD)

With any development alongside watercourses, consideration should be given to the requirements of the [Water Framework Directive](#) (WFD) which includes causing no overall deterioration in water quality or the ecological status of any waterbody.

Proposed development in close proximity to watercourses may require a [WFD Compliance Assessment](#). This must assess any potential impacts on the watercourses and demonstrate that the required enhancements will be delivered. Any development that has the potential to cause deterioration in classification under WFD or that precludes the recommended actions from being delivered in the future is likely to be considered unacceptable to us. You will find actions associated with the WFD by searching for your watercourse on the [EA Catchment Data Explorer](#). For further guidance on undertaking a WFD compliance assessment, please refer to [gov.uk](#).

Invasive Species

Development and construction activities may increase the risk of spreading invasive species present within a proposed development site. Where the presence of invasive species is known or suspected, prior to the commencement of development (including ground clearance) we would expect a detailed method statement for the removal or long-term management /eradication of the invasive species on the site to be submitted to and approved in writing by the LPA. This will help avoid the spread of the plant whilst work is being carried out and consider the longer-term management of the plant. When visiting any site, work methods must include appropriate biosecurity measures (considered for all potential spread pathways) to prevent the spread and introduction of Invasive Non-native Species in order to avoid contravention of the Wildlife and Countryside Act 1981. Without this, avoidable damage could be caused to the nature conservation value of a site.

Section 3: Groundwater Quality and Contaminated Land

Land Affected by Contamination

The NPPF takes a precautionary approach to land contamination. Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of remediation.

Where contamination is known or suspected, a desk study, site investigation, remediation and other works may be required to enable safe development (paragraph 183 of the NPPF). Minimum requirements for submission with a planning application are a preliminary risk assessment, such as a site walkover or desk top study.

Site Investigation and Remediation Strategy reports may be required for submission with a planning application for sensitive land use types or where significant contamination or uncertainty is found. Where these reports are missing or where they do not demonstrate there will be no adverse impact of the environment, we are likely to raise an objection to the planning application.

If during site works contaminated material is suspected, you are advised to stop works and seek further guidance. Remediation of contaminated land may require a permit under Environmental Permitting Regulations.

When dealing with land affected by contamination, developers should follow the risk management framework provided in 'Model procedures for the management of land contamination' ([CLR11](#)).

Please also note that any surface water drainage system must not pose a risk to groundwater quality and must not be constructed in ground affected by contamination.

Further guidance can be found at:

- What is [contaminated land](#)?
- [NPPF: Land affected by contamination](#)
- [Environment Agency Land contamination: technical guidance](#)
- [Land contamination risk assessment](#)

We recommend you contact your Local Authority's Environmental Health team who may hold records on known/potential land contamination. Please note our primary concern is with regards to water quality. Your Local Authority's Environmental Health team will advise you on issues related to human health.

Groundwater Protection

Our [Groundwater Protection Position Statements](#) set out our position on groundwater protection for a wide range of activities and developments. These cover both planning and permitting.

We have defined Source Protection Zones (SPZs) for 2000 groundwater sources such as wells, boreholes and springs used across the country for public drinking water supply. These zones are more vulnerable to contamination from activities that might cause pollution in the area. The closer the activity to groundwater, the greater the risk.

To see if your proposed development is located within a Source Protection Zone, please use our [online map](#).

We would **object** to the following developments within **SPZ1** in line with our Groundwater Protection Position Statements:

- large-scale above or below ground storage of hazardous substances (as may occur at a chemical works or at a petrol filling station)
- New development of non-landfill waste operations where the operation poses an intrinsic hazard to groundwater. For example, deposit of waste for recovery activities.
- Landspreading of sludge or liquid waste containing significant concentrations of pollutants.
- The locating of any new cemetery or the extension of any existing cemetery, within SPZ1, or 250 metres from a well, borehole or spring used to supply water that is used for human consumption, whichever is the greater distance.

Cemeteries

Development proposals for cemeteries should be avoided in areas where they present a high risk to the water environment. A [groundwater risk assessment](#) should be undertaken to accompany any planning application for a proposed burial site. This should show that there are minimal risks to the environment either at time of burial, or in the future.

From 1 April 2022, cemeteries with the highest environmental risk are also controlled through the permitting system under the Environmental Permitting (England and Wales) Regulations 2016. If you need to apply for an environmental permit, you must also provide a risk assessment as part of your application.

More information and guidance can be found on the following GOV.UK pages:

- [Protecting groundwater from human burials](#)
- ['The Environment Agency's approach to groundwater protection](#) – specifically Section L: Cemetery developments

Surface Water Drainage

We recommend the use of Sustainable Drainage Systems (SuDS). These techniques can provide a method for reducing runoff that could otherwise lead to flooding. They can also minimise pollution impacts, improve biodiversity and provide amenity areas.

Where infiltration drainage is proposed, it must be demonstrated that it will not pose a risk to groundwater quality. Infiltration should not be focused in areas where ground contamination has been identified. Surface water infiltrating through contaminated ground can mobilise contaminants and result in pollution of the groundwater. Where necessary, we will seek to control the depths of these soakaway systems by recommending maximum penetration depths and a requirement that the water table shall not be intersected. In general, groups of shallow soakaways are preferable to one or two deep boreholes.

Where infiltration SuDS are to be used for surface run-off from roads, car parking and public or amenity areas, they should have a suitable series of treatment steps to prevent the pollution of

groundwater. For the immediate drainage catchment areas used for handling and storage of chemicals and fuel, handling and storage of waste and lorry, bus and coach parking or turning areas, infiltration SuDS are not permitted without an environmental permit.

Please note that we cannot issue an Environmental Permit for the direct discharge of hazardous substances into groundwater.

Further guidance can be found in our [Groundwater Protection Position Statements](#) and the updated [CIRIA SUDs manual](#).

Sustainable Drainage Systems (SuDS) should always be carefully considered in discussions with the Lead Local Flood Authority, who are responsible for providing advice on the management of surface water drainage. You should consult them for their comments on your proposal.

Section 4: Foul Water Drainage & Water Resources

Foul Water Drainage

Government guidance contained within the [NPPG](#) (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

The first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where an applicant can demonstrate to the satisfaction of the LPA that connection to a public sewer is not feasible due to the cost and / or practicability should a non-mains foul sewage disposal solution be considered.

The NPPG states that ‘applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment’. Any planning application which includes a non-mains system should therefore be accompanied by a [Foul Drainage Assessment form](#) (FDA) which provides sufficient information for an assessment to be made of the risks of pollution to the water environment. For the proposal to be acceptable the FDA will need to demonstrate that the proposed system will be viable and will not be detrimental to the water environment.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development. We have provided [guidance](#) to LPAs on non-mains drainage from non-major development to help them determine these planning applications.

Further information on septic tanks and treatment plants can be found [here](#).

Trade Effluent

Effluent discharged from any premises operating as a trade or industry, and effluent generated by a commercial enterprise where the effluent is different to that which would arise from domestic activities in a normal home, is described as trade effluent.

If you wish to discharge a trade effluent to groundwater or surface water via a non-mains system, you will require a permit under the Environmental Permit Regulations.

If you wish to discharge a trade effluent to the public sewer, a trade effluent consent or a trade effluent agreement with your water and sewerage company must be obtained before you discharge trade effluent to a public foul sewer or a private sewer that connects to a public foul sewer.

If you are not able to discharge effluent it will be classed as waste and you must then comply with your duty of care responsibilities.

Water Resources

All new homes are required to meet the mandatory national water efficiency standard for consumption as set out in the [Building Regulations](#) of 125 litres/person/day. In some water-stressed areas, LPAs have adopted policies in their Local Plans that require developers to apply the tighter Building Regulations optional requirement of 110 litres/person/day. While the use of the tighter consumption requirement is not required everywhere, we still recommend developers apply it where possible to ensure their schemes minimise their impact on the environment as much as possible by reducing demand for water.

We suggest you submit a [water efficiency calculator](#) report, or equivalent information, at the planning stage to demonstrate compliance with this standard. Achieving these targets can be done with existing technology by installing efficient showerheads, spray taps and low flush toilets. Complex greywater recycling and rainwater harvesting schemes are not typically required to adhere to this water efficiency standard.

We also recommend that new non-residential commercial buildings are required to achieve a BREEAM 'excellent' rating for water efficiency (or an equivalent rating with any successors).

Older buildings are often the least efficient in resource use. We strongly recommend the retrofitting of existing buildings where opportunities arise through refurbishments and changes of use. There are a number of [BREEAM Technical Standards](#) documents to support retrofitting for commercial and residential buildings.

Section 5: Waste

Development Close to an Existing Permitted Sites

New development in close proximity to an existing waste facility could result in the community at the proposed development being exposed to odour, noise, dust and pest impacts. The severity of these impacts will depend on the size of the facility, the nature of the waste it takes and prevailing weather conditions. If the site operator can demonstrate that they have taken all reasonable precautions to mitigate these impacts, the facility and community will co-exist, with some residual impacts. In some cases, these residual impacts may cause local residents concern, and there are

limits to the mitigation the operator can apply. Only in very exceptional circumstances would we revoke the operators Permit.

Generally, sensitive development (e.g. occupied buildings) within 50m of such a facility is unacceptable because of the potential impacts to residents that may not be able to be mitigated. If any development is proposed within 50m of this site at the planning application stage, we may object to the application on this basis.

Waste Management

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
- The waste management page on GOV.UK

Waste To Be Taken Off-Site

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the hazardous waste pages on GOV.UK for more information.

Environmental Permitting Regulations

To see if your proposed development requires an Environmental Permit under the Environmental Permitting Regulations please refer to gov.uk.

As planning and permitting decisions are often closely linked, we have issued [detailed guidance for developments requiring planning permission and environmental](#) permits. This guidance explains how, when responding to planning consultations that require environmental permits, we will advise of three possible positions:

- No major permitting concerns
- More detailed consideration is required and parallel tracking is recommended
- Don't proceed – unlikely to grant a permit

We advise joint discussions with the applicant, planning authority and ourselves, as well as parallel tracking of the planning and permit applications where possible. Parallel tracking planning and environmental permit applications offers the best option for ensuring that all issues can be identified and resolved, where possible, at the earliest possible stages. This will avoid the potential need for amendments to the planning application post-permission.

Section 6: Agricultural Development

Agricultural Buildings

If the buildings are to be used for livestock housing, the operator must ensure that they comply with the relevant regulations regarding the storage of slurry and silage. Any increase in the numbers of livestock may require the construction or expansion of slurry and silage storage facilities.

The operator should ensure that they comply with the requirements of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010, commonly known as the 'SSAFO regs', and the storage requirements of The Nitrate Pollution Prevention Regulations 2015, commonly known as the 'NVZ regs'.

Slurry Storage

If your livestock produces slurry, you must be able to store the slurry produced in accordance with the Regulations on capacity, construction, and the associated calculations and records.

Depending on the relevant regulations, slurry stores must have the capacity to store:

- 4, 5 or 6 months of slurry;
- Rainfall expected to enter the store during the storage period including yards and roofs; and
- Any wash water or other liquids that enter the store during that period.

If you have poultry manure or other types of solid manure you must store them:

- In a vessel;

- On an impermeable base, with appropriate collection and containment of runoff;
- In a roofed building; or
- In an appropriately located temporary field heap.

If you build a new facility for storing organic manure (i.e. slurry stores or impermeable bases for solid manure) and/or if you substantially reconstruct or enlarge your existing facilities, you must:

- Comply with standards set down in the SSAFO Regulations, and
- Notify the Environment Agency in writing about your intention to build a new store, or substantially enlarge or reconstruct an existing store at least 14 days before you start construction or reconstruction works.

Silage Storage

All parts of a silo must be resistant to attack. Your silo must have:

- An impermeable base extending beyond any walls
- Impermeable drainage collection channels around the outside, flowing into an appropriately sized effluent tank

Further guidance is available at the GOV.UK website.

Disclaimer

Please note that this document is a response to a pre-application enquiry only and does not represent our final view in relation to any future planning application made in relation to any site. We reserve the right to change our position in relation to any such application. This response is based on current planning policy, associated legislation, and environmental data/information. If any of these elements change in the future then we may need to reconsider our position.

As part of this preliminary response we have not technically reviewed any documents. This opinion is based on the information submitted and current planning policy and guidance. You should seek your own expert advice in relation to technical matters relevant to any planning application before submission.

If you have any questions please contact the East Midlands Sustainable Places team:
planning.trentside@environment-agency.gov.uk