

Environment Agency Note: Flood Risk Permits

Permission is required for activities proposed within 16m of a sea defence structure. Details are given here:- <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Flood Risk Activity Permits were introduced under the Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations in April 2016 which replaced the former flood defence consenting arrangement which were previously a requirement of Section 109 and 210 of the Water Resources Act 1991. A link to the Statutory Instrument is here:- <https://www.legislation.gov.uk/uksi/2016/1154/contents>

Because flood risk permits are often sought after planning applications are made (quite often in response to planning consultation replies from the EA to the Local Authority where an informative about the permit requirement is relayed), there is potential for these requirements to conflict with development/land use proposals, particularly if a developer/landowner is unaware of the requirement before developing their plans for the site.

Planners and developers have a responsibility to ensure future developments are sustainable and do not increase flood risk to the site or surrounding area which could arise if we are unable to bring about new defence infrastructure through the loss of land for the construction and maintenance of those defences. Para 157(b) of the NPPF clearly indicates that Plans should support safeguarding objectives for current and future flood risk management.

In the case of a clear requirement for the safeguarding of land to provide for future flood defences that form part of a published strategy for future flood management (such as the TE2100 Plan), and the criticality of these sea defence structures to maintain the future sustainability of the whole island due to the majority of the island lying below the level of a spring tide in the adjacent estuary, it is important and helpful to front-end these issues as a potential constraint through the Local Plan process in order that the Environment Agency can be involved in discussions with the developer in the pre-planning stage rather than discovering post-application that there are conflicts with development design or land use proposals in areas close to the defences. In this way we can help facilitate the developer's proposals with our own and to avoid costly conflicts before designs advance.

Such conflicts may require either a costly re-design of the applicant's proposals, delays in determining a planning application due to principle objections from the EA, or result in a more costly defence option that may not be deliverable for reasons of additional cost, Environmental Impact Assessment, or that is technically unviable forward of the existing defence line.

There is also a risk that flood risk permits will not be sought by the developer resulting in enforcement action, but often after development is built.

Recommendation 7 of the TE2100 Plan Vision for the Canvey Island policy unit (action zone 7) states that *"A key issue is how land allocated for development can take account of the need for the raising of flood defences in 2040. The Environment Agency will take a strong lead in providing clear and consistent advice to developers*

in these matters". We believe that the information provided to CPBC requesting safeguarding provisions through the Local Plan helps to meet this requirement, but only if the Plan reflects the importance of safeguarding. The TE2100 Plan Action Zone 7 Action Plan recommendation 7 goes on to state that "There are major opportunities for reshaping the local landscape as part of these works and a primary purpose of the Riverside Strategies is to enable these opportunities to be factored into medium to long term spatial plans"

This is why it is important to not just rely of Flood Risk Permitting which is often related to the end of the planning process, but the considerations for how to integrate the future defence requirements to the benefit of both the Agency and the developer and wider community are best suited to early site development discussions rather than a post-planning permit application process, such is the importance of the infrastructure and the potential for major cost and delay implications if the matter is not addressed in the initial planning of a site/development proposal.