

# Land Drainage Byelaws, approved April 2019



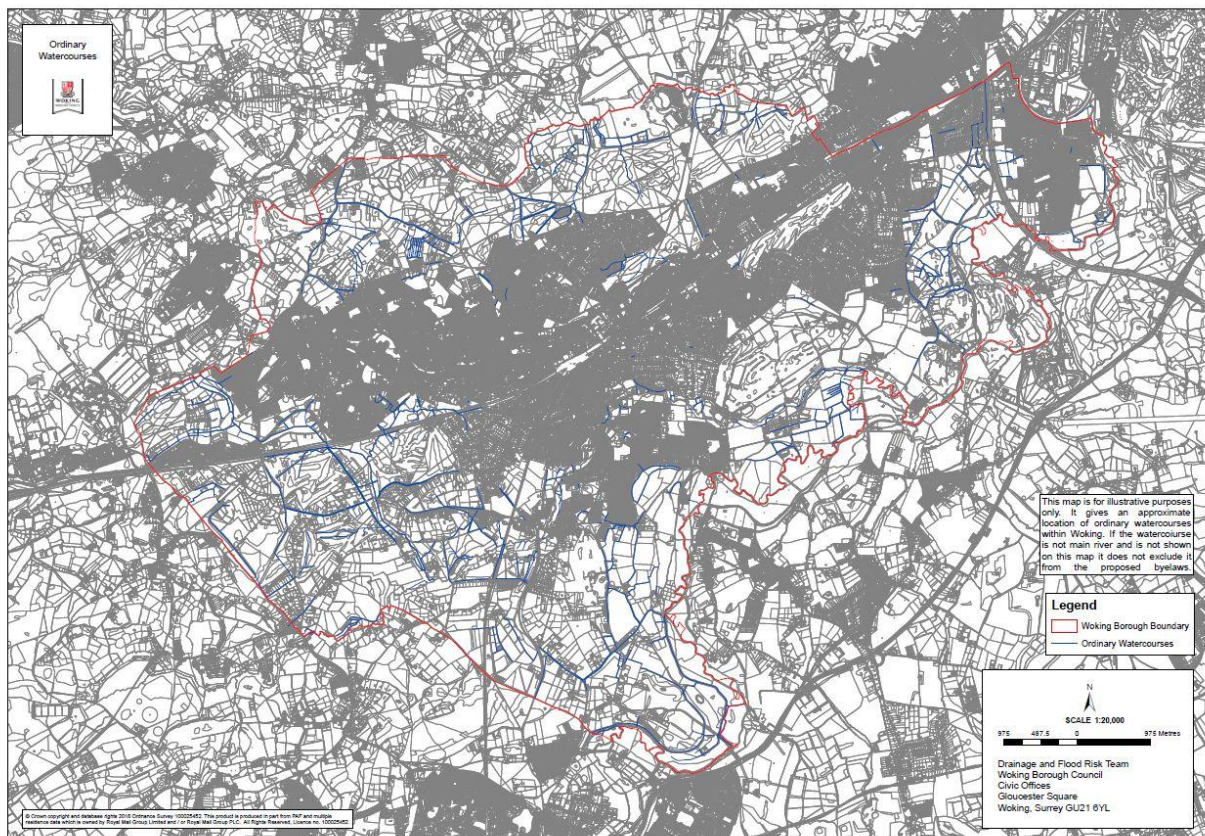
## Guidance Note

The Land Drainage Byelaws were made by Woking Borough Council under Section 66 of the Land Drainage Act 1991 confirmed by the Department for Environment, Food and Rural Affairs (DEFRA). They came into operation on 27 April 2019. The byelaws were made to ensure the efficient working of the drainage system within the borough of Woking and to set standards for compliance when undertaking works near to, on or under a watercourse for the purpose of preventing flooding.

### When the byelaws apply

The byelaws apply to any watercourse within the borough of Woking that is not designated as a 'main river' by the Environment Agency.

The map below shows the watercourses within the borough of Woking and is for illustrative purposes. It gives an approximate location of the ordinary watercourses within Woking. If the watercourse is not 'main river' and is not shown on this map it does not exclude it from the proposed byelaws.



### **Do I require consent?**

All ordinary watercourses are subject to the Land Drainage Byelaws. For a description what an ordinary watercourse is please follow the link below:

<https://www.woking.gov.uk/environmental-services/water-management/about-local-watercourses>

Types of works that require consent:

- Any works within 9 metres of the watercourse
- Installation of structures within 9 metres of the watercourse

Types of works that do not require consent:

- Removal of vegetation and debris
- Other general maintenance activities along the watercourse

### **New developments**

All new development proposals must comply with the approved Land Drainage Byelaws.

Where a proposal concerns land adjacent to or containing a watercourse, information should be provided with the application to demonstrate the byelaws have been met.

Failure to do so may result in the planning application being refused.

This information is in addition to the requirements for development within Flood Zone or an area subject to surface water flooding as required under the National Planning Policy Framework and Woking Borough Council's Core Strategy: Policy CS9.

### **What the byelaws cover**

The byelaws are based on the 'Model Land Drainage Byelaws for Local Authorities' produced by DEFRA.

The main controls that the byelaws provide are:

- An undeveloped 9m buffer strip to be maintained each side of an ordinary watercourse
- Consents required for permanent/temporary works within the 9m strip, including under and over the watercourse
- Restrictions on works that may directly or indirectly increase the flow or volume of water in an ordinary watercourse

A full copy of the byelaws can be downloaded on the Woking Borough Council website.

### **Work affecting protected areas and species**

You must not harm protected species or their habitats. Read guidance on [which species are protected and what you must do if your work may affect them](#).

[Check if you need permission from Natural England](#) for work on or near a protected site.

You can check if your site is [on or near a protected site](#), such as a:

- Special Area of Conservation
- Special Protection Area
- Site of special scientific interest (SSSI)

If you apply for an environmental permit because you're on a [main river](#), the Environment Agency will contact Natural England for you.

If you make any changes to the watercourse you must make sure that [fish](#) and [eels](#) can pass freely.

### **Enforcement of the byelaws**

These byelaws create criminal offences that can be prosecuted in the Magistrates' Courts if contravened, any person who acts in contravention or fails to comply with the proposed byelaws will be guilty of a criminal offence punishable in the Magistrate's Court by way of a fine.

Should a breach of a byelaw be discovered or suspected, the Council may conduct an investigation and if there is evidence of a breach then enforcement action may be taken.

Where enforcement action is pursued, the Council may serve notice under Section 66 (6) of the Land Drainage Act 1991, requiring any contravention of the proposed byelaws to be remedied within a period not exceeding 28 days. If the breach was not remedied within the specified time scale, the Council could use Section 66 (7) of the Land Drainage Act 1991 to undertake the necessary works and recharge the costs of such works to the offender. There is a statutory right to appeal an enforcement decision made by Woking Borough Council to an independent arbitrator.

### **Contact us**

If you require any further information please contact us by email: [drainageandfloodrisk@woking.gov.uk](mailto:drainageandfloodrisk@woking.gov.uk)