

## **Appendix 8.1**

### **Legislation and Planning Policy**

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**The Water Framework Directive (2000/60/EC)**

- 1.1. The Water Framework Directive (WFD)<sup>1</sup> came into force on 22 December 2000 and member states were required to transpose the Directive into domestic law by 22 December 2003. Waters must achieve 'good status' with respect to ecology and water chemistry by 2015. In the UK the Environment Agency (EA) is the 'competent authority'. The WFD is implemented in England and Wales by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003<sup>2</sup>.
- 1.2. Water bodies are categorised as: 'rivers'; 'lakes'; 'transitional waters'; 'coastal waters'; or 'groundwaters'. Each is identified within each category as being 'at risk'; 'probably at risk'; 'probably not at risk'; or 'not at risk' of failing WFD objectives by 2015 with regard to 'point source pollution'; 'diffuse source pollution'; 'water abstraction and flow regulation'; 'physical or 'morphological' alteration'; or 'alien species'.
- 1.3. Water in rivers, estuaries, coasts and aquifers will improve under measures set out in River Basin Management Plans, drawn up for river basin districts across England and Wales under the WFD. Refer to information under Planning Policy for more information.

**The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**

- 1.4. The Water Environment Regulations 2017 consolidated, and update the drafting style of, the Regulations which transposed Directive 2000/60/EC (The Water Framework Directive (WFD)). This serves the dual purpose of making the transposition instrument more transparent and of meeting a commitment made in the UK formal response to a Reasoned Opinion of the European Commission. The opinion asserted that the Directive had not been transposed correctly in the UK.
- 1.5. The Water Framework Directive (WFD) established a strategic framework for protecting and improving the water environment, reflecting and building on practice in the UK at the time it was developed, initially under a UK presidency. It came into force in December 2000. Specific environmental objectives and measures for individual bodies of water are identified through a 6-yearly river basin planning process. All key stages in the river basin planning process are subject to stakeholder engagement and extensive public consultation.
- 1.6. In October 2015 the European Commission issued a Reasoned Opinion (RO) which claimed that the UK had failed to transpose the WFD correctly. A Reasoned Opinion is a formal determination by the European Commission that the Member State is in breach of its legal obligations and may be followed by a referral to the Court of Justice of the European Union (CJEU) if the Commission is not satisfied with the response of the Member State. The main complaints in the Reasoned Opinion relate to the use of referential drafting in the legislation that transposed the WFD.
- 1.7. The revised Regulations provide greater transparency and clearer transposition by copying out the key Articles of the WFD. This change of drafting style for the main Articles of the WFD represents a significant concession to the Commission in order to reduce the likelihood of the case being referred to the CJEU.

**The Water Resources Act 1991. London**

- 1.8. The Water Resources Act provides legislation for the control of the pollution of water resources. Under this Act, offences of polluting controlled waters occur if a person knowingly permits any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters. The Water Resources Act also provides an all-embracing system for the licensing of the abstraction of water for use, which is administered by the EA. The Water Act modernises water legislation and amends the Water Resources Act to improve long-term water resource management. The latest amendments to the Water Resources Act were in 2009.

**The Environment Act 1995**

- 1.9. The Environment Act provides for the establishment of a body corporate to be known as the Environment Agency and in Scotland the Scottish Environment Protection Agency. To provide for the transfer of functions, properties, rights and liabilities to those bodies and conferring of other functions to them. The Environment Agency will be formed by the merger of the National Rivers Authority, Her Majesties Inspectorate of Pollution and the Local Waste Authorities

**The Water Act 2003**

- 1.10. The four broad aims of the Water Act are;
- the sustainable use of water resources;
  - strengthening the voice of consumers;
  - a measured increase in competition; and
  - the promotion of water conservation.
- 1.11. The Water Act 2003 made it a statutory obligation on water companies to produce a Water Resources Plan

**The Water Act 2014**

- 1.12. The Water Act 2014 covers four main areas: making water supplies more resilient to natural hazards such as droughts and floods, creation of a national water supply network to make it easier for water companies to buy and sell water from each other, ensuring access to affordable flood insurance from 2015, via a new industry backed levy, and increasing competition in the water industry, by allowing all businesses, charities and public sector customers in England to switch their water and sewage supplier.

**The Anti-Pollution Works Regulations 1999**

- 1.13. Under the Anti-Pollution Works Regulations the EA can serve a works notice requiring any business which has caused pollution or is at risk of causing pollution to a watercourse to carry out preventative works and operations in order to minimise the risk and future risk. Failure to do so can lead to prosecution.

**The Water Industry Act 1999**

- 1.14. The Water Industry Act provides entitlements for water consumers, particularly household customers. It prohibits the disconnection of the water supply to homes for reasons of non-payment. It gives many water consumers new rights to choose the basis on which they are charged for water and sewerage services. It also allows for the Secretary of State to make regulations concerning particular charges to be applied to particular groups.

**Land Drainage Act 1991**

- 1.15. The Land Drainage Act requires that a watercourse be maintained by its owner in such a condition that the free flow of water is not impeded. If a riparian owner fails to carry out his responsibilities under the Land Drainage Act, or if anyone else causes a watercourse to become blocked or obstructed, the County and District Councils have powers of enforcement by serving a notice under the Act.

**Land Drainage Act 1994**

- 1.16. The 1994 Act amends the Land Drainage Act of 1991 in relation to the functions of internal drainage boards and local authorities.

**Land Drainage Bylaws 1981**

- 1.17. This law was made by the Thames Water Authority under Section 34 of Land Drainage Act 1976. The TW Authority Land Drainage Byelaws 1981 are in force in the Thames Region of the EA. They are now enforced by the EA by virtue of the Water Resources Act and the Environment Act. These Byelaws have effect within the area of the Thames Regional Flood Defence Committee for the purposes of their functions relating to land drainage and flood risk management.

**Flood and Water Management Act 2010**

- 1.18. The Flood and Water Management Act updates legislation to ensure better protection from flooding and coastal erosion, manage water more sustainably, improve public services and secure water resources during periods of drought. The aims of the Flood and Water Management Act are to, clarify who is responsible for managing all sources of flood risk, encourage more sustainable forms of drainage in new developments and make national strategy for floods.

**The Environmental Damage (Prevention and Remediation) (England) Regulations 2015**

- 1.19. The Environmental Damage Regulations provide guidance for imminent threats of 'environmental damage' or actual 'environmental damage', related to surface water and groundwater. Guidance is provided to ensure appropriate mitigation measures such as easements when working near waters. It recommends remediation measures, should there be significant effects to cause a change in surface water and groundwater.

**Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016**

- 1.20. The Environmental Permitting Regulations sets out the control requirements for the discharge of water to surface water and groundwater. The 2016 amendment made the scheme risk based so that the regulators are able to concentrate on high risk applications, and to make applications for flood consents easier and quicker for businesses whilst ensuring that neither flood risk

management nor environmental protection is compromised. It amends the 2010 Regulations to provide for the regulation of “flood risk activities” within the Environmental Permitting framework, replacing the current “flood defence consent scheme”.

### **The Flood Risk Regulations**

- 1.21. The Flood Risk Regulations sets out the duties regarding producing preliminary flood risk assessments, flood hazard maps and flood risk maps and flood risk management plans. In addition, the duty of co-operation between the Environment Agency and Lead Local Flood Authority is described.

### **National Planning Policy Framework 2018**

- 1.22. One of the aims of the National Planning Policy Framework is to protect the environment and to promote sustainable growth. There is an overarching presumption in favour of sustainable development that should be the basis of every plan and every decision.
- 1.23. The following paragraphs/policies within the NPPF are considered relevant to this assessment:
- Paragraph 155: Requires that inappropriate development in areas at risk of flooding is avoided by directing development away from areas considered high risk, but where development is necessary, making it safe without increasing flood elsewhere;
  - Paragraph 158: Explains that the aim of the Sequential Test aims to steer development in areas with the lowest probability of flooding; and
  - Paragraph 165: Recommends that major development should incorporate the use of sustainable drainage systems.

### **Planning Practice Guidance**

- 1.24. The PPG brings together planning guidance on various topics into one place. The guidance is exactly that, guidance, and not Government policy. The following are considered relevant to this assessment:
- Climate Change
  - Flood Risk and Coastal Change

### **Reading Borough Core Strategy**

- 1.25. The Core Strategy sets out the key elements of the planning framework for the area. The key policy for flooding is Policy CS35: Flooding it states that “*planning permission will not be permitted for development in an area identified as being at high risk of flooding, where development would reduce the capacity of the flood plain to store floodwater, impede the flow of floodwater or in any way increase the risks to life and property arising from flooding*”.

**Reading Borough Council SFRA**

- 1.26. The SFRA and the supporting mapping is to inform Council of the application of the Sequential Test so the risk of flooding can be considered in greater detail within a local context to ensure that the site can be developed in a safe and sustainable manner.
- 1.27. The Key objectives of the SFRA are:
- To collate all known sources of flooding, including river, canals, surface water (local drainage), sewers and groundwater, that may affect existing and/or future development within the Borough;
  - To delineate areas that have a 'low', 'medium' and 'high' probability of flooding within the Borough;
  - Within flood affected areas, to recommend appropriate land uses; and
  - Where flood risk has been identified as a potential constraint to future development, recommend possible flood mitigation solutions that may be integrated into the design to minimise the risk to property and life should a flood occur.

**Thames Catchment Flood Management Plan**

- 1.28. A Catchment Flood Management Plan (CFMP) is a high-level strategic plan prepared by the EA, which identifies long-term policies for sustainable flood risk within a catchment.
- 1.29. CFMPs help to understand the scale and extent of flooding now and in the future, and set policies for managing flood risk within the catchment. CFMPs should be used to inform planning and decision making by key stakeholders. CFMPs aim to promote more sustainable approaches to managing flood risk. The policies identified in the CFMP will be delivered through a combination of different approaches. Together with partners, we will implement these approaches through a range of delivery plans, projects and actions.

**Thames River Basin Management Plan**

- 1.30. River Basin Management Plans are plans to provide a framework for protecting and enhancing the benefits provided by the water environment and have been developed in consultation with organisations and individuals. To achieve this, and because water and land resources are closely linked, it also informs decisions on land-use planning.
- 1.31. They contain the main issues for the water environment and actions required. The River Basin Management Plans have been approved by the Secretary of State for Environment, Food and Rural Affairs. It has been prepared in line with ministerial guidance and fulfils the requirements of the Water Framework Directive and contributes to the objectives of other EU directives. It is an update of and replaces the river basin management plan published in 2009 (referred to as the '2009 plan' in this document).