

## Land Drainage Policy Statement consultation report

October 2019

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### Contents

1.	Introduction .....	1
2.	Consultation process.....	2
3.	Respondents .....	3
4.	Consultation responses.....	3
5.	Equality Analysis .....	6
6.	Next steps .....	6
7.	Appendix 1 .....	<b>Error! Bookmark not defined.</b>

### 1. Introduction

As a land drainage authority under the Land Drainage Act 1991, Kent County Council (KCC) has a number of powers to regulate ordinary watercourses in the county, these are watercourses that are not main rivers. The Land Drainage Policy Statement sets out how KCC will undertake these powers.

## 2. Consultation process

The draft Land Drainage Policy Statement was presented to KCC's Flood Risk Management Committee on 22 July 2019 (the papers for the committee can be found here:

<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=584&MId=8141&Ver=4>).

The committee includes representatives of the districts and boroughs of Kent as well as parish councils.

The public consultation on the Land Drainage Policy Statement started on 19<sup>th</sup> August and ran until 30<sup>th</sup> September 2019.

The Flood and Water Management (FWM) team consulted on three policies at the same time, this one, the Drainage and Planning Policy Statement and the Section 19 Flood Investigation Reporting Policy. The consultations on these policies were linked, so that they could all be accessed from each consultation page.

The FWM team works closely with community groups and parish councils. The consultation was sent to Kent Association of Local Councils (KALC) and directly to stakeholders such as communities and parishes, the districts and boroughs of Kent, statutory undertakers, the Environment Agency and the Internal Drainage Boards.

The consultation asked five questions about the Land Drainage Policy Statement, each with an option to provide more details about the response. There were also questions about whether the Equality Impact Assessment (EqIA) was appropriate, as well as 'about you' questions that gathered the respondent's equalities information.

All consultation documents were available online at [www.kent.gov.uk/landdrainage](http://www.kent.gov.uk/landdrainage) and alternative formats including hard copies were available upon request.

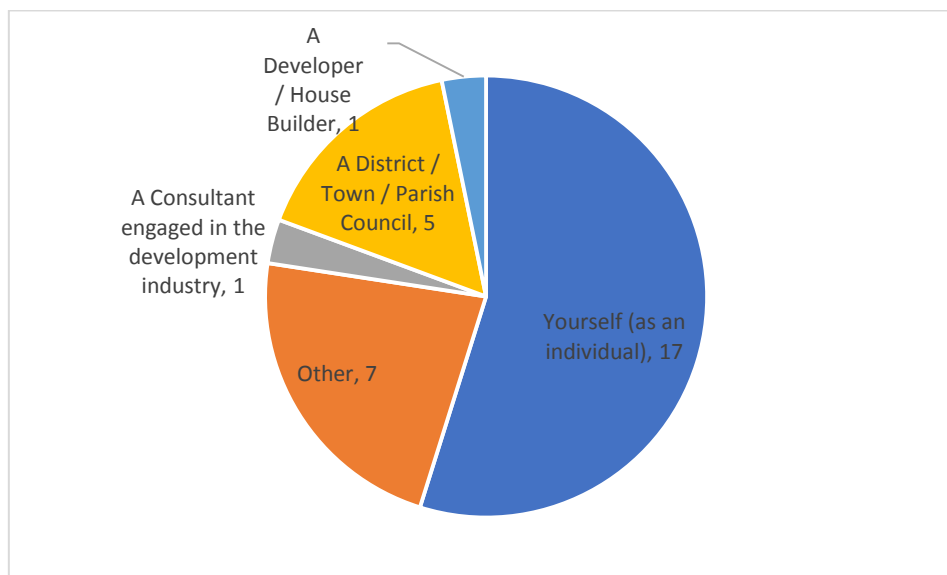
The following table summarises the frequency that documents were downloaded from the consultation page.

<b>Documents</b>	<b>Downloads</b>
Land Drainage Policy Statement - PDF version	107 downloads
Land Drainage Policy Statement - Word version	31 downloads
Consultation Questionnaire - Word Version	32 downloads
Equalities Impact Assessment - PDF version	14 downloads
Equalities Impact Assessment - Word version	4 downloads

### 3. Respondents

We received 31 responses to the consultation questionnaire. Of these respondents, 17 were from individuals, five were on behalf of district, town or parish councils, one was from a housebuilder or developer, one was from a consultant in the development industry, and seven were from other areas, either organisations with an interest in the field or individuals with a local community interest.

A breakdown of the responders is shown in Figure 1.



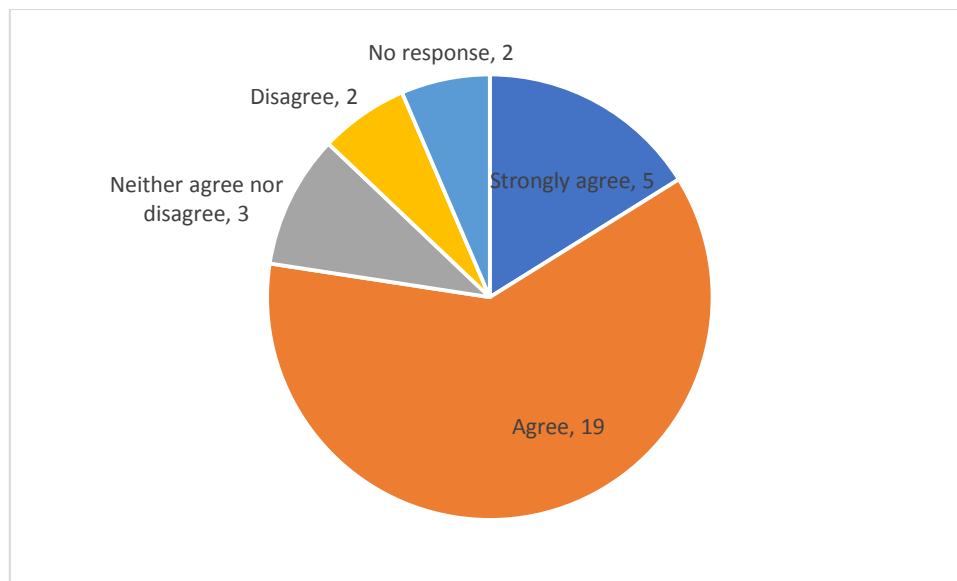
**Figure 1 Breakdown of respondents**

### 4. Consultation responses

This section is an analysis of the responses to questions on the Drainage and Planning Policy, including a summary of the free text responses we received.

**Question 2.** *Do you agree or disagree with the policies set out in this policy statement for KCC to exercise its powers under the Land Drainage Act 1991?*

A breakdown of responses is given in Figure 2.



**Figure 2 Breakdown of Question 2 responses**

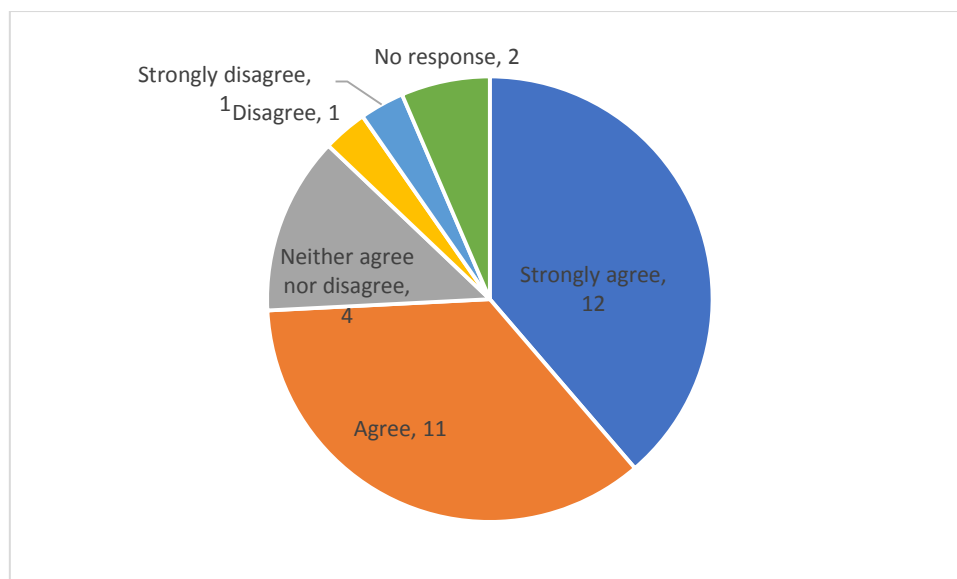
Respondents were generally supportive of the proposed Land Drainage Policy Statement. Of the 31 responses, 24 agreed or strongly agreed, two disagreed, no one strongly disagreed, three neither agreed nor disagreed and two gave no response.

Only four comments were left regarding this question, two were positive, supporting the policy, the others were not related to land drainage or this Land Drainage Policy Statement.

It is essential with the changes in climate that KCC has the powers to enforce drains and culverts to be kept clear to prevent or alleviate flooding

**Question 3.** *Do you agree or disagree with KCC's policy regarding culverting of watercourses?*

A breakdown of responses is given in Figure 3.



**Figure 3 Breakdown of Question 3 responses**

Respondents were generally supportive of the proposed policy towards culverting watercourses. Of the 31 responses 23 agreed or strongly agreed, two disagreed or strongly disagreed, four neither agreed nor disagreed and two gave no response.

Comments on this question were either supportive or relate to matters outside the scope of land drainage or this Land Drainage Policy Statement.

**Question 4.** *Are there any other policies that should be included to explain how KCC will exercise its powers under the Land Drainage Act 1991?*

Seven responses were received to this question. Three of these related to contamination of receiving watercourses, which is not regulated by Land Drainage, this is overseen by the Environment Agency. We have added text to the Land Drainage Policy to highlight this and provided a link to the Environment Agency's website where further details can be found.

One comment suggested that the policy should include verification of work that has been consented. KCC is supportive of a measure like this, however, this issue is addressed in planning by applying a condition that the applicant is obliged to satisfy, unfortunately there are no such powers in Land Drainage, therefore it is not possible to apply this as a policy.

Another respondent suggested that how this Policy Statement links with the Drainage and Planning Policy should be better explained. KCC agrees that these two policies are linked in many cases and that how they link should be clearer. There is an explanation of how the two policies are linked in each of them, but KCC will review this and further explain the links between the two.

Two comments proposed amendments or additions to the Policy Statement to clarify some aspects of it, KCC have accepted these. Details can be found in Appendix 1.

**Question 5** *Do you have any other comments about KCC's Land Drainage Policy?*

This question received 13 responses. Many of the comments fall outside of the scope of land drainage or this Land Drainage Policy Statement, for instance regarding general flood risk management that falls under the responsibility of other agencies, maintenance of highway drainage and environmental policies.

Some comments suggested clarifications on the Policy, which KCC has provided in the revised draft. Please see Appendix 1 for details.

Other comments refer to design considerations and specific details for ordinary watercourse consenting. These comments require more detail than is appropriate for this Policy, however they are covered by the [Kent Design Guide Making It Happen](#) document, in Appendix C2: Drainage Systems. A link to this guide will be provided in the revised Policy.

**5. Equality analysis**

Respondents were given the opportunity to comment on the initial Equality Impact Assessment (EqIA).

There were ten responses to this question, which did not identify any issues with the EqIA.

We asked standard 'about you' questions and out of the 31 respondents, 15 were willing to answer these questions. The results have highlighted nothing new for our equality analysis.

**6. Next steps**

The revised Land Drainage Policy Statement, this consultation report and the EqIA will be presented to the Environment and Transportation Cabinet Committee on 29 November. Following this, the Policy Statement will be adopted by the Cabinet Member for Planning, Highways, Transport and Waste.

This consultation report will be made available on the consultation webpage and an email alert sent to those who registered with consultation.

Once the Land Drainage Policy Statement has been adopted the [KCC Flooding and Drainage webpages](#) will be updated to include the new policies.

## Appendix 1

The table below sets out the detailed comments that we have received and how we have responded to these.

<b>Comment received</b>	<b>Response</b>
Under LD Policy 2: It is suggested that mammal runs are required to be routinely installed when installing new access culverts.	KCC has added to the environmental considerations in Appendix 1 of the Policy Statement that mammal runs should be considered if the ecological surveys recommend them.
Under LD Policy 3: It is suggested that initially the onus should be put on the landowner to clearly demonstrate that the unconsented works will not result in increased flood risk or environmental deterioration.	KCC has added to the Policy Statement that demonstrating that unconsented works are not detrimental on flood risk or environmental grounds is the liability of the structure owner.
Highlighted the last sentence of paragraph 3 in Section 4 as lacking clarity	KCC has clarified this sentence.
Section 5.3 Para 3 – correction - permission required for activity within 8m of the bank of a non-tidal main river, flood defence structure OR 16m of from bank of a tidal main river, or flood or sea defence structure	KCC has confirmed that the interpretation in the Policy is correct (the byelaws can be found <a href="#">here</a> ). KCC has added a link to these byelaws to the Policy Statement.
Suggest KCC define "reasonable time" as this can potentially be mis-interpreted, i.e. 6 months, 12 years, or prior to the next storm.	KCC has clarified what a reasonable timeframe is, in general 28 days.
[a respondent] welcomes clarification on when it is appropriate to take enforcement action	The Policy states that enforcement will be undertaken where there is a risk of significant flooding from ordinary flows in a watercourse. KCC has added some text to clarify what a significant flood is considered to be.