

# ROTHERHAM METROPOLITAN BOROUGH COUNCIL

## Streetpride Service

### Policy for Designation of Flood Defence Structures and Features

#### Introduction

The Flood and Water Management Act 2010 imposes a duty on the Local Lead Flood Authority (LLFA), which in this case is the Council, to establish and maintain a register of structures or features which it considers are likely to have a significant effect on local flood risk. Information on ownership and state of repair will also be held on the register. The LLFA has discretion to set a local indication of “significance” to determine which assets it records on the register and which it designates.

Designation is a form of legal protection reserved for key structures or features that are privately owned and maintained and that contribute to the management of flood and coastal erosion risk.

Designation aims to ensure that owners do not inadvertently alter structures and features and potentially increase flood or erosion risk to themselves, their neighbours and the wider community.

The register will be available on the Council’s website and will allow local residents, communities and businesses to better understand where the significant drainage and flood management features are located.

Designation will only be used where the importance of the structure or feature to reducing flood risk justifies the time and cost of the designation process.

#### What is a Designation?

A designation is a legally binding notice served by the Designating Authority to the owner of the structure or feature and the notice is also a local land charge.

1. “Designating Authority” means
  - The Environment Agency
  - A local lead flood authority
  - A district council
  - An internal drainage board
2. “Responsible Authority” means the authority which made the designation.
3. “Owner” means:

- (a) the owner of the land on or in which the structure or feature is situated, or
- (b) if different, the person responsible for managing or controlling the structure or feature.

#### Local Land Charge

- Restriction or prohibition on land, binding on successive owners or occupiers.

#### What can be Designated?

4 A designating authority may designate:

- (a) a structure, or
- (b) a natural or man-made feature of the environment

This definition includes a wide range of structures and features from garden walls and other artificial structures to raised areas of land, embankments and other natural features

All candidates for designation will serve a flood or coastal erosion risk management purpose, although they may not have necessarily been designed or constructed for that purpose.

#### Conditions for Designation

- 1: The existence or location of the feature reduces a flood risk.
- 2: The Designating Authority manages the risk affected
- 3: Structure or features is not already designated by another authority.
- 4: Owner is not a Designating Authority

All four of the above conditions must be satisfied.

### Effect of designation

- 5      (1)      A person may not alter, remove or replace a designated structure or feature without the consent of the responsible authority.
- (2)      A designation is a local land charge.

The power to designate is permissive and the assessment of significance is at the discretion of the Designating Authority.

### Procedure For Designation

#### Stage 1 Identify Need for Designation

- Decisions on designation are for the authorities concerned.
- Consider a risk and needs based approach with decisions based upon:
  - Legal conditions
  - Flood risk
  - Local circumstances and needs
  - Costs and benefits
  - Likelihood of changes to the feature
  - Number of owners
- Consequences of flooding or coastal erosion if feature is damaged.
- Likelihood of damage to feature.
- Likelihood that damage will cause flooding or erosion.

#### Stage 2 Consultation

- Establish ownership and confirm
- Contact owner and informally discuss proposal to designate
- Explain what designation means
- Be prepared to answer questions.

#### Stage 3 – Provisional Designation

- Send Provisional Designation Notice to owner (28 days minimum and 35 days maximum recommended).

#### Stage 4 – Designation Notice

- Send legal notice confirming the designation
- Notice must be sent within 60 days of the issue of the provisional notice

#### Stage 4 - Completion

- Allow 28 days in case of appeal
- Record the designation on the Local Land Charge Register
- Keep a record of the designation and enter onto Asset Register
- Notify any other designating authority which may have an interest in the designation or cancellation.

#### Structures and features owned by responsible authorities.

Structures and features owned by designating authorities cannot be designated. It is assumed that these organisations will protect and maintain flood defence assets. Assets maintained by directorates or services in the Council which do not deal with flood risk management may not be aware of their significance or in the case of culverts, even their existence. Such assets will therefore be recorded onto the same system as those that have been formally designated. Mirroring of parts of the designation process, such as discussions with the asset manager and assessment of the risks, without the formal action, and will be considered as appropriate in each case.

#### SuDS Adopted by the SuDS Approving Body (SAB).

SuDS Adopted by the (SAB) will be designated as part of the adoption process and will be included on the register.