

Drainage Guidance Notes for Riparian Owners

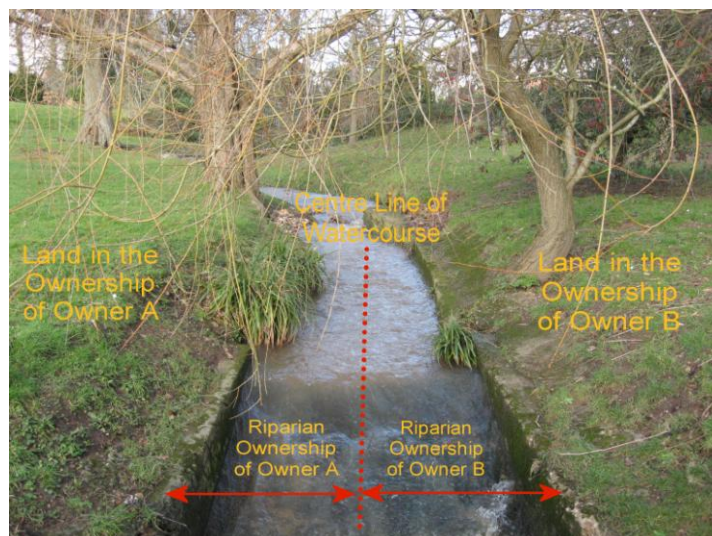
East Devon District Council is the Land Drainage Authority for the area covered by East Devon. The Land Drainage Authority's role is defined under the Land Drainage Act 1991, and this legislation gives the Council powers with regard to any ordinary watercourse.

An ordinary watercourse can be a river, stream, leat, ditch or passage through which water flows but does not form part of a main river.

Main rivers are usually larger streams and rivers, but also include smaller watercourses of strategic drainage importance.

As the Land Drainage Authority, East Devon District Council has the power to serve notice on riparian owners for the removal of blockages to any ordinary watercourse. In practice these powers are not usually called into use as problems are often resolved through discussion. However, should the riparian owner fail to rectify the problem then the District Council has the power to undertake the work itself and recharge the cost to the riparian owner.

Riparian Ownership.



If you have an ordinary watercourse or a main river running through your land or along the boundary of your property you are likely to be the riparian owner or joint riparian owner, unless the watercourse is known to be owned by someone else.

If the land on the other side of the watercourse is not in your ownership, you are presumed to be the joint riparian owner together with the landowner on the other side.

In the case of joint riparian ownership, each party is presumed to own up to the centre line of the watercourse and therefore is responsible up to this point.

Your Responsibilities as a Riparian Owner.

As a riparian owner, you have responsibilities in relation to the watercourse flowing through or adjacent to your property.

Your legal duties are to:

Pass on flow without obstruction, pollution or diversion affecting the rights of others.

Accept flood flows through your land, even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse.

Maintain the bed and banks of the watercourse (including trees and shrubs growing in the banks), and for clearing any debris, natural or otherwise, including litter and animal carcasses, even if it did not originate from your land. We can give you advice on the removal of animal carcasses.

Not cause any obstructions to the free passage of fish.

For keeping the bed and banks clear of any matter that could cause an obstruction, either on your land or by being washed away by high flow to obstruct a structure downstream. Rivers and their banks should not be used for the disposal of any form of garden or other waste.

For keeping clear any structures that you own such as culverts, trash screens, weirs and mill gates.

For protecting your property from seepage through natural or man-made banks. Where such seepage threatens the structural integrity of a flood defence, it may become the concern of the Environment Agency.

You may have flood defences such as walls and embankments on your property, which are vital for the protection of both yourself and others. You should discuss the maintenance of such defences with the Environment Agency if you have any concerns relating to these.

Failure to carry out your responsibilities could result in civil action from others.

Your responsibilities as a riparian owner are based on the following legislation:

The Public Health Act 1936

The Land Drainage Acts of 1991 & 1994

Water Resources Act 1991

Nation Rivers Authority (now the Environment Agency) Land Drainage bylaws 1981.

Your Rights as a Riparian Owner.

As a riparian owner:

You are presumed to own the land up to the centre of the watercourse, unless it is known to be owned by others.

You have the right to receive flow of water in its natural state, without undue interference in quantity or quality.

You have the right to protect your property from flooding, and your land from erosion. You may need the consent of the Environment Agency for such works.

You have the right to fish in your watercourse unless this has been expressly excluded, although this must be by legal methods and with an Environment Agency rod licence.

Without needing a licence, you can abstract a maximum of 20 cubic metres of water per day for domestic purposes of your own household or for agricultural use, excluding spray irrigation, from a watercourse at a point that directly adjoins your land. Most other types of abstraction will require a licence from the Environment Agency.

Before starting any work on or adjacent to a watercourse, you must submit plans of what you propose to the Agency and the Local Authority to determine whether you require an Environment Agency consent and/or planning permission.

If the work affects sites of known conservation or archaeological value, you may need further permissions from the relevant Authorities. Environmental issues, including flood risk, wildlife conservation, fisheries, and reshaping of the river and landscape, must all be considered.

What is the Council Responsible for?

Under the Land Drainage Act 1991, East Devon District Council is the “operating authority” for ordinary watercourses in its area.

Whilst riparian owners are responsible for maintaining their watercourses, the Council can carry out work to prevent flooding and recharge the cost to the riparian owner. The Council may therefore:

Inspect ordinary watercourses as necessary.

Contact riparian owners where maintenance is required and, if necessary, serve notice to require maintenance where water flow is seriously impaired.

Co-ordinate work along a watercourse where a number of residents are involved.

Take action to prevent unauthorised piping or culverting of watercourses.

Supply unfilled sandbags to Parish and Town Councils, who will then distribute them to the public to prevent water getting into buildings and to aid flood protection.

Before carrying out any works to a watercourse such as altering the banks, building a retaining wall or laying pipes, you should contact us.

If you should need any further advice please do not hesitate to contact Customer Services Centre on 01395 517528 or email csc@eastdevon.gov.uk or visit our website at www.eastdevon.gov.uk

Useful Contacts.

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