

Riparian Owner Responsibilities & Roadside Ditches

Nottinghamshire County Council is committed to reducing the risk of flooding and has prepared this leaflet to provide information for landowners.

What is a Watercourse?

A watercourse is any natural or artificial channel through which water flows, such as a river and including where rivers flow through a culvert, brook, beck or mill stream.

The key legislation in relation to land drainage matters is the Land Drainage Act (1991, as amended) available through www.legislation.gov.uk

Watercourses are classified as either:

- Main Rivers, which are typically (but not always) larger watercourses, such as the Rivers Trent, Idle, Ryton, Erewash and Devon. A non-statutory map of Main Rivers can be found using the "What's in your back yard?" facility on the Environment Agency website. Main rivers are regulated by the Environment Agency, who can be contacted on 03708 506 506.
- Ordinary Watercourses, which are harder to define since an ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than public sewer) and passage through which water flows which does not form part of a Main River.

For Main Rivers the Environment Agency has powers to maintain and improve the watercourse. For Ordinary Watercourses, Local Authorities have similar powers. These are powers and not statutory duties and in both cases, the responsibility for watercourse maintenance and repair lies with the riparian owners.

If you are in doubt about the status of a watercourse please contact the Council's Flood Risk Management Team for clarification.

Who is a Riparian Land Owner?

If you own land adjoining a watercourse, you have certain rights and responsibilities. In legal terms you are a 'riparian owner'. Where a watercourse is sited between two or more properties, each owner will be equally responsible.

The Environment Agency has produced excellent guidance for riparian owners, called 'Living on the Edge'. This is available on their website www.environment-agency.gov.uk.

What is a Riparian Owner responsible for?

- Accepting water from an upstream neighbour and transferring this, together with drainage from their own property, to their neighbour downstream. You have the responsibility to accept water ponding on your land even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse downstream.
- Carrying out at their own expense any necessary maintenance of the watercourse banks and bed and any piped sections to avoid any obstruction to the flow of water.

Common problems affecting watercourses are:

- Allowing silt to build up which can reduce the capacity of, or block watercourses.
- Failing to keep vegetation growth under control.
- Disposal or storage of garden or domestic rubbish or waste on the banks of watercourses.
- Failing to clear the entrances to piped watercourses.
- Failing to obtain consent for any building, planting or alterations within eight metres of the bank.

What are the consequences of a Riparian Owner's failure to look after the watercourse?

- A drainage problem for the property owner and neighbouring land owners.
- Potential flooding of properties, the highway and surrounding land.
- Possible enforcement action taken against the Riparian Owner by Nottinghamshire County Council under the Land Drainage Act 1991.

Roadside Ditches

There are 3 categories of roadside ditch:

- A ditch created by the Highways Authority and owned by them solely for draining the highway, which is the responsibility of the Highways Authority.
- A ditch on the road side of fences and hedges taking land drainage as well as highway drainage, which is the responsibility of the Riparian Owner.
- A ditch on the field side of the fence or hedge taking land drainage as well as highway drainage, which is a responsibility of the Riparian Owner.

The Highway Authority has a prescriptive right to drain the highway to adjoining roadside ditches. Rural roads rely to a great extent on ditches to remove water and their effectiveness is vital to keeping them in good conditions. Common Law imposes a duty on the owner of land adjoining a highway to maintain these ditches that provide natural drainage for both land and highway. In the majority of cases the responsibility for ditch maintenance rests with the adjacent landowner. When clearing roadside ditches, a riparian owner must dispose of the spoil appropriately and should only leave it on the highway verge with the permission of the County Council.

Nottinghamshire County Council

The Council is a Lead Local Flood Authority and has new powers and statutory duties to manage and co-ordinate flooding from local sources, working together with other organisations including the Environment Agency, District and Borough Councils, Internal Drainage Boards and Water Companies.

The Land Drainage Act gives the County Council powers to deal with obstructions in ordinary

watercourses where that obstruction to the flow of water creates a risk of flooding. If the obstruction impedes the flow, the Council may serve notice on the Riparian Owner to remove the obstruction. If no action is taken, the Council may carry out the work itself and recover the cost from the Riparian Owner.

The Council are also responsible for granting consent to individuals, group of individuals, companies and public bodies, who wish to carry out changes to an ordinary watercourse that may affect flow or flood risk. Therefore, those who wish to make changes to an ordinary watercourse must gain written consent from the Council prior to carrying out such works.

For example, consent would be required from the County Council to pipe (culvert) a watercourse. Inadequately piped watercourses can create flooding, safety, maintenance and environmental problems. The County Council are generally opposed to the piping of watercourses and consent will usually only be granted if there is no practical alternative.

We are happy to discuss any problems with you. To contact us, please telephone the Customer Service Centre on 0300 500 80 80

Your call will be logged and will be passed on to an officer who can help.

Thank you for your co-operation

Contact information:

**Nottinghamshire County Council
Flood Risk Management Team,**
Trent Bridge House,
Fox Road,
West Bridgford,
Nottingham,
NG2 6BJ

Email: flood.team@nottscc.gov.uk

Website: www.nottinghamshire.gov.uk/flooding

Highways North

Darwin Drive
Sherwood Energy Village
Ollerton
Nottinghamshire
NG22 9FF

Email: enquiries@notts.gov.uk

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to telephone the Council on 0300 500 80 80, who will be able to help.