



Ditches and drainage in Herefordshire Guidance on Landowner Responsibilities

Herefordshire is a beautiful and rural county in which agriculture is a significant industry. Balfour Beatty working on behalf of Herefordshire Council is committed to reducing the risk of flooding and improving the condition of highways in rural areas by keeping the highways clear of excess water through good roadside drainage.

Water damage can be extensive, costly to repair and may also be a safety hazard to road users and residents alike. We want to provide best value for taxpayers' money regarding highways maintenance. We want to encourage a mind-set where everyone picks up their own responsibilities.

This leaflet provides information for those with responsibility for watercourses on or adjacent to their land.



Who is a Riparian Owner?

Under common law you as the landowner are known as the Riparian Owner of any watercourse within, or adjacent to your property where a watercourse is sited between two or more properties, each owner will be equally responsible. You are also responsible for any structure in or adjacent to the watercourse.

What is a Watercourse?

A watercourse is defined as any channel through which water flows and can be above or below ground. It may range from a reasonable sized ditch with a constant flow to nothing more than a depression which carries water infrequently.

Within the meaning of the Land Drainage Act 1991 (as amended) “watercourses” may also be piped. Whilst watercourses may take run-off from the highway, the originating flow will normally be from a land drainage source.

Watercourses are classified as either:

- **Main Rivers** – These are managed by the Environment Agency. The responsibility for their maintenance and repair lies with the “Riparian Owners(s)”, although the EA also have permissive powers to maintain and improve them. For more information on your responsibilities regarding Main Rivers, refer to the EA document “Living on the Edge” available on the EA website.
- **Ordinary Watercourses** – these are managed by the local Land Drainage Body. However the responsibility for their maintenance and repair lies with the Riparian Owner.

Land Drainage Body

Herefordshire Council (together with the Lugg and Lower Wye Internal Drainage boards) are the local Land Drainage Bodies and may exercise their statutory and common law powers when they deem it necessary, such as where obstruction to the flow of water creates a risk of flooding.

As a Riparian Owner what am I responsible for?

You have a responsibility to accept the natural flow of water across your land from an upstream neighbour and transferring this, together with drainage from your own property, to your 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.

You must carry out at your own expense any necessary maintenance of the watercourse to the satisfaction of the local Land Drainage Body.

You must maintain the banks and bed of the watercourse or of the piped sections to avoid any obstruction to the flow of water. This includes trees and shrubs and litter even if not deposited by you.

Should you wish to pipe, bridge or cover an ordinary watercourse, you must submit details of your proposals and obtain consent in writing from the local Land Drainage Body. Note that inadequately piped watercourses can create flooding, safety, maintenance and environmental problems.

The Environment Agency is generally opposed to the piping of watercourses and consent will usually only be granted if there is no practical alternative.

If an obstruction or lack of maintenance impedes the flow of any watercourse the drainage body may serve notice on the Riparian Owner to remove the obstruction. If no action is taken, The Drainage Body may carry out the work itself and recover the cost from the Riparian Owner.



Roadside Ditches

There are three categories of roadside ditch:

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

Most open ditch drainage systems in Herefordshire are historic and are the responsibility of the adjoining landowner for maintenance, but the Highway Authority has prescriptive powers to drain into them.

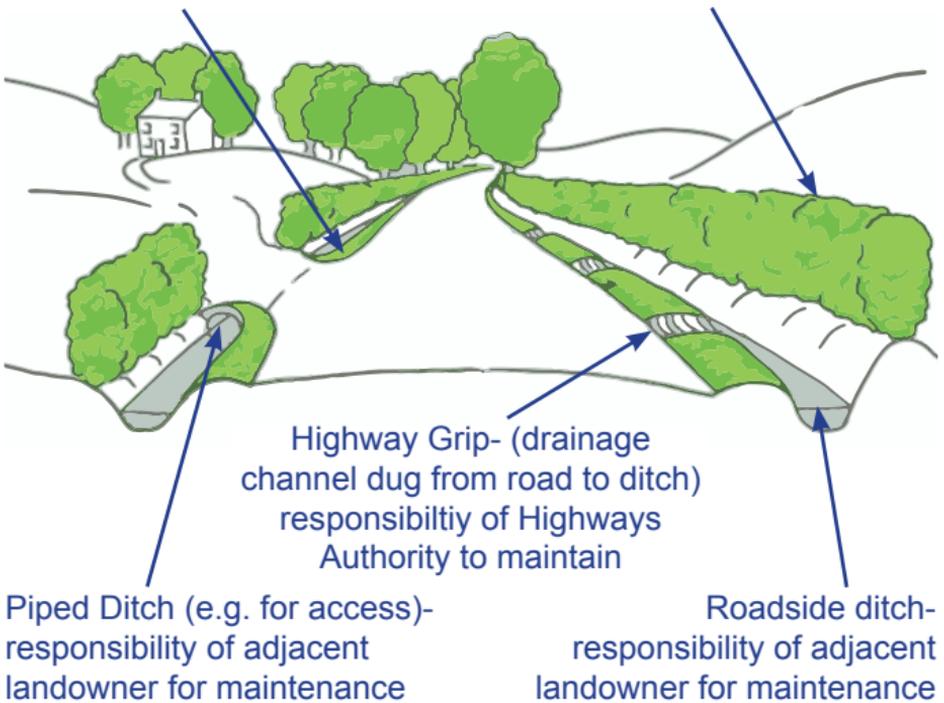
Common Law imposes a duty on the owner of land adjoining a highway to maintain these ditches that provide natural drainage for both the land and highway

The Highway Authority can cleanse and restore the profile of these ditches as appropriate and charge the landowner where necessary.

Ditch ownership and Maintenance Responsibilities

Verge- responsibility of Highways Authority for maintenance

Roadside hedges and trees- responsibility of adjacent landowner for maintenance



Common problems affecting watercourses are

- Allowing silt to build up which can reduce the capacity, 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 a 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 the Land Drainage Body and/ or local authority under their statutory or common law powers.

We are happy to discuss any problems with you. To contact us please telephone the Herefordshire Council Customer Services team on 01432 261800 who will log your call and passed on to an officer who can help.
Web: www.herefordshire.gov.uk/

Thank you for your co-operation.
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 01432 261800