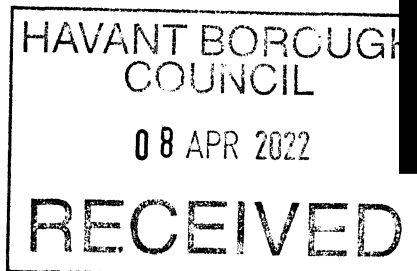


Adrian Elliis Esq
Planning Services,
Public Service Plaza,
Civic Centre Road,
Havant, PO9 2AX



Your Ref: APP/21/00893

6th April 2022

Dear Sir,

Re: Land North of Long Copse Lane, Emsworth. PO10 7UN

I write re-above and your letter of 17 March 2022.

The original conditions attached to the possible allocation of this site, which to my knowledge have not changed, required a footpath from west to east linking the footpath through Hollybank Woods and Hollybank Lane, east through the whole site linking to the Sussex Border Path going south, and also providing a 3 m path for the many pedestrians, horse riders and cyclists using this section of road.

This, by necessity, would run through our land and to date no one has approached us regarding the possible use of our land for this footpath. Our land, which forms part of the allocation, is owned by a family trust which is multi generational, and at present there is no plan to develop this land in the near future.

I understand that Land and Partners have now put in a new proposal, suggesting that a footpath is not necessary as pedestrians can step into the gardens of the houses on the southside of Long Copse Lane.

I attach a letter from Hampshire County Council dated 13th March 2003, which clearly shows that Hampshire County Council spent considerable amount of time and money proving that those gardens do belong to the householders, up to the carriageway, and are not part of the highway, in order to show that the householders were responsible for the maintenance of the trees in those areas and not Hampshire County Council Highways.

Without this facility we would contend this stretch of road would become very dangerous bearing in mind the high level of equestrian, pedestrian and cycle traffic that use it.

In addition, Hampshire County Council have recently confirmed (Letter attached) that we own the watercourse and the land up to the existing carriageway and as a consequence of which, we are required to carry out maintenance of the watercourse which we have done for many years. We are surprised, therefore, that no approach has been made to us about acquiring this land in order to facilitate the widening of Long Copse Lane, which is a condition of the proposed application.

I trust this clarifies what I believe to be the present position.

Yours faithfully,

Delivered by hand 7/4/22

302



Hampshire County Council

Legal Practice
Chief Executive's
The Castle, Winchester
Hampshire SO23 8UJ
Telephone 01962 841841
Fax 01962 840215 / 877525
DX Winchester 2510
www.hants.gov.uk

RECEIVED

Cunningham Lindsey United Kingdom
Solent House
1460 Solent Business Park
Whiteley
FAREHAM
Hants
PO15 7AF

14 MAR 2003

Enquiries to

Direct line

Mrs A. Tett

Date

01962 847310

13th March 2003

My reference

Your reference

CL34057.ART

E-mail

SOHPC/SJM/1664666

Dear Sirs

ALLEGED TREE NUISANCE - 16 LONG COPSE LANE

We refer to your letter of 17th January and confirm that our investigations into this matter are complete.

The trees are not within the publicly maintainable highway, and therefore liability for any damage to your client's property is not the responsibility of Hampshire County Council.

We attach, for your information, Land Registry office copy entries of the titles to numbers 16 and 18 Long Copse Lane. They show the freehold title extending well to the north of the line of trees (which are graphically depicted).

There is nothing in these title documents to relate to private street works or an order under Section 159 of the Highways Act 1959. If highway rights existed over a strip within the title at the northern end, the Land Registry would have recorded that fact. The Titles are consistent in not doing so.

We have gone to a considerable amount of time and effort in establishing what is quite clear from a site inspection. This should have been undertaken by yourselves. It is always the Claimant who should establish the correct Defendant, it is not the Defendant's responsibility. Consequently, we should be grateful if you would reimburse us for the disbursements we have incurred and for our profit costs for work which should have been undertaken by yourselves:-

1 x Index Map Search
2 x Office Copies



Lexcel
THE LAW SOCIETY

Chief Executive
Peter C B Robertson LLB Solicitor

Head of Corporate and Legal Services
Jeff Pattison LLB Solicitor

4 hours work @ £145 per hour



The above time includes a considerable amount of time researching records held at Havant Borough Council and the Hampshire Records Office.

We look forward to your cheque by return.

Yours faithfully

For Head of Corporate and
Legal Services



[Faint, mostly illegible handwritten notes and signatures follow]





Hampshire County Council

Economy, Transport and Environment Department
Elizabeth II Court West, The Castle
Winchester, Hampshire SO23 8UD

Tel: 0300 555 1375 (General Enquiries)
0300 555 1388 (Roads and Transport)
0300 555 1389 (Planning)
Textphone 0300 555 1390
Fax 01962 847055
www.hants.gov.uk

Enquiries to **Woody Wilcock**

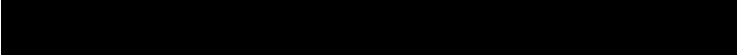
Direct Line **01962 846730**

Date **02 February 2022**

My reference **24214550**

Website <https://www.hants.gov.uk/landplanningandenvironment>

Email **fwm@hants.gov.uk**

Dear 

RIPARIAN OWNER: Roadside ditch on north side of Long Copse Lane, Emsworth

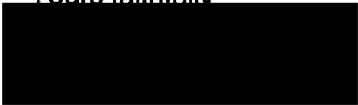
Hampshire County Council has established that you are the riparian landowner for an ordinary watercourse at the above property and identified that this ordinary watercourse requires **maintenance as follows** (see enclosed map and leaflet *Flood Risk Management Guidance for Landowners*).

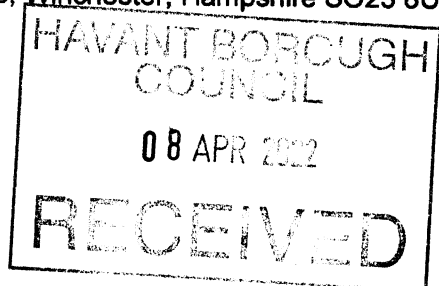
MAINTENANCE REQUIRED

- To clear any vegetation and other obstructions, and to excavate the build-up of silt in the ditch / culvert to original bed levels, removing impediments to the free flow of water.
- To Maintain and repair as necessary any culvert, headwall or other structure permitted within the watercourse.

If you are unsure of the requirements, please visit our website or contact us using the above details as soon as possible.

Yours faithfully


Flood and Water Management, Investigation Team
Economy, Transport & Environment Department,
Hampshire County Council, 1st Floor, EII Court West,
The Castle, Winchester, Hampshire SO23 8UD



Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI

Common questions...

- Q.** If I fail to regularly maintain the watercourse on/adjacent to my land and flooding occurs as a result, do I have to compensate for damage caused to others?
- A.** If you do not carry out your responsibilities, you could face legal action and may be liable for any damage which occurs as a result of your failure to maintain the watercourse.
- Q.** If I own land on both banks of a watercourse am I fully responsible for its maintenance?
- A.** Yes
- Q.** If I own land on one bank of a watercourse what am I responsible for?
- A.** You are responsible for the maintenance up to the centre of the watercourse.
- Q.** If the watercourse is not on my land, but I am the nearest landowner to one bank, am I responsible for maintaining any part of the watercourse?
- A.** Yes, you are responsible for maintaining up to the centre of the watercourse, even if the watercourse and bank do not fall within your property boundary. See figure 1 for an illustration.
- Q.** If I own land on one bank of the watercourse with a Highway on the opposite bank what am I responsible for?
- A.** It is likely that you own both banks and are therefore responsible for the maintenance of the whole watercourse. The majority of Highways are constructed via a dedication of land by landowners, meaning the soil beneath the Highway remains in the ownership of the landowner.
- Q.** If I want to fill in a ditch on my property and replace it with a culvert do I need consent to do this?
- A.** Yes, you will need to have the consent of the Lead Local Flood Authority, if you live in Hampshire this is Hampshire County Council. Please read the 'Guide to Ordinary Watercourse Consenting', which details the necessary consents and explains how to apply. www3.hants.gov.uk/flooding/watercourses.htm

If you have any questions about landownership with regards to ordinary watercourses please contact Hampshire County Council at fwm@hants.gov.uk or call 01962 846730.

If you see any activity that could damage the environment or practice which increase flood risk, please report it immediately to Hampshire County Council at fwm@hants.gov.uk or call 01962 846730.

Please report water and land pollution to the Environment Agency 0800 80 70 60 (24 hour service).

Further information on the consents required for changes to, or building on or near an ordinary watercourse is provided in the 'Guide to Ordinary Watercourse Consenting', which can be found online at www3.hants.gov.uk/flooding/watercourses.htm (If you require a paper copy of this guide please phone 01962 846730.)

Key Contacts and Information

Flood enquiries: fwm@hants.gov.uk
Flood information: www.hants.gov.uk/flooding

Highways information:
www.hants.gov.uk/index/transport/roadproblems

Environment Agency:
Flooding and coastal change:
<https://www.gov.uk/environmental-management/flooding-coastal-change>

Flood Maps:
<https://www.gov.uk/check-if-youre-at-risk-of-flooding>

Riverside ownership: rights and responsibilities:
<https://www.gov.uk/government/publications/riverside-ownership-rights-and-responsibilities>

Valid at time of Production: February 2016



Hampshire
County Council

Flood Risk Management Guidance for Landowners

Hampshire County Council is committed to reducing the risk of flooding. This guidance provides landowners with information about their rights and details their responsibilities for maintaining watercourses on or adjacent to their land, to help prevent flooding.

Landowners or residents who own land or property situated next to a main river or ordinary watercourse are legally termed riparian landowners.

What is a watercourse?

Watercourses are any natural or artificial channel above or below ground through which water flows. Watercourses are classified as either 'Ordinary Watercourse' or 'Main River'.

Ordinary Watercourses are watercourses that are not part of a main river and include streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than public sewers) and passages, through which water flows. Riparian landowners are responsible for maintaining ordinary watercourses.

Main Rivers are typically larger streams and rivers, but some are smaller watercourses of local significance. Main rivers are nationally managed by the Environment Agency (EA). To identify whether your watercourse is a main river visit the EA's website and view their flood maps.

HAVANT BOROUGH
COUNCIL

08 APR 2016

RECEIVED

Rights and Responsibilities

Your rights as a riparian landowner

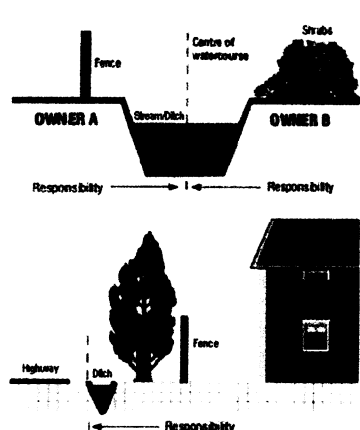
- If your land boundary runs next to a watercourse it is assumed you own the land up to the centre of the watercourse, unless someone else owns the land over which the watercourse flows.

- If you own land with a watercourse running through or underneath it, it is assumed you own the section of the watercourse on your land.

- If a watercourse is the responsibility of a third party it should be noted in your deeds.

- You have the right to protect your property from flooding and your land from erosion. If this work may affect the flow or storage of water, you need to seek consent from Hampshire County Council (see Ordinary Watercourse Consenting).

Figure 1



Under common law you are the riparian owner of any watercourse both within and adjacent to the boundaries of your property.

Where a watercourse is between two or more property boundaries each owner may be equally responsible.

In the Figure 1 even if the Title Deeds for Owner A's property

show the boundary to be the fence, they have riparian rights and responsibilities to the centre of the watercourse. If your property is adjacent to a highway, in most circumstances you are responsible for the whole watercourse.

You have the right to protect your property against flooding from the watercourse and also to prevent erosion of the watercourse banks or any structures.

Your responsibilities as a riparian landowner

1. Let water flow through your land without any obstruction, pollution or diversion which affects how others will receive the water;
2. Accept flood flows through your land;
3. Keep banks clear of anything that could cause an obstruction and increase flood risk if it is washed away;
4. Maintain the bed and banks of the watercourse and the trees and shrubs growing on the banks. Any litter or other obstructions should be cleared, regardless of whether they came from your land;
5. Leave a development-free edge on the banks next to a watercourse, allowing easy access in case any maintenance or inspection is required. For more information on consent for works near watercourses contact Hampshire County Council (owc@hants.gov.uk / 01962 846730) or visit www3.hants.gov.uk/flooding/watercourses.htm ;
6. Keep any structure, such as culverts, trash screens, weirs and mill gates, clear of debris;
7. Do not cause obstructions, temporary or permanent, that would stop fish passing through;
8. Notify the Environment Agency and seek consent from Hampshire County Council if you would like to build or alter a structure that acts as an obstruction to a watercourse. Under the *The Eels (England and Wales) Regulations 2009 (the Regulations)* it may be an offence if you do not notify the Environment Agency of the above;
9. Do not allow the water course to become polluted e.g. dispose of garden or other waste on riverbanks, where it could be washed into the river. This includes grass cuttings, which pollute the water;
10. Protect your property from water that seeps through natural or artificial banks. Where this damages a flood defence, you may be required to pay for repairs;
11. Control invasive non-native species such as Japanese knotweed. Your District or Borough Council can advise you on how to manage and control these species;
12. Make sure any work you do on a watercourse fits with the natural river system. Work must not damage wildlife

and wherever possible you should try and improve the habitat. For further information about guidance on nature conservation and national and international wildlife designations please contact the Hampshire Biodiversity Information Centre (HBIC): <http://www3.hants.gov.uk/biodiversity/hbic>

13. Maintain watercourses running in a culvert as if it was an open watercourse.

What are the sources of flood risk in Hampshire?

The main flood risks in Hampshire are surface water flooding, groundwater flooding and flooding from rivers. Coastal and sewer flooding also occur in the County, but not as commonly.

Surface water flooding (pluvial flooding). This is when rainfall cannot soak into the ground, overwhelms the drains and flows across the ground.

Groundwater flooding. Water within permeable rocks beneath the ground is known as groundwater. This can cause flooding when the water level within these rocks rises above the ground surface. Levels of groundwater tend to respond to rainfall slowly. This means groundwater flooding can occur a long time after the occurrence of prolonged or heavy rainfall, and tends to last longer than other forms of flooding.

Flooding from rivers (fluvial flooding). When a river cannot hold the volume of water which drains into it from the surrounding land flooding occurs in the surrounding area.

Coastal flooding. Flooding from the sea tends to occur as a result of high tides, surges in sea water and strong winds which raise the sea level above the ground level of the coast.

Sewer flooding. Foul flooding, or flooding from sewers often occurs at the same time as other types of flooding and can be a result of blocked drains or the sewer network not being able to hold all the water flowing into it.