

PORLOCK PARISH COUNCIL

REPORT – Hawkcombe Stream, Riparian Ownership



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Purpose of Report

To provide Members with background information on riparian responsibilities relating to Hawkcombe Stream and other watercourses within Porlock, consider the Council's own responsibilities as a riparian owner, and determine whether the Council should undertake any form of coordination role in relation to other riparian owners.

Background

Correspondence has recently been received from riparian owners expressing concern about the condition of Hawkcombe Stream and the potential implications for flood risk within the village, particularly following the withdrawal of routine maintenance activities previously undertaken by the Environment Agency. Residents have requested that the Council consider whether a coordinated approach to maintenance and management of the watercourse is required

As highlighted in communications from the Environment Agency and the workshops ran by Somerset Rivers Authority, host by Council, legal responsibility for the maintenance of watercourses remains with the relevant riparian landowners and that this position has not changed despite alterations to maintenance arrangements. The Council has also established that it owns land adjoining part of Hawkcombe Stream at Porlock Cemetery and is therefore itself a riparian owner in respect of that section of the watercourse.

What is a Riparian Owner?

A riparian owner is any landowner whose property adjoins or contains a watercourse such as a stream, river, ditch, culvert or brook.

In general, riparian owners are responsible for:

- Maintaining the bed and banks of the watercourse.
- Keeping the watercourse free of obstructions that could impede flow.
- Managing vegetation where it affects the free flow of water.
- Accepting natural flows from upstream and passing water downstream without obstruction.
- Maintaining structures such as culverts, walls, pipes, weirs or bridges where they form part of their property.

These responsibilities apply to both main rivers and ordinary watercourses unless specifically altered by legal agreement or title deed.

Council's Legal Position

The Council has no general statutory duty to maintain privately owned watercourses on behalf of riparian owners, nor does it have powers to compel routine maintenance by private landowners. Similarly, there is no statutory duty on the Council to organise, coordinate or fund maintenance activities on behalf of other riparian owners. Responsibility remains with the individual landowners concerned.

Where the Council owns land adjoining a watercourse, however, it has the same responsibilities as any other riparian owner and should ensure that its own section of watercourse is appropriately inspected and maintained.

Issues Identified

Flood Risk

Residents have expressed concerns that excessive vegetation, fallen material and lack of maintenance may contribute to blockages and increase local flood risk during periods of heavy rainfall.

Whilst maintenance of watercourses can assist in reducing localised flooding, responsibility for undertaking such work rests with the relevant landowners rather than the Council.

Ownership Uncertainty

A practical challenge is identifying all affected riparian owners, particularly in areas where watercourses run behind properties, through culverts, or where ownership boundaries are unclear. Earlier enquiries indicate that this remains an unresolved issue due to data protection.

Lack of Coordination

Maintenance undertaken by individual landowners may be less effective where adjoining owners do not carry out similar works. A coordinated approach could improve communication, consistency of maintenance and potentially reduce costs where contractors are jointly engaged.

Potential Roles for the Parish Council

Option A - No Additional Involvement

The Council limits its actions to maintaining its own riparian land and signposting residents to guidance from the Environment Agency, Somerset Council and Somerset Rivers Authority.

Advantages

- No additional resource commitment.
- Clear separation of legal responsibilities.
- Avoids creating expectations of Council liability.

Disadvantages

- May not address community concerns.
- Limited opportunity to promote coordinated maintenance.

Option B - Information and Facilitator Role

The Council does not undertake maintenance on behalf of others but:

- Compiles and shares available guidance on riparian responsibilities.
- Assists in identifying ownership where records are available.
- Facilitates communication between riparian owners.
- Hosts public information sessions where appropriate.
- Encourages voluntary coordinated maintenance initiatives.

Advantages

- Supports community resilience.
- Helps improve understanding of responsibilities.
- Encourages collaboration without assuming liability.

Disadvantages

- Requires officer and member time.
- May create expectations for wider Council involvement.
- Resource implications for administrative support.

Option C - Active Coordination Programme

The Council formally leads a project to identify landowners, organise meetings, coordinate inspections and potentially procure contractors on behalf of multiple owners.

Advantages

- Provides the greatest level of coordination.
- May lead to more comprehensive management of the watercourse.

Disadvantages

- Significant officer and member resource implications.
- Potential liability and reputational risks.
- Creates expectations of ongoing involvement despite no statutory duty.
- Funding implications for administrative and contractor resources.

Considerations

Given the Council's limited powers and resources, Option B appears to provide a balanced approach. It would enable the Council to fulfil its own riparian obligations, support residents in understanding

their responsibilities and encourage collaborative working without assuming responsibility for privately owned sections of watercourse.

As an initial step, Members may wish to consider:

1. Inspecting and assessing the Council's own riparian section of Hawkcombe Stream.
2. Obtaining mapping information to identify watercourses and potential riparian ownership where feasible.
3. Preparing a public information note on riparian responsibilities.
4. Exploring whether there is community interest in a voluntary meeting of riparian owners.
5. Referring any identified flood-risk concerns to the appropriate authority where enforcement powers exist.

Financial Implications

Any maintenance required on Council-owned riparian land may have financial implications and may require future budget provision.

A facilitation and information-sharing role could largely be accommodated however this would put additional pressure on existing resources, whereas a formal coordination programme would require dedicated budget and officer time.

Risk Implications

- Failure to maintain Council-owned sections could expose the Council to reputational and potential liability risks.
- Assuming responsibility for private watercourses could create unrealistic public expectations and increase Council exposure.
- Lack of community awareness may contribute to ongoing maintenance concerns and potential flood-risk issues.

Recommendation

That the Committee recommends to Full Council that:

1. The Council acknowledges its responsibilities as a riparian owner where Council land adjoins Hawkcombe Stream or any other watercourse.
2. The Clerk undertakes a review of Council-owned riparian sections and reports any maintenance requirements.
3. The Council adopts a light touch information and facilitation role only, providing guidance and encouraging collaboration between riparian owners but not assuming responsibility for the maintenance of privately owned watercourses.
4. The Clerk investigates opportunities to identify riparian ownership and that council offers to host further community information briefings on riparian responsibilities with Somerset Rivers Authority.
5. Any significant flood-risk concerns to be referred to Somerset Rivers Authority the Environment Agency for further consideration.