

BROADS (2006) INTERNAL DRAINAGE BOARD

SUPPLEMENTARY GUIDANCE FOR ADOPTION AND ABANDONMENT OF WATERCOURSES

1 BACKGROUND

Under common law, the responsibility for maintenance of watercourses rests with the riparian owner. As different owners have different priorities, needs and expectations as to the standard of drainage required, it is hardly surprising that problems occur especially when, for example, the level of maintenance varies along a particular watercourse depending on the adjacent owner, and those upstream suffer due to somebody further downstream failing to adequately maintain their respective length. It is essential that the Board has permissive powers to “adopt” the most critical watercourses to ensure they are maintained adequately as an arterial drainage network, and that in doing so these drains are protected by the Board’s Byelaws. The Board currently maintains 326km of watercourse, some of which, although adopted, are under private ownership, and some of which are owned by the Board having been vested with them under the original drainage/reclamation Acts.

From time to time drains are adopted and abandoned by the Board due to changes in circumstance. The criteria listed below have been drawn up to reinforce and assist the decision making process as to which drains should be adopted and which abandoned. It is not intended that the criteria should be used to make radical changes to the existing network of Board maintained watercourses but instead to provide guidance to the decision making process when in future a riparian owner asks the Board to consider adopting or abandoning a watercourse. It should also be noted that every case will have to be judged on its own merits, as the complexities and peculiarities of individual cases cannot be encompassed within a standard set of criteria.

2 WATERCOURSE ADOPTIONS

Watercourses which fulfil the following criteria should be considered for adoption:

- A watercourse with more than one riparian owner/occupier, or that caters for more than one owner/occupier within its catchment, which causes persistent drainage problems, or would do if a perceived change in circumstances was to take place, where effective maintenance would prevent these problems from occurring. (“One-off” problems can normally be resolved by issuing the relevant riparian owner a notice under the Land Drainage Act to carry out the required work). If an improvement scheme is required to be undertaken to make it an effective drainage route, then the benefit of this must outweigh the cost. A condition of the adoption would be that the riparian owners, or in the case of development, the developer, finances the improvement to the specification of the Board before the drain is adopted.

Consideration should also be given, when deciding whether or not to adopt a watercourse, to the implications of retrospectively applying the Board’s Byelaws to the adjacent owners/occupiers, particularly Byelaw 10 affecting development within 9m of the drain, and availability of access to the watercourse to carry out maintenance works.

3 WATERCOURSE ABANDONMENTS

Watercourses which fulfil the following criteria should be considered for abandonment:

- A watercourse, or upstream section of watercourse, which either has only one riparian owner/occupier and one owner within its catchment, or where there are multiple riparian owner/occupiers or multiple owners within the catchment and all of these owners or occupiers are in full agreement to the abandonment, or a watercourse which is redundant for its original purpose, for example it has been by-passed, and would not cause a drainage problem if it were abandoned by the Board.

Upon abandonment, the maintenance responsibility for those Board's drains which are not owned by the Board will pass to the riparian owner. It is more difficult to abandon a drain owned by the Board as the Board will still have the responsibility, as owner, to maintain the drain following abandonment, unless the riparian owners are willing to purchase the drain from the Board and take on the maintenance responsibility.

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