



Middle Level Commissioners and Associated / Administered Internal Drainage Boards Code Of Practice For Byelaws

Unless stated otherwise, the term 'Board' may refer to the Middle Level Commissioners, an Internal Drainage Board or District Drainage Commissioners, as appropriate.

Introduction

The Board has made a number of byelaws aimed at protecting the watercourse system that it maintains and at maintaining an appropriate level of flood protection within its area. Copies of these byelaws are available on the Middle Level Commissioners' website at middlelevel.gov.uk or from the Middle Level offices. The most commonly used byelaws are those that require consent for structures in or adjoining a watercourse, or require consent for increased discharges to watercourses and protect bank stability.

These byelaws protect the Board's maintained watercourses and structures and ensure that a right of access is maintained at all times, in order to be able to undertake repair and maintenance work, and to protect areas which may be needed for future improvements to cope with changed circumstances.

Details of the watercourse system maintained by a Board are obtainable from the Middle Level offices or can be viewed on our website.

Implementation

Anyone who wishes to undertake any works in, around or affecting watercourses under the jurisdiction of the Board must seek prior written approval from the Board before they commence the work.

Planning permission from the Local Authority does not remove the need to seek the Board's consents.

Policy

The Board will at all times have a maintenance strip of land on the banks of any maintained watercourse to allow free access for maintenance needs.

Under the above byelaws, the statutory protected width, within which consent is required, is 20 metres for the Middle Level Commissioners and 9 metres for all other Boards. The Boards will only consent to work within the maintenance strip if it can be shown that it will not interfere with the access of their machinery for maintenance, repair or improvement of the water system.

The Board may be prepared in some circumstances to allow development close to the channel on one side of any Board maintained open watercourse if there is an adequate continuous and guaranteed access strip on the opposite side.

The Board will not normally allow any development over the top of a Board maintained culvert or within at least five metres either side of a culvert. Any relaxation of a byelaw will be taken on an individual basis.

Byelaw consent will normally be given subject to a number of conditions, which are necessary to the consent and must be complied with.

Protection of culverts

Where watercourses are culverted by the Board, details will be provided to adjoining owners or occupiers and any other affected parties. Such culverts will be identified as Board maintained on the Board's drain map, which are available on our website.

Where watercourses are culverted by others, a consent document will be issued including details and conditions of the consent, which should be kept with the relevant title deeds.

Planting trees and shrubs

Planting trees and shrubs will not be allowed where it could restrict maintenance operations, reduce the flow of water in a channel, or harm the stability of the bank or embankment adjoining a watercourse.

Enforcement of agreements

Where the Board authorise any works within the protected strip it will issue a written consent document containing that approval and the related conditions. The Board also reserves the right to require a signed acknowledgement of the agreement from the owner or developer and a written undertaking that the agreement has been noted on the title deeds and will be kept at all times with such deeds.

Dealing with breaches

Where any breach of the byelaw is discovered or suspected the Board will conduct an investigation. If there is evidence of a breach, the Board will consider the service of notice under the Land Drainage Act 1991, Section 66. This entitles the Board to require that remedial action is taken. Any breach of a byelaw is a criminal offence.

The notice will require that the breach is remedied within a period, not normally exceeding 28 days (except for in an emergency). Failure to do this will result in appropriate enforcement action being taken and/or legal proceedings being started.

If the breach is not remedied within the specific timescale then the Board will use Land Drainage Act 1991, Section 66 (7) powers to undertake the necessary works and recharge the costs of such works to the offenders.

Ownership and use of land compromising of (or adjacent to) an open watercourse or culvert

The Board is not normally the owner of any watercourse, or land adjacent to any watercourse. However, the majority of the Middle Level Commissioners' watercourses are owned by the Commissioners and the Board is normally the owner of the site of any pumping stations they maintain.

In consequence, when a watercourse is culverted the Board will not normally own the ground above the culvert.

There are circumstances where adjoining owners do not have title to a watercourse e.g. where land on either side of a watercourse is developed and the title to that land area consisting of the watercourse is not conveyed to either party. In such circumstances the title is likely to remain with the original owner or owners of the land.

Where a watercourse is culverted and adjoining landowners have title to the land above the culvert, any use of this land must comply with the Board's byelaws where the watercourse is maintained by the Board.

In any instance where public access is permitted on any land purchased by the Board or created through culverting of a watercourse, the Board will take all necessary steps to ensure that such access is permissive and that public rights of access are not obtained by uninterrupted use.

Board decision

The Board retains the absolute right and authority to enforce its byelaws and the Code of Practice shall not convey any rights to any person to develop any land without the necessary statutory consents from the Board and other authorities. The Board retains the right to vary any conditions or course of action set out in the Code of Practice. Each application to the Board will be considered on its individual merits.