
Subject: RE: Mr and Mrs. Clewes-Masefield Close
Date: 18 December 2024 12:35:45
Attachments: [image001.png](#)

Hi Zoe,

Apologies, it relates to SMD/2024/0442.

Many thanks,

Hannah Varley Trainee Planning Officer
(She/Her)
Development Services
High Peak Borough Council and Staffordshire Moorlands District Council

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From: Planning Comments (SMDC)
Sent: 18 December 2024 12:32
To: Hannah Varley
Subject: RE: Mr and Mrs. Clewes-Masefield Close

Hannah,

Which app does this relate to?

Thanks

Zoe

Zoe Roden
Customer Services Training Officer
(She/her)
High Peak Borough Council and Staffordshire Moorlands District Council

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From: Hannah Varley
Sent: 22 November 2024 11:11

To: Planning Comments (SMDC)
Subject: FW: Mr and Mrs. Clewes-Masefield Close
Importance: High

From: Shaun Simms
Sent: 22 November 2024 10:04
To: Hannah Varley
Subject: RE: Mr and Mrs. Clewes-Masefield Close
Importance: High

Hello Hannah,

I now provide below some general information concerning flooding etc. and issues associated with Natural Water from an Environmental Health perspective.

-
Natural Water Flows

I must inform you that,

“The proprietor of land has a natural right to collect and discharge the surface water run-off from his land onto adjoining lower land, even where he has created an increase in flow by an improved system of drainage or by other means”,
Durrant v. Branksome Urban District Council (1897).

It follows that natural flows and increased natural flows from upstream, culverted, piped or not must be accepted and dealt with by the proprietor of land downstream. The flow may flood the downstream land unless adequate drainage works are carried out by the proprietor of that land being flooded.

Individual owners are therefore responsible for the drainage of their own lands, and for accepting and dealing with the natural catchment flows from adjoining land (riparian ownership). A key principle is that owners are obliged to deal with water arriving on their land and have the right to pass this downstream to lower land. In brief, a person owning lower-level or adjacent level land must accept natural water, this applies to overland and underground flows as well as flows in watercourses (that is rivers, streams, brooks, spring water, ground water, surface water run-off, land drainage, field ditches and rainfall) from adjacent land at a higher or equal level. Many owners are surprised by this when water from next-door is flooding their garden or patio.

In addition to the above, if flooding is caused by inadequate capacity further downstream, the downstream riparian owner has no common law duty to improve the water course or water flow.

“This right does not permit an owner or an authority to act in a wilful manner, as where a highway authority deliberately drained its land onto the land of adjoining occupiers”, **Thomas v. Gower Rural District Council (1922).**

“However, a lower occupier of land is under no obligation to receive water and may take steps to pen back the flow of water, even if this causes damage to

*higher land. Moreover, the right to prevent water entering land is not an absolute one and will only allow the lower landowner to take reasonable steps to prevent the entry of water”, **Home Brewery plc v. Davis and Co (1987).***

New developments

While riparian owners therefore have the responsibility to accept natural water flows, it might be unfair to expect them to carry out extensive and important works to deal with substantial additional flows, from a neighbouring new development. This may include the increasing or raising of ground levels. A developer wishing to obtain planning permission for a development will need to satisfy the relevant planning authority that adequate drainage arrangements will be made to prevent flooding.

Natural Watercourses

I must also inform you that all natural water, watercourses (that is rivers, streams, brooks, springs) and associated culverts are policed by the County Council (CC) or the Environment Agency (EA) and not the District or Borough Councils and they again fall under riparian ownership, i.e. each section of culvert/watercourse is owned by each owner of the land through which the culvert/watercourse passes and any disputes with neighbours will have to be dealt with by themselves as a civil matter or by enforcement via the CC and/or EA.

Conclusion

Therefore, I can only conclude from the information supplied to me is that the flood waters that you refer to, is natural water run off due to the rain fall. An owner of land has a natural right to collect and discharge their surface water run-off from their land onto adjoining lower land. Owners of that lower land are obliged to deal with natural water arriving on their land and therefore responsible for the drainage of their own lands. Any disputes with neighbours will have to be dealt with by themselves as a civil matter,

I hope this email explains the conclusion that has been drawn and I thank you for bringing this matter to my attention. If you require any further information please do not hesitate to ask.

Note: are there any Building Regulation implication as it's a new build?

Regards,

Shaun Simms

Housing & Drainage Specialist - Environmental Health

High Peak Borough Council & Staffordshire Moorlands District Council

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