



# **Village Pond Policy**

Adopted: November 2021

To be reviewed every 3 years or if change of legislation is received.

## Introduction

Historical estimations inform us that the Village of East Ilsley was established in the year 1000 AD, around the village pond. In the year 1100 the village was recorded in the Domesday book as Hildeslei.



*Photo believed to be from 1921.*

The pond has been recorded to be dredged in 1989, 2005 and 2010. The most recent excavation was carried out in September 2021, removing 45 tonnes of silt.



*Photo from September 2021.*

Originally, the pond was a watering hole for the many livestock in the village, particularly around the time of the Sheep Fairs that the village is famous for.

It now functions as a 'Sump' for the Highways Authority and assists with flood alleviation in the village by receiving road 'run off' via a network of underground pipes. Further culverts and gullies encourage the run off to filter down towards fields and farm land beyond Hildesley Court.



## Purpose

The village of East Ilsley is prone to flooding, mainly due to the close proximity of the river Pang, ground water levels and more recent extreme weather conditions. The road run off contains debris that is carried through the pipes and deposited in the pond (known as silt). Over time, the silt builds up at the bottom of the pond, shallowing out the depth of the pond. On investigation in October 2020, the water level was measured at only 6 inches deep before it reached the silt. With more extreme weather conditions becoming the norm, the potential for the pond to over flow and contribute to village flooding was inevitable.

## Land Ownership

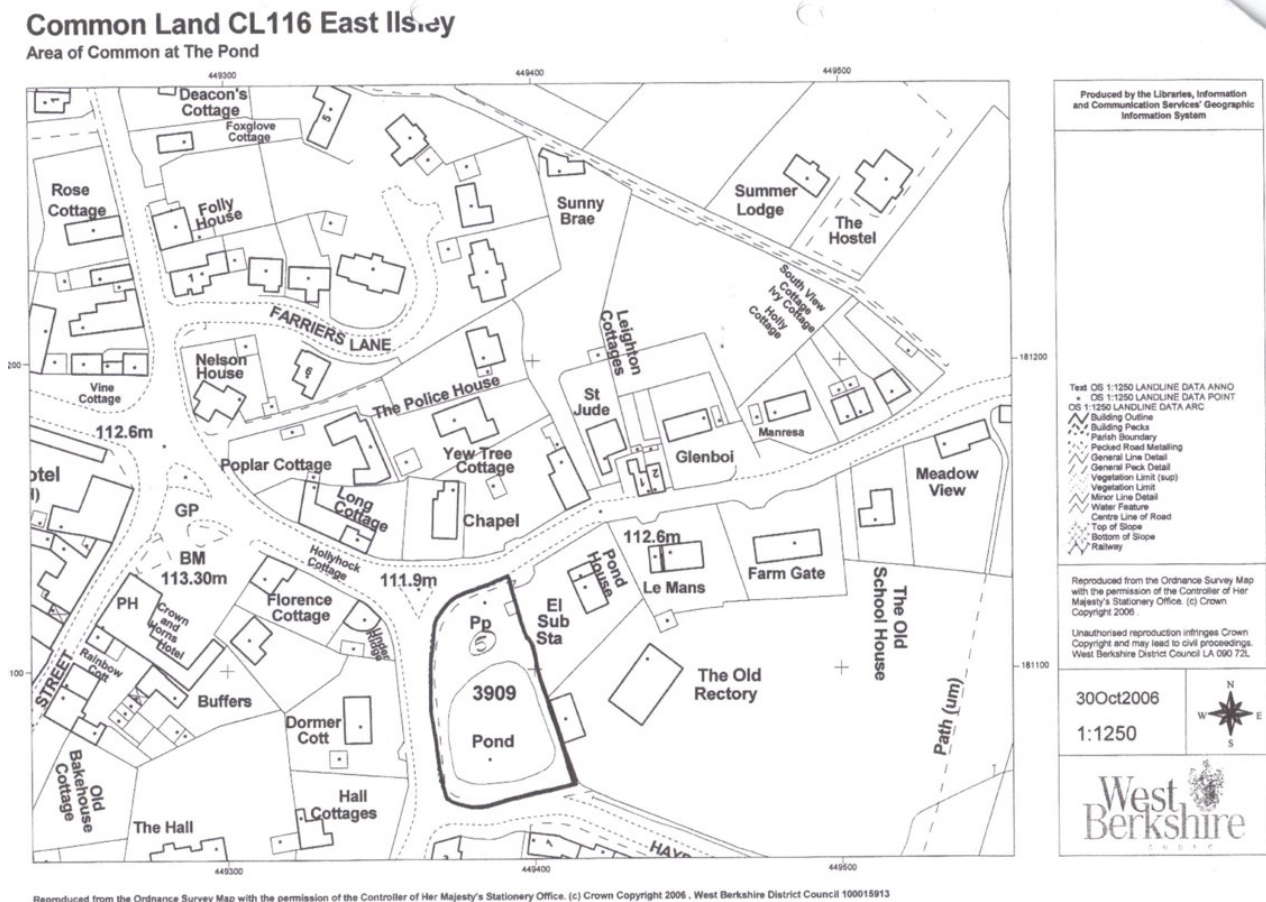
On the 29<sup>th</sup> of June 1978, the Chief Commons Commissioner decreed that the 'owner' of Parcel 5 "a pond and the land surrounding it" was East Ilsley Parish Council. This decision was made by stating:

*"The Parish Council have planted trees and water plants and has placed and maintained two seats on the land. This has continued long enough for the Council to have acquired a possessory title."*

It goes on to say that:

*"On this evidence, I am satisfied that the Parish Council is the owner of [5 - the Pond and surrounding area], and I shall accordingly direct the Berkshire County Council, as registration authority, to register the East Ilsley Parish Council as the owner of the land under section 8 (2) of the Commons Registration Act 1965."*

The documents relating to the decision and the parcel of land can be viewed below:





In the Matter of Nine Pieces of Land at  
East Ilsley, Berkshire.

DECISION

---

This reference relates to the question of the ownership of nine pieces of land at East Ilsley, being the land comprised in the Land Section of Register Unit No. CL 116 in the Register of Common Land maintained by the Berkshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no one claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Newbury on 1 February 1978.

At the hearing the East Ilsley Parish Council was represented by Mrs C F Lewis, solicitor.

The nine pieces of land the subject of the reference are numbered for convenience on a plan put in by Mrs Lewis.

No. 1 is the south-western corner of a large area known as Prestwell Fields Common. The Common was conveyed to the Parish Council by a conveyance made 3 December 1941 between (1) The Agricultural Research Council (2) The Parish Council. Since there was some doubt whether this small area was included in the conveyance, the position was clarified by a supplementary deed dated 24 April 1972. The Parish Council has been in possession of this land since 1941 and has levelled it with the Common for use by a football club.

Nos. 2 and 3 are the sites of cottages long since demolished. The cottages are shown as parish property in the tithe apportionment award.

No. 4 is a roadside strip created when the road to Abingdon was straightened at some time before 1959. The Parish Council has cut the grass and kept it tidy, but in my view the carrying out of such ameliorative work does not constitute adverse possession of land.

No. 5 is a pond and the land surrounding it. The Parish Council has planted trees and water plants and has placed and maintained two seats on the land. This has continued for long enough for the Council to have acquired a possessory title.

No. 6 is an area near the church, of which the Parish Council has been in possession by placing and maintaining a seat on it long enough to have acquired a possessory title.



No. 7 in Broad Street has been occupied by the Parish Council by placing and maintaining a bus shelter and a notice board on it for long enough to acquire a possessory title.

No. 8 in the High Street is not claimed by the Parish Council.

No. 9 was formerly the site of the sheep fair. It has on it a plaque commemorating the fair erected by the East Ilsley Conservation Group. There are also some trees, but it is not known by whom they were planted.

On this evidence I am satisfied that the Parish Council is the owner of the areas numbered 1, 2, 3, 5, 6, and 7, and I shall accordingly direct the Berkshire County Council, as registration authority, to register the East Ilsley Parish Council as the owner of the land under section 8(2) of the Act of 1965.

I am not satisfied that any person is the owner of the areas numbered 4, 8 and 9, and they will therefore remain subject to protection under section 9 of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 29<sup>th</sup> day of

June

1978.

CHIEF COMMONS COMMISSIONER

## Legislations

The following legislations apply to this policy:

Commons Act 1965 (relating to land ownership only)

Land Drainage Act 1991 (Riparian Responsibilities)

Occupiers Liability Acts 1957 and 1984

Management of Health and Safety at Work Regulations 1999 (as amended)

## **The Policy**

As land owners for the Pond and the surrounding area, the Parish Council are responsible for the following:

- The maintenance of the pond (in conjunction with other agencies)
- The general upkeep of the surrounding area
- The management of wildlife and natural habitats
- The safety of residents, visitors, volunteers, and any contractors commissioned to perform work in and around the area

## **Maintenance**

East Ilsley Parish Council will ensure the pond is working effectively as a 'sump' and as flood alleviation for the village in conjunction with West Berkshire Council. The pipes that manage the road run off will be regularly inspected and 'blasted' by West Berkshire Council as part of their road maintenance schemes.

The silt levels will be monitored on a regular basis and the pipes and drains that empty into the pond will be kept clear of obstruction to enable the flow of 'run off'.

An active pond dredging plan will be budgeted for, with an estimation of large excavation works to be carried out every 10 years. Financial support will be sought from West Berkshire Council and other agencies via grants and CIL funding.

Under the Land Drainage Act of 1991 landowners surrounding the pond and pond area have 'Riparian Responsibilities' and East Ilsley Parish Council require all residents with Riparian Responsibilities to carry out their duties as prescribed in the Act. A summary is below:

West Berkshire Council is the local Land Drainage Authority and has resolved to exercise its powers under the Land Drainage Act 1991 when necessary. The Act gives local authorities powers to deal with obstructions in ordinary watercourses where that obstruction to the flow of water creates a risk of flooding. If the obstruction impedes the flow, the Council may serve notice on the Riparian Owner to remove the obstruction. If no action is taken, the Council may carry out the work itself and recover the cost from the Riparian Owner.

Under common law the property owners are the Riparian Owner of any watercourse within or adjacent to the property. Where a watercourse is sited between two or more properties, each owner will be equally responsible. Landowners have a responsibility to accept the natural flow of water across their land.

East Ilsley village landowners have the responsibility to accept water ponding on the land even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse downstream. They must carry out at their own expense any necessary maintenance of the watercourse to the satisfaction of the local Land Drainage Authority. Maintain the banks and bed of the watercourse or of the piped sections to avoid any obstruction to the flow of water.

We will instruct West Berkshire Council of any issues pertaining to the lack of riparian responsibilities with possible enforcement action under the Local Drainage Act 1991.

For further information on riparian responsibilities visit:

<https://info.westberks.gov.uk/CHttpHandler.ashx?id=28251&p=0> for a helpful leaflet or call 01635 519080.

## **General Upkeep of the Pond Area**

East Ilsley Parish Council have a duty to uphold the area surrounding the pond as a pleasant, green space for people to enjoy.

The grass cutting contract is managed by West Berkshire Council and is regularly scheduled. At times, due to contractor issues there may be a gap in the cutting schedule in which the Parish Council will log a request via the online portal to attend to the grass. West Berkshire Council have their own risk assessments for grass cutting near water, as do their appointed contractors, along with suitable Public Liability Insurance for the activity. The Parish Council have access to a petrol trimmer that can be used when necessary. This machinery can only be used by trained councillors and volunteers and when an appropriate risk assessment has been carried out and approved by the council.

The benches are regularly reviewed and their condition is recorded in the Risk Management Scheme at the September meeting. Any actions to the seating are recorded and arrangements are made to repair / paint / stain / replace, as necessary.

The Pump House is regularly reviewed and its condition is recorded in the Risk Management Scheme at the September meeting. Any actions for the pump house are recorded and arrangements are made to repair or paint, as necessary.

There is one litter bin located on the pond green. This is regularly emptied by West Berkshire Council.

Tree maintenance in the area will be actively managed by East Ilsley Parish Council and reviewed as part of the annual budget planning session in November of each year.

The edges of the pond have recently been excavated to remove large swathes of reeds which were impeding the depth and diameter of the pond. This has resulted in a more defined edge to the perimeter of the pond, which is easily visible in daylight hours, but not as visible in the dark. A revised risk assessment has been prepared (that accompanies this policy) along with some future recommendations the Parish Council will look into.

If other maintenance issues are presented (such as loose man hole covers, tree stumps, mole hills, fly-tipping objects etc.) the Parish Council will investigate and appropriate action will be taken to remove / fix / tidy as appropriate with aid from other agencies if required.

## **Management of Wildlife and Habitat**

East Ilsley Parish Council are committed to preserving the pond and the surrounding area for the local wildlife that reside there. Biodiversity is of significant importance and the preservation of the area is key to ensuring it is a safe environment for all wildlife present.

The presence of blue-green algae is a concern and is actively monitored. None have been sighted at the pond but should any appear, we will work with West Berkshire Council and the Environment Agency to remove the blue-green algae.



## Health and Safety

East Ilsley Parish Council have been formally recorded as land owners for the pond and the surrounding area. Therefore, the responsibility for the welfare of residents and visitors who visit the pond is held by the council.

Common sense when visiting any body of water must be implemented by residents and visitors. The village pond is not for water based activities, nor bathing. Young children should not be left unaccompanied at any time and it is the responsibility of the responsible adult in charge to maintain their safety at all times. The Parish Council accepts no liability for any 'foolishness' or 'japes' that lead to accidents and injuries.

The Legal Services arm of our Public Liability Insurers, Rradar, have stated that the use of ponds, and indeed other areas of water, present risks which must be assessed and adequately controlled to ensure the health and safety of all site users. This can be achieved by considering the location, design, and management of the pond.

East Ilsley Parish Council must ensure that it has a suitable and sufficient risk assessment for the pond and pond area and that separate risk assessments are conducted for **all** activities involving the pond area. It is vital that the outcomes and the control measures required to reduce risk to an acceptable level are in place and it must be advised to all those involved in the activities. The new risk assessment developed after the September 2021 excavation is an accompanying document to this policy.

Adequate instruction and information must be given to all those involved in activities in the pond area, and this should include instruction as to the risks of water, pond/pond area and wild life, together with the hygiene implications and the needs of working safely outdoors.

### Events at the Pond - Parish Council Led

Any Parish Council led activity that takes place in or around the pond and pond area will have a fully completed risk assessment and control measures will be in place to mitigate any identifiable risks.

These could include:

- Public consultations
- Volunteer Programmes
- Presentations
- Active management of the pond and pond area
- Social events
- Public Meetings
- Other events added at that Parish Council's discretion

East Ilsley Parish Council hold full public liability insurance that covers residents, visitors, and volunteers to the value of £10 million.

POLICY No RGBDX6962034

NAME OF POLICYHOLDER East Ilsley Parish Council

DATE OF COMMENCEMENT OF INSURANCE POLICY 1st October 2021

DATE OF EXPIRY OF INSURANCE POLICY 30th September 2022



## Events at the Pond - Third Party Led

Should any third party wish to lead an activity that is based at the pond or pond area they will need to submit a formal application in writing to the Parish Council along with theses accompanying documents before a decision can be made:

1. Completed Application Form
2. Completed Risk Assessment relevant to the activity proposed
3. A current copy of Public Liability Insurance in the name of the group proposing the activity
4. Certificates proving the competence and capability of any person(s) erecting structures, electrical connections, or suspensions.

Once these completed documents have been received they will be discussed at the next Parish Council meeting and a decision will be given.

As land owners with the overall responsibility for health and safety of visitors to the pond and pond area, the decision whether to allow an activity or event to take place at the pond or pond area is at the sole discretion of East Ilsley Parish Council and subject to the receipt of the listed documents.

As a guide the following considerations will need to be addressed in writing to the Parish Council:

The use of electrical equipment in or near ponds is not encouraged but where necessary if equipment is to be used it should be for example be, solar, low voltage transformed power supply or battery powered. Where mains supply is used Residual Current Device provision is essential from the power source. Any electrical equipment must be installed by a competent person.

Where activities will be undertaken at the pond edge, in areas where the edge is purposely soft for the development of wildlife and vegetation **pedestrian access must be restricted**.

For safety and security, installation must be carried out by a contractor with relevant health and safety training and who carries extensive public and product liability and professional indemnity insurance. A full risk assessment is performed prior to installation in order to take account of site conditions.

If displays are on a public highway, sufficient access for pedestrians will be required. A minimum clear width of 1.5m must be allowed to ensure pedestrians, including those with mobility difficulties or disabilities, are able to have safe access.

Failure to provide any of the above documentation and considerations will result in the Parish Council being unable to grant access to the land.



## Application Form for a Third Party to hold an Event at the Pond / Pond Area

Please complete this form and attach the relevant information and send to:  
Clerk, East Ilsley Parish Council, Swimbrels, Newbury Hill, Hampstead Norreys, Berkshire, RG18 0TR  
or email to [clerk@eastilsley-pc.gov.uk](mailto:clerk@eastilsley-pc.gov.uk)

Name of Organisation:	
Contact Details:	
Position in Organisation:	
Telephone:	
Email:	
Is your organisation a registered charity?	Yes / No (if yes please provide charity reference number)
Name of Event:	
Dates the event will run from / to:	
Time the event will run from / to:	
Brief Description:	
Public Liability Insurance Policy Number:	
Date Insurance Commenced:	
Expiry Date:	
Have you attached your completed Risk Assessment for the event?:	Yes / No
Have you attached a copy of your Public Liability Insurance Certificate?:	Yes / No
Have you attached copies of relevant certificates relating to electrical connection / structure building / health and safety?:	Yes / No

*Thank you for your application. The clerk will add your request to the agenda of the next Parish Council Meeting for consideration. Please do join us for the meeting in case any questions arise.*