

Mr Paul Collins
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Chichester, West Sussex
PO19 7DN

Our ref: HA/2010/108965/05-L01

Your ref: BN/27/09/

Date: 25 March 2010

Dear Mr Collins,

OUTLINE APPLICATION FOR DEMOLITION OF ALL EXISTING BUILDINGS/STRUCTURES & REDEVELOPMENT WITH UP TO 100 DWELLINGS (INCLUDING UP TO 40 AFFORDABLE HOMES) AT ANGELS & HYDE NURSERIES YAPTON ROAD BARNHAM

Thank-you for your e-mail of the 17th March 2010.

In response to the points you have raised:

1. As stated in my previous letter of the 16th March we are formally **Objecting** to this application as submitted, but as I am sure you are aware, the decision as to whether to approve or refuse this application lies with Arun District Council.

We are a statutory consultee under the Town and Country Planning (General Development Procedure) Order 1995, Article 10. This not only relates to flood risk, but also to planning applications involving the retention, treatment or disposal of sewage.

2. We are prepared to defend this Objection at Appeal/Inquiry but believe Arun will also input into this if they choose to refuse the application, as they are fully aware of the drainage issues in that area.

We will be able to provide substantial evidence of continuing pollution offences in this area, of which the primary one will be that Southern Water received and accepted a formal caution for the offence of causing and knowingly permitting untreated sewage effluent, polluting matter and solid waste to enter the Barnham Rife which is a controlled water at Tars Farm, Church Lane, Barnham contrary to the Water Resources Act 1991, Section 85 (1)(3). This was for an offence committed on the 23rd January 2009. This caution was issued following other documented offences, and there have been further incidences this year which we will of course be able to provide to an Inspector in the event of an Appeal.

However, we would be grateful if you could supply us of a plan showing **where** the connection point which has been identified by SW as able to deal with the increased capacity.

3. We are able to withdraw our objection on the basis of flood risk/surface water drainage, as there is now an identified outfall point for surface water (ie the ditches) which means that it should be possible to design something which will work at reserved matters stage. I apologise if this was not clear in my previous letter.

4. I have attached a copy of our internal policy on effluent disposal in sewered areas for your attention, but cannot comment on the suitability of such a scheme having received no details of such as yet.

5. If the Council are recommending approval of this scheme, we are of course happy to provide suggested conditions on a 'without prejudice' basis, and I have attached these at the end of this letter, but these may not be comprehensive as we do not ordinarily supply conditions whilst also maintaining an Objection due to the confusion which this can cause.

I trust that the above comments are satisfactory but if you require any further information please contact me.

Yours sincerely,

Miss Kate Attrill
Senior Area Planning Liaison Officer

Direct dial 01903 703918

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Condition 1 - Drainage – scheme to be agreed

No development shall commence until such time as a scheme to dispose of foul and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reasons: In the interests of complying with Planning Policy Statements 23 and 25.

Condition 2 – Updated Ecological report

No development shall commence until an updated ecological report which has clearly addressed the on-site ditches has been submitted to and approved in writing by the local planning authority.

Reason: The ecological report originally submitted neither identified the on-site ditches or surveyed them. These ditches were later identified as part of the Flood Risk Assessment. Government policy on planning and nature conservation as set out in Planning Policy Statement 9 (PPS9) requires that planning decisions should prevent harm to nature conservation interests (PPS9, Key Principles paragraph 1ii). This has not been adequately demonstrated in the present application. Based on the results of this updated report, further ecological surveys may be required, and if protected species are found, a mitigation strategy will also be required, the proposals of which shall be carried out as agreed, and if compensatory habitat is required, that shall be retained thereafter.

Environment Agency Policy		
Effluent disposal in sewerred areas		
Policy Number: 769_06		
Policy Statement Developments discharging 'domestic' sewage will be expected to connect to the public foul sewer where it is reasonable to do so. We will not normally grant a discharge consent for a private sewage treatment system where it is reasonable to connect to the public foul sewer. Likewise, discharges of trade effluent will be expected to connect to the public foul sewer where it is reasonable to do so and agreement can be reached with the sewerage undertaker to issue a trade to sewer consent.		
Objectives The objectives of this policy are to:		
• satisfy the requirements of relevant England, Wales and EU legislation; • protect the environment; • deliver our own and Government policies, codes of practice, guidance and targets; • support Development Plan policies; • take into account costs, practicality and sustainability when deciding if a connection to the public foul sewer is reasonable; • work in close co-operation with local planning authorities, water companies and developers to identify local and regional strategic needs for sewerage service provision; • resist the proliferation of private sewage treatment in locations where it is reasonable to connect to the public foul sewer, at both development planning and planning application stages.		
Policy Authors:	Clare Blacklidge, Policy Advisor, Water Quality Strategy & Policy, Strategic Unit Wales; Will Tipper, Technical Advisor, Surface WQ NOPTS.	
Policy Sponsor: John Fraser (Head of Water Quality)		
Signature of Authorisation by Policy Sponsor:		
Version: 1	Date: 15/12/06	Available from: Easinet

If you have any queries relating to the content of this document, or suggestions for improvements, please contact the Policy Author named above.

If any of the terms or acronyms used in this document is unfamiliar you might find the definition in the Glossary on the Agency's Intranet site: Information Resources > [Glossary of Terms and Acronyms](#).

Effluent disposal in sewerage areas

Background:

Effective sewage disposal from dwellings and industrial/commercial developments is essential for the protection of public health and the environment. Sewage treatment and disposal can be provided by a sewerage undertaker (i.e. public foul sewer) or via a variety of private sewage treatment systems. The relevant legislation and guidance is outlined below.

Public sewers

Part IV of the Water Industry Act 1991 places duties on sewerage undertakers in relation to sewerage services in their areas:

- **Section 94** – the provision, improvement, extending, cleansing and maintaining a system of public sewers so as to effectually drain an area, and to effectually treat the contents;
- **Section 98** – this allows the requisition of a sewer from the sewerage undertaker;
- **Section 102** – a person may request the sewerage undertaker to adopt an existing sewer;
- **Section 104** – allows agreements with sewerage undertaker to adopt sewers and sewage treatment works on completion;
- **Section 106** – right of connection.

The Urban Waste Water Treatment Directive 1991 requires that all properties in an agglomeration are connected to a collecting system, unless connection would provide no environmental benefit or would involve excessive cost. The decision to allow an individual system must be made on a case by case basis, preferably at the planning application stage, and the individual system must provide protection to the environment equivalent to that provided by connection.

These duties are supplemented by the Urban Waste Water Treatment (England and Wales) Regulations 1994. The regulations require water companies to provide collecting systems for built-up areas where the population equivalent (p.e.) is greater than 2000, and to provide secondary treatment for discharges to inland and estuarine waters where the p.e. exceeds 2,000, and for discharges to coastal waters where the p.e. exceeds 10,000. It is government policy that urban waste water discharges greater than 2000 p.e. to coastal waters receive secondary treatment. All urban waste water discharges less than 2,000 p.e. must receive “appropriate treatment”, the extent of which is determined locally by us.

Building control

- Section 21(4) of the Building Act 1984 states that the local authority may require a proposed drain to connect with a sewer where that sewer is within 100 feet of the site of a new building or extension and the land between the development and the sewer is owned by the applicant.

Approved Document H issued by the Office of Deputy Prime Minister (now DCLG) as guidance to

the requirements of the Building Regulations 2000 (SI2000/2531 as amended by SI2001/3335) covers sewage disposal and sets out, in part H1, a hierarchy for disposal of foul water, as follows:

- a public sewer; or, where that is not reasonably practicable,
- a private sewer communicating with a public sewer; or, where that is not reasonably practicable,
- a private sewage treatment plant (including a septic tank); or, where that is not reasonably practicable,
- a cesspool.

Part H2 gives the requirements and guidance for siting, design, construction and maintenance of private sewage treatment systems, septic tanks and soakaways, and cesspools.

Planning requirements

DETR Circular 3/99 / Welsh Office Circular 10/99 sets out guidance for local planning authorities (England and Wales) to consider when determining planning applications that indicate the use of non mains drainage. This guidance applies the same hierarchy Approved Document H1. It states that the preferred option will always be to provide a system of foul drainage discharging into a public sewer. Only if the cost and/or practicability demonstrate that connection to public foul sewer is not feasible can private treatment systems be considered.

Planning Policy Wales states that development proposals in sewered areas must connect to the public main sewer. Development proposing the use of non-mains drainage schemes will only be acceptable where connection to the public foul sewer is not feasible.

PPS23 'Planning and Pollution Control' sets out the framework for considering pollution control aspects in planning decisions. PPS 12 'Local Development Framework' includes reference to provision of infrastructure such as sewerage.

We are a statutory consultee under the Town and Country Planning (General Development Procedure) Order 1995, Article 10. This relates to planning applications involving the retention, treatment or disposal of sewage. The Agency will apply its policies and guidance in responding to such applications.

Private sewage treatment discharges

The statutory requirements detailed in sections 85 and 88 of the Water Resources Act 1991 make it an offence to cause and/or knowingly permit poisonous, noxious or polluting matter to enter controlled waters without our consent. A permit is usually required, which will include conditions that adequately protect the receiving environment. Defra and Welsh Assembly Government are currently considering our proposal to directly regulate discharges from very small STWs (5m³/day or less). The proposal is part of our Modernising WQ Regulation programme. If Defra and the Assembly agree, direct regulation is likely to start in late 2007 and this policy will be updated to reflect that.

Policy drivers

We are increasingly receiving planning application consultations and applications for discharge consents that include private effluent treatment systems in locations where it would be reasonable to connect to the public sewer. This policy aims to ensure the relevant legislation, policy and guidance on connection to sewer is given due consideration in responding to these situations. Hence, there is a presumption that premises will connect to the public foul sewer where it is reasonable. Criteria for assessing reasonableness include distance from existing foul sewer, cost, sustainability, geology, and river/rail crossings. Our Groundwater Protection Policy and Practice complements this policy and should be consulted for all proposals for foul drainage disposal to ground. It is for the applicant to demonstrate to the local planning authority that it would be unreasonable to connect to the public foul sewer in terms of cost or practicality or that the proposed system offers a more sustainable solution than connection to the foul sewer. The applicant must complete a foul drainage assessment

and submit this to the local planning authority with their planning application. This will enable the authority to decide on whether they need to consult us and whether the applicant's proposed option is reasonable.

Desired Outcomes:

- Compliance with relevant England, Wales and EU legislation, policies, codes of practice and guidance;
- Delivery of relevant Defra, Department for Communities and Local Government (DCLG) and Welsh Assembly Government strategies and Public Service Agreement targets;
- Delivery of our corporate strategy and targets;
- Achievement of environmental quality objectives through effective and proportionate responses to planning applications, development plans and regulation of point source discharges to controlled waters;
- Sustained protection and enhancement of the environment that balances the social, economic, resource and environmental aspects of sustainability;
- Private sewage treatment systems are limited to cases where it is unreasonable to connect to the public foul sewer on the grounds of cost or practicality or where the proposed system offers a more sustainable solution than connection to the foul sewer;
- Long term planning that matches the sewerage infrastructure capacity with the planning authority's and the sewerage undertaker's development proposals.

Audience

Internal: this policy is relevant to Environment Protection, Planning Liaison, Groundwater and Water Quality Regulatory teams, Policy, Process Management, Regional Strategic Units (England) and Strategic Unit Wales.

External: this policy will be of particular interest to Government Departments, water companies, local authorities, regional authorities, developers, consultants, architects, industry, non-governmental organisations and members of the public.

References

Water Resources Act 1991, as amended.

Water Industry Act 1991, as amended.

Urban Waste Water Treatment Directive 1991 (91/271/EEC).

Urban Waste Water Treatment Regulations (England and Wales) 1994.

Building Act 1984.

Building Regulations 2000 (SI 2000/2531) as amended by Building (Amendment) Regulations 2001 (SI2001/3335).

Building Control Guidance ODPM 2000 – Approved Document H.

DETR Circular 3/99 / Welsh Office Circular 10/99 – Planning requirements in respect of the

Use of Non-mains sewerage incorporating septic tanks in new developments. April 1999.

Planning Policy Wales, Welsh Assembly Government, March 2002, paragraphs 12.4.1, 12.4.2 and 12.4.3.

The Provision of New Drains and Sewers in England and Wales: Consultation Paper. DETR and National Assembly for Wales 2000.

PPS23 'Planning and Pollution Control' DETR 1994.

PPS12 'Local Development Frameworks' ODPM 2004.

Environment Agency Groundwater Protection Policy and Practice 2006.
Environment Agency Guidance on effluent disposal in sewerage areas 2006.

Policy Implementation Plan

Policy Number:		769_06
1.	Who are the target audiences.	• Internal: Environment Protection, Planning Liaison, Groundwater and Water Quality Regulatory teams, Policy, Process Management, Regional Strategic Units (England) and Strategic Unit Wales. • External: Government Departments, water services companies, local authorities, regional authorities, developers, consultants, architects, industry, non-governmental organisations and members of the public.
2.	What do they need to know?	• Content and scope of the policy. • How the policy is going to be implemented.
3.	When do they need to know it?	• Staff: In advance of its implementation. • Customers: Prior to the commencement of developments in a sewered area.
4.	How will they be told?	• Internal: through process cascade procedures and intranet. • External: relevant external journals and existing external liaison groups.
5.	Who will tell them?	• The policy will be cascaded through the Surfacewater and Planning Liaison NOPTS to relevant Agency staff and external stakeholders.
6.	Competencies to undertake the task.	• The relevant competencies to implement the policy will be defined by NOPTS. • Training will be provided to staff where necessary to fulfil the competency requirements.
7.	What supporting documents must be developed?	• Supporting guidance has already been released (538_06).
8.	What resources are required?	• The revision and publication of this policy will not require any additional resource above that already allocated according to the corporate plan and service levels assigned in the Environment Protection Priority Planning Exercise (EPPPE). This policy is likely to improve organisational efficiency. • The corporate plan and EPPPE service levels are reviewed each year. • The resource requirements for implementation of the policy will be monitored, assessed and reviewed by Process Management.

9.	Monitoring of Progress Method(s): Success Criteria: Date(s) Undertaken Comments:	Policy and NOPTS will monitor the performance of this policy and the implementation plan will be progressing as intended if: • everyone who should be aware of the policy has received it, is aware of its content, clearly understands it and is implementing it effectively; • there is no proliferation of private sewage treatment systems in areas where it is reasonable to connect to the public foul sewer; • long term plans are under development, matching sewerage infrastructure capacity with the local planning authorities' and water companies' development proposals; • feedback from customers is used to improve the process and systems.	
10	Authorisation	<u>Policy Sponsor</u> Sign: Name: <u>John Fraser (Head of Water Quality)</u> Title: Date: <u>Chair Approval Body</u>	
11	Review Date	15/03/08	Version: 1