



Briefing Note for LPA Infrastructure Provision

Introduction

Southern Water looks to Local Planning Authorities (LPAs) to apply policy provisions and planning conditions that mitigate the impacts of proposed housing allocations on water and wastewater assets and infrastructure, promoting sustainable drainage, water efficiency and protecting water quality. We engage with LPA through meetings and consultation processes as follows:

- Planning Policy consultations, for which Water and Sewage Companies (WaSC) are statutory consultees. Please contact us here - Planning.Policy@southernwater.co.uk
- Consultations for planning applications, for which WaSC are not statutory consultees, Southern Water will consult when invited to at - SouthernWaterPlanning@southernwater.co.uk

Where Southern Water identifies that the local network may require reinforcement to support proposed levels of growth, and the developer indicates an intention to connect to the public network, Southern Water will ask the LPA to make use of planning conditions. The LPA can then determine any details submitted pursuant to such conditions in accordance with any views expressed by Southern Water on the impacts of proposed housing allocations on water and wastewater assets and infrastructure.

We encourage Developers to contact us ahead of submitting a planning application through the Pre-planning enquiry route here - [Pre-Planning Enquiry](#)

The Legislation

All WaSCs have a legal obligation under Section 94 of the Water Industry Act 1991 (WIA 1991) to provide, improve, extend and make provision for effectually dealing, by means of sewage disposal works or otherwise, with the contents of the public sewerage system. This, together with Section 106(1) of the Act mean WaSCs cannot object to, or the Council refuse to grant, planning permission for development on the grounds that no improvement works are planned for a particular area.

Southern Water will therefore instead request conditions on the grant of planning permission. This is intended to enable Southern Water to agree with the developer the layout, drainage and water use strategy, preferred point of connection, whilst also allowing for existing capacity to be considered and upgrading work to be programmed. Such an approach allows the legal right to connect to be sensibly managed.

The statutory duty under section 94* of the WIA 1991 for a WaSC to plan and implement works necessary to ensure the network and treatment assets continue to operate satisfactorily does not take account of realistic lead times for this. There is a right for a development to connect under section 106 of the WIA 1991. However, problems can arise from the fact that this right to connect can be exercised on 21 days' notice - too short a period of time for the WaSC to effectively plan, design and deliver reinforcement works.

*Under section 94 (1) of the Act, sewerage undertakers also have:

- duties to provide, improve, extend and make provision for effectually dealing, by means of sewage disposal works or otherwise, with the contents of the public sewerage system, and
- a right as an alternative to works. For more information please see [Alternative Discharge Arrangement Policy](#)

While advance notice can be given that a development is likely to be coming forward, until planning permission is actually granted, there is no certainty that this will be the case. Even then, practically speaking there may be a delay in development commencing while information is prepared and submitted to discharge pre-commencement conditions. WaSC cannot afford to use funding to deliver schemes that are not needed, or to mobilise to deliver schemes that might not be needed until a future date.

Where local reinforcement is needed to support planned growth, network reinforcement schemes should be funded by the WaSC through the Infrastructure Charge to developers. Any larger, strategic infrastructure improvements (such as an upgrade of a wastewater treatment works, WTW) are delivered through the 5 yearly business plan, which is funded through customer income as regulated by Ofwat. Given the changing nature of development activities and the planning process, it is not always possible at the beginning of a five year period for the WaSC to plan for all works which may be required for those 5 years.

Whilst there is a separate statutory regime governing the provision of sewerage and wastewater treatment under the WIA, there is opportunity for the LPA to consider the potential impacts of development, and to ensure that those impacts are adequately mitigated before that development is undertaken. This can usefully consider sustainable drainage, contamination risk and water efficiency in addition to sewer network capacity, without duplicating the roles and responsibility of the utility company but by working in partnership with them.

This opportunity is reflected in the National Planning Practice Guidance (NPPG), where it states in the section dealing with water supply, wastewater and water quality (Para 018 reference ID: 34-018-20161116) *"If there are concerns arising from a planning application about the capacity of wastewater infrastructure applicants will be asked to provide information about how the proposed development will be drained and wastewater dealt with...The timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to public sewage system have been carried out."*

Proposed Use Of "Grampian" Style Planning Conditions

The use of Grampian style planning conditions has been affirmed in case history eg the Welsh Water decision (2009) relating to wastewater connections - *"The planning authority can make planning permission conditional upon there being in place adequate sewerage facilities to cater for the requirements of the development without ecological damage.. Thus the planning authority has the power, which the sewerage undertaker lacks, of preventing a developer from overloading a system before the undertaker has taken steps to upgrade the system to cope with the additional load."*

When consulted on a planning application, where necessary Southern Water will therefore request that a Grampian style condition is imposed upon the grant of planning permission.

Conclusion

The purpose of Grampian style conditions is to enable Southern Water to manage the impacts of development and the connections to the public network. This approach therefore allows the legal right to connect to be sensibly managed prior to occupation of the development. The LPA has no further purpose in pursuing such conditions, and scrutiny of WaSC performance and decision making is through the statutory regulatory body Ofwat. Alongside the LPA planning conditions, Southern Water will agree with the Developer:

- an appropriate drainage strategy, including surface water management and SuDS,
- a water-efficient use strategy (where applicable), and
- the preferred points of connection,

whilst allowing for existing capacity to be considered and upgrading work to be programmed.

For more information on surface water management and sustainable drainage solutions, please see:

- [Surface Water Management Policy](#)
- [Sustainable Drainage Systems \(SuDS\) Guidance](#)
- [Sustainable Drainage in Source Protection Zones](#)