

DRAINAGE STRATEGY

For

The Rural Workers Dwelling Application

at

2020/1002/FUL Old Farm House, New House Farm, Gorse Lane, Tarleton

The site has an existing drainage network that accommodated the existing farm house and agricultural buildings. The intention will be to connect into the mains system which is covered by the Water Industry Act. As this application for a rural worker dwelling application, we propose connecting to the existing system.

The Water Industry Act 1991 (the Act) provides a full legislative framework which incorporates provisions to ensure that new developments can be effectually drained. The Act also contains sufficient safeguards to ensure that flows resulting from new development do not cause detriment to the existing public sewerage networks by imposing a duty on the sewerage system operators to take the necessary action to carry out works to accommodate new flows into their networks. Where it is perceived that new flows may cause detriment to existing public sewer networks, in addition to its duty to improve/upgrade, a sewerage undertaker also has the ability to compel a developer to connect at a point of adequacy on its system or otherwise alter the proposed drainage arrangements so that sewerage or waste water treatment capacity for this development or any other is a matter which the incumbent sewerage undertaker must provide and as such this does not represent a constraint to the development.

There is a separate statutory legislation in place which addresses the matter and application that should the proposed development be granted outline planning permission, United Utilities has the time, knowledge and expertise to assess the impact on its sewerage network and implement any improvements that will be required to accommodate new foul flows.

United Utilities has a legal duty to ensure that the contents of its sewers are emptied and properly treated and a developer has a statutory right to connect to a public foul sewer. United Utilities is funded to make sure improvements are made to its sewerage network in order to comply with its legal requirement to “provide, improve and extend” its system. Imposition of a foul drainage planning condition which allows a sewerage operator to avoid a statutory duty which it is funded to carry out conflicts with some or all the six tests in the National Planning Policy Framework.

Legislation

Section 106 – Right to Communicate with Public Sewers. Developers enjoy a statutory right to connect new sewers to existing public sewers under section 106 (1) of the Act and sewerage undertakers do not have the ability to refuse a connection on the grounds of capacity in the local sewerage network and/or sewage treatment works. Section 106 (1) is set out in full below: 106 Right to communicate with public sewers. (1) Subject to the provisions of this section – (a) the owner or occupier of any premises, or (b) the owner of any private sewer which drains premises, shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.

The Supreme Court in its recent judgment against a sewerage undertaker upheld this long-standing automatic right of connection to available public sewers (Barratt Homes Limited (Respondents) v

Dwr Cymru Cyfyngedig (Welsh Water) (Appellants) – paragraphs 23-26, 41, 55). Section 94 – A Sewerage Undertaker’s General Duty to Provide a Sewerage and Sewage Disposal System Under section 94 (1) of the Act, sewerage undertakers have a duty to provide, improve, extend and make provision for the emptying of their sewerage systems by effectually dealing, by means of sewage disposal works or otherwise, with the contents of those sewers that comprise the public sewerage system. The provisions of this section of the Act relate not only to long term capital works to improve the sewerage system generally, but also place a duty on the sewerage undertaker to react to changes in the level of discharges into their networks.

Section 94(1) places a duty on sewerage undertakers to plan and implement any works they feel are necessary to ensure their network of sewers continue to operate satisfactorily once they have received notification that a developer intends to exercise their right to connect under section 106(1). In reality, the sewerage operator has sufficient certainty that a development will be proceeding on the grant of planning permission (outline or full) and should consider any necessary actions to comply with their section 94 duty at that stage. It is therefore illogical to refuse to grant planning permission for developments on the grounds that no improvement works are planned for a particular area.

Section 112 – An Alternative to Works Under the Section 94 Duty Whilst all developers and landowners have an absolute right to connect to the public sewer nearest to their premises, in some circumstances it may be the case that the sewerage system operator requires drainage systems to be constructed in a way that protects the existing public sewerage and/or sewage treatment systems. The sewage operator may ask the developer to contact into a different part of the sewage system. Given the rights and duties under section 106 and 94 of the Act, it would not however be appropriate to expect a developer to pay for any additional works.

Section 112 of the Act provides a legislative system for sewerage undertakers to compel a developer to carry out alternative works (s112(1)), but with the difference of cost being met by the sewerage undertaker (s112(6)). Sections 112 (1) and (6) are set out in full below:

112 Requirement that proposed drain or sewer be constructed so as to form part of general system.
(1) Where –

a person proposes to construct a drain or sewer; and

(b) a sewerage undertaker considers that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which that undertaker provides or proposes to provide,

There are public foul sewers available in Gorse Lane and some of the other connection points in the vicinity. In order for foul water from the proposed development to be effectually drained, a new network of foul sewers will be constructed this could be on the site or off. This network of new sewers will be connected to the existing public foul sewer network. All sewers will be constructed in accordance with the national industry guidance entitled “Sewers for Adoption”.

The topography of the site indicates that the site falls naturally towards the surrounding public highways in which the public foul sewers are located. The majority of the site slope towards Gorse

Lane and connection to the public sewers should be by gravity at either one or multiple points on the existing network. It is not anticipated that a foul sewage pumping station will be required for the proposed development.

It is also worth bearing in mind that the application is for one dwelling and will not be caused by inward migration, but by providing homes for people currently living as two households in one property. Inward migration only tends to account for 30% of the need for extra homes. In assessing the impact of a development on the local foul sewerage system, United Utilities should not view this development as generating entirely new additional foul flows, but rather a case of most of the foul flows being existing foul flows simply continuing to discharge within the same local network but from a different home.