

Part 2 – Clause 32 (Schedule 3) Sustainable drainage

Issue

Currently there is no one body that has overall responsibility for ownership and management of SUDS (sustainable drainage) features.

This has led to the lack of provision and take-up of sustainable drainage solutions and, along with the ongoing automatic “right to connect” has meant developers continue to prefer to use existing surface water or combined¹ sewer systems for disposal of surface water from new developments rather than provide more innovative and sustainable solutions.

This uncontrolled right of connection for surface water can lead to overloading of the sewerage network downstream, resulting in flooding of property or pollution from intermittent overflows to watercourses.

This Bill still permits an automatic right of connection. We believe this should be subject to consent of the sewerage undertaker (water company) as the body responsible for the public sewerage system. A similar requirement for consent (from the Environment Agency) already exists for discharges to watercourses.

Water UK’s view

Water UK agrees that local or unitary authorities should become the SUDS Approving Bodies (SABs) with responsibility for approving designs and adopting completed SUDS features. There is a close link with LAs’ new responsibility for producing Surface Water Management Plans and their existing responsibilities for planning approval and maintenance of public open spaces where most SUDS will be sited.

¹ Combined sewers are sewers that take both surface water and foul flows. Modern systems have separate sewers but they may connect downstream into older combined sewers.

However Water UK does have concerns about the approving arrangements. Under para 11(3)(a) of Schedule 3 to the Bill, the Approving Body (the County Council or unitary authority for the area) is only required to “consult” the sewerage undertaker (water company); it is not required to take the water company’s views into account. Further, under para 15 of Schedule 3 to the Bill, the water company must allow the connection of approved² SUDS to its public sewers, whether or not those sewers have the capacity to receive flows from the SUDS feature. The Bill also fails to specify connections can only be made to public surface water sewers, relying on the definition given in para 219(1) of the water Industry Act. Connection of SUDS outfalls to public foul sewers should not be permitted in any circumstances because of the almost inevitable probability of downstream foul flooding.

The Bill will therefore permit developers to drain new developments via a SUDS feature that discharges to the public sewer, Water companies will therefore still have no control over the quantity or quality of flows discharged to the public sewers they are responsible for. The risk of downstream property flooding or pollution incidents that are effectively beyond the control of the water company will therefore continue.

In addition para 15 (2)(3) of Schedule 3 inserts a new sub-clause stating that the connection may not be refused (by the water company) “*on grounds that the drainage system absorbs water from more than one set of premises or sewer, or from land that is neither premises nor a sewer*”. The latter wording implies that a water company must accept flows from both highway run off and land drainage. That effectively continues the uncontrolled right of local/highway authorities to discharge highway run-off, at no cost to them, to the public sewer, whilst adding unknown flows from land drainage and other surface run-off. Sewerage Undertakers currently have no responsibility to provide facilities or capacity for land drainage so this clause seems to be applying an additional unfunded obligation on water companies.

² Approval requires that the design and construction complies with national standards and that appropriate fees for approval are paid.

Water UK therefore believes that neither highway run off or land drainage flows should be discharged from SUDS features to the public sewer and that water companies should have the right to refuse the connection of SUDS to public sewers, subject to a right of appeal to Ofwat.

References:

Pitt recommendation 20

Ownership and maintenance of sustainable drainage systems

The Government should resolve the issue of which organisations should be responsible for the ownership and maintenance of sustainable drainage systems.

Pitt recommendation 10

Removal of the automatic right to connect

The automatic right to connect surface water drainage of new developments to the sewerage system should be removed

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Water UK represents all water and wastewater service suppliers at national and European level. The water industry has invested £85 billion since privatisation in 1989-90.