

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

DETR *Circular* 03/99

Department of the Environment, Transport & the Regions
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WO Circular 10/99

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1 April 1999

Planning Requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development

1. The need to deal effectively with problems associated with non-mains sewerage systems was highlighted in the Review of Rural Water Supply and Sewerage (March 1994) undertaken by the former Department of Environment (DoE). Action has already been taken in the form of new legislation under Section 101A of the Water Industry Act 1991 (enacted by Schedule 22 to the Environment Act 1995) to deal with environmental and amenity problems likely to arise from non-mains sewerage serving those premises which existed prior to 20th June 1995. The former DoE and the Welsh Office jointly issued guidance on the use of this new provision in April 1996. The Departments now wish to encourage the adoption of effective policies, practices and procedures to ensure that the problems associated with non-mains sewerage are not perpetuated in any future developments producing 'domestic' sewage, defined as the contents of lavatories, and water which has been used for cooking and washing.

2. This Circular provides advice on the exercise of planning controls on non-mains sewerage and associated sewage disposal aspects of future development so as to avoid environmental, amenity or public health problems which could arise from the inappropriate use of non-mains sewerage systems, particularly those incorporating septic tanks. Where proposed, the suitability of the use of such sewerage systems is likely to be a material consideration in reaching planning decisions. Local planning authorities should aim to satisfy themselves on the basis of - a) any information provided by the developer, b) comments provided by other appropriate bodies and c) their own considerations, that the sewerage proposals for a development are suitable, and that significant environmental and amenity problems which might justify refusal of planning permission are unlikely to arise. For their part, developers are encouraged to make a full assessment of the suitability of any proposals for non-mains sewerage systems at the project design stage. Annex A to this Circular sets out the factors which should be considered in such an assessment. This Circular complements advice already offered under:

- a) PPG 12: Development Plans and Regional Planning Guidance. [England only]
- b) PPG 23: Planning and Pollution Control. [England only]
- c) DoE Circular 11/95 (Welsh Office Circular 35/95): 'The use of conditions in planning permissions.
- d) Building Regulations : Approved Document H : Drainage and waste disposal.

- e) PPG 14: Development on unstable land. [England only]
- f) PPG 14 Annex 1: Landslides and planning. [England only]
- g) Planning Guidance (Wales): Planning Policy.

3. Developers and other interested parties should also have regard to the advice in this Circular.

4. Enquiries about this Circular may be addressed in respect of planning aspects in England to PD2 Division, Department of the Environment, Transport and the Regions (DETR), 4/B2, Eland House, Bressenden Place, London SW1E 5DU (Tel: 0171 890 3856); in respect of sewerage and water quality in England to WSR3 Division, DETR, 3/H24, Ashdown House, 123 Victoria Street, London SW1E 6DE (Tel: 0171 890 5402) or, in all cases in respect of Wales to Environment Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ (Tel: 01222 823168).

L B **HICKS**, Assistant Secretary
A M **WELLS**, Assistant Secretary
R D **MACEY**, Assistant Secretary

Assessment of Applications for Planning Permission of Development Proposals incorporating Non-Mains Sewerage

PLANNING NEW DEVELOPMENTS:

1. The responsibility for demonstrating that a new development is effectively served by a sewerage system rests primarily with the developer. Before deciding a planning application, the local planning authority needs to be satisfied that the sewerage arrangements are suitable. **If the non-mains sewerage and sewage disposal proposals are assessed as being unsatisfactory, this would normally be sufficient to justify refusal of planning permission.**

CONSULTATION BODIES:

2. Assessment by the relevant planning authority of the acceptability of the arrangements for sewerage and sewage disposal will need to take account of the views and information from all appropriate and interested bodies and parties. In addition to the views of relevant sections within the local authority such as the Environmental Health Department and Building Control, the views of other key bodies listed below could also be material to assessing the suitability of sewerage and sewage disposal proposals.

- The Environment Agency *
- The Water and Sewerage Undertaker(s) of the Area
- Neighbouring local planning authorities if the proposed development is on its boundaries *
- Health authorities
- English Nature *
- Countryside Agency
- Countryside Council for Wales *
- Drainage Boards
- Any other body or person deemed by the local planning authority to provide any constructive and relevant information.

Note: * indicates that these bodies may be statutory consultees under Article 10 of the Town and Country Planning (General Development Procedure) Order 1995.

ASSESSMENT OF NON-MAINS SEWERAGE INCORPORATING SEPTIC TANKS:

3. When drawing up sewerage proposals for any development, the first presumption must always be to provide a system of foul drainage discharging into a public sewer. This should be done in consultation with the Sewerage Undertaker of the area.
4. If, by taking into account the cost and/or practicability, it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, a package sewage treatment plant incorporating a combination of treatment processes should be considered. The plant should offer full treatment (including secondary and if necessary tertiary treatment) with the final effluent discharge from it meeting the standard and conditions set by the Environment Agency where applicable. The proposal for a package plant should also set out clearly the responsibility and means of operation and maintenance to ensure that the discharge consent is not likely to be infringed in the life of the plant. This may be achieved by having the treatment plant including, if necessary, any associated sewers adopted by the sewerage undertaker under section 104 of the Water Industry Act 1991. The cost and difficulty of maintaining relatively sophisticated package plants may render them unsuitable for small scale developments such as single dwellings.
5. Only if it can be clearly demonstrated by the developer that the sewerage and sewage disposal methods referred to in paragraphs 3 and 4 above are not feasible, taking into account cost and/or practicability, should a system incorporating septic tank(s) be considered and proposed if appropriate. Applications for planning permission should be supported by a full assessment of the proposed use of septic tanks, to confirm that the adverse effects by reference to the factors in paragraph 6 below will not arise. This assessment should focus on the likely effects on the environment, amenity and public health and, in particular, it should include a thorough examination of the impact of disposal of the final effluent, whether it is discharged to a water course or disposed of by soakage into the ground.
6. The assessment of non-mains drainage proposals should include full and detailed consideration of the following factors:
 - a) **Contravention of recognised practices:** Any evidence which shows that the proposed arrangements are likely to prejudice, contravene or breach any statute, Regulation, Directive, Code of Practice, Byelaw, water quality objective or any other authoritative standard (such as British Standards, the Environment Agency's '*Policy and Practice for the Protection of Groundwater*' (republished 1998), research papers/reports with proven conclusions).
 - b) **Adverse effect on water sources/resources:** Any information produced by the British Geological Survey, the Environment Agency (including its predecessor bodies) or any other authoritative sources, which shows that the area has geological formations which could allow the transmission by percolation or by surface run-off of sewage effluent from the proposed foul drainage system, directly or indirectly, so as to adversely affect any existing or potential surface or groundwater sources used or likely to be used for public or private water supplies or for animal husbandry or agriculture or recreation or the interests of other riparian owners.
 - c) **Health hazard or nuisance:** Any evidence which indicates that the proposed arrangements and the associated effluent disposal system is likely to lead to a risk to public health or cause a nuisance.

- d) **Damage to controlled waters:** Any evidence including reference to information on site hydrology and geology and to Groundwater Regulations, which indicates that the proposed arrangements may result in the entry of any poisonous, noxious or polluting matter or any solid waste matter into any controlled waters, including ground waters, to the detriment of water quality.
- e) **Damage to the environment and amenity:** Any evidence that the proposed arrangements are likely to lead to raw or partially treated sewage entering into receiving waters or onto land, to such an extent as to damage or undermine the environment and amenity value of the locality or any other area, particularly if it is of special significance such as a Site of Special Scientific Interest (SSSI), Area of Outstanding Natural Beauty (AONB) or public open space.
- o) **Overloading the existing capacity of the area:** Any authoritative assessment or available records, which indicate that, i) the addition of new discharges from a proposed development to those which already exist in the area, or ii) the quality or quantity of new discharges by themselves, are likely to overload the local subsoil soakage capacity or receiving water to the extent that it may lead to the problems of ponding, sewage flooding, pollution or nuisance.
- g) **Absence of suitable outlets:** Any evidence to show that there is no suitable facility such as satisfactory water courses or adequate land for soakage in the locality to accommodate the disposal of effluent from the proposed septic tanks serving the new development.
- h) **Unsuitable soakage characteristics:** Any results derived from percolation tests which have been carried out in accordance with BS 6297 or a subsequent superseding standard, (preferably carried out in winter conditions when the soils are saturated), which show that the local soil conditions would preclude effective disposal of any sewage effluent from the proposed septic tanks serving the new development.
- i) **High water table:** Any evidence drawn from records of 'rest water levels' observed in trial holes which show that the water table in the locality is so high that at any time of the year it could inhibit or impede or adversely affect the proposed foul drainage/effluent disposal arrangements.
- j) **Rising ground water levels:** Any evidence, such as water table records of the locality, which show that the levels have been rising consistently and are likely to interfere with the proposed foul drainage/effluent disposal system, or may cause damage to other land or property in the area eg by its contribution to landsliding or subsidence.
- k) **Flooding:** Any evidence, such as records of frequencies and levels of previous flood incidents, which show that the locality is subject to flooding to the extent that the proposed non-mains sewerage would lead or contribute to environmental or amenity problems.

7. **If** on the basis of the information and evidence received, it can be demonstrated by virtue of one or more factors set out in **paragraph 6** above, **that the non-mains** sewerage and/or sewage **disposal** proposals incorporating septic **tanks put forward for** a proposed

development are likely to lead to a significant environmental, amenity or public health problem in any area, it would normally be sufficient to justify refusal of planning permission for the development. Even if an applicant proposes the use of septic tank systems as a temporary measure, with the intention at a later stage of connecting the drainage from the proposed development to a public sewer, planning permission should not normally be granted if the proposed short term measure is likely to give rise to any of the above problems. However, before taking a decision to refuse planning permission, in any case, a local planning authority should consider whether it is possible, in a practicable and sustainable manner, to overcome by means of a condition attached to the planning permission the problems related to those factors in paragraph 6 above which would otherwise justify the refusal of permission. Advice on conditions is contained in DoE Circular 11/95 (Welsh Office Circular 35/95).

8. Whilst this Circular primarily deals with septic tank drainage systems, the attention of developers and local planning authorities is drawn to the implications of the use of cesspools. In principle, a properly constructed and maintained cesspool, being essentially a holding tank with no discharges, should not lead to environmental, amenity or public health problems. However, in practice, it is known that such problems occur as a result of frequent overflows due to poor maintenance, irregular emptying, lack of suitable vehicular access for emptying and even through inadequate capacity. These problems can be exacerbated by unsuitable conditions, such as some of those listed in paragraph 6 above. When considering a scheme proposing the use of cesspools, therefore, the local planning authority may wish to adopt the same process of considering the possibility of significant problems arising as described in paragraph 6 above, and whether these problems can be overcome by the attachment of suitable conditions to a planning permission.

DEVELOPMENT CONTROL:

9. The local planning authority may wish to include appropriate policies in their development plans to reflect a) the contents of this Circular; b) its own knowledge and experience of the circumstances and conditions in various localities within its area; and c) the views of appropriate bodies on the issue of non-mains sewerage and its likely effect on the environment, amenity and public health.

10. Even before a planning application is made, it can be helpful if the applicant has informal discussions with the local planning authority, Environment Agency and sewerage undertaker. If the local planning authority has reason to believe that there is a possibility of problems arising from the installation of non-mains sewerage, these should be brought to the attention of the applicant. The authority should also make the applicant aware of the contents of this Circular or any other readily available information which may be relevant, so that the applicant can then take full account of the likely requirements of the authority in the design of the foul drainage aspects of the scheme.

11. If a planning application which involves non-mains sewerage incorporating septic tanks is received without prior discussion and with inadequate information, the local planning authority should advise the applicant immediately of the assessment requirements contained in this document, and any other information of relevance if readily available to the authority. The applicant may then wish to consider whether or not to proceed with the application as it stands or whether to amend the application before it is registered.

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