

Mark Boulton
The Planning Inspectorate
The Square Temple Quay
Bristol
Avon
BS1 6PN

Our ref: AE/2023/129068/02-L01
Your ref: S62A/2023/0028
Date: 14 February 2024

Dear Mark

CONSTRUCTION OF UP TO 50 DWELLINGS (USE CLASS C3) AND ASSOCIATED ACCESS AND BUS STOPS, WITH ALL MATTERS RESERVED APART FROM ACCESS.

LAND OFF CHELMSFORD ROAD, HARTFORD END CHELMSFORD ESSEX CM3 1JZ

Thank you for the re-consultation dated 31 January 2024. We have reviewed the latest document submitted and maintain our objection to the proposed development.

We have reviewed the technical note provided, however still consider that an acceptable justification has not been provided for the non-mains connection. We recommend that the application should be refused on this basis. Relevant information related to our response can be found in the relevant section below.

Non-mains foul drainage proposed

The installation of private sewage treatment facilities within publicly sewered areas is not normally considered environmentally acceptable because of the greater risk of failures leading to pollution of the water environment compared to public sewerage systems. Foul drainage should be connected to the main sewer if the distance from the development is within 30 metres or less of a main sewer (multiplied by the number of dwellings/units).

Government guidance contained within the National Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Our final position will be unknown until the steps below have been undertaken and our national permitting service have assessed any non-mains drainage system (if it has

Environment Agency

Iceni House Cobham Road, Ipswich, IP3 9JD.

Customer services line: 03708 506 506

www.gov.uk/environment-agency

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been demonstrated that connection to the mains sewer is not possible). We are unable to pre-determine this process. This position is supported by National Planning Policy Framework para 194 which states that where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Overcoming our objection

To overcome our objection the applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

1. Formally approach the sewerage undertaker or serve notice regarding a connection under section 98, section 104 or section 106 of the Water Industry Act 1991, as appropriate.
2. Provide details of the terms upon which the sewerage undertaker is willing to enter into an agreement under section 104.
3. Provide details of the undertakings, security and payment required by the sewerage undertaker under section 98 of the Water Industry Act 1991. They must provide these together with confirmation that the applicant considers these to be reasonable and does not intend to appeal against them; OR
4. Provide details of the reasons given by the sewerage undertaker if it has refused connection under section 106 of the WIA 1991 and confirmation that they have appealed against this decision; OR
5. Demonstrate that it is not reasonable to connect to the public foul sewer, demonstrate that they have considered requesting that the sewerage undertaker adopt their proposed system.

Lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the Water Industry Act 1991. In these cases, if an applicant decides to apply for a water discharge permit for private treatment facilities, in such circumstances we may refuse to issue the permit.

Environmental Permitting Regulations

Where it has been satisfactorily demonstrated that connection to the mains sewer is not possible, then under the Environmental Permitting Regulations 2016 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply, spring or borehole.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further information can be found here: <https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits>

We trust this advice is useful.

Yours sincerely



Mr Jack Saunders
Sustainable Places - Planning Advisor

[Redacted contact information]