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14th August 2026

Sent via email only to Naomi.Reynard@north-herts.gov.uk

Dear Naomi,

Land South East Of Holwell Road And North Of Hambridge Way, Pirton (25/01696/OP)

I write in respect of the above application in response to the Anglian Water consultation response dated 13th January 2026.

In its consultation response to the application, Anglian Water (AW) have confirmed that the Hitchin Water Recycling Centre (WRC) can accommodate the additional flows generated by the proposed development. On this basis, Anglian Water raises no objection in relation to wastewater treatment capacity.

With regard to the used water network, however, AW has stated that a Sustainable Point of Connection (SPOC) cannot be identified at this stage, citing concerns that the development flows could contribute to pollution and deterioration of the receiving watercourse. It therefore objects but suggests the following condition should the LPA be minded to grant planning permission:

No development shall commence until a strategic foul water strategy has been submitted to and approved in writing by the local Planning Authority, in consultation with Anglian Water. This strategy will identify a sustainable point of connection to the public foul network. Prior to occupation, the foul water drainage works must have been carried out in complete accordance with the approved scheme.

AW's objection is not supported by legislation or other regulatory processes that are in place to protect the environment, many of which powers sit outside of the planning system. AW's proposed condition wording also fails to pass the six tests relating to conditions outlined in the Planning Practice Guidance for the reasons set out below.

Section 106 of the Water Industry Act 1991 (WIA) entitles a developer 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. Section 94 of the Act states that it shall be the duty of every sewerage undertaker:



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- a) to provide, improve and extend such a system of public sewers (whether inside its area or elsewhere) and so to cleanse and maintain those sewers and any lateral drains which belong to or vest in the undertaker as to ensure that that area is and continues to be effectually drained; and
- b) to make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for effectually dealing, by means of sewage disposal works or otherwise, with the contents of those sewers.

Together, Section 106 and Section 94 of the WIA 1991 establish the developer's statutory right to connect to the public sewerage network, and that the Sewerage Undertaker has a duty to carry out any works necessary to accommodate associated foul water flows. A connection under Section 106 can only proceed once planning permission has been granted and a formal application is made to the statutory undertaker. Under Section 107 of the WIA 1991, the sewerage undertaker has the right to make the connection themselves and charge the applicant.

There is, therefore, a statutory mechanism in place to ensure that a SPOC is identified prior to development taking place which in turn, ensures that development flows will not contribute to pollution or deterioration of the receiving watercourse. Indeed, the statutory framework established by sections 106 to 109 of the WIA **does not** require a planning applicant to demonstrate the precise route or engineering solution for a future sewer connection at the planning application stage. Those matters fall to be addressed through the statutory sewer connection process following the grant of planning permission.

Accordingly, the point of connection can be determined by Anglian Water under its statutory powers within the WIA (if it does not agree with a point proposed by the developer), while the associated costs are borne by the developer in accordance with a schedule published on AW's website. This approach is reflected in AW's consultation response, which confirms that, subject to planning permission being granted, the applicant would be required to engage with its pre-development services and submit a Tier 2 Foul Pre-Development Enquiry (PDE) to define a SPOC. The applicant therefore considers that a pre-commencement planning condition requiring the submission of a foul water strategy to identify a SPOC is unnecessary, as to this end a statutory and regulatory framework already exists.

DefRA Letter of 22 May 2026

I would like to draw your attention to the letter of 22 May 2026 from Emma Hardy MP (Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs) which should have been received by your LPA. The letter relates to applications of 500+ dwellings but it is clear that the Government has recognised that AW is objecting, often without justification, to all development within its area. It is those same principles that AW is now objecting to on this site subject to condition it has proposed¹.

The letter also recognises that development is often phased. Clearly development on this site would all also not come forward upon the grant of planning permission and immediately connect to the system on day 1. The connections and applications process, as outlined above, will allow for the developer and AW to identify when dwellings will come on stream. AW will have the necessary time to make any upgrades necessary before a dwelling is occupied. Dwellings clearly will not be able to be occupied until an appropriate foul drainage system is in place.

¹ Which we consider is not appropriate and does not meet the tests of conditions as set out in this letter.

Notwithstanding this, Ofwat (Water Services Regulation Authority) is the regulator for the water and sewage sectors in England and Wales and one of its key responsibilities is to hold water companies to account for their statutory duties.

Appropriateness of Planning Conditions

We appreciate the Council's desire to ensure appropriate foul drainage arrangements are secured. However, for the reasons above, AW's condition is not necessary and proposes a "in consultation clause with Anglian Water" clause which is clearly not enforceable. However, should the Council nonetheless consider that a pre-commencement condition is necessary, Gladman would suggest the following wording:

Prior to the first occupation of the development, a foul water drainage scheme, including a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

This would ensure suitable drainage arrangements are secured whilst allowing the statutory connection process to operate as intended following the grant of planning permission.

Summary

The current lack of capacity within the sewer network serving the site will be addressed through the provisions of the Water Industry Act 1991. This is a standard consequence of growth and established mechanisms are in place to secure, fund and deliver any necessary reinforcement. This process sits outside the planning system for which it should not replicate as set out in paragraph 201 of the Framework:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, 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.

We fully appreciate the concerns of the Council and the public regarding issues of sewage capacity and overflows. However, AW has identified a wider network issue rather than a site-specific planning harm arising from the proposed development. Any reinforcement required to accommodate growth does not demonstrate that the site cannot be served by an appropriate foul drainage solution. There is also reassurance that matters relating to sewer network performance, treatment capacity and environmental compliance are subject to ongoing regulation by Ofwat and the Environment Agency through established statutory processes.

Accordingly, AWs objection does not provide a reasonable or defensible basis for withholding planning permission.

Yours Sincerely,

Victoria Betts

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