

In response to Gladman Developments Limited letter dated 14 August 2026, we wish to clarify the following:

The Water Industry Act 1991 places a general duty on sewerage undertakers under section 94 to provide and maintain a public sewerage system, alongside obligations under section 94A to prepare drainage and sewerage management plans and further duties under sections 98, 101A and 106 relating to requisitioning sewers and connections. While these provisions are sometimes cited to suggest that sufficient wastewater capacity will be delivered to support development as it is built out, it is important to note that section 94 establishes a high-level, ongoing duty rather than a requirement to provide capacity within the specific timescales of any individual development. In addition, this duty is enforceable only by the Secretary of State or Ofwat, not by developers, and any breach is addressed through regulatory mechanisms rather than the planning system. Crucially, these provisions do not constitute a pollution control regime for the purposes of the National Planning Policy Framework; instead, they form part of the broader service delivery framework for sewerage undertakers. The control of wastewater discharges sits separately within the Environmental Permitting regime. As such, reliance on the WIA duties alone does not provide assurance that sufficient capacity will be available in the necessary timeframe, nor does it remove the need for wastewater impacts to be properly considered through the planning process.

Under Section 106 of the Water Industry Act, Anglian Water are obligated to accommodate sites with unconditional planning consent. This does not extend to prospective sites which lack planning consent. Utilising the planning system to raise our concerns is a position supported by the Supreme Court decision in the case of Barratt Homes Limited v Welsh Water in December 2009, where it is stated that water companies should use the Town and Country Planning Act to control connections. This is entirely independent of our obligations under the Water Industry Act.

Once planning consent has been granted, the point of connection cannot be determined by Anglian Water under its statutory powers within the WIA, unless a planning condition specifying this has been included within the decision notice, i.e. "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".

Once a site has planning consent, Anglian Water are obligated to accept a connection, regardless of downstream capacity constraints or pollution risk. This was established in *Barratt Homes Limited v Welsh Water*. Section 106 of the Water Industry Act only deals with mode and method of the connection, and is not concerned with capacity or pollution risk.

Therefore, our preference is for the point of connection to be agreed upfront, prior to planning permission being granted, to ensure sustainable development and to reduce the risk of flooding and pollution.

Please also find attached the following documents as supporting evidence:

- Land North of Bayswater Brook near Barton – planning decision by South Oxfordshire DC paras 7.104 – 7.109 and 9.4. Condition 50 Foul Waste.
- KC opinion regarding sewage capacity and planning.
- Appeal decision 3204432 and 3204434 – paragraph 33 relates to the use of such a Grampian condition.
- KC Opinion, which supports our approach in responding to planning applications.

Should the LPA be minded to approve the application, despite our objection, we believe our recommended fallback condition to meet the six condition tests:

- Necessary – the condition is necessary to ensure environmental harm is not caused by the proposed development.
- Relevant to planning – this has already been established as shown in the attached appeal decision, planning decision with a similar condition and the attached KC Opinion.
- Relevant to the development to be permitted – the flows from this development site will be received by the Anglian Water foul network.
- Enforceable – the condition is enforceable if a connection were to be made prior to the delivery of the growth scheme.

- Precise – the condition is clear and precise. Prior occupation conditions are not unusual in relation to Grampian conditions and reference to such conditions are explicitly referenced in planning guidance.

The Government guidance on the use of planning conditions explicitly references the appropriate use of preoccupation Grampian conditions:

<https://www.gov.uk/guidance/use-of-planning-conditions#contents> (Paragraph: 009 Reference ID: 21a-009-20140306)

- Reasonable in all other respects – as above and explained below such a condition is reasonable and proven appropriate in planning.

With regard to DEFRA's letter, the applicants inference that it recognises Anglian Water object without justification is incorrect - it does not state this.

The letter encourages "developers to engage early with Anglian Water and LPAs to support timely decision-making and successful delivery. Early engagement is particularly important for sites currently at pre-application or outline stage".

Formal engagement with Anglian Water to establish a sustainable point of connection (SPOC) is done via our Pre-Planning Enquiry (PPE) service. Anglian Waters position is to object until a SPOC has been identified for this development site.

The applicant can find further information on how to apply for a PPE on our website:

<https://anglianwater.co.uk/developing/planning--capacity/how-to-apply/>