



# CASE STUDIES

Public Foul Sewer Capacity & Wastewater Treatment Works Capacity.

Is this a Material Planning Consideration?

Informative Paper 2025

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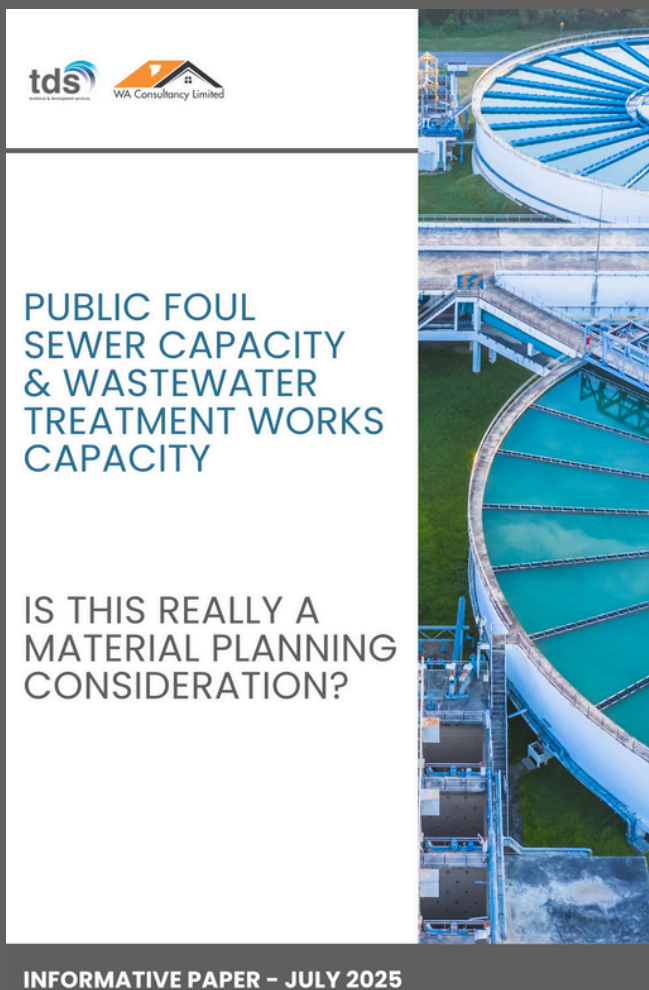
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# INTRODUCTION



## BACKGROUND

Following the launch of our Informative Paper on:-

“Public Foul Sewer Capacity & Wastewater Treatment Works Capacity – **Is this a Material Planning Consideration**”

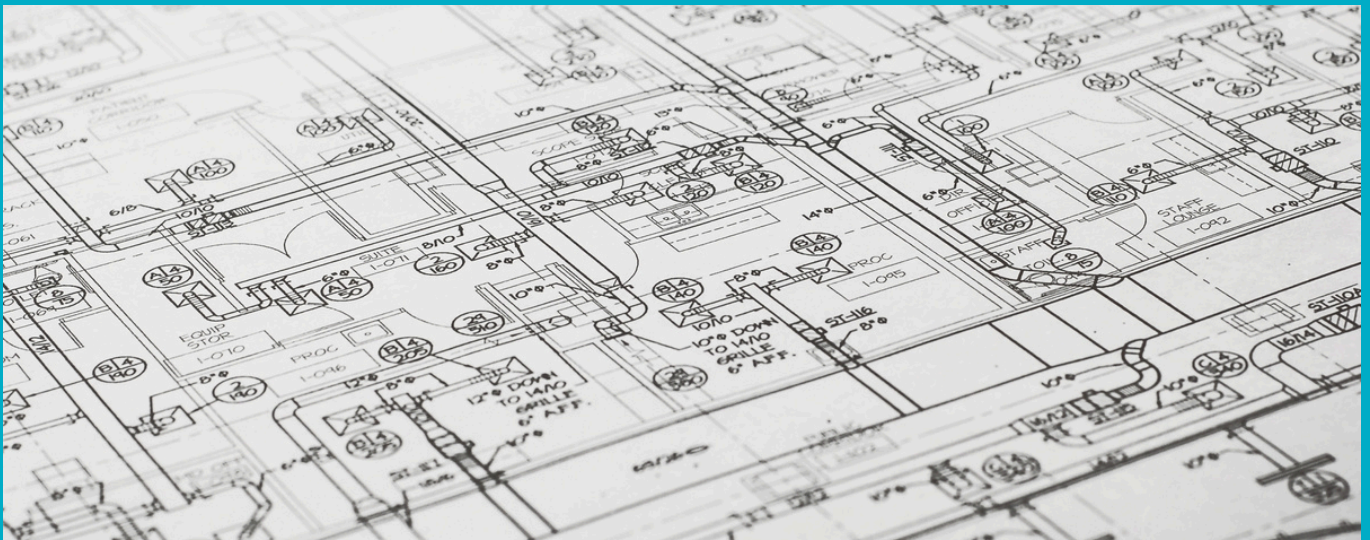
We have received a number of emails asking for some specific examples/case studies of how the issues in the Paper have helped to influence Local Planning Authorities (LPA's). As much as we would like to be specific unfortunately due to Client confidentiality and NDA's it is only really possible to be generic in what we can disclose.

# CASE STUDY 1

For a development in Kent where an issue was raised by the LPA Members about permitting a planning consent due to Southern Waters timescale to implement off-site reinforcement. We worked with the Developer, Planning Consultants and their Solicitors to provide practical advice to a KC on many aspects of our Paper.

## OUTCOME

Subsequently the LPA accepted that they could not refuse planning consent as the consequences of going to an Appeal on the evidence provided would result in them losing and having to bear substantial costs.





# CASE STUDY 2

On a proposed development in Gloucestershire in a Village location Severn Trent Water objected on the grounds of the Wastewater Treatment Works would need upgrading and they instructed the LPA that a Grampian Condition was required. This condition would result in delaying the start on site by over **three years**.

The development had other issues as well that resulted in it going to Appeal but the Severn Trent Water Grampian Condition was by far the most restrictive.

## OUTCOME

In setting out the Legislative Overview with Key Evidence and the NPPF the Appeal Decision resulted in Severn Trent Water conceding that they could not seek the LPA to impose a Grampian Condition and the development is now in the process of being started later this year and not in 2028.



# CASE STUDY 3

Although this case study is not aligned to front end influence of achieving obtaining Planning Consent it is relevant to highlight how LPA's in the past have allowed Water & Sewerage Companies (WaSC) to pressure Developers.

The issue was how the WaSC used the planning system to require the Developer to accept paying for foul sewer off-site reinforcement to adhere to a planning condition. All of which was subsequently overturned by an Ofwat Determination which resulted in a refund to the Developer of over £530,000.

## OUTCOME

### **"Linden Homes v Southern Water – Novartis Development in Horsham March 2021"**

The most notable aspect of this Determination is how Southern Water determined the impact of the development which is aligned to the narrative in:-

- 1. Page 8 – Off-site Reinforcement and Sewerage Infrastructures**
- 2. Page 10 – Foul Drainage Discharge Volumes – New Housing put into Context**

# CASE STUDY 4

The issue for LPA's is when confronted by any form of objection to a planning application which results in words like "no capacity" in the existing foul sewer network or "no capacity" at a WwTW's from a WaSC, their immediate course of action is to agree to the demands of the WaSC. Understandably the LPA does not have the in-depth knowledge to challenge what these Companies are saying. More importantly the LPA's does not appreciate that the status of these Companies as commercial monopoly organisations for some WaSC's creates an opportunity to circumvent their statutory duties.

Therefore, the way forward we have found on many occasions is that the LPA's needs to be educated in all of the issues in the Informative Paper and more importantly the overriding legal obligations supported by key evidence and a practical perspective of the issues. This Paper gives LPA's that comfort and places responsibility outside of the Planning System. It has proved to be successful on numerous occasions.

To close, it is worth considering a verbal comment made to us from a WaSC that operates in the South of England :-

**"We know we have no right to object but until we get stopped or told differently we will continue to do so"**

## Ray Farrow

CEO - TECHNICAL AND DEVELOPMENT SERVICES

With over 4 decades in the construction industry, including a remarkable 20 years as a senior consultant for the Home Builders Federation, Ray brings unparalleled expertise to developers, providing practical guidance on legislative changes. His insights have empowered countless professionals in the industry.



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Stephen is a Chartered Environmentalist and boasts a Master of Science degree, with Distinction, in Environmental Geotechnics. His significant contributions to the Construction Industry earned him the rare honor of an Honorary Life Membership of the Chartered Institute of Building in April 2011.



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