SCOTTISH EXECUTIVE

Development Department
Planning Division

Victoria Quay
Edinburgh EH6 6QQ

Telephone: 0131-244 7553
Fax: 0131-244 7555
Graeme.purves@scotland.gsi.gov.uk
http://www.scotland.gov.uk/planning

27th September 2006

Dear Sir/Madam

PLANNING ADVICE NOTE 79: WATER AND DRAINAGE

I am pleased to enclose a copy of the *Planning Advice Note on Water and Drainage (PAN 79)*. It has been prepared with the expert advice of a working group made up local authority planning professionals, Scottish Water, Scottish Environment Protection Agency (SEPA), Homes for Scotland and Communities Scotland.

The Planning Advice Note provides advice on good practice in relation to the provision of water and drainage in a planning context. In particular, it encourages partnership working and the sharing of information in order to ensure a common understanding of capacity constraints and agreement on the means to accommodate new development. It explains the framework within which Scottish Water provides strategic water infrastructure and pays a contribution towards the cost of local infrastructure. It clarifies the role of the planning authority in setting the pattern and direction of development to inform the planning and delivery of new infrastructure in a coordinated way. It contains advice on the appropriateness of private schemes. It also highlights the respective roles of Scottish Water and the Scottish Environment Protection Agency (SEPA), and indicates when and how they should interact with the planning system.

Further copies are available from the Scottish Executive Development Department, Planning Division, 2-H Victoria Quay, Edinburgh EH6 6QQ (0131 244 7543). The document is also available on our web site: www.scotland.gov.uk/planning

If you have queries about the content of the PAN please contact Graham Jones (0131 244 7550) graham.jones@scotland.gsi.gov.uk

Yours faithfully

Graeme Purves.

GRAEME PURVES
Assistant Chief Planner

SCOTTISH EXECUTIVE
Development Department

PLANNING ADVICE NOTE

79 WATER AND DRAINAGE

PLANNING SERIES

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Water and Drainage

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PLANNING SERIES:

- **Scottish Planning Policies (SPPs)** provide statements of Scottish Executive policy on nationally important land use issues and other planning matters, supported where appropriate by a locational framework..
- **Circulars**, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.
- **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in SPPs and Circulars may be material considerations to be taken into account in development plan preparation and development management.

Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP. The term SPP should be interpreted as including NPPGs.

Statements of Scottish Executive location specific planning policy, for example the West Edinburgh Planning Framework, have the same status in decision making as SPPs.

The National Planning Framework sets out the strategy for Scotland's long-term spatial development. It has the same status as SPPs and provides a national context for development plans and planning decisions and the ongoing programmes of the Scottish Executive, public agencies and local government.

Important Note: In the interests of brevity and conciseness, Scottish Planning Policies do NOT repeat policy across thematic boundaries. Each SPP takes as read the general policy in SPP1, and highlights the other SPPs where links to other related policy will be found. The whole series of SPPs should be taken as an integral policy suite and read together.

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SUMMARY

Scottish Ministers recognise that the adequate provision of water and waste water infrastructure is essential for communities, businesses and the environment. It must not only meet existing demands and comply with water quality and environmental legislation but be sufficient to allow proposed development to proceed without unreasonable delay. Provision for water and waste water is therefore an important consideration in the delivery of public policy objectives, including those set out in development plans.

In 2005 Scottish Ministers directed Scottish Water to provide sufficient 'strategic capacity' to meet the needs of all estimated new housing developments and the domestic requirements for commercial and industrial developments. Scottish Water is required to prioritise the development of new strategic infrastructure in accordance with its quality investment programme, the spatial priorities identified in the National Planning Framework, and the development priorities identified by local authorities in their development plans. Any necessary enhancement to local infrastructure will be funded by the developer with Scottish Water making a contribution in line with its statutory duties.

Scottish Planning Policy 1 The Planning System (SPP1) identifies the role of the planning system as being to guide the future development and use of land in the long-term public interest. Development plans therefore play a key role in identifying suitable locations for development in the context of an overall settlement strategy. Good relationships and the sharing of information between planning authorities, Scottish Water, SEPA, developers and other stakeholders is essential throughout the process. This will ensure that, as they are prepared, development plans reflect an up-to-date and accurate picture of water supply and drainage capacity and are informed by a shared understanding of how new development can be accommodated. Planning authorities should also work with Scottish Water and other stakeholders to ensure that appropriate sites for any new strategic Scottish Water assets are identified in development plans.

Pre-application discussions between the prospective developer, Scottish Water and other stakeholders should identify the best means of accommodating any proposed development. Whilst it is not necessary for the planning authority to be involved in every aspect of the provision of water and waste water infrastructure, it is important that new development takes place in a coordinated way, without detriment to water quality or the environment. Planning authorities will therefore want be satisfied, on the basis of advice given by SEPA, that proposed arrangements for water and waste water will meet the requirements of environmental legislation.

The effective interaction between the planning system, the water and waste water infrastructure regime and environmental legislation thus requires effective participation by all stakeholders to enable appropriate development to proceed.

INTRODUCTION

1. The adequate provision of water and waste water infrastructure is essential for communities, businesses and the environment. Infrastructure provision must meet existing demands, be of a high enough standard to ensure that the supply of water and discharge of waste water comply with water quality regulations, sufficient to allow proposed development to proceed without unreasonable delay, and should not increase the risk of flooding. The arrangements proposed for water supply and drainage can be a material planning consideration.

2. *Scottish Planning Policy 1 The Planning System (SPP1)* identifies the role of the planning system as being to guide the future development and use of land in the long-term public interest. The aim is to ensure that development occurs in suitable locations and is sustainable. In providing this direction the planning system needs to consider issues such as the provision of essential infrastructure and the removal of any potential constraints. Effective planning thus requires participation by all stakeholders to enable appropriate development to proceed.

3. The purpose of this Planning Advice Note (PAN) is to provide advice on good practice in relation to the provision of water and drainage in a planning context. It encourages joint working in order to ensure a common understanding of any capacity constraints and agreement on the means of their removal. The PAN explains the framework within which Scottish Water provides and contributes to new water infrastructure and contains advice on the appropriateness of private schemes. It clarifies the role of the planning authority in setting the direction of development to inform the planning and delivery of new infrastructure in a coordinated way. It also highlights the respective roles of Scottish Water and the Scottish Environment Protection Agency (SEPA), indicating when and how they should interact with the planning system.

HOW THE INFRASTRUCTURE WORKS

4. Water Supply – Water is taken from lochs, rivers, aquifers and reservoirs and piped to water treatment works. Harmful bacteria, plant material, minerals, natural or synthetic chemicals, and dirt are removed by screening (removal of debris), clarification (removal of mud and silt), filtration (removal of small grit and colour), disinfection (removal of bacteria) and pH correction (reduction of acidity). The treated water is stored in large tanks and service reservoirs. The clean water is then taken by trunk water mains and distributed to properties via local water mains and service pipes.

5. Waste Water - Waste water (sewage) from properties passes through the drains into the local waste water sewers and from there into the trunk waste water sewers to be directed to waste water treatment works. In the past the waste water network was used to capture both surface water runoff and foul water in one pipe. Since the 1950s the conventional approach to drainage has been to take the rainfall runoff from buildings, roads and pavements and directly discharge to a watercourse. For all new developments sustainable drainage schemes (SuDS) are now required for surface water systems which provides attenuation and treatment prior to return, by natural dissipation where possible, to the water environment. Having separate systems frees capacity for waste water and reduces emergency overflows. Waste water is transported to treatment works where gross solids and grit are removed and the remaining water is treated. The organic solids which are removed from the water in the form of sludge are utilised in recycling outlets. Once the water is treated to an acceptable standard it can be discharged back to the river or the sea.

6. The water and drainage infrastructure described above can be split into four parts:

   - Part 1 assets: connections from individual properties to a main or sewer;
   - Part 2 assets: water mains and sewers that connect developments to trunk mains and trunk sewers, and some sustainable drainage systems (SuDS);
   - Part 3 assets: local bulk infrastructure, such as trunk mains and trunk sewers, water service reservoirs, waste water pumping stations and some SuDS; and
   - Part 4 assets: strategic assets such as raw water intakes, raw water impounding reservoirs and aqueducts, water treatment works and waste water treatment works.

   See the following diagram.

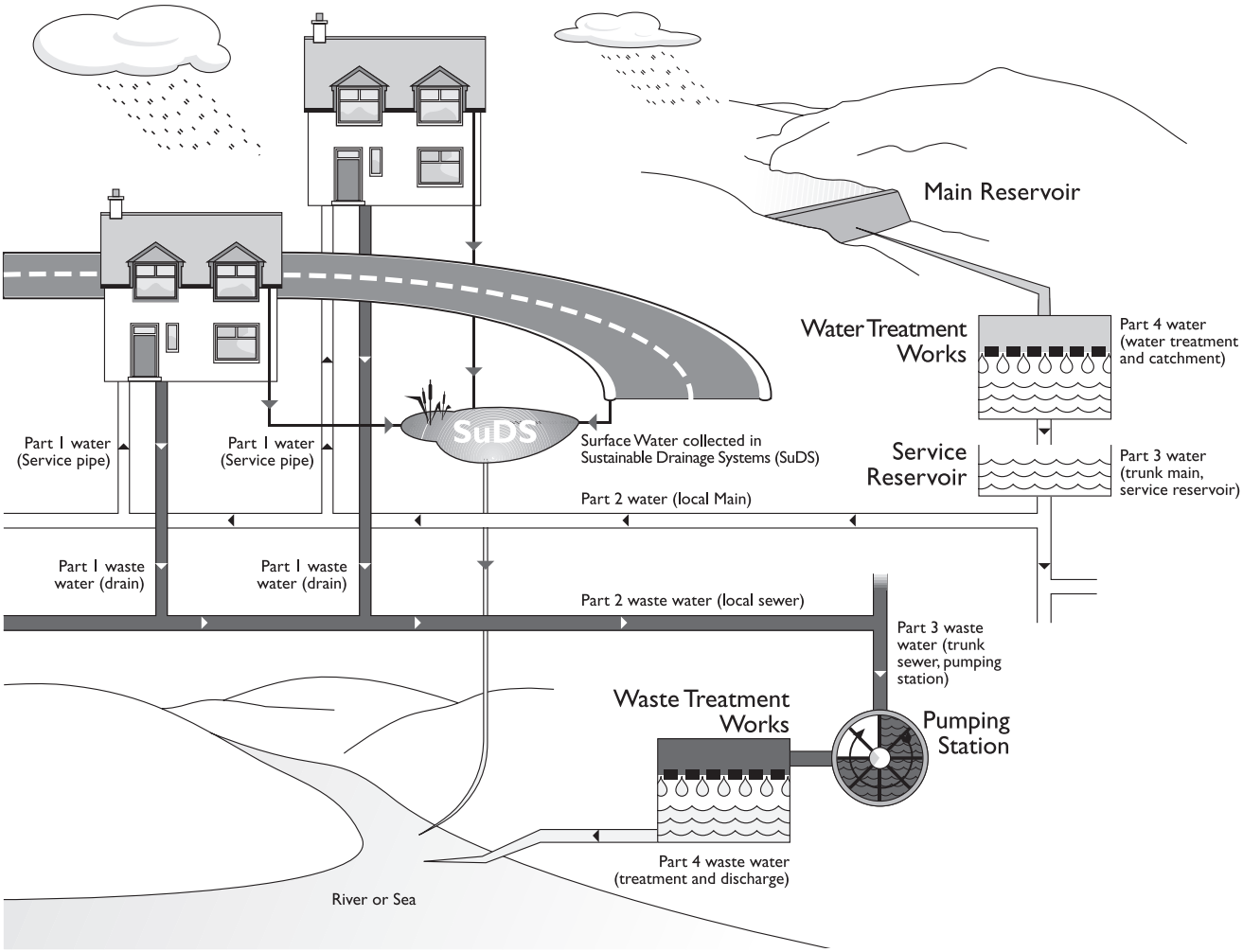

Diagram showing different parts of system

7. The great majority of assets under Parts 2, 3 and 4 are owned and maintained by Scottish Water, a public corporation set up by Scottish Ministers in 2002. There are also private systems, the maintenance of which is the responsibility of an owner or group of owners. Most small-scale private systems are septic tanks discharging to land soakaways or surface water, but they can also include systems providing a greater degree of treatment, such as SuDS, proprietary treatment systems or reedbeds. Private schemes can later be adopted by Scottish Water as part of their network, but only if built to an adoptable standard.

PLANNING AND WATER INFRASTRUCTURE

8. The planning system plays a key role in identifying suitable development locations in the context of an overall settlement strategy set out in development plans. Development plans should be drawn up in accordance with the principles of sustainable development stated in *SPP1*, promoting development of the right quality in the right places. This includes promoting the full and appropriate use of land, buildings and infrastructure. The plan should therefore reflect and identify priorities for the provision of infrastructure.

9. In relation to the provision of housing land, *SPP3 Planning for Housing* states that key considerations should be: the efficient use of land and existing buildings, energy and infrastructure; co-ordination with improvements to infrastructure and other major proposals; good access to jobs and services; and protection and enhancement of the environment. Other SPPs make similar statements in relation to other land uses. The availability of existing water and drainage infrastructure is therefore a consideration in identifying land for development but it is not necessarily an overriding one in determining the suitability of a particular location.

10. Sites identified as appropriate for development can sometimes be constrained by a lack of water and waste water infrastructure or capacity, or deemed to be constrained by service deficiencies which require to be overcome before new development can be accommodated. Constraints can include:

    - insufficient capacity in the strategic assets e.g. water treatment works or waste water treatment works;
    - communities at risk of, or existing properties having experience of, sewer flooding;
    - communities at risk of, or existing properties experiencing, poor pressure;
    - watercourses at risk of detrimental impact from waste water discharges; and
    - communities at risk of supply interruption below a minimum desired service level.

    Whilst the optimum use of existing capacity is an important consideration, there is a need for the provision of expanded water supply and drainage networks to be responsive to demographic changes and new demands. Development planning has an important role to play in influencing and addressing these requirements.

11. If a proposed development is considered acceptable in a location where the current water or drainage infrastructure would be insufficient, stakeholders should work together to identify the best practicable option to accommodate the development. The provisions contained within various pieces of legislation are particularly relevant. For example the regulatory framework for Scottish

Water includes mechanisms for funding the infrastructure requirements of new development (see annex B). This has a bearing on the viability and timing of the removal of constraints and is therefore a relevant planning consideration.

12. Where a development is proposed in an area already served by Scottish Water's network, connection to that network will be the preferred option. However, for a variety of reasons developers may propose private schemes. There are advantages and disadvantages to this approach, which the planning authority must weigh up within the context of sustainability considerations and other policy objectives. Individual proposals should not impede the wider development of waste water infrastructure in the area. Specific advice on private schemes is contained at paragraphs 50-53.

13. The allocation of land in a development plan or the granting of planning permission does not negate other statutory procedures and consents relating to water and drainage. Neither does it imply that such consents will be forthcoming. *SPP1* states that the planning system should not be used to secure objectives which are more properly achieved under other legislation. Therefore, in considering proposals for development it is not necessary for the planning authority to address every aspect of the provision of water and drainage infrastructure. However, where other legal or administrative measures exist for controlling a particular activity the issues which they address can still be a planning consideration to which weight is given. For example, whilst the planning authority may not be concerned with regulations relating to financing the provision of water infrastructure, they will need to be satisfied that proposals would not have an adverse impact on water quality or the environment. Further information on the planning interaction with environmental regulations is set out within *PAN 51 Planning and Environmental Protection*.

14. The interaction between sewers, local watercourses and water bodies (including groundwater), means that planning authorities must also consider arrangements for surface water drainage and whether the risk of flooding is an issue. *SPP7 Planning and Flooding* sets out national policy on this matter.[1]

WATER LEGISLATION AND INVESTMENT

15. In February 2005 the Deputy Minister for Environment and Rural Development made two statements setting out the improvements Scottish Water would be funded to achieve in the period 2006-2014 and also the principles for charging for water and waste water services. These have been formalised in a statement of policy regarding charges and a Direction[2] to Scottish Water to deliver improvements in the quality and standards of service it provides. These improvements build on the work of previous programmes to meet public health and environmental requirements but also set out a framework for addressing development constraints.

[1] http://www.scotland.gov.uk/Publications/2004/02/18880/32952

[2] See http://www.scotland.gov.uk/Topics/Environment/Water/17583/directions for further information

16. Under these arrangements Ministers have directed Scottish Water to provide sufficient 'strategic capacity' to meet the needs of all estimated new housing developments and the domestic requirements for commercial and industrial developments. Strategic capacity or Part 4 assets are defined in the Explanatory Note accompanying the Scottish Water (Objectives for 1st April 2006 to 31st March 2010) Directions 2005 as 'Scottish Water's "Primary Assets"; Raw Water Intakes, Water Impounding Reservoirs, Water Aqueducts, Water Pumping Stations, Water Treatment Works and Waste Water Treatment Works'. Thereafter, any enhancement to local infrastructure (ie. Non-strategic assets) should be funded by the developer with Scottish Water providing a contribution towards these costs, in line with its statutory duties. See annex B *'Financing New Infrastructure'* for further information.

17. Ministers recognise that there are situations where it can be difficult to attribute the requirement for growth in local infrastructure to any individual developer or development. In such situations, recognising the desirability of developing drainage infrastructure, the costs of reinforcing infrastructure should be borne by the generality of developers through the creation of an infrastructure charge.[3] The funds Scottish Water raises from this charge will be used to help address demands on capacity that cannot be attributed to particular developments. Examples of its use might include building additional capacity into the system when renewing network assets, or supporting the provision of substantial Part 3 assets.

18. In planning and delivering sufficient 'strategic capacity' to meet the needs of all estimated new housing developments and the domestic requirements for commercial and industrial developments, Scottish Water is required to take account of demographic trends. It is required to prioritise the development of new infrastructure in accordance with its quality investment programme, the spatial priorities identified in the National Planning Framework, and the development priorities identified by local authorities in their development plans. Funding has been made available to meet this objective and review arrangements exist should this prove inadequate.

19. A range of environmental legislation (see annex A) imposes conditions on the delivery of Scottish Water's functions and the operation of private schemes. For example, the Urban Waste Water Treatment (Scotland) Regulations 1994 require the provision and maintenance of collecting systems for conurbations. The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) regulate all discharges into the water environment, including groundwater, through a system of licences, registrations and general binding rules administered by SEPA. These regulations provide SEPA with powers to take enforcement action when infrastructure is not appropriately maintained and environmental pollution occurs. See *Planning Advice Note 51 Planning and Environmental Protection* for further information.

[3] Paragraph 27 of Scottish Ministers' Statement of Policy Regarding Charges, as required under section 29D of the Water Industry (Scotland) Act 2002, September 2005.

JOINT WORKING

20. It is essential that the planning system interacts effectively with the frameworks for the provision and regulation of water and drainage infrastructure. Good relationships between planning authorities, Scottish Water, SEPA, developers and other stakeholders are important throughout the development process. Each needs to be clear about its respective role and how they require to interact.

21. The Planning Authority has responsibility for preparing development plans and determining planning applications. In fulfilling these responsibilities, it needs to be proactive in considering water and drainage issues and to satisfy itself that development proposals can be acceptably implemented. The planning authority will, therefore, need to work closely with developers, Scottish Water and SEPA. Some authorities have found that regular liaison meetings with Scottish Water, SEPA and other stakeholders to discuss issues associated with water and waste water infrastructure of great assistance. This can be helpful during the preparation of a development plan and to discuss specific issues such as the reduction and mitigation of the environmental impacts of discharges from the waste water network. A good awareness of development pressures and financial considerations will help to inform such meetings. Planning authorities should maintain an up-to-date understanding of the progress made by Scottish Water and developers in overcoming any constraints affecting consented applications. Discussions with developers during the annual housing land audit process provides an important opportunity for the regular review of water supply and drainage issues.

22. Scottish Water is responsible for coordinating and delivering investment in its water and waste water infrastructure and grants consent for connection to its network. As required by Ministers, Scottish Water takes into consideration the views and development priorities expressed by the planning authority when preparing its investment programme. It is essential that Scottish Water is fully engaged with the planning system to help inform decisions. This includes playing an active role in meetings arranged by the planning authority and responding to consultations. Scottish Water also publishes an annual Strategic Asset Capacity and Development Plan. In taking cognisance of demographic trends, Scottish Water is improving its understanding of the impact of new development on operational levels of service and incorporates this into its development planning process.

23. SEPA regulates the quality of the water environment as required by legislation. It is responsible for ensuring that discharges to the water environment (including groundwater) comply with legal requirements and, in respect of drinking water supply, determining the amount of water that can be abstracted. An application for a discharge must be determined on its merits to ensure water quality is adequately protected. SEPA has an important role in providing expert

environmental advice to planning authorities and developers on the options for accommodating new development. As a planning consultee, SEPA also has the role of raising strategic drainage issues in the context of its policies, including its Policy on Provision of Waste Water Drainage in Sewered Areas,[4] to which the planning authority should have regard when preparing development plans and making decisions on planning applications. As with Scottish Water, it is important that SEPA plays an active role in meetings arranged by the planning authority and responding to consultations.

24. Developers require consent from Scottish Water to connect to its water and waste water networks. Consents are only granted when capacity is available, discharges to the water environment meet the relevant environmental regulations and abstractions are within the limits of Water Orders. Developers should work closely with Scottish Water and SEPA early in the development process to gain an understanding of water supply and drainage requirements and agree acceptable measures for overcoming any constraints. Private systems require authorisation from SEPA. Developers also require planning permission from the relevant planning authority which will regard the proposed arrangements for water and drainage as material considerations.

STATUTORY DUTY TO ENGAGE

25. The White Paper, Modernising the Planning System (2005), stated the Scottish Executive's intention to designate key agencies for development planning and require them to co-operate in the plan preparation process. This is an important new provision, recognising the importance of development plans and ensuring that they contain up-to-date and relevant information. Key agencies will be defined in secondary legislation and are likely to include Scottish Water and SEPA. Further advice on their roles and responsibilities in relation to development planning will be issued in due course.

DEVELOPMENT PLANNING

26. Given that Scotland's planning system is plan-led,[5] up-to-date and effective development plans are essential. Development plans should provide clarity and certainty about the way communities will change and evolve over the longer term. As discussed above, issues relating to water and drainage should not be viewed in isolation but considered in relation to the plan's objectives.

27. Scottish Water will advise planning authorities, to the best of its knowledge, on the current and programmed capability to accommodate development. SEPA will provide the planning authority with advice on the requirements of environmental legislation, the content of drainage policies and on strategic

[4] See SEPA's website: http://www.sepa.org.uk/policies/index.htm

[5] As set out in Section 25 of the Town and Country (Scotland) Planning Act 1997

environmental issues, such as areas vulnerable to cumulative impact from waste water discharges.

28. Planning authorities, Scottish Water and SEPA should not wait until the formal consultation stages of the development plan preparation process to discuss water and drainage issues. Working together is important throughout the process to ensure that, as they are prepared, development plans reflect an up-to-date and accurate picture of water supply and drainage capacity and are informed by a shared understanding of how new development can be accommodated. An awareness of such things as available capacity, demographic changes, economic objectives, regulatory controls and a practical and efficient investment programme will assist in making informed choices. The plan should evolve with all parties satisfied that the development strategy is achievable within the desired time period through the removal of any constraints.

29. Planning authorities should work with Scottish Water and other stakeholders to ensure that appropriate sites for any new strategic Scottish Water assets are identified within development plans (See paragraphs 54-56 '*Developments by Scottish Water'*). Local plans should also include policies setting out the considerations which will be taken into account by the planning authority in determining applications for development on sites not allocated in the development plan and development proposals which include private schemes.

ASSESSING THE IMPACT ON WATER AND WASTE WATER INFRASTRUCTURE

30. Assessing the likely impact of new development upon water and waste water infrastructure is not always straightforward. Less detailed information on demand is available at development planning stages than when submitting development designs for connection approval to Scottish Water's network. Developers need to present sufficiently detailed information to allow consultees to comment on the likely impacts.

31. Scottish Water is funded to build strategic asset models required to test options for delivering the objectives it has been set by Scottish Ministers. Identifying the most appropriate pattern of future development may involve more detailed asset modelling, building upon Scottish Water's existing models. There may be opportunities for a planning authority to work with neighbouring authorities and Scottish Water, combining their efforts and sharing the costs of modelling work.

32. Preparation of Scottish Water's Quality and Standards III (Q&S III) investment programme for the period from April 2006 to March 2014, has highlighted the scale of development anticipated by Councils to 2014. A programme of investment in strategic infrastructure has been identified. Scottish Water is required to publish annually a Strategic Asset Capacity and Development Plan providing a current assessment of strategic capacity levels and future development plans.

MEMORANDUM OF UNDERSTANDING

33. Scottish Water and SEPA have agreed a Memorandum of Understanding (MoU)[6] on additional connections to the waste water system. The principle of the agreement is that both parties will examine how existing assets can be maximised to allow as many connections as possible without causing a significant detrimental effect on the environment. This will inform Scottish Water's advice to planning authorities on the capacity available to support additional development.

34. In November 2005 Scottish Water and SEPA carried out a detailed study of the application of the MoU. The initial outputs were incorporated into the first Strategic Asset Capacity and Development Plan in April 2006. In summary, over 7,000 housing units were initially released from constraint and a further 2,000 units were released following a subsequent review.

PROGRAMMING

35. The provision of new strategic infrastructure capacity should be programmed to coincide with the phasing and delivery of new development. Planning authorities and Scottish Water should work together to ensure that, as far as practicable, development plan priorities and the timing of investment are in accord. Through its annual review process Scottish Water may be able to accommodate changes in phasing to take account of any changes in the requirements of planning authorities or developers.

36. Consideration of these issues does not end once a plan is adopted: they will continue to be important in determining the way and the speed with which the plan is implemented. The White Paper, Modernising the Planning System (2005), set out the Executive's proposals for the preparation of an action programme alongside each development plan. It is intended that action programmes will set out the steps required to implement the plan's policies and proposals and be updated at least every two years. With regard to water and drainage infrastructure, the action programme should clearly state what is to be done, who is responsible and when it is to take place. Although not all the necessary infrastructure will have firm investment commitments attached to it, the regularly updated action programme will assist by setting out how development will be taken forward by stakeholders and how any outstanding issues are to be resolved. This will help to create a climate of certainty for users of the system.

[6] MoU between Scottish Water and Scottish Environment Protection Agency on the Management of Development Constraints caused by Sewerage Systems and Waste Water Treatment Works http://www.scottishwater.co.uk/pls/portal/docs/PAGE/SWE_PGP_CONNECTIONS/SWE_CORP_CONNECTIONS/SWE_STRATEGIC_PLANNING/1008_001.PDF

DEVELOPMENT MANAGEMENT[7]

PRE-APPLICATION DISCUSSIONS

37. Initial pre-application discussions between the prospective developer and Scottish Water will establish whether adequate infrastructure capacity currently exists. If it does not, the applicant should work with Scottish Water and SEPA to identify what options are available to accommodate the new development. These may require the developer to fund enhancement to local infrastructure (less a reasonable cost contribution) and/or Scottish Water to provide additional strategic capacity in its investment programme. Alternatively they may suggest changes to the proposed development.

38. Scottish Ministers intend that prospective applicants for planning permission should be under a duty to engage with local people in pre-application discussions for certain prescribed classes of development. Arrangements and timescales for connection to water supply and waste water networks should also be considered by key stakeholders at this stage. Pre-application discussions are particularly important for developments which have not been included in the development plan, involve different uses, or are on a larger scale than anticipated. The planning authority also has a role in alerting developers to other consents required and any known constraints. Where a private solution is proposed, the developer should work closely with the planning authority and SEPA to establish whether it is suitable.

39. Development Impact Assessments (DIA) are a mechanism for identifying the scale and nature of development impacts on existing water and waste water infrastructure. Scottish Water will determine the need for a DIA on the basis of a desk-top analysis. The DIA will help to determine the scale of any mitigation work required to overcome development constraints. Where a development proceeds, the cost of the DIA can be taken into account in calculating Scottish Water's contribution in terms of The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006.

CONSULTING ON AND DETERMINING THE APPLICATION

40. The Town and Country Planning (General Development Procedure) (Scotland) Order requires the planning authority to consult Scottish Water where a proposed development would be likely to require a material addition to or a material change in the water or waste water services it provides. This will include alterations to the use of land or property which will result in greater demand for water or material changes to the discharge of waste water. The planning authority should ascertain whether the applicant intends to connect to Scottish Water's network or pursue another option.

[7] The White Paper *Modernising the Planning System* (June 2005) signals the change in terminology from 'development control' to 'development management'. The latter term is used throughout this PAN.

41. Scottish Water will not, other than in exceptional circumstances, object to an application. Exceptional circumstances might include proposals which could infringe the operation of existing infrastructure, involve Scottish Water in unreasonably high capital and/or maintenance costs, or could raise issues with odours. The absence of an objection should not be interpreted as acceptance that the proposed development can currently be serviced. Scottish Water will consider the proposal, based on the level of detail provided, and advise the applicant and planning authority of the existing capability of their strategic assets along with any local infrastructure considerations that are known at the time of the request for information. This will include advice about the implications for any programmed investment. The response will form Scottish Water's initial views on securing connections via their own consent to connect process. SEPA will consider the proposed development and, where appropriate, advise the authority as to whether discharges from it could be licensed and on strategic drainage issues, in accordance with its policies, including its Policy on Waste Water Drainage in Sewered Areas.

42. The planning authority should be satisfied that proposals would not have an adverse impact on water quality, public health or the environment. Neither should proposals impede the development of a sustainable drainage network. Where the applicant has stated their intention to connect to Scottish Water's network, and Scottish Water has not made an objection, there should be no barrier to granting planning permission in relation to water or waste water infrastructure. Where applicable, the applicant should be advised of the requirement to seek consent from Scottish Water to connect to its network and comply with the environmental regulations stipulated by SEPA. In addition, a condition may be attached to the permission stating that, should the applicant later decide not to connect to Scottish Water's network, any alternative arrangement must be approved by the planning authority. The planning authority should re-consult SEPA in such cases. Such a change may necessitate submission of a fresh application. See also paragraphs 50-53 for considering *'Private Schemes'*.

SECURING CONNECTION TO THE WATER AND WASTE WATER NETWORKS

43. The granting of planning permission does not secure connection to public water and waste water infrastructure. It is the responsibility of the developer to liaise with Scottish Water directly to ensure the necessary consent to connect to its network is secured.

44. Scottish Water generally operates on the basis of consent to connect being granted following their design approval of a proposal, which already has obtained planning permission. Where there is spare capacity, it will allow a developer to connect. However, it is possible that between the time an earlier assessment of capacity is made and the time when the developer is ready to connect, Scottish Water will have granted consent for another developer to connect to its network. There is, therefore, no guarantee that capacity identified will remain. Scottish Water will, however, manage the ongoing provision of capacity based on the emerging demand for connections as agreed with

developers. This will rely on robust development programmes and effective early engagement.

45. Should there be any infrastructure upgrades required to support new development, this will be subject to the funding arrangements outlined in Annex B. In funding the upgrading of water or waste water infrastructure, a developer may wish to be assured that part of the additional capacity will remain available for subsequent phases of development. In such circumstances, Scottish Water will discuss how to ensure that sufficient capacity can be made available to meet the developer's known needs. Two or more developers may choose to share the costs of upgrading infrastructure. Any legal agreements necessary to deliver the infrastructure are a matter for the developer(s) and Scottish Water.

46. Where a development, which is not anticipated in the development plan, would be likely to take up water supply or drainage capacity required for other sites allocated in the development plan, the planning authority should give careful consideration to the implications for the delivery of the development plan strategy. The planning authority may wish to seek the advice of Scottish Water should this situation arise.

SUSTAINABLE DRAINAGE SYSTEMS

47. Surface water runoff, which combines with waste water, can place a significant and variable burden on waste water treatment works and may increase the risk of flooding. It is now common practice to provide separate systems for foul and surface water. The foul water is piped to the waste water treatment works whilst surface water is piped to the nearest watercourse. However, many older networks have not been designed with sustainable development objectives in mind, and have paid insufficient regard to amenity, landscaping potential, biodiversity considerations, and the impact of potentially polluted runoff on the receiving water body.

48. The aim of Sustainable Drainage Systems (SuDS) is to mimic natural drainage, encouraging infiltration where appropriate and attenuating both hydraulic and pollutant impacts with minimal adverse impact on people and the environment. Keeping surface water out of the combined system in new development, and the removal of surface water from combined systems in areas being redeveloped, can free up capacity for the treatment of waste water, assist in the removal of development constraints and reduce the frequency of emergency overflows. Regulations[8] require SuDS for the majority of new developments and *SPP7 Planning and Flooding* states that surface water run-off from development should be fully or partially drained by a sustainable drainage system unless this is impracticable. It is also SEPA's policy to promote SuDS as the preferred solution for drainage of surface water run-off, including roof water, for all proposed development, whether greenfield or brownfield. SuDS can be designed as attractive amenity features within developments, to the benefit of the local community.

[8] The Water Environment (Controlled Activities) (Scotland) Regulations 2005, Schedule 3, Part 1, and Activities 10 & 11

49. Additional information is provided in *Planning Advice Note 61 Sustainable Urban Drainage Systems*. The responsibility for maintenance and capital replacement of shared public SuDS is set out in the Water Environment and Water Services (Scotland) Act 2003. The design and construction standards for SuDS systems to be adopted by Scottish Water will be included in the second edition of Scottish Water's Technical Manual 'Sewers For Scotland', which is currently being prepared. In future, where a SuDS system for a proposed development is of a scale or nature appropriate for vestment then the developer and Scottish Water should enter into an agreement on the design and construction standard.

PRIVATE SCHEMES

50. For systems serving the equivalent of more than 15 people, the Water Environment (Controlled Activities) (Scotland) Regulations 2005 require the nomination of a person to take responsibility for securing compliance with the terms of the discharge licence and against whom enforcement action under the regulations can be taken. However, maintenance and refurbishment may be difficult to achieve when owners of private schemes are unwilling to take responsibility, especially when costs are high or unexpected. An increasingly fragmented system has the potential to lead to inadequate maintenance, which in turn can lead to increasing environmental damage and risks to public health, and can physically obstruct the development of strategic drainage networks.

51. There are many situations in which a private scheme may be proposed but is more likely to be the case in rural locations. There are significant advantages in new development being directed to settlements where strategic drainage networks can be developed or expanded. This is consistent with other sustainable development objectives such as supporting existing towns and villages, integrating transport and locating people close to services and jobs. The National Planning Framework states that many rural areas are capable of absorbing more people without losing their environmental quality. *SPP15: Planning for Rural Development* encourages provision for small-scale rural housing developments in development plans. Small-scale developments include clusters, groups of houses in close proximity to settlements, replacement housing, plots for individually designed houses and holiday homes. In rural areas private schemes can offer advantages in allowing development to take place in locations which are unlikely to be serviced by Scottish Water's network at a reasonable cost or on a reasonable timescale.

52. While the environmental and amenity impacts resulting from the drainage of individual small-scale developments in a rural area may not be a cause for concern, the proliferation of private systems may give rise to problems. The planning authority, in consultation with SEPA, will need to determine both in their development plans and when considering individual applications whether the benefits of this type of development outweigh concerns about the risks associated with more fragmented water and waste water networks. This consideration should be made in the context of the wider development

priorities for a particular area, the prospects of obtaining connection to Scottish Water's network and with regard to SEPA's policy on the 'provision of waste water drainage in sewered areas'.

53. A prospective developer may propose to overcome a constraint by itself arranging for the provision of infrastructure as a temporary private measure until such time as Scottish Water makes the necessary strategic investment. In such cases a condition or legal agreement will be appropriate to ensure that such systems are designed and built to a standard to allow adoption by Scottish Water and that connection to Scottish Water's network be made at the earliest possible date.

DEVELOPMENTS BY SCOTTISH WATER

54. Proposals for strategic infrastructure such as service reservoirs, waste water treatment works, water impounding reservoirs and some SuDS require planning consent and in some cases an environmental assessment under the Environmental Impact Assessment (Scotland) Regulations 1999. However, much local infrastructure, such as pipes and pumping stations below the ground, control kiosks and new equipment within a water treatment works, constitute permitted development under the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, and no planning permission is required.

55. The upgrading of existing assets is often preferable to the provision of new strategic infrastructure where an increase in capacity is required. Where new infrastructure is required, careful site selection will be necessary, especially for developments in sensitive locations such as coastal areas. It is important that Scottish Water and planning authorities work together and consult other stakeholders including SEPA, Scottish Natural Heritage, Historic Scotland and community councils to identify appropriate sites in development plans to meet strategic infrastructure requirements but which minimise environmental impacts. Where possible and thought necessary, sites should be large enough to accommodate future expansion of these assets. The Code of Practice on Assessment and Control of Odour Nuisance from Waste Water Treatment Works[9] provides a framework within which Scottish Water and its contractors, other operators and local authorities can operate to minimise the impacts of odours from facilities and identify steps to tackle odours of a significant nature.

56. Even when sites are not allocated, pre-application discussions should assist in determining whether infrastructure proposals are in accordance with the development plan. This will help to avoid conflicts late in the process, which can delay the provision of essential strategic infrastructure. Where appropriate Scottish Water will engage with local communities with a view to finding an acceptable and economically viable solution.

[9] http://www.scotland.gov.uk/Resource/Doc/30701/0011715.pdf

ANNEX A

RELEVANT LEGISLATION

- The Sewerage (Scotland) Act 1968 and Water (Scotland) Act 1980 specifies powers and responsibilities relative to the supply of drinking water and the treatment and disposal of waste water.
- The Urban Waste Water Treatment (Scotland) Regulations 1994 deal with the collection, treatment and discharge standards for waste water, including those from the industrial sector.
- The Water Industry (Scotland) Act 2002 set up Scottish Water, transferred to it the responsibilities of the previous water and sewerage authorities and introduced some new rights and obligations.
- Water Environment and Water Services (Scotland) Act 2003 made amendments to the 1968 and 1980 Acts
- Water Environment (Controlled Activities) (Scotland) Regulations 2005 regulate discharges to the water environment, including groundwater, through a system of authorisation; licences (for the highest risk discharges such as larger sewage discharges), registrations (for discharges of lower risk such as small-scale sewage discharges) and general binding rules (for low risk discharges such as small-scale SuDS). These matters are dealt with by SEPA.
- Water Services etc. (Scotland) Act 2005, in relation to compliance with existing statutory discharge consent conditions, created offences for unauthorised use of public systems and provisions with reference to Scottish Water's functions.
- Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006 clarify arrangements relating to the reasonable cost criteria which apply to contributions towards the infrastructure costs of new development.

A number of European Directives have imposed conditions on Scottish Water's delivery of the functions described above. These include: the Urban Waste Water Treatment Directive (transposed by the 1994 Regulations mentioned above); the Bathing Water Directive which specifies standards for identified bathing waters; the Shellfish Waters and Freshwater for Fish Directives concerned with pollution and ensure designated waters conform to standards; and the Water Framework Directive relating to the delivery of programmes of measures to achieve good status by imposing controls on point and diffuse pollution, abstraction, impoundment and engineering.

ANNEX B

FINANCING NEW INFRASTRUCTURE

The responsibility for financing new infrastructure can be summarised as follows:

- *Minor Infrastructure (Part 1 assets)*: Developers will pay for the immediate connection from a property to a water main or sewer i.e. the service pipe and drain.
- *Local Infrastructure (Part 2 & 3 assets):* Scottish Water will meet the costs of local infrastructure up to a limit based on the future income that the new connection will bring.
- *Strategic Infrastructure (Part 4 assets):* Scottish Water is responsible for meeting the future capacity requirements for strategic infrastructure of all anticipated new development which can be met within reasonable costs.

  N.B. See also diagram at paragraph 6

Under Quality and Standards III, investments in strategic infrastructure, where they can be done within reasonable costs, will be made by Scottish Water. These major long-term assets are necessary not only for future customers but existing ones and are therefore not attributable to any single development proposal.

Developers continue to be responsible for the immediate connection from a property to the point where it joins a water main or sewer (minor infrastructure). Between this point and the strategic infrastructure, the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006 provides a legal basis for apportioning costs for connecting domestic properties to water and drainage networks and calculating the maximum contribution Scottish Water might be required to make. This reflects the costs and benefits of that infrastructure to Scottish Water and its customers. A non-statutory method exists for calculating Scottish Water's contribution to the cost of connecting non-domestic properties. For a connection to go ahead, developers will have to find a means of financing any costs above the contribution that Scottish Water is required to make.[10]

In this way, existing customers continue to pay for the system as a whole and developers will pay towards expanding the system in areas where local capacity is not available, less a contribution that reflects the benefit the additional customers bring to Scottish Water, and any other relevant work which Scottish Water is required to do as part of its investment programme.

[10] For more information see Scottish Water's 'Guide to Obtaining New Water and Waste Water Services'. http://www.scottishwater.co.uk/pls/portal/docs/PAGE/SWE_PGP_CONNECTIONS/SWE_CORP_CONNECTIONS/SWE_CORP_PLANDEV/TECHNICAL_GUIDE.SINGLE_WEB_75.PDF

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