

LABSS INFORMATION PAPER INFOP11 - 2016 Version 2 – 26 April 2016

CONSULTATION PROCESSES WITH SCOTTISH WATER

Applicable to Domestic and Non-Domestic Buildings in relation to
Section 3: Environment
Mandatory Standard 3.6 Surface Water Drainage
Mandatory Standard 3.7 Wastewater Drainage

BACKGROUND

The view being expressed is that Verifiers should simply ask for confirmation that Scottish Water has been consulted when considering a new build development which will need a drainage connection to a sewer.

DECISION

The responsibility to consult with relevant consultees such as Scottish Water lies with the applicant. They should do this directly or by instruction from the verifier should the verifier see fit. The need for information obtained through a consultation is determined by whether or not there will be a failure to comply with the Mandatory Standard 3.6 Surface Water or Mandatory Standard 3.7 Wastewater.

In general terms, when new developments are likely to add load to any public sewer system the planning process will have confirmed the existence and adequacy of the public drainage infrastructure. It is sensible, however, for the verifier to seek confirmation from the applicant that consultation with Scottish Water has taken place.

If the verifier has reason to believe that a proposal will fail to comply based on the information submitted in support of an application or through local knowledge and confirmed by consultations with Scottish Water, then the warrant cannot be granted because it does not meet the requirements of the Act, i.e. it does not meet the building regulations. This could be due to requirements of Scottish Water impacting on the scope of what is needed to achieve compliance or how compliance must be achieved relative to the building drainage.

On the other hand, the building warrant **MUST BE granted** if there is enough evidence to suggest that nothing in the plan, specification or other information submitted with the application indicates that the building when constructed will fail to comply with building regulations. Any requirements of bodies such as Scottish Water that have no impact on the building regulations cannot delay the issue of a warrant, as this must be granted if the requirements of the building regulations are met.

If issues remain around the criteria for acceptance by Scottish Water but not allied to the acceptance criteria of the building regulations, then these could be brought to the attention of the applicant out-with the building warrant process.

The Procedural Handbook states:

14.6.1. Prior to applying for building warrant, an applicant should consult with Scottish Water:

- *where a private drain discharges into a public sewer*
- *where it is intended that a drain will be vested in Scottish Water*
- *on the design and construction of disconnecting manholes and disconnecting chambers*
- *and where it is intended to build over sewers*

A verifier will specifically ask for consultation where the requirements of Scottish Water may adversely impact on compliance with the building regulations, for example, a request for attenuation of surface water discharge to a sewer by diminishing the bore of drainage pipes in the direction of flow

For a simple connection (e.g. only foul discharge with an obvious disconnection point to an existing sewer) evidence of limited response from Scottish Water may be acceptable. However, there can be aspects of the drainage proposals that would require more detailed feedback/approval from Scottish Water to allow clarity as to what is required of the applicant / verifier to demonstrate compliance with Standards 3.6 'Surface water drainage' and Standard 3.7 'Wastewater drainage'.

The presumption is that approval of a compliant building warrant application cannot be delayed to await a consultation response. However, where uncertainty exists on aspects of the surface and foul water acceptance criteria of the water authority, then it may not be possible to demonstrate compliance without these uncertainties being clarified. It is clear from experience gained of other developments, that approval under Standard 3.6 and 3.7 is best achieved in conjunction with technical approval for the connection from the Scottish Water, either formally or evidenced by copy communications from the Water Authority.

It should be noted that there may be scope for staging of applications to accommodate timing issues that may arise, and the Verifier should be open to discuss this.

SUMMARY

The presumption that approval of a compliant building warrant application cannot be delayed to await a consultation response reflects the legal position. If it is compliant it must be granted.

With regard to "where uncertainty exists on aspects of the surface water and foul water criteria for acceptance by the water authority", this is a matter for Scottish Water and not building standards. The Building Warrant must be granted when it is shown that consultation has taken place and there are no anticipated effects on complying with the building regulations. Matters, however, are not always straightforward and certain Scottish Water criteria for acceptance impacts significantly on whether compliance will be possible, which in turn can impact on the decision by the Verifier to grant the warrant.

As examples,

- a) if Scottish Water will only accept a surface water discharge of 5l/s, then the SUDS system must be designed to achieve this, or
- b) if a length of pipe is not going to be accepted by them, it will then become part of the building drainage system, rather than an adopted sewer. It is, therefore, important that it is clear on the approved drawings and in any consultation feedback from Scottish Water that the extent of adoption is clearly understood.

A particular case study showed that where an existing school was demolished and a new one built in the same location and of a similar scale, the designers had assumed that they would be permitted to discharge as much surface water as they had always done (with no SUDS). However, they were surprised to find out they had to introduce quite challenging SUDS provisions as part of the building drainage to achieve the limit set by Scottish Water.

TECHNICAL AND PROCEDURAL CONCERNS

The Building (Procedures) (Scotland) Regulations 2004

Section 10 of these Regulations allows a verifier, if the verifier thinks fit, to direct the applicant to obtain the views of relevant consultees and report such views to the verifier. "Relevant consultees" means such persons as the verifier considers may have an interest in the application having regard to any guidance thereon issued by the Scottish Ministers. This, therefore, establishes the legitimacy of the verifier to seek the views of Scottish Water.

Where the requirements of Scottish Water adversely impact upon compliance with the building regulations to the detriment of the Mandatory Standards (3.6 or 3.7) there is justification for withholding the warrant approval. However, the test must be:

- is there a failure to comply with the building regulations – the Mandatory Standard(s).

If this is not the case and the building drainage proposals contained within the application comply with the building regulations and are checked by the Verifier, and any potential sewers within the proposal, intended for vesting by Scottish Water meet with the "Sewers for Scotland" guidance and are to be checked by Scottish Water (Clause 3.7.6 of Mandatory Standard 3.7), then the warrant must be approved. It is important that it is clear on the approved drawings and in any consultation feedback from Scottish Water that the extent of adoption is clearly understood.

Section 9 of the Procedure Regulations requires that on receipt of an application the verifier shall proceed forthwith to consider the application; and

- a) if satisfied in accordance with **Section 9(1) of the Building (Scotland) Act** and that the application complies with these regulations grant the application;

The Building (Scotland) Act 2003

Section 9(1) and 9(2) of the Act requires that a verifier confirms that proposals submitted under an application for a warrant that

- the work involved will be carried out in accordance with building regulations, and
- where the work is for the construction of a building, that nothing in any plan, specification or other information submitted with the application indicates that the building when constructed will fail to comply with building regulations.