

CONSULTATION RESPONSE



Draft Floods and Water Management Bill

23rd July 2009

HBF response to the Draft Floods and Water Management Bill

Introduction

The HBF welcomes the opportunity to respond to this important consultation. Our response has been compiled following an extensive consultation with our Members from both written comments and Member Workshops held to address the issues raised in both the consultation and the legal aspects of the Draft Bill.

General Comments

1. Overall the introduction of a more robust legal mechanism for Sustainable Drainage Systems (SUDS) has been well received by the Industry. However we would openly state that the consultation fails to address the fundamental detail in how surface water will be managed on new developments. The inference of the narrative of the consultation is that Government seems to be advocating above ground control of surface water against the likes of below ground attenuation. Such an approach causes us some major concerns if this means development should be using the likes of Ponds and Open Space attenuation as the first option in assessing how surface water is to be managed in relation to SUDS. This will raise a number of issues surrounding additional land take and health and safety issues. At present below ground engineered solutions for attenuation constitutes a practical way to manage surface water and as such is a viable option in being able to manage surface water in a sustainable way.

2. We would express our concerns that although the Draft Bill aims to address the Recommendations of the Pitt Review there are certain issues on which the Pitt Review itself lacked an understanding of the Planning and development process. It is also evident that the consultation lacks detailed reference to the Water Frame Work Directive and River Basin Management Planning, all of which we would have thought has a major impact on assessing risk in this area. Although from the perspective of new build we see that the concept of making development sustainable in the way surface water is managed is the challenge that faces many of us.

3. The detail pertaining to the above is of the most paramount importance to enable clarity to exist from PPS25-Annex F: Managing Surface Water. The narrative of the consultation in some instances is incorrect and fails to grasp a practical understanding of the stakeholder challenges that exist in this area. To just introduce a legal structure to adopt SUDS will fall a long way short in what is primarily required in an overarching requirement to explain in detail how Government will require developers to apply practical and cost effective ways to manage normal surface water events as well as the exceptional rainfall events, which we are lead to believe will occur due to Climate Change. The control of surface water exceedance constitutes the biggest challenge for all stakeholders so not to exacerbate the problems of flooding encountered in the past.

4. The methods of controlling surface water must be mindful of allowing a developer to adopt the most practical and cost effective systems of control. The hierarchical approach as set out in Part H of the Building Regulations is in theory commendable for individual plots but in practice emanates in a principle which at times is open for abuse and is supported by the Planning System when the Planning Authority is approached directly by Water & Sewerage Companies (WaSC) who see this as an opportunity to remove surface water from their sewers. The recently published report by Ofwat on the "Review of Regulatory and Legal Options for Reducing Surface Water in Sewers" is somewhat concerning in that it fails to address legal and financial obligations exist under the WaSC duty to manage surface water from new developments. As a report it does not give a balanced approach and appears to cite the developer as having to bear extra costs in this area. For a report published by the Industry Regulator it is most disturbing in its content.

5. The consultation does not seem to recognise the changes that will exist in the future with the imminent Transfer of Private Sewers on new build, which, we are lead to believe, will take place from April 2010. This poses a series of questions which the consultation fails to address: e.g. will Water and Sewerage Companies (WaSCs) be responsible for all sewers on a site where the SUDS Approving Body (SAB) will only adopt SUDS? Or will the WaSC have no involvement with the on-site surface water management? Is it the aim of Government for WaSCs to only have the responsibility for foul sewers in the future that originate from new build? The answers to these questions are of major importance not only to this Draft Bill but also in relation to other changes in legislation that need to be put in place to accommodate the future direction of Government. Unless such issues are looked at now this, and the transfer, will lack direction and will be disjointed. We would even suggest that until clarity exists in relation to this and the Transfer for Private Sewers on new build the intended changes in April 2010 should be delayed and co-ordinated with the Flood and Water Management Bill (FWMB) being enacted.

6. The industry is aware of the future changes Government intends to make in relation to the Transfer of Private Sewers and the impact it will have on new build. Due to the magnitude of this change we are somewhat perplexed that a question about the legislation clauses was not included in the consultation. We therefore have some major concerns regarding the changes to Section 106 of the Water Industry Act 1991 (WIA) as the correct legal mechanism to instigate adherence to the mandatory build standards. If we had some certainty that this was just for foul sewers this would probably work. However, with the National Standards for SUDS and the possibility of sewers connecting into SUDS we see confusion in having to deal with the SUDS Approving Body and the WaSC for foul and surface water sewers. It is also difficult to understand why the mandatory build standards for sewers have not been incorporated into the Act under an ammendment to Section 104 WIA reflecting the Government's principle for the National Standards for SUDS as a form of

regulation. This would then allow changes to Section 105 WIA giving developers the right to appeal against the WaSC application of the mandatory build standards if ever a dispute occurred. These legal changes are important because for future new build developers will not be allowed to build sewers under Agreement as part of Section 104 WIA. We would express some major concerns that such legislation changes have not been thought through by Government.

7. Government also needs to be mindful of the forthcoming House of Lords Appeal Case between Welsh Water v Barratt Homes. If judged in favour of Welsh Water the right to connect will need to be reassessed to address additional legal requirements of Requisition Powers and who decides on where the right to connect takes place. This will have further implications on how the mandatory standard will be applied and will incur payment from the developer for substantial sewer reinforcement costs over and above what takes place at present. It is somewhat disturbing that Ofwat's legal position on this matter and the impact on future funding has not been fully recognised by Welsh Water.

8. It is an ever growing frustration felt by the house building industry that WaSCs are placed somewhat on a pedestal with regards to what they should and should not be required to deliver in relation to sewerage infrastructure. The Government and Planning System seem to be oblivious to the fact that these monopoly organisations operate as commercial identities which are focussed on making a profit. Sir Michael Pitt seemed to have been "thrown off the scent" in relation to not explaining the WaSC's duty under Section 94 of the Water Industry Act 1991. From our perspective this is quite easily explained in that WaSCs have a duty to provide sewers for surface water emanating from the curtilage of a property at a 1 in 30 year event. The duty is even more specific in that it is to "effectually drain". Therefore the WaSC should plan and provide sewers to enable developers to connect under Section 106. This is subsequently funded through the general water and sewerage tariffs, some Requisition Charges and predominantly Infrastructure Charges paid by developers. Of the latter since 1991 the house building industry has paid over £1.0bn to the WaSCs. In light of the above we would ask Government two questions:-

- I. Will the funding allocated to the WaSC Section 94 duty be removed, or the Infrastructure Charge lowered?
- II. As commercial organisations why are WaSCs allowed to be given the privilege to be statutory consultees? Should they not be required to deliver the relevant infrastructure to facilitate new development not only for surface water but also for foul water?

In both cases the demand placed on the existing sewerage infrastructure by new build is minimal in comparison to the existing housing stock. Yet even as recent as at the launch of the UK Climate Change Projection a WaSC made a great play on the "substantial housing growth" in their area which when questioned further constituted a 0.5% increase per year against the number of existing properties. It is about time some balance was placed into the debate on the actual impact of new build and the need for WaSCs to apply themselves to their primary duty under Section 94 WIA.

9. The consultation also fails to address the important issues in relation to the way certain procedures operate today and the direction in the future of:-

- I. Financial Bonding arrangements for SUDS
- II. Changes to Section 106 to facilitate the mandatory build standards for new build to account.

10. In relation to the Financial Bond we have some serious concerns about the 100% requirement to provide a Bond which is reflective of the total cost of the scheme. This is not, as per the present arrangements in Sewers for Adoption, where if a Bond is required it is only 10% of the sewer costs and in some cases a Bond Waiver is accepted due to the financial status of the developer. Under the present economic conditions any Bond obligations can be difficult to obtain and extremely costly for the developer. Therefore we would suggest that Clause 229 requires rewriting to reflect the present 10% Bonding Arrangements and the need for the use of Bond Waivers.

11. We feel that the same should take place with Clause 252 on the mandatory build standards for sewers as well. More detail is required to allow developers to know whether WaSCs will have the on-site responsibility for storm sewers. These standards need to be an amalgamation of Sewers for Adoption and Part H of the Building Regulations. It is most concerning to date that these Standards have solely been within the remit of the WaSCs to compile when we are being told that implementation will take place in April 2010. We are even lead to believe that a “gold standard approach” is being applied by the WaSCs in terms of what they are looking to accept as the existing Part H for sewers. This is most concerning for our industry.

12. On the issue of the SUDS Approving Body and the concept of Unitary Authorities and County Councils being responsible for SUDS, we obviously welcome the funding arrangements set out in the Regulatory Input Assessment which abdicates developers from paying commuted sums; Although we would question whether these organisations have the appropriate skill base and funding to undertake such a role. We are advised that Nottingham City Council have adopted a holistic management approach in this area which is worthy of consideration and may act as a champion for best practice.

13. On the issue of the future funding for SUDS we would assume that existing surface water charges levied on residents will be diverted to the SAB from the WaSCs. As well as an element of the WaSC future price review charges from the general tariff basket, as WaSCs may not be dealing with the 1 in 30 year event surface water for developments under Section 94 WIA. Our position on this issue is that an element of reduction in Infrastructure Charges should take place because the FWMB will reduce the surface water demand on the vested sewers to reflect the existing sites previous demand.

14. We would openly concede that our Introduction is somewhat long in content than would normally be expected in a response to a Government consultation. However we do feel that due to the lack of detail it is important to address issues which lack clarity and understanding in the consultation and Draft Bill. From our industry's perspective the main issues really arise from:-

- Sustainable Drainage Systems (Clauses 217-233) (Paragraphs 158-233).
- Developments should fund the additional pressure they put on future budgets (Question 115) (Paragraphs 427-432),
- 4.7 Introduction of a Mandatory Build Standard for Sewers (Clause 252) (Paragraphs 577-581) and
- 4.8 Misconnections (Clause 253) (Paragraphs 582-591).

15. On the above four areas we will provide comments first. In our response to the consultation questions we will also take the opportunity to provide views on the narrative which we feel is incorrect or requires further consideration.

16. After responding to the above we will take the opportunity to make comments on other aspects of the consultation and Draft Bill where it is felt new development could be affected and our industry's opinion would be welcomed by Government.

HBF detailed response to the consultation questions

2.6 Sustainable Drainage Systems

42. Do you agree that national design, construction and performance standards for sustainable drainage of new developments and re-developments should be developed and approved by the Secretary of State and Welsh Ministers?

Paragraph 162 – The Pitt Review paragraph 5.62 gives some perspective on the issue of the impact new build has on the existing housing stock, which is about 1% increase per year, although we would suggest that it is near 0.5%. Of which, according to CLG figures, 72% of new homes are constructed on previously developed sites which in many cases already had a surface water discharge. We would therefore question the inferences of this paragraph.

Paragraph 163 – Can we draw DEFRA’s attention to the report by the Centre for Ecology & Hydrology/ British Geological Survey on the summer 2007 floods published in March 2008 which set out details of eutrophication in our river systems from surface water run-off from agricultural land and the effect that this has on river capacity. An issue of this nature seems to have been omitted from the Draft Bill.

Paragraph 164 – The inference of the consultation is that Government only sees SUDS as an above ground process. SUDS are not only above ground attenuation but also below ground systems. The issue is more to slow down the surface water getting into sewers and watercourses to allow the intense storm to subside. In nearly all cases where surface water cannot infiltrate into the ground an outfall will be required. Even the use of infiltration systems needs to be mindful of groundwater levels and indigenous rock formations which are permeable and may be susceptible to dissolution, all of which could have an affect on house foundations and any below ground structure. Also the use of infiltration systems on brown field sites may have some serious consequences on disturbing the contaminated soils which are capped on these kinds of developments.

Paragraph 165 – As an industry we would like to use permeable paving and asphalt however such systems will not be adopted by the Highway Authorities. On the rare occasion that they are permitted by a Highway Authority a large commuted sum is required.

Paragraph 166 – This is incorrect as SUDS do have to be incorporated in new developments to adhere to PPS25. These are mainly below ground attenuation and modelling to retain surface water on the surface.

Paragraph 167 – As above we would say that WaSCs seldom adopt SUDS and if incorporated above ground the only option is normally to progress adoption through a private company at present.

Paragraph 172 – From a developer’s perspective the issue is not only with misconnections but also ingress of ground water through broken sewer pipes that result in a vast amount of capacity being used in the existing foul sewerage network for ground and surface water. Addressing this type of misconnection and infiltration will go a long way towards freeing up headroom for new developments’ foul sewage.

Response to question 42.

Yes, this is fundamentally important and they should be mandatory for all stakeholders to adhere to. It is also important to ensure that the National Standards for SUDS have an overarching document which expands on Annex F of PPS25 on managing surface water, all of which needs to address the responsibility of all stakeholders from land acquisition through to adoption and future maintenance.



The one issue which needs immediate clarification is what role WaSCs have in relation to on-site sewers which connect plots to any form of SUDS.

It is essential that these National Standards should be practical and cost effective to apply for Developers. As explained further on in our response to the consultation, developments have to be sustainable to ensure new homes are constructed which are resilient to Climate Change. However, Government needs to be mindful of other competing objectives.

43. Are there particular issues which must be addressed in the standards to make them effective that have not been mentioned?

The definition of SUDS as set out in the consultation is different to the Interim Code of Practice for Sustainable Drainage Systems produced by the National SUDS Working Group. The National Standards need to address all of the issues from land acquisition to adoption. Clause 221 falls way short of recognising what should be included in the Standards. The issue here is really the detail which is scarcely documented in the consultation and Draft Bill.

Our suggested list of issues the National Standards need to address is:-

- * Planning and Procurement Considerations for a Development of the SUDS.
- * PPS25 – Planning through to Consent Requirements
- * Existing Legislation Considerations
- * A SUDS and Managing Surface Water Strategy
- * Design Criteria
- * Construction Specification
- * Service Levels Agreements and time periods for all parties
- * Funding – Inspection Fees, Application Fees
- * Financial Bond / Surety Issues
- * Management and Adoption Process
- * Legal Agreements with others – i.e. Section 38 Agreements on Highways
- * Appeal Process
- * Requisition Powers to outfalls (watercourses, rivers, canals etc)
- * European Directives

To compile these National Standards will be a major task. However there is a mass of information available at present and we feel that CIRIA would be best placed to drive the production of the Standards having worked with them on PPS25 in the past. Their knowledge and understanding of SUDS issues would be valuable to be able to apply a practical approach to the National Standards.

44. Are there examples where this form of approval, for the surface water drainage system associated with a new development, is not appropriate?

In our Introduction we detailed issues surrounding SABs. We also have concerns with the effectiveness of any dispute procedure which has to be incorporated into this process.

The issues contained in the detail of the approval procedures are very important and whether the SAB has the capability to adhere to prescribed service levels.

45. Does the process for adoption and connection described here provide a clear and workable approach for developers, local authorities and water and sewerage companies? Do you have any suggestions which would make the process simpler, speedier or lower cost?

No, the devil will be in the detail. Although it would be most advantageous if WaSCs were placed in a position to be told to accept a connection to their existing network rather than be consulted on it.

On the matter of making the process simpler, speedier or lower cost; we would suggest that the amalgamation of combined inspections of SUDS and Highways could be considered as the SAB will have joint obligations in these areas. This is a procedure that has taken place in the past and would align with the overall principles of the Hampton Review in Local Authorities being able to expand on their existing resource base to become more multi-disciplined.

46. Are there examples where communal SUDS should not be adopted by the SAB?

Paragraph 189 – We would again reiterate that permeable paving is rarely adopted by the Highway Authorities even though developers are keen to use it on sites.

Paragraph 191 – **More clarification is required on this as the word “most” seems to infer that only some systems will not fall under the control of SABs.**

Paragraph 192 – The idea of above ground SUDS being located in back gardens is totally impractical. For example, if a swale is filled in it will become unable to cope with surface water and may cause flooding to properties. It is more practical to have most SUDS within the public realm. The exception to this would be soakaways which can be located in back gardens and linked together for a number of plots, all of which will be incorporated as part of the Building Regulations or is it the case that they will be the responsibility of the SAB?



Paragraph 194 – We would have expected maintenance criteria for SUDS to be included in the National Standards. We see it as important that the guidance must be mandatory to enable all stakeholders to understand and adhere to a specific maintenance regime. One of the issues with certain SUDS is that their maintenance requirements are not known. This results in, at present, a highly inflated commuted sum that is required to maintain them. The maintenance regime for specific SUDS is fundamentally important and best practise can be obtained from outside England and Wales.

Paragraph 195 – **The concept and the way the requirements of the Financial Bond are set out in the consultation and Draft Bill causes us some major concerns as we expressed in the Introduction. The requirement for this Bond differs considerably from current practices.**

Response to Question 46

Issues surrounding ownership and accessibility to the SUDS are of paramount importance. If, as suggested, above ground SUDS are not accessible they will be difficult to maintain. Even with some form of easement or owners' obligation a communal SUDS, if altered in profile, could cause some major flooding issues. If above ground SUDS are located in highway areas or Open Spaces they will be easier to maintain.

Even if any of the above was contained as part of the HIPS Information, if the SUDS for any reason does not operate correctly there is the possibility that a flooding problem would take place. This could be exacerbated by the property owner's lack of knowledge of how SUDS should function and issues will only arise when a flooding incident occurs.

47. Do you agree with how the envisaged arrangements for replacing the automatic right to connect will work?

Paragraph 196 – **This is incorrect because the slow up-take of SUDS is due to the fact that no-one will adopt them and the highly inflated commuted sums that are required to be paid.**

Paragraph 197 – **The issue in relation to the right to connect is that WaSCs are not providing the relevant infrastructure to facilitate the right to connect. To amend this will result in a major financial benefit to WaSCs unless OFWAT makes changes to Sewerage Infrastructure Charges or the charges levied through the water and sewerage tariffs to the general public.**

Since the introduction of PPS25 the WaSCs have received a vast financial benefit of not having to deal with surface water as we explained in the Introduction.



Paragraph 199 – Given that the right to connect in respect of drainage is likely to be changed there will be a need to amend the legislation in order to endorse the continued right of connection for foul sewers. That said more detail is required to highlight the right to connect foul sewers to the nearest point of connection to the development.

Paragraph 200 – We would suggest that the assumptions made in this paragraph are incorrect; Apart from when developments are able to use infiltration and soakaways, nearly all sites will need some form of discharge.

On the example stated, if large areas of land are allocated for SUDS, this will involve large “land take”. With the future Regulatory Impact (and falling house prices) the HBF envisages that land will become unviable to develop. Government also needs to consider that about 75% of sites consist of up to 100 properties and will have a limited amount of space available for above ground SUDS.

Paragraph 201 – Developers are adopting this principle at present as required by PPS25.

Paragraph 202 – As stated in Paragraph 199 this may change due to the Welsh Water v Barratt Homes Case.

Paragraph 203 – **We would oppose any move to make WaSCs statutory consultees. As commercial organisations they should be instructed to meet any new developments sewerage demand as part of their duty under Section 94 of the Water Industry Act 1991. They are funded to do this. However many WaSCs manage to circumvent this duty by requiring developers to pay for substantial off-site reinforcements which not only accommodate the extra capacity from a development but also contribute to rectifying other sewer capacity issues that exist.**

On the issue of draining highways and Section 115 we would agree that this can be addressed in the National Standards or the overarching strategy for managing surface water.

Paragraph 205 – We would refer to our response on Paragraph 203.

Paragraph 207 – This may be what happens in theory but it is considerably different in practice.

Paragraph 208 – This is common practice at present and eliminates having ground level attenuation of surface water. The issue here is the permitted run-off criteria and as long as they are as stated in PPS25 we would support the changes to the right to connect.

Paragraph 210 – We would reiterate our comments on permeable paving not being adopted by Highway Authorities. Also in many cases when using permeable paving the surface water will have to discharge to a drain or sewer which in turn will need some form of outfall.



Response to question 47

Yes, we do envisage the changes to Section 106 will be workable. Although we see that amendments to Clauses 222 to 232 will be required.

We again would state that the caveat for the above will have to be that the detail on the flow rates that can be discharged are derived from PPS25 Annex F: Managing Surface Water – F10. It is important that information is given in the National Standards on how these run-off rates can be calculated

48. Can the use of National Standards as a material consideration for the purposes of s115(4) of the Water Industry Act 1991 provide sufficient legal certainty to prevent inappropriate agreements to drain highways to sewer?

No, but this will be ultimately subject to detail that is contained in the National Standards. If the surface water is to be managed and controlled correctly, this could be achieved in replicating the present arrangements under PPS25. Again it is important to accept that an outfall will be required (in many instances) and the aim should be in slowing down the flow of the surface water within the boundary of the site and then allowing it to discharge freely after a storm has subsided.

There is some value in accepting that the use of the highway can be seen as a practical solution in being able to control exceedance that occurs from an extreme rainfall event. The use of modelling such events in using highways as areas of containment provides an effective way to store surface water during and after an extreme rainfall event.

If a concern exists with Section 115(4) is it not possible to amend it to reflect the requirements of the National Standards, so long as they are mandatory.

49. What is the appropriate balance to enable good SUDS designs that work with the lie of the land, can discharge to watercourse, and can be accessed for maintenance and inspection, whilst protecting the rights of landowners?.

Paragraph 214 – On the specific issues raised in this paragraph we would comment below:-

- Ensuring that SUDS can work with the lie of the land
Please see our subsequent response to question 49 (below). On specific issues raised in this paragraph we would like to make the following general comments:

- Ensuring that Local Authorities can work together and with others
This is a big issue for our industry as Local Authorities have different motives to developers and in some instances can be obstructive to permitting development. We therefore see that service levels are an essential part of the National Standards coupled with a form of working agreement. This will hopefully counteract the politics that can occur between Local Authorities. In essence SUDS is a technical issue which, if set out in the National Standards, will give total clarity and when presented to a Planning Office should just be a “box ticking” exercise.
- Enforcement: the maintenance/ redevelopment of private SUDS
We would envisage that this will be a difficult issue to instigate because it will be fraught with legal, ownership and accessibility problems.
- Impediments to the adoption of existing SUDS
It is difficult to understand how this will be advantageous unless sanctioned under a change to primary legislation. For nearly all new developments the SUDS will have to be contained within the site. The only advantage that this could bring is if the Regional and Strategic Flood Risk Assessments run in parallel with the SWMP identifying some existing SUDS which could benefit the management of additional surface water. If this was the case some form of requisition or compulsory purchase powers could be invoked.
- Local Authority performance on SUDS
This will be covered in our reply to question 54.

It is important to ensure that SUDS’ designs take consideration of the lie of the land, as the use of surface water pumping stations should be the last resort.

In relation to access across third party land we would express a concern that provisions should be included in the Act which mimics Section 98 of the Water Industry Act 1991 requisitioning powers for sewers. In many cases this will be a piped discharge with consent to allow surface water to flow into a watercourse. Issues of this nature need to be mindful of the Severn Trent Water v British Waterways’ judgement and that developers are not held to ransom when requiring a discharge to a ditch.

All of the above is important and may also be considered in the Surface Water Management Plans. It is far more advantageous to adopt a macro overview of an area rather than a micro restriction on a site. There could even be an instance where an unrestricted discharge is required to a river to allow flows to main channel flow movement which helps to restrict vegetation growth that alternately may be causing flooding. This is an issue identified in the CEH/ BGS report of March 2008 on the 2007



floods. It is interesting to note that matters surrounding eutrophication of river systems have not been considered in this Draft Bill.

Lastly we would comment that as an industry we are pleased that the financial burden of maintaining SUDS, post adoption will be removed from developers. We do however feel that this matter has not been addressed in sufficient detail in the consultation as to what the maintenance of SUDS actually means. An example of this is when a developer introduces an area of Open Space as amenity land which also acts as a means to discharge surface water on to it. Will the cost to cut the grass be seen as maintaining the SUDS network or as maintenance to the Open Space which the developer has to fund? Again the devil will be in the detail.

50. *How wide should the SABs' ability to delegate be?*

This depends on the organisation, or person and issues that are to be delegated to. We would express some concern if certain duties were delegated to commercial Consultancies who could operate under the SABs' monopoly. Such a situation occurs in relation to many Highway Authorities and many issues arise with cost, levels of service and interpretation of voluntary guidance. All of which is to the disadvantage of the developer. If the above did take place an effective Appeal Process outside of the Planning System will need to be adopted and contained in legislation.

If the National Standard addresses the issues relating to variables in the process in theory there should not be a problem. But it is seldom the case that the detail covers the likes of fees and costs to the satisfaction of the developer. It is normally the case that loop holes can be found, this is definitely the case with the WaSCs.

51. *Are additional enforcement powers needed – in particular, should the SAB have an independent power to enforce the approved SUDS? How would this work?*

There is a need to have effective appeal and disputes procedures in place for both the SABs and developers to utilise. If, as we envisage, the SUDS (designs and approvals) will be processed prior to the Planning Consent being issued and the SUDS scheme is suitably conditioned in the Consent we would expect the need for enforcement powers to be rare. Although this again will hinge on the detail of the National Standards and the expectation of how surface water is required to be managed.

We would highlight soakaways in back gardens as an area which may need some consideration for enforcement powers which will overlap with Building Control because changes to the structure of the soakaway may affect the way the surface water is managed.



As the construction of SUDS will mostly involve an element of works below ground, this will be undertaken at the start of the construction of a development. Therefore it is most unlikely that enforcement powers will be needed to ensure that SUDS are built. This is a reason why a 100% Financial Bond is inappropriate and this Bond should only be 10% as in Sewers for Adoption, or a Bond Waiver option allowed.

Again this will all revolve on the amount of detail contained in the National Standards.

52. *Views are welcomed on how best to ensure the maintenance of private SUDS, and ensure that they are not redeveloped.*

There could be some value in addressing this through the Property Title, where specific detail is conveyed in the Title to the SUDS.

The issue of maintenance by residents of any system is one which as an industry we have encountered may problems with. This matter has been raised with the likes of grey water systems and rainwater harvesting. Processes like these are installed with the best intentions of providing these systems into new properties. They then become a problem when they are not maintained by the resident. Even the recent report on the Bed Zed Development stated that the rainwater harvesting system is disconnected due to operational road maintenance problems.

As we have previously stated it is more effective for the long term operational capabilities of SUDS are within the public realm i.e. highways and Open Spaces.

53. *Is there any legal impediment to prevent a SAB from adopting an existing SUDS?*

From a legal perspective we are unable to answer this question. However issues of ownership, accessibility and maintenance must be considered.

Looking at this from a practical angle the compatibility of the existing SUDS to meet specific design standards could be an issue that needs to be considered. As well as their adherence to the National Standards for SUDS that will be compile in the future.

54. *Do you agree that performance management of SUDS maintenance should be included within the local Government performance framework, as part of their climate change adaptation function?*



Yes, we see this would provide some valuable information on how SUDS are being maintained. It could also help to communicate best practice between SABs.

Legal Clauses 217-233 associated with 2.6 Sustainable Drainage Systems Paragraphs (158-233)

General Comments

Detailed below are issues we want to raise with regards to the proposed legislation as contained in the Draft Bill. We do feel this needs to be reviewed in relation to overarching principles we have expressed about the management of surface water. We would also suggest that this may need to be retitled as Surface Water Management on New Developments or a similar appropriate title.

Clause 217 & 218

No comments.

Clause 219

These definitions are somewhat different from the Interim Code of Practice for Sustainable Drainage. We would express a concern that a sustainable approach to new developments actually means that developers should be improving water quality and improving the environment from the effects of rainwater.

Note:- the title to this is incorrect it should read “Key Concepts” and not “National Standards”.

Clause 220

This Clause needs expanding to explain the distinction between sewers and drains. Will drainage systems include sewers which are not vested? Or are they now omitted from the responsibility of the WaSCs?

Clause 221

The National Standard needs to cover wider generic titles than stated in this clause. See our response to question 43.

Clause 222

Should this not be the SUDS Approving Body and appreciated to SAB? Must it also state that they will function to the requirements of the National Standards?

We also see the need for a dispute resolution procedure contained within this part of the Act as a developer may want to challenge an SAB outside the Planning System.



Clauses 223 to 232

We do not see the need to go into this detail if the National Standards are a mandatory Regulation. This will have a benefit in that the National Standards can be revised and amended and would function in a similar way to the Building Regulations. We envisage that this will enable far more flexibility for both the SAB and developer in certain aspects of the way the National Standards are applied. An example of this is the Non-Performance Bond where it may be possible for developers to have a Bond Waiver due to the financial status of the developer. In the past this was commonly used in Sewers for Adoption and alleviated some burdensome administration.

In applying a number of legal clauses in primary legislation to the present draft, a considerable amount of work will have to take place to address what they intend to cover. Again a comparison can be drawn with Sewers for Adoption and Section 104 WIA. This Section of the Act sets out the Legal Framework which Agreements need to consider and Sewers for Adoption is the guidance which explains in more detail how this will be achieved. The only problem with Sewers for Adoption is that it is not mandatory guidance and on many occasions frictions do exist between WaSCs and developers because of this fact. If the National Standard for SUDS is taken one step further as a mandatory Regulation it will enable certainty to exist in the design, construction and adoption of SUDS.

Clause 233

In principle we have no issue with the Clause. Although if our proposed changes in making the National Standards a Regulation, the wording to 106A(1a) would need to quote the National Standards and include (in this Clause) that the SAB would tell the WaSC that the Developer is to have the right to connect to the existing public sewer.

Note:- Can we also highlight the minor error made in (1a) about the wording of the Act.

Development Should Fund the Additional Pressure they put on Future Budgets

115. What additional steps or measures could be taken to make sure Developers in England and Wales contribute towards the pressures new developments place on future Local and central government budgets?

In principle developers would be bound to provide funding for flood defences as set out in PPS25. The issue with this is the identification of what is fair and reasonable in the tangible additional pressure the development does place on the existing flood defences. The balance that has to be drawn with this is between the social, environmental and economic benefit development brings to the area. Coupled with the ever increasing Regulatory Impact developers have to fund due to Climate Change, Zero Carbon Homes, and the Code for Sustainable Homes, the future Community Infrastructure Levy, and Lifetime Homes etc. This is even further exacerbated by the present economic climate we are trading in with continuing falling house prices. The conundrum that exists

for Government and developers is the need to provide new homes on land that is viable to develop where the imposition of additional construction costs attributed to the development, which are not fair and reasonable, will make land unviable to develop.

4.7 Introduction of a Mandatory Build Standard for Sewers (Paragraphs 577-581) (Clause 252)

We would reiterate our comments as set out in Paragraph (11) in the Introduction to our response and would express our surprise that the consultation did not seek to pose a question on this major legislative change.

We see that clarification is required on a number of issues and we are somewhat perturbed that Government has not looked to make appropriate changes to Section 104 and 105 WIA to facilitate sewers adopted by Agreement. In our opinion future sewers will not be built under Agreement, so this now needs to be changed to a Regulation under the mandatory building standard. Such a change is essential to tidy up the existing legislation. **Our overall major concern in this area is what rights developers will have to appeal and challenge the application of these Standards by WaSCs.** We again would state that Government seems to be oblivious to the fact that these organisations are monopoly businesses who are driven by making profits and returns to shareholders. Over the last ten years WaSCs have come alive to this fact and the only opportunity they have to generate more revenue is through imposing charges onto developers. It is therefore imperative that a dispute procedure is encapsulated in primary legislation.

Clause 252

The proposed amendment to Section 106(4) seems to omit Inspection Fees and Bonding Arrangements which are important.

With regard to the amendment to Section 112 we see that if “inconsistent” is changed to “that does not comply” that would work.

4.8 Misconnections (Clause 253) Paragraphs 582-591)

153. Do you agree that powers should be given to sewerage companies to require householders to rectify misconnections as described above? Are there alternatives?

We see this as an important issue and welcome the approach taken by Government on this matter.



From the perspective of new development many WaSCs cite a lack of capacity to the Planning Authority as a reason why a site cannot be connected to the Public Sewer. This is in contravention of their duty under Section 94 and Section 106 WIA where the right to connect is absolute. In introducing Clause 253 amendments to Section 109 WIA this will give WaSC the power to rectify misconnections.

From our perspective misconnections cause a substantial increase in sewer capacity where a storm sewer/ drain is connected into a foul sewer. Just within the curtilage of a property there is an increase of over 50 times of sewage between foul and surface water at a 1 in 30 year event. Therefore if WaSCs were to rectify misconnections we are certain that a considerable amount of foul sewage capacity could be found in the existing public network, much of which will more than accommodate the demands of new development.

Detailed below are further HBF Responses to the consultation and Draft Bill

2.1 New approaches to Flood and Coastal Erosion Risk Management

10. *Does the approach in the draft Bill to flood and coastal erosion risk management adequately cover adaptation?*

It is imperative that this assessment of risk is undertaken on a strategic and regional basis and is conscious of the future development requirements of the Local Structure Plan and obligations under the Local Development Framework.

13. *Should all operating Authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?*

Yes, we would agree that all operating Authorities must be required to contribute to sustainable developments. In Paragraph 85 it states that the EA will be empowered to provide guidance. An issue our Industry has with guidance is with its status. The use of voluntary guidance lacks “teeth” and where possible guidance needs to be mandatory.

2.2 Future roles and responsibilities

16. *Do you have any comments on the proposal that the EA issues a National Strategy for FCERM with which all operating Authorities will be required to act consistently when delivering their FCERM functions?*



In theory this would be seen to be the best way forward however the EA at times can be seen to be anti-development and seeking to impose onerous requirements on developers. If an EA National Strategy and guidance is taken forward it will need extensive consultation.

17. Do you have any comments on the proposal that other bodies would have to have regard to the EA's National Strategy and guidance? Do you consider that any other bodies should be added to the list in clause 23? In particular, how should the sewerage industry be brought into the new framework?

Throughout our response we have adopted a consistent approach in our attitude to WaSCs. These organisations in our opinion should be instructed to comply with their duty and to only retain a consultee's role in Strategic Planning Issues.

18. Do you think that the EA should be required to consult as part of preparing or publishing its strategy?

Yes, we see this is fundamentally important in allowing Stakeholders to understand what effect the EA Strategy will have on the obligations or aims of these organisations.

19. Should the EA have a regulatory role in relation to coastal erosion risk management, in particular for consenting and enforcement as set out in paragraphs 103-105? What alternative arrangements might be preferable?

If this Regulatory Role is coupled with responsibility then the answer would be yes. In the past the EA's attitude has reflected their having power with no responsibility. This approach can at times be frustrating when an EA decision is inconsistent and developers have no appeal process to challenge the EA. We have even encountered a variation in decisions made by the EA across their regions.

20. Should the Secretary of State have the power to direct the EA to undertake local flood risk management work in default of Local Authorities, and recover reasonable costs?

It would be hoped that this is the last resort option.

2.5 Local Flood Risk Management



24. *The Government's response to Sir Michael Pitt's Review accepted that County and Unitary Local Authorities should have the 'Local leadership' role described above. Does the draft Bill implement this effectively and support the development of effective Local flood management partnerships?*

Yes, it does seem to address the issues raised by the Pitt Review. The only issue with this is how they will be resourced to undertake this role which for many will be a new requirement.

27. *Do you think that the County and Unitary Local Authorities should be required to consult the public as part of preparing or publishing their strategy?*

Yes, this must happen to allow public involvement and it will also allow developers to understand the County and Unitary Authorities strategy.

29. *Do you think that the EA and County and Unitary Local Authorities should be able to gather information from private landowners and individuals about flood drainage assets related to their respective responsibilities? What if any sanction is needed to ensure information is provided?*

If a holistic approach to all aspects of flooding is going to be achieved it is essential that flood drainage assets for private landowners are known and recorded. For flood risk to be evaluated the above information is important and the EA/ County Council/ Unitary Local Authority should have statutory rights of access to obtain details about assets.

30. *Should County and Unitary Local Authorities be legally required to produce annual reports on the way that they are managing Local flood risk? Should this requirement be annual?*

Yes, but this needs to be mindful of how these Authorities are able to resource what may be a new requirement placed on them.

31. *Should the EA provide support and advice to the Local overview and scrutiny functions as part of the exercise of its strategic overview role?*

Yes, if required by the relevant Authority.



32. Should the list of bodies required to cooperate with overview and scrutiny committees be extended to encompass all relevant Authorities and as a result pick up IDBs and water companies?

All relevant Authorities need to be included in this process. However WaSCs need to be engaged to enable them to deliver what the scrutiny committee deems as a priority in this area.

34. Should district Local Authorities and IDBs continue to manage flood risk from ordinary watercourses, taking account of Local and National Strategies?

Yes, the flood risk from unmaintained watercourses has resulted in a contributing factor in flooding issues in the past.

35. Should County and Unitary Local Authorities have powers, concurrent with district Local Authorities and IDBs, to manage flood risk from ordinary watercourses in their areas? Or should they remain able to act only in default?

It would be important that County and Unitary Local Authorities have the overall power and responsibility. But they may be able to act in default if other stakeholders refuse to co-operate or provide information.

2.5 Duty to cooperate and share information

40. As agreed in the Government response to Sir Michael Pitt's Review, there will be a duty on relevant organisations to cooperate and share information. Do you think the list of relevant Authorities to whom this applies is comprehensive?

Yes, we would agree that it covers all relevant organisations.

41. Should the EA and County and Unitary Local Authorities be able to specify the format and standards for information to be shared between organisations?

Yes, it would seem logical that the EA and County and Unitary Local Authorities take the lead on this matter.



2.8 EU Floods Directive

63. Should County and Unitary Local Authorities be responsible for delivering PFRAs for Local flood risk as described above? If not, who should be responsible?

Yes, we would agree that the County and Unitary Local Authorities should be responsible for delivering PFRAs for local flood risk as described in Paragraph 265 to 268.

65. Should County and Unitary Local Authorities be responsible for determining significant Local flood risk (ordinary watercourses, surface water and groundwater)? If not, who should be responsible?

Yes, they should be responsible for determining significant local flood risk.

67. Do you agree with the proposed mapping arrangements set out above? If not, what alternative arrangements do you suggest?

Yes, we do not see the need for alternative arrangements.

69. Should the arrangements for FRMPs be as set out above? If not, what alternative arrangements do you suggest?

Yes, we would agree with this arrangement for FRMPs.

2.9 Water Framework Directive

73. Do you agree that the duty to act in accordance with WFD requirements should apply equally to all FCERM Authorities?

Yes, it would seem difficult to allow the duty to be effective in any other way.

2.10 Third Party Assets

75. Should we introduce a system of third party asset identification and designation, as set out above?



Yes, this is essential to enable flood risk to be evaluated and managed.

78. *Should there be a duty on those responsible for third party assets in England and Wales to maintain them in a good condition?*

Yes, as unsatisfactory maintenance of these third party assets could result in exacerbated flooding.

2.11 Consenting and enforcement

79. *Should regulation of the ordinary watercourse network (where there are no IDBs) transfer to County and Unitary Authorities? Or should this role in future sit with the district and Unitary Authorities?*

We would suggest the transfer of ordinary watercourses should be with the County and Unitary Local Authorities. If the overall responsibility for flood risk sits with them they need to understand how watercourses are affected by flooding events. This will enable them to obtain a greater knowledge base of flooding issues and how they can be managed. It will also create an opportunity to introduce retro fit SUDS as part of the SWMP.

80. *Should it be possible to make consents subject to reasonable conditions?*

Yes, but this may be subject to other legal considerations.

3.2 Current funding structure

110. *Do you agree that only County and Unitary Local Authorities should be funded for Local flood risk management to allow them to prioritise funding based on where benefits would be greatest?*

Yes, we have already identified that funding and skill will be an issue that Government needs to address.



3.3 Reducing property owners' and occupiers' impact upon Local flood risk

116. How can people be made aware of their riparian responsibilities when they first buy properties that include riparian land?

Specific covenants need to be included in the Title details which explains who is responsible for watercourses etc. This should also include information on the consequences of them not being maintained or the requirements of the attenuation characteristics of watercourse, ditches and SUDS.

117. What else could be done to improve existing riparian owners' awareness and understanding of their responsibilities?

This will involve an element of communication and possibly education on what these people are responsible for. This kind of issue is encountered many times by developers and it normally involves long protracted discussions.

118. What examples are there of strategies that have succeeded in increasing the engagement of riparian owners and improving their contribution to maintenance?

We are certain that our members can provide further examples of their experiences in this area which may be of help to Government.

129. Do you believe that failure to maintain the flow of water through watercourses should be described in law as a statutory nuisance?

Yes, failure to maintain watercourses should be described in law as a statutory nuisance. With the expected changes in rainfall events to be more intense due to Climate Change any obstacle to the flow of surface water will cause a problem. The issue is more to do with how it will be policed and in many cases this will not become apparent until after a rainfall event.

131. Do you agree that a new statutory nuisance should be created to tackle the risk of runoff flooding?

Yes, subject to the criteria being stated on the permissible level of a rainfall event, or where a constant flooding problem occurs which is ignored.



132. If a statutory nuisance were created for run-off risk, which public bodies should be responsible for its administration and enforcement – the ALT, Unitary and district Local Authorities, or Unitary and County Local Authorities?

It should be the County Council or Unitary Authority who have the responsibility for the management of dealing with flooding issues.

135. Should the owners of properties that cause a surface run-off statutory nuisance have to pay the entire cost of eliminating the nuisance? What would happen if the owner was unable to afford the work? How else could the works be paid for?

As in the answer to question 131 there needs to be specific rainfall event criteria stated when a statutory nuisance could be seen to be applicable. On the issue of cost to be paid by a property owner this would be decided by the body that polices this matter. With regard to an owner who could or could not pay the cost, one option may be to place a charge against their property. This could also have the effect of making the property unviable to sell until the flooding issue is paid for or resolved.

136. Should Local Authorities be encouraged to make more use of their Article 4 powers to reduce the growth in surface run-off risk?

This may be one mechanism that could be used, but it will be dependent on how it can be effectively policed.

138. Do you agree that Local Authorities should, in areas of high risk of run-off flooding, be given powers to impose restrictions on management practices and oblige landowners to make improvements to drainage in particular portions of land implicated in run-off flooding?

Yes, so long as this is a persistent flooding issue rather than flooding that occurs because of an extreme rainfall event like say a 1:200 year storm. It would be more important to deal with the normal rainfall event and accept that the extreme storm events will happen and will have to be managed differently.



139. If you do agree with the above proposition, what land management practices should be included in the national list of possible restrictions?

Yes, if there is a joined up approach to other measures that are going to take place. There will also need to be guidance produced in this area to inform all property and land owners of their responsibilities in relation to averting flooding.

3.4 Single Unifying Act

141. Do you agree that any proposed changes to the existing legislation, not contained in the draft Bill or covered elsewhere in this consultation document, should be discussed directly with relevant organisations in England and Wales so that changes might be introduced in the resulting legislation, without the need for further general consultation?

No, we see that there should be more consultation.

4.10 Complaint handling powers

159. Do you agree that these changes provide for the most appropriate body to handle complaints?

Yes, we would totally agree with these changes, although our industry has some major concerns over the effectiveness of OFWAT to deal with complaints. However we are pleased to see that Section 185 diversions will have a more robust process to all disputes to be determined by OFWAT.

4.11 Securing compliance

160. Do you agree that these changes will enhance Ofwat's ability to protect customers?

The issue that our industry has is that at times developers are not seen themselves as customers by CCWater and/ or OFWAT. The inordinate length of time it takes OFWAT to determine disputes has resulted in our industry not taking forward complaints. Recently our members have even seen the WaSCs disregarding the need to progress a dispute by employing a number of delaying tactics which OFWAT seem to be unable to counter. As an industry our expectation that OFWAT get involved results in disappointment by the lack of delivery.



5.3 Hydro morphology powers

161. Do you agree that a power to improve the hydromorphological condition of water bodies in England and Wales is necessary to deliver WFD requirements on hydromorphology? Please state why.

Yes, because improvements to the profile of rivers, ditches, watercourses will create more capacity for surface water run-off. This also needs to be looked at in relation to eutrophication which again will provide more capacity.

162. Do you agree with these criteria for the use of the power?

Yes, this macro overview is very important to be able to address the future demands of Climate Change.

163. Do you think this proposal provides an appropriate mechanism to enable improvement of hydromorphological conditions?

Yes, and we would agree with the need for statutory guidance.

Annex A – The policy position in Wales Flood and Coastal Erosion Risk Management

164. Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?

Yes, we do see the need for a holistic approach to sustainable development to be adopted by all operating authorities. Although we have some concerns over the authorities ability in their skill base in this area and the possibility of an inconsistent approach that they may apply to assessing and managing the risks.

165. Is the proposed allocation of an enhanced oversight role to the EA in Wales appropriate?

Yes, although at times we are somewhat concerned about the EA's attitude which seems to be anti-development. However in principle this does seem to be a good idea.



166. Will the scope of the proposed role allow the EA in Wales to adequately support the Welsh Assembly Government in driving forward a single overarching approach to flood and coastal erosion risk management?

The proposals seem quite comprehensive and we see the oversight strategic role as a positive move. We would draw Government's attention to an issue which the EA raised with the HBF about their existing role, and at present not being adequately funded. If the EA was to be asked to undertake more responsibilities this issue of funding will have to be addressed.

Understanding the Local Risk

167. Is there a need for an enhanced understanding of all local flood risks in Wales, and if so which risks should be included?

We feel that a greater educated understanding of flood risk would be helpful. This would definitely help some Authorities who adopt a blanket ban on development in flood risk areas against EA advice.

168. Do we need to produce Local Surface Water Management Plans in Wales? If so, what form should they take and what should be included?

Yes, and we would suggest a similar approach should be adopted as that in England.

169. Do you agree that local authorities are best placed to lead on local flood risks and specifically surface water flood risk management?

Yes, again this would replicate what is planned to take place in England. Although, as previously stated, issues surrounding skills and funding must be taken into consideration.

If the EA lead on this oversight role the Local Authority would be best placed to produce the detail in managing local flood risk.

170. How might different maps work and plans for addressing different sources of flood risk be best integrated?

We would see that differences should not occur in this area when a common and consistent approach across Wales is adopted lead by the Welsh Assembly Government and the EA.



Roles & Responsibilities

171. Is the split of responsibility between the key operating authorities appropriate?

Yes, we would agree with the split of responsibilities. We do however feel that local policy should be derived from guidance issued by the WAG and the EA.

172. Does the suggested split of responsibilities make it easy to understand which operating authority is responsible for which risks of flooding?

From the split of responsibilities documented in the consultation there seems to be clarity over the roles and responsibilities.

173. Will the suggested split of responsibilities ensure that the gaps in coverage of the current systems are addressed and filled?

We feel all of the issues have been covered in the suggested split of responsibilities and that present gaps in the current system have been addressed.

Flood Risk Management Wales

174. Should the role and remit of Flood Risk Management Wales remain limited to the risks of flooding from main rivers and the sea regardless of the role and remit of the Environment Agency?

No comment.

175. If the remit of the Committee is to be changed then what should be the extent of the Committee role?

No comment.



176. If the role and remit of Flood Risk Management Wales is extended, how often should the Committee meet?

No comment.

177. Should Flood Risk Management Wales remain an executive committee of the EA, or should it become an advisory committee and why?

We would suggest that the present system works reasonably well and as such should be retained.

178. Should Flood Risk Management Wales' existing levy raising powers in respect of flood risk management be extended to encompass coastal erosion risk management.

No comment.

Risk Management Planning

179. Do you agree that local authorities should be responsible for the production of PFRA's for local flood risks?

Yes, provided they have detailed guidance on how this will be achieved and the level of information as required by the EA and WAG.

180. Subject to your views in relation to Surface Water Management Plans in paragraphs 23 to 26 above, do you consider them to be a suitable format for the completion of PFRA's in respect of local flood risks?

Yes, however we do not believe that the Development Appraisal Maps from TAN15 should be relied upon for information to support the completion of PFRA's. Although we would suggest that improvements will have to be made on the way they are updated which seems at present to be infrequent, as well as at times some aspects of conflicting information in comparison with the EA guidance.



181. If there is no requirement to produce Surface Water Management Plans in Wales, what should be done to meet the requirements of the Floods Directive in respect of local flood risks?

• We would be interested in your responses to the questions posed in Section 2.8 as well as the ones below.

Yes, and we would suggest that they should also be reflective of the Water Framework Directive and the River Basin Management. We would draw attention to our comments on paragraph 163 and the issues the consultation and Draft Bill have omitted to address on the eutrophication of river systems as detailed in the report by the Centre of Ecology and Hydrology/British Geological Society in March 2008.

182. Do you agree that local authorities should be responsible for the production of maps for local flood risks?

Yes, subject to the issues we have previously stated in this section of the consultation.

183. Subject to your views in relation to Surface Water Management Plans in paragraphs 23 to 26 above, do you consider them to be a suitable format for the mapping required in respect of local flood risks?

Please see our previous comments.

184. If there is no requirement to produce Surface Water Management Plans in Wales, what should be done to meet the mapping requirements of the Floods Directive in respect of local flood risks?

No comment.

Sustainable Drainage Systems

In addition to the questions in Section 2.6 Welsh Ministers are seeking views on the following questions, which are specific to Wales



186. Which is the most appropriate organisation to take responsibility for adoption and management of SUDS in Wales:

- *local authorities;*
- *sewerage undertakers; or*
- *another body (please specify)?*

In line with our response to this issue in England we see the Local Authority as being best placed to take on that responsibility.

187. Should there be flexibility within the system to appoint different organisations as SUDS

No, we feel that within a specific area there should only be one SAB. This will ensure an element of consistency and clarity.

Adopting Bodies in different areas?

188. Should the automatic right to connect to a public sewer be amended for new sites and redevelopments as proposed in Section 2.6 above?

Whatever approach is taken in England on this matter it must be replicated in Wales. It is also important that Welsh Water is instructed to provide sewerage infrastructure to meet the need of new developments under their Section 94 WIA duty. At present this does not take place and across Wales it is clear to see that Welsh Water are neglecting this duty in not providing the adequate sewerage infrastructure which is funded by infrastructure charges for new developments.

Other Issues in Wales

A. At a recent meeting with Welsh Water it was stated that the Welsh Assembly Government will not be seeking to progress the Transfer of Private Sewers. We would suggest that this would be a retrograde step and will be out of line with what is going to take place in England and we would ask the Welsh Assembly Government to consider their position on this matter.

B. As an Industry we have some serious concerns regarding how Welsh Water conducts their duties under the WIA and use the Planning System in Wales to circumvent their duty to provide sewerage infrastructure to accommodate new development. This is an issue which causes our Members many problems and is of need of further discussions with the Welsh Assembly Government. Welsh Water is very much an outlier in their attitude and approach compared with other WaSC's.



CONCLUSION

The HBF would pledge its support to the Government in its overall objectives in the consultation and Draft Bill, however we would express some major concerns over the lack of detail and understanding of how these issues will affect new build. Therefore we see it is imperative that the industry is fully engaged with the way Government intends to enact the Draft Bill and any future guidance that is issued.

Dave Mitchell
Technical Director