



**Re: Response to the South Tyneside Councils comments to the Neighbourhood Plan.**

Although no longer a member of the Whitburn Neighbourhood Forum Committee I am still a member of the Forum and a resident of Whitburn, it was on reading Para 29 of the National Planning Policy Framework 2019 that made me want become involved: -

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan”*

Reading the comments made by South Tyneside Council I feel they don't share my vision, only the vision of Northumbrian Water and the developers to make even more money when they continually refer to: -

**Chapter 4** *“Northumbrian Water cannot refuse connections – necessary infrastructure identified by point of connection application to NWL”*

**Para 5.16** *“NWL cannot refuse connections – correct use of drainage hierarchy will be applied but not always possible to avoid discharging to sewer network”*

**WNP13 Sewerage and Drainage Infrastructure**

- a)** *ST – “NWL cannot refuse connections and an point of connection application is likely to be the extent of the rigorous analysis the developer will carry out to identify sufficient capacity (should the discharge hierarchy point to a NWL connection), we would expect the risk of system backup/flooding to be captured and mitigated within their Flood Risk Assessment/drainage strategy”*

RL – In answer to point a) - We expected the NWL drainage strategy for Whitburn to be sound in 1992 when it was constructed and so did the Council. The 2001 Public Inquiry found NWL's strategy was not sound to the point a new permit had to be issued with conditions, these conditions have never been complied with and the Council are aware of that fact.

- b)** *“ST - In terms of the Policy Explanation, NWL confirm that they have invested in the upgrading network (following the ruling from the Court of Justice of the European Union in 2012) within the Whitburn and Roker area and maintain there are no capacity issues within its network”*

RL – The ECJ were told what was needed to upgrade the Whitburn system was 10,800 m<sup>3</sup> of additional capacity to the existing interceptor tunnel. What was provided was a 3,000m<sup>3</sup> tank installed to the East Boldon foul sewer, this upgrade was completed by the end of 2017. In 2019 Whitburn discharged over 760,000 tonnes of untreated sewage - the upgrade made the system worse and why NWL has connected the South Bents Foul sewer to the interceptor tunnel by manhole 5609.

EA – 30 July 2021 in relation to the ECJ – *“You have raised a number of concerns about the operator’s compliance with the conditions of the permit. We are working with NWL to regularise that situation and we will continue to engage with the community through the Whitburn Neighbourhood Forum and encourage the operator to do the same. In relation to the adequacy of the permit, we are awaiting the judgement of the ECJ, and we will review and if necessary update the permit as a consequence of that judgement”*

RL – Typical of the EA – *“...we will review and if necessary update the permit...”* in other words make the permit comply with the discharges, not the discharges comply with the permit.

EC - 2 November 2021 – *“That is very puzzling that they refer to waiting for a judgement from the European Court. I am really not sure what they mean. Our power to refer the UK to Court and request fines under Treaty (Article 260 of the treaty on the Functioning of the European Union) no longer applies to the UK so we are limited in our powers. The case remains open so we will continue to discuss but I would suggest that you raise this with the new Office of Environmental Protection (OEP). I would be curious what they say – they have been set up to replace the Commission in its environmental enforcement functions”*

RL – The 2012 Court judgement is still outstanding, confirming the investment of public money has been wasted again, showing the Council are making statements without any evidence to back up that they are true, how can this be considered as sustainable development?

- c)** *ST – “Capacity continues to be monitored through its Drainage and Wastewater Management Plans and monitoring confirms that it is operating in compliance with the discharge permits issued for the Whitburn Storm Interceptor system has been determined by the EA”*

RL – The return flow records show that the Whitburn system is not operating in compliance with the discharge permit and that is plain to see, it is concerning that such a statement should be made without the facts being checked.

- d) ST – *“It should also be noted that should there be capacity issues, NWL cannot refuse connections to the existing network and is obligated to upgrade the network and treatment facilities at its own expense to ensure it continues to comply with the measures set down by the Environment Agency and OFWAT”*

RL – The Council applies much emphasis on, and continually repeats, *‘NWL cannot refuse connections to the existing network’* - this statement is incorrect NWL cannot only refuse a developer permission to connect to the sewerage network once planning permission has been granted and that situation arises. Before we get to this stage the Tyneside Validation List comes into play: -

STVL – *“Drainage Assessment – Foul Water*

*When is this required?*

*All major development as defined by the Town & Country Planning (Development Management Procedure (England) Order 2015.*

*What information is required?*

*Confirmation that capacity exists both on and off site in the sewerage network to serve the proposed development. Where capacity doesn't exist the assessment should include information of what infrastructure needs to be upgraded and how this upgrade will be delivered”*

RL – We have seen how this upgrade has been delivered by NWL and the EA and it has failed miserably, over 760,000 tonnes of untreated sewage at Whitburn, 3.2 million tonnes of untreated sewage at Hendon and I am told this amount could be doubled as there is no recording device fitted to the overflow in the quay wall. The evidence I hold, which I am prepared to supply to the Council, shows there is not the capacity to take the existing flows let alone adding more.

RL – I assume the Council's many references - *‘NWL cannot refuse connections to the existing network’* - must come from the case *Barratt Homes v Welsh Water*. I think the Council should read this case because what it really about is who is going to pay for the upgrade. Once planning permission was given then WW, like NWL could not refuse connection. Welsh Water never refused Barrett Hoes connection to the sewerage system. The dispute came about because Barrett Homes wanted to connect in one place and Welsh Water them to connect to another because of an undersize pipe.

RL – para 8. 1.10 – of the overview of the Court final determination states: -

*“As a result of this apportionment we determine that the actual costs reasonably occurred in meeting the requirements of the requisition total £958,574.40 (i.e. 85% of the total cost incurred of £1,127,734.59). Recalculating the final amount now payable by Barrett Homes (in Line with section 99(2) of the Act) to reflect this cost we determine that the requisition charge Barrett Homes should pay is £828,747.34”*

*“Details of our calculation are set out in Appendix 1 to this determination”*

RL – So where the developer may have the right to connect to the sewerage network once it obtains planning consent it is on the understanding the developer has to pay for the upgrade, not the other NWL customers. I mention this because it brings further complications as the Council seems not to mention, or maybe NWL has not told them, that the cost of the sewer upgrade as referred to in the ECJ papers is: -

*“There is little or no land available in the vicinity of the Whitburn interceptor tunnel and it is extremely unlikely that a solution could be found to increase the tunnel’s storage capacity sufficiently enough to achieve 20 spills per annum. This would mean that alternative solutions would have to be sought by increasing storage, or replacing combined sewerage with separate systems back within the sewerage catchment. The sewerage network serves a major urban and suburban area to the east and northeast of Whitburn. It is estimated that any solution within the catchment area would require major work across the area over several years, possibly 15 years. This would cause massive disruption to transport, the economy and people’s quality of life within the Sunderland Area”*

*“Even if such a scheme were to be technically feasible, the construction costs alone would be excessive in that they could run to an estimated one hundred and fifty million £ sterling. This would not include the financial loss to the local economy that would be caused by the disruption or the associated operating and carbon costs from greatly increased pumping requirements....”*

RL – Such information as referred to above confirms why, not only the Neighbourhood Plan, but also the new Local Plan which must include a sewerage policy. Such a situation, if it were to arise, not only flies in the face of the National Planning Policy, it is clear this information is being withheld from the Neighbourhood Plan.

RL - This situation goes further and calls into question whether the Council’s process in drawing up the plan and now in the comments on the plan, is ignoring the communities input and involvement. The constant cry by the Council that ‘NWL cannot refuse connections’ seems more important than the real issues, while

ignoring the efforts of the community to produce a plan in the hope to deliver long term sustainable development of the area is not being taken seriously.

In the first public meetings about the NP members of the public said that “well the Council will just do what they want anyway” and your comments certainly confirm this is true.

Please acknowledge receipt of this email and confirm I will be allowed to speak to the Councillors before they make their decision.

Regards

Bob Latimer