

Briefing note for full Council 20th July 20

Item 14: Notice of motion – Water Quality

The proposed motion highlights a range of concerns in relation to water quality, including:

- Waste - water discharges into rivers and seas
- Impact on wildlife and on human health
- Reported quantity of sewage spills into the River Medway
- The impact of new development on sewage and wastewater treatment systems
- The cumulative impact of new development and the existing pressures on water courses

The motion then invites full Council to make resolutions in relation to 8 different matters. For ease of reference for Members, these 8 points are set out below together with responses in order to assist members in formulating a view.

It is worth noting at the outset here that whilst the Council will undoubtedly have influence on the issues at the heart of the proposed motion, its direct powers are more focussed around the management of new development rather than existing development (Point 1 below). The Community Protection Team also has certain direct powers around private drainage and misconnections to surface water drainage networks which outflow into water courses, but this is mainly small scale and domestic in nature.

It is the utility providers and regulatory bodies that do have responsibility for water management (Southern Water and Environment Agency)

1. Recognise this Council's obligation to protect its streams and rivers, including from the cumulative impacts of pollution, in line with its local planning policy and the National Planning Policy Framework.

The Council has no powers within either local planning policy or the national planning policy framework to influence the impacts of existing development. However, if the above wording were to specifically reference the impacts of new development, then the Council can seek to influence this as part of local planning policy and development management functions within the context of the national planning policy framework –

Set out below are the relevant aspects of national planning policy and emerging local planning policy that are relevant to water quality.

National planning policy as articulated through the National Planning Policy Framework (2021) sets out the Government's approach to planning policies and planning decisions. Within the document the following paragraphs set out the Government's approach to water management, especially wastewater:

- *Paragraph 20 (b) – Strategic Policies in Local Plans should consider wastewater infrastructure*
- *Paragraph 34 – plans should set out the developer contributions needed for infrastructure, including water management*
- *Paragraph 174(e) – planning policies and decisions should not contribute to pollution, including water pollution, and should improve water quality.*

Within the adopted Maidstone Local Plan 2011-2031 the Council has policies to manage a development's impact on water. These include policies to minimise a development's water pollution impact (Policy DM3 Natural Environment) and improve water efficiency (Policy DM2 Sustainable Design).

In the submitted Local Plan Review the Council has developed policies to manage growth in a way that will try to mitigate its impacts on the rivers and streams. This has been done through the management of pollution impacts and better water efficiency. The relevant proposed policies are listed below:

Maidstone Local Plan Review 2022-2037

- *Policy LPRSP14(a) Natural Environment*
- *Policy LPRSP14(c) Climate Change*
- *Policy LPRQ&D1 Sustainable Design*

In addition to the above, the council works with the utility providers and regulatory bodies that do have responsibility for water management (Southern Water and Environment Agency) to develop the relevant infrastructure projects to support the growth proposed in the Local Plan and Local Plan Review. These are set out in the Infrastructure Delivery Plan and are updated annually as part of the monitoring process.

2. Recognise that there is clear evidence of deterioration of water quality due to cumulative impacts of multiple sewage discharge events or 'sewerage overload'.

Members may well choose to confirm that they recognise the issues described in this point and to request that it is a matter explored with the relevant agencies through the scrutiny process (see point 6 below).

3 Ensure that an evidence base is compiled that assesses the cumulative impact of sewage discharges so that this is factored into decisions made in new iterations of the local plan, including the overall level of future development.

The Council has no control over the monitoring of discharges or cumulative impacts thereof and would not be in a position to compile the suggested evidence base.

However, this might also be a matter for the scrutiny process (point 6 below) to explore with the relevant agencies in order to encourage the compilation of the data requested – at which point officers could establish how this might be considered in developing policy.

4. Seek to better understand the cumulative impact of wastewater discharges, including untreated sewage, on our local rivers, wildlife and the health of our residents.

5. Continue to take a lead on addressing this issue, working constructively with other agencies and local authorities.

Points 4 and 5 are possibly best considered jointly. Undoubtedly, it is appropriate for the Council to seek to better understand the matters at the heart of this motion, albeit with limited direct controls other than in relation to new development. Therefore, one of the most effective mechanisms in seeking to obtain information will be working collaboratively with other local authorities and agencies in order to lobby, obtain information from, and seek to influence the relevant statutory or regulatory bodies.

Point 6 below, refers to the fact that this issue is on the work programme for the Overview and Scrutiny Committee and the benefits of joint working in order to increase the levels of knowledge, understanding and influence around this matter may well be something that members would wish to recommend forms part of that work.

6. **Ask the Overview and Scrutiny Committee to invite the Chief Executive of Southern Water plus senior representatives from the Environment Agency and Natural England to attend a meeting to answer questions on the current levels of CSO and sewage plant discharge.**

This matter has been confirmed as a subject area for the Overview and Scrutiny Committee to consider.

7. **Ask Southern Water, from this date onwards, in its planning consultation responses for major developments, to clarify which treatment works will be managing the sewerage; whether it has the information available to assess the impact on the number or duration of sewage discharges into local rivers or seas, and if it does have this information to share it (noting that this can only be requested not required).**

Under Section 106 of the Water Industry Act 1991, land owners enjoy the right to connect up (“communicate”) with the mains drainage system. The quality of the discharge from treatment works is regulated by the Environment Agency so Southern Water regularly have their licenses reviewed with the treatment works being the subject of WINEP (Water Industry Natural Environment programme) five-yearly reviews.

The Development Management function could request information in relation to treatment works etc, but water companies would not be bound to provide this and in the absence of contextual information, it would not be possible to base a recommendation to Committee upon it. The notable exception here are the areas (River Sour Catchment for Maidstone) which are impacted by Natural England Guidance around Nitrate and Phosphate levels, in which planning decisions are necessarily based on detail around how these levels will be managed and kept within the confines of guidance.

8. **Request that planning officers, from now onwards, include in all reports relating to major development a specific section on the impact on watercourses, including the potential for the development to affect sewage outflow into watercourses (ie. cumulative impact), or to flag if this information is not fully available, so that this information (or the lack of it) is clearly and transparently set out.**

Clearly, some of the points above, not least the inclusion of this topic on the work programme for the Overview and Scrutiny Committee, will assist both Members and Officers in developing their knowledge, and thus their ability to influence this important topic.

It nonetheless remains important that, in presenting reports to Members, Officers are qualified in providing advice or views around the particular impacts of specific actions. Therefore, other than the controls provided within the existing policy framework (see point 1 above) it is unlikely that officers will be in a position in relation to the majority of matters around sewage outflow, and impacts thereof, to provide the detail of information referred to in this point. Moreover, were officers to attempt to do this by way of either a narrative or referencing specific impacts, this could leave decisions based on or influenced by this information open to challenge.