

RIVER MEASE WQMP DEVELOPER CONTRIBUTIONS SCHEME

OVERVIEW OF RESPONSES TO CONSULTATIONS

We have been passed 18 consultations

1. SF Planning Simon Firkins MRTPI welcomes DCS and is wholly supportive and says it is entirely compliant with S106 CIL NPPF etc *(no action taken)*
2. Bloor Homes Max Whitehead MRTPI generally welcomes and is supportive, requests phased payments for larger projects, this would seem reasonable and would not undermine the DCS objectives or the WQMP implementation; seeks confirmation of compliance once contribution made, this can be confirmed; considers it compliant with S106 but asks for a standard S106 document, this seems sensible to put in place. *(F4 now makes reference to potential for phased payments)*
3. David Wilson Homes Gary Lees Pegasus Planning Director, welcomes, fully supported; suggests
 - a) inclusion of the S106 'tests', suggests contribution made before first occupation; suggests substitution of Building Regs 17.K 125L/H/D; suggests use of Water Efficiency Calculator; requests clarification how non residential development will be calculated; suggests amount of development in first window should be stated; all of these are technical matters that the Board should be able to decide / resolve. *(all tables now based on water efficiency calculator for sustainable development)*
 - b) If to be a SPD is an appropriate assessment required? Our suggested response is no – because the DCS is a part of the WQMP, the WQMP and the DCS are “directly connected with and necessary to the management of the site” (the River Mease SAC). The effects of the DCS, on the SAC, are entirely positive, so in accordance with the Waddenzee ruling of the ECJ, nothing in the plan would be likely to undermine the conservation objectives, so it would not have any significant effect on the SAC, if it has no effect it cannot have an effect in combination either. The DCS does not, therefore, require an appropriate assessment on both counts in regulation 102(1)(a) and (b). We could record this in the document itself. *(recorded in B3)*
4. Gladman Developments Ltd, disagree with the DCS because it should be the responsibility of STW to reduce phosphate levels in the river, not the responsibility of developers. No evidence is submitted to support this view which contradicts that carefully explained in the DCS, and related WQMP. We cannot comment further. *(no action taken)*
5. Packington PC, the DCS appears not to be clearly understood by the PC; PC has grave concerns about development that would have adverse effects on the River Mease. PC objects because it is (mis)understood that P levels and flooding will increase as a result of the DCS. The DCS is intended to ensure that P levels will not increase. Rather than offsetting or negating the responsibilities of the developers, the DCS imposes a fair and equitable onus to ensure P levels do not increase. *(no action taken)*
6. Richard Vann, member of the public, finds the text incomprehensible for a lay person. Considers that more explanation should be given of who pays, when and how etc. These issues are for the Board to decide, i.e. whether amendments are required,

they do not raise Habitats Directive issues. *(some wording has been simplified in a few places)*

7. Derbyshire County Council, Ian Stephenson Strategic Director Environmental Services, supports DCS in principle, slightly contradictory approach in that it expresses concern that the DCS contribution increases costs and may impact on contributions from developers for DCC related infrastructure whilst suggesting the DCS is extended to include flood risk management which would have the effect of increasing the DCS contribution. The DCS would have to be levied to meet the requirements of the Habitats Regulations, it would not be discretionary. No changes to the DCS are actually proposed. *(no action taken)*
8. John Wren, I believe he is a Chartered Town Planner, considers the scheme is at odds with law and policy and objects in principle for this reason. This view is not shared by a large number of other Chartered Town Planners in the LPAs and consultancies who consider the DCS to be fully compliant with law and policy. The assertion that the LPAs should prove the adverse effect on the river, rather than assume it, is of course at odds with the precautionary approach of the Directive, Regulations and ECJ and UK court judgments. *(no action taken)*
9. Moneyhill Consortium, James Bompas, supports DCS objectives; does not wish to see 'on site private provision' by developers; seeks phased payments for this large residential scheme and non-residential development associated with it, this would seem reasonable and would not undermine the DCS objectives or the WQMP implementation; seeks a claw back provision, this seems reasonable in principle and is not an uncommon condition in S106 obligations, but time scales need careful thought by the board. *(F4 now makes reference to potential for phased payments, no text yet included in relation to claw back provision, seek PB view)*
10. Capita Symonds, Bob Woollard MRTPI, essentially argues that the DCS is flawed and a safer solution to development is to permit the development he is proposing and another 1,000 dwellings which would dispose of sewage outside the Mease catchment at Milton WWTW. The planning and sustainability merits of this proposal are not for us to comment on. In terms of the asserted flaws: B3 is a misinterpretation of the DCS; B4 whilst no timescale to secure integrity is (or can be) included, none is required by the Regulations, but importantly the measures to offset the P for development in each window are secured to a timescale in the development windows, the silt traps will be in place before all the development they offset comes on line; B6 (and to an extent B3 too) is a fundamental misunderstanding, the obligations are not to address the effects of diffuse pollution, they are to address the potential effects of development, tackling diffuse pollution is a mitigation measure that can enable development; F3, in our view the approach criticised here is suitably precautionary, of course there are some uncertainties but monitoring and adjustment through the 'windows' will ensure gearing of development and mitigation. No alternative or better figures or approach is offered. It is suggested that the problems of uncertainty "could be avoided by limiting development within the River Mease catchment or ensuring that sewage disposal from new development does not increase the load at relevant point sources" This misses the point that P levels in the river could be reduced by other means to achieve the same effect. *(no action taken)*
11. GVA for Stephenson Green Coalville, Tim Evans a Principal Planner, does not challenge the need for a scheme, but argues that the LPAs should not be using a S106 scheme mechanism, and CIL mechanism will not be appropriate, these are legal / planning matters to be decided by the LPAs. Concerned about uncertainty of available measures beyond the first development window. In raising these concerns

GVA does not object to the DCS per se or propose a different way of resolving the issue. *(CIL S106 issue for PB to address)*

12. Jones Lang Lasalle, for Measham Wharf and adjoining area, Elle Cass, supports the principle of the DCS and the WQMP in principle but seeks more positive support for investigative work, fearing that such useful work (as they have done) might otherwise stall, this perhaps misunderstands that the DCS does not seek to inhibit research and investigation, but on a precautionary basis cannot rely on such measures to guarantee delivering the P reductions needed. It will be recalled that the early drafts of appendices had several R&D projects in but we felt that they had to be taken out. Similarly the DCS does not seek to 'stifle' bespoke solutions, but actually provides for their consideration on a case by case basis. Whether the DCS should incentivise such schemes is for the Board to decide in light of the (confidential) information which Board members apparently have but we do not have. *(further text added in E1 to reinforce the potential for bespoke investigative elements set out in section H)*
13. Fritz Graves MRTPI, Andrew Granger, generally supportive, seeks quantitative clarification of the scale of homes and jobs facilitated in the development window and how related to local plan; no mention of other sources of funding (but these would be directed to the Mease Restoration Plan rather than the DCS and the WQMP) *(number of homes in first development window indicated in F5).*
14. Ashby de la Zouch CS, C Tandy,
 - a) Regulation 9 and failure to carry out an appropriate assessment of the 'plan' which I take to be the DCS (also point B1). Response: we would argue that the public bodies are very much applying their obligations under reg 9 by working on the WQMP and the DCS. As indicated above, the DCS does not require an appropriate assessment – because the DCS is a part of the WQMP, the WQMP and the DCS are "directly connected with and necessary to the management of the site" (the River Mease SAC). The effects of the DCS, on the SAC, are entirely positive, so in accordance with the Waddenzee ruling of the ECJ, nothing in the plan would be likely to undermine the conservation objectives, so it would not have any significant effect on the SAC, if it has no effect it cannot have an effect in combination either. The DCS does not, therefore, require an appropriate assessment on both counts in either regulation 102(1)(a) and (b) or 61(1)(a) and (b) *(referred to in B3)*
 - b) Short term increases conflict with the Hab Regs which demand concurrent mitigation be adopted / DCS timely mitigation. Response: see C4 below *(no action taken)*
 - c) 8% deterioration before any mitigation undertaken. Response: see C4 below *(no action taken)*
 - d) CSO spills should have been investigated. Response: not sure how this would have changed the DCS, a matter for the EA and STW to advise *(no action taken)*
 - e) data and calculations erroneous. Response see F5 below *(see action against F5 below)*
 - f) B2 response: the implementation of the WQMP including the DCS is the relevant mechanism delivering the necessary mitigation. *(no action taken)*
 - g) B3 response: the implementation of the WQMP including the DCS is the further action we refer to being necessary and is the relevant mechanism delivering the necessary mitigation *(no action taken)*
 - h) B4 response: slightly unclear point but I think we agree with it, we were careful to ensure that the DCS measures are not measures that would have been done under Article 6(1) or (2) they are additional to them or bring such

measures forward that otherwise would not have come forward as quickly or at all, this is considered to be a valid approach for the DCS *(no action taken)*

- i) B6 the legal / planning CIL / S106 point is one that others have raised and we leave to the LPAs *(CIL S106 issue for Programme Board to address)*
- j) Like Capita Symonds' comments this misinterprets the purpose of the DCS, the obligations are not to address the effects of diffuse pollution, they are to address the potential effects of development, tackling diffuse pollution is the mitigation measure that can enable the effects of development to be addressed *(no action taken)*
- k) C1 response: agreed, the DCS is geared to do this by use of development windows etc *(no action taken)*
- l) C4 response: we simply disagree, the reasoning of how the DCS flows from the WQMP which flows from the RoC and the modifications etc is set out in the WQMP and the DCS and whilst it is complex the logic and process is correct. We cannot comment on the detailed figures re how DWF was calculated and arguments put forward but the EA/STW should be able to respond to these *(no action taken)*
- m) CS33 point that the measures should be funded by OFWAT/STW are covered by response to others *(no action taken)*
- n) E1 response: Again we carefully considered this to make sure that the DCS did not fund measures that would be done anyway, including some already committed to in the Mease Restoration Plan, the DCS is not being brought forward to implement management works but can use restoration and ecological management measures in the river to offset the effects of increased P arising from development *(no action taken)*
- o) F2 Mr Tandy agrees the concept of development windows, the scale of the first is a matter for the Board *(no action taken)*
- p) F4 response: we simply disagree, in our opinion it is about volume and homes that produce less waste water will produce less P in the river. *(no action taken)*
- q) F5 and subsequent calculations / points, response: these obviously require a detailed analysis to be undertaken and we do not have the instructions to do this. However, given that all the figures in the DCS referred to here came from published sources or the EA or NE the Board members may well be able to deal with all this detail. The one point that we did note was that "The calculation uses an average P concentration of 1.2mg/l. The WCS states in P2.2.3 that the average is 0.31mg/l." This has implications for the calculations which if correct would need to be redone. Consequently we made enquiries of EA et al as to what the correct figure should be. Disappointingly, it does appear as though an out of date figure was included because we were not alerted to the later data available. The e mail trail is attached *(revised approach proposed in relation to the underlying water quality data used to inform the calculation of contributions, refer separate briefing paper)*

15. Edmund Davey, we tend to agree with this comment criticising the word 'minimised' in this context, and also uneasy with the use of the word cumulative, the paragraph and para B6, appear to have been added after our final draft went in, an amendment should be straightforward. *(Proposed amendments to both B5 and B6)*

16. Coal Authority, David Berry, no comments *(no action taken)*

17. Woodland Trust, Justin Milward, agree that an explicit reference to tree planting could be added *(reference to woodland creation added into appendix 1)*

18. Gazeley Properties, Don Morgan (late response). Two questions raised:

a) *“how development flows for proposed developments will be calculated (eg can this be based on information supplied by developers based on measured data from similar existing sites?) At the present time we are not sure what the size of the financial contribution will be for the major development at Lounge”*. DTA do not have necessary expertise to advise on correct approach in this instance, suggest that appropriate Programme Board members respond. **(no action taken)**

b) *“why the equation results in higher contributions for developments discharging to category B works compared with category A works.”* This is already clearly set out in section F1. **(no action taken)**