

John Griffiths AC /AM
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
Minister for Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-344
Ein cyf/Our ref JG/07029/11

William Powell AM
Chair Petition's committee
Ty Hywel
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8 December 2011

Dear William,

Thank you for your letter dated 17 November about the petition you have received regarding provision of a public sewer under section 101A of the Water Industry Act 1991 (the 1991 Act) at Freshwater East.

I have set out below the background which led to a notice of intention to take enforcement action in relation to the provision of a public sewer at Freshwater East being issued.

The issues surrounding the provision of a public sewer under section 101A of the 1991 Act at Freshwater East has been ongoing for many years. In 1998 Lamphey Community Council applied to Dwr Cymru Welsh Water for provision of a public sewer under Section 101A of the 1991 Act at Freshwater East.

Section 101A of the 1991 Act provides a duty for water and sewerage undertakers to provide connection to a public sewer when the following conditions are met:

- a. that there are buildings on the premises in question;
- b. that the drains or sewers used for the drainage for domestic sewerage purposes of the premises in question do not connect with a public sewer; and
- c. that the drainage of any of the premises in question is giving, or is likely to give, rise to such adverse effects to the environment or amenity that it is appropriate to provide a public sewer.

If the water company does not agree that a duty applies then the applicant can refer the dispute to the Environment Agency. Section 101A(6) of the 1991 Act, states that the Environment Agency's decision in any dispute is final, subject to any application for judicial review of that decision.

A dispute, in relation to this matter was determined by the Environment Agency in May 2007. It decided that the sewer should be provided by 31 March 2010. Dwr Cymru Welsh

Water challenged the Environment Agency's decision and in 2009 the court ruled in favour of the Environment Agency's Determination.

As the date set by the Environment Agency's Determination has now passed and Dwr Cymru Welsh Water has not provided a public sewer at Freshwater East, it therefore appears that, under section 101A (10) of the 1991 Act, Dwr Cymru Welsh Water is in breach of its duty under section 101A (1).

Accordingly, I issued a notice on 26 October which stated that I was considering making an enforcement order under Section 18 of the 1991 Act for the purpose of securing Dwr Cymru Welsh Water's compliance with Section 101A (1). The notice was sent to several community associations in the Freshwater area, including Lamphey Community Council who made the original request. It was also published in the Pembrokeshire Western Telegraph.

To clarify, I have not yet taken a decision to enforce the provision of a public sewer at Freshwater East.

I am aware that some residents feel that the provision of information has been limited to date. I can inform you that in addition to my notice, my officials met with a number of residents from Freshwater East on 17 November to hear their concerns over the proposed sewer scheme.

Once I have made a decision on this matter I will contact you to inform you of my decision.

Yours



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