

[REDACTED]

From: Steve Russell [REDACTED] >
Sent: 17 August 2026 23:51
To: [REDACTED] Ben Haywood; Planning (SMDC); Margaret Russell; Peter Russell
Subject: Re: [SMCOM2025/26-0104] Legal Invalidity and Potential Breach of Planning Applications: DOC/2024/0027 (Discharge of Conditions 10, 12, 13, 19, 20, 21, 22, and 28 - SMD/2022/0
Attachments: Redline app boundary in relation to p pipe.pdf

[REDACTED] i

Dear Mr Haywood,

Further to my email of 29 June 2026, to which I have not yet received a response, I would be grateful if the following could be added to my representations and considered before DOC/2026/0057 is determined.

I have now received a response dated 17 August 2026 from the Environment Agency's Land and Water Team following their recent site inspection and meeting with me.

The EA's response is relevant to the current application in a number of respects. In particular, the EA confirms that during its inspection it did not observe a visible watercourse or stream bed upstream of the proposed discharge point and has subsequently raised this matter with the planning and groundwater teams involved in the current planning consultation. It is also seeking clarification from the developer regarding the proposed 2-metre perforated section and how this complies with the permit requirement concerning pipework within 10 metres of a watercourse bank.

The EA has also acknowledged the proposed combination of secondary treated effluent and attenuated surface water within the drainage system and has said that it will consider information provided alongside the planning information where relevant to its regulatory remit.

I think it is important to distinguish this from an overall technical assessment of the revised drainage strategy. The EA's response makes clear that its consideration is limited to matters falling within its particular regulatory remit. It does not appear to constitute an assessment of the wider hydraulic operation of the proposed system, including the upstream catchment, the effect of the pumped discharge on downstream flows and capacity, the downstream drainage route, interaction with highway drainage, or matters falling within the remit of the LLFA or other technical consultees.

I therefore do not consider that the EA's involvement can, by itself, be relied upon as demonstrating that the revised drainage strategy as a whole has been technically assessed and found acceptable. This is particularly relevant given that the LLFA has declined to comment and Highways has confirmed that its response is not a technical assessment of Conditions 20 and 21.

I appreciate that the EA is not seeking to revisit the completed permit determination and that certain matters fall outside the remit of its Land and Water Team. Nevertheless, its response demonstrates that there remain matters requiring clarification and, importantly, that the EA's consideration should

not be interpreted as an overall assessment of the drainage arrangement proposed under DOC/2026/0057.

I would therefore be grateful if the Council could identify which suitably qualified technical body has assessed, or will assess, those aspects of the drainage strategy falling outside the EA's regulatory remit before the application is determined.

Planning mechanism and off-site works

I would also like to reiterate, and clarify, the separate planning issue raised in my previous correspondence regarding the scope of DOC/2026/0057.

The Council's Stage 2 response to my complaint confirmed that, if the drainage system required by the Environment Agency permit differs from the system shown on the approved planning drawings, an amendment to the planning drawings would need to be sought, and that if an alternative drainage arrangement is proposed, an amended planning approval would be required.

I appreciate that the Council's earlier Stage 1 response recognised that a development can legitimately rely upon an existing off-site watercourse for the disposal of drainage and that such a receiving watercourse would not necessarily need to be included within the red-line boundary.

However, that is not the issue now before the Council.

The current proposal involves the physical construction of a **new engineered drainage installation – the perforated pipe – located entirely outside the red-line boundary of the approved planning permission and outside the applicant's blue ownership boundary**. The pipe is intended to serve the development and to convey both pumped attenuated surface water and secondary treated effluent.

The perforated pipe was not part of the original approved drainage strategy, which relied upon an on-site soakaway, and was not identifiable on the drawings approved under DOC/2024/0027.

I recognise that planning conditions can, in appropriate circumstances, relate to off-site infrastructure, including where a Grampian-style condition is used. However, that is materially different from using a subsequent discharge of conditions application to grant planning permission for new operational development outside the approved application site.

I therefore do not consider that approval of details pursuant to Conditions 20 and 21 can itself provide planning permission for the construction of the proposed perforated pipe outside the approved application site.

There is also a related issue concerning the ability to properly control and enforce such works. The red-line boundary identifies the land to which the planning application and resulting planning permission relate. Where the proposed operational development is physically located outside that boundary, it is unclear how the construction and subsequent retention of those works can properly be controlled through the current planning permission, particularly where the land was not included within the application site and is outside the applicant's identified ownership.

This is not simply a question of whether the applicant has, or can obtain, the landowner's agreement to carry out the works. Private rights and planning control are separate matters. The Council's own Stage 1 response acknowledged that, although planning conditions may require reliance upon land

outside an applicant's control, the grant of planning permission does not itself give rights to carry out works on another person's private land.

The location of the proposed pipe outside both the red-line and blue ownership boundaries therefore appears material to whether the proposed works can properly form part of the planning permission and be controlled and enforced through the current discharge of conditions application.

I would therefore be grateful if the Council could identify the planning permission or other planning mechanism which authorises the physical construction of the proposed perforated pipe outside the approved application site.

If the Council considers that DOC/2026/0057 is capable of authorising these works, I would be grateful if it would explain the legal basis for that conclusion and, in particular, why the proposed changes do not require an appropriate amendment to the planning permission, including consideration of whether a Section 73 application or other planning application is required.

Consultation and downstream well

I have also noted the Highway Authority's response dated 17 July 2026. Highways states that Conditions 20 and 21 were not recommended by Highways, that they appear to have been previously discharged under DOC/2024/0027 without Highways consultation, and that Highways therefore has no comments to make.

I appreciate that this does not mean that Highways is objecting to the current application. However, it also does not appear to constitute a technical assessment or endorsement of the revised drainage proposals.

The LLFA has similarly indicated that it will not comment because the development falls below the relevant consultation threshold and Conditions 20 and 21 did not originate from the LLFA.

In light of this, I would be grateful if the Council could confirm which suitably qualified technical body has undertaken, or will undertake, an overall assessment of the revised drainage proposals, including the pumped surface water discharge, infiltration through the proposed perforated pipe, upstream catchment, downstream flow route and capacity, exceedance routing and interaction with highway drainage.

I would also like to reiterate the concern regarding the Old Vicarage well. The well, which is located downstream of the proposed discharge route and which I have previously brought to the Council's attention, does not appear to be identified or referenced within the applicant's current drainage documentation.

I appreciate that the Council does not necessarily consider that the well itself should form part of the application site. My concern is instead that, given the revised drainage strategy proposes to discharge both treated effluent and surface water into the off-site drainage system, it is unclear whether the well has been identified to, and considered by, the relevant technical consultees as a potential downstream receptor.

I would therefore be grateful if the Council could confirm whether the consultees considering the current application have been provided with information regarding the well and its location in relation to the proposed discharge route.

I am not seeking to repeat the detailed technical matters set out in my earlier objection. I simply wish to ensure that the outstanding issues regarding:

1. the adequacy of the technical assessment;
2. the identification of relevant downstream receptors;
3. the unresolved matters identified by the Environment Agency; and
4. the appropriate planning mechanism for the revised/off-site drainage infrastructure

are expressly addressed before the application is determined.

I would be grateful for a response to my email of 29 June 2026 and confirmation that this further representation will be placed before the case officer for consideration.

I would also be grateful if you could please forward a copy of this email to Mr Mark Trillo, Executive Director (Governance & Regulatory Services), for his information and reference in relation to my previous Stage 2 complaint.

Many thanks,

Steve Russell

On Mon, 29 Jun 2026 at 17:29, Steve Russell [REDACTED] wrote:

DOC/2026/0057 – Further Information and Request for Clarification

Dear Mr Haywood,

Thank you for your prompt response and for confirming that the relevant consultees will be invited to comment on application DOC/2026/0057.

I am grateful for that clarification.

I would, however, be grateful if you could clarify a small number of further points.

Lead Local Flood Authority

I note that the Lead Local Flood Authority (LLFA) has already responded to application DOC/2026/0057, stating that because the development falls below the statutory consultation threshold and Conditions 20 and 21 did not originate from the LLFA, it would not comment upon the discharge of those conditions.

As this response does not appear to contain any technical assessment of the revised drainage proposals, could the Council please confirm whether the LLFA has been specifically asked to consider the technical matters raised within my objection, or whether the Council intends to rely upon its existing response?

If the Council intends to rely upon the existing LLFA response, I would be grateful if you could clarify which suitably qualified technical body has undertaken, or will undertake, the hydraulic and flood-risk assessment of the revised drainage proposals.

Scope of DOC/2026/0057

I would also be grateful if the Council could clarify the legal mechanism by which infrastructure apparently located outside both the approved red-line application boundary and the applicant's blue ownership boundary can be authorised through a discharge of conditions application.

The revised submission appears to introduce the perforated pipe required to facilitate implementation of the Environment Agency permit. My understanding is that this infrastructure was not identifiable on the drawings

approved under DOC/2024/0027, was not assessed as part of that approval, and did not form part of the drainage scheme originally approved by the Local Planning Authority.

If that is correct, I would be grateful if the Council could explain why a discharge of conditions application remains the appropriate procedural mechanism, rather than an alternative planning process capable of assessing the revised development.

I would also be grateful if the Council could confirm that the revised drainage arrangements have been considered in the context of the approved foul drainage strategy. Whilst DOC/2026/0057 is described as relating to Conditions 20 and 21, the revised infrastructure appears to interact directly with the approved foul drainage arrangements and the Environment Agency permitted discharge, rather than representing a surface water amendment in isolation. It is therefore unclear whether the implications of the revised scheme can properly be assessed without also considering the approved foul drainage proposals and the associated discharge requirements.

Additional Information

Since submitting my objection, I have obtained copies of photographs that accompanied the applicant's Environment Agency permit application, together with the accompanying description of the receiving environment. These were supplied to me by the Environment Agency in response to an information request and are enclosed for completeness.

I do not suggest that these photographs, in isolation, determine the issues under consideration. However, when read alongside the submitted drainage drawings and engineering report, they appear to raise further questions regarding the physical characteristics of the proposed receiving environment.

In particular:

- the engineering drawings continue to identify the upstream source as **"unknown"**;
- the engineering report appears to describe the receiving watercourse as commencing at the culvert outfall;
- the applicant's Environment Agency submission describes the feature as the **"source of water onto our land into a drinking trough that overflows into the brook"**;
- the planning drawings show the proposed perforated pipe terminating at the trough, followed by an unannotated blue line before the note **"culvert outfalls to head of existing open ditch."**

Taken together, these documents appear to describe the receiving environment in materially different ways. At present, it is difficult to reconcile the engineering report, the submitted drainage drawings and the applicant's own description within the Environment Agency permit application.

The applicant's description suggests that water first enters the trough before overflowing across the ground to reach the brook. By contrast, the engineering report appears to describe the receiving watercourse as commencing at the culvert outfall, whilst the planning drawings show the proposed perforated pipe terminating at the trough, followed by an unannotated blue line before the note "culvert outfalls to head of existing open ditch."

These documents therefore appear to describe different flow pathways, or different interpretations of the same feature. This inconsistency may be significant because the revised drainage strategy appears to rely upon this section to convey or infiltrate pumped discharges associated with both the surface water proposals and the Environment Agency permitted discharge.

In the absence of a clear explanation of how water is intended to travel between the trough and the identified head of the open ditch, or whether this section is intended to function as overland flow, an existing channel, a culvert or an infiltration feature, I would be grateful if the Council could clarify how this part of the drainage pathway has been interpreted for the purposes of assessing the application and whether the apparent inconsistencies have been considered by the relevant technical consultees.

This section also appears to lie within the Root Protection Area of mature trees and may therefore be relevant to the consultation being undertaken with the Council's Arboricultural Officer.

I would therefore be grateful if the enclosed photographs and accompanying description could be forwarded to the relevant technical consultees, as they may assist in clarifying the physical characteristics of the receiving environment and resolving the apparent inconsistencies between the submitted documents.

For completeness, I note that the Environment Agency document from which the enclosed photographs are taken bears the disclaimer "Confidential – Not for Public Consumption or Distribution". However, the document was disclosed to me by the Environment Agency in response to an Environmental Information Regulations request. I have therefore assumed that I may rely upon it for the purposes of the current planning consultation. If there is any reason why the Council considers the document should not be relied upon or circulated as part of the determination of this application, I should be grateful if you would let me know.

Thank you again for your assistance. I look forward to hearing from you.

Kind regards,

Steve Russell

On behalf of Mr and Mrs Russell

The Old Vicarage

Rushton Spencer