

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 1 The Environment Agency has considered the representations made by both parties in this dispute, namely Julie Chance and, subsequently Ros Calvert, in their capacity as Clerk to Swafield and Bradfield Parish Council (the first Applicant), Tim Payne of Swafield Hall (the second Applicant) and Anglian Water (the Company).

## **THE DISPUTE**

- 2 On 28 May 2016 the first Applicant disputed the decision by the Company in respect of the duty to provide a public sewer to be used for the drainage for domestic sewerage purposes from premises at Bradfield Road, Swafield.
- 3 On 16 December 2016 the second Applicant also contacted the Environment Agency to confirm whether Swafield Hall had been included within the scope of either the area initially assessed by Anglian Water or the area being considered by the Environment Agency for the purpose of this dispute. The Environment Agency confirmed that this had not been the case up to this point, but that if it were to receive information suggesting that the locality for the purpose of this dispute should include Swafield Hall the Environment Agency would consider whether the first time sewerage scheme at Swafield should also serve that and neighbouring premises.

## **GROUND OF THE DISPUTE**

- 4 By way of an application form dated 6 February 2009 the first Applicant applied to the Company for the provision of a public sewer to serve a total of approximately 110 premises in the villages of Bradfield and Swafield. In this application the first Applicant listed the reasons for the application as being risk to health, environmental damage, poor soil condition, poor soakaways, smell, cost and high water table.
- 5 The Company carried out an assessment of the application and extended the number of premises considered to a total of 131, including the premises on Bradfield Road and those premises on Knapton Road up to and including Woodlands. The results of this assessment were summarised in a report entitled *Swafield & Bradfield – S101A Study* dated March 2010 (‘the Company’s assessment’). The Company’s assessment concluded that “[i]t is the recommendation of this report that Duty is accepted for Swafield & Bradfield” and considered two alternative public sewerage options. The Company then wrote to the first Applicant in a letter dated 23 November 2010, stating that it intended to provide a public sewer to serve the majority of the premises in the two villages. One of the public sewerage options outlined in the Company’s assessment included the premises on Bradfield Road whilst the other did not. The Company subsequently wrote to the first Applicant, in a letter dated 28 April 2015, to state that it intended to provide this public sewer in 2016-17

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of**  
**Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall**  
**against the decision by Anglian Water regarding the duty to provide a**  
**public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 6 The first Applicant subsequently wrote to the Company in a letter dated 26 March 2016, questioning the exclusion of some of the properties on Bradfield Road from the proposed public sewerage scheme. The Company responded, in a letter dated 18 April 2016, stating that:

*“Having had regard to all relevant considerations and the statutory guidance which has been issued by the Secretary of State for the Environment, Food and Rural Affairs, it was determined at the time of the assessment that the provision of a public sewer to the 8 properties on Bradfield Road cannot be justified. Therefore the premises lie outside the locality to which AW has a duty to provide a public sewer, under s101A of the Water Industry Act.*

*In light of the above, we consider the most appropriate solution for those properties would be the continued use of private systems. The refurbishment or replacement of septic tanks and drainage fields should also be considered. Otherwise the use of cesspools or package treatment units, installed, operated and maintained in accordance with the manufacturer’s instructions, would provide a suitable solution to alleviate any adverse environmental and amenity effects that may be occurring from the operation of the existing private sewerage systems.”*

- 7 The Company responded in the same terms, in an e-mail dated 26 April 2016, to an e-mail it received from the owner of Red House Farm Cottage on 20 April 2016.

- 8 In a letter to the Environment Agency dated 11 July 2016 the Company explained that it had considered whether Bradfield Road, Swafield should be included within the wider first time sewerage scheme as part of the detailed design and optioneering process:

*“The s101a Steering Group agreed in October 2015 that the properties lie outside of the duty area to be served and that the sewerage scheme would not be extended to Bradfield Road. The additional infrastructure to serve the 8 properties on Bradfield Road as part of the public sewer serving the duty area, would have been more costly to construct than to make any necessary alternative private sewerage provision at the properties. If an alternative private sewerage provision is required as only one property (Spriggate House) cited amenity issues with their current system. An additional length of gravity sewer, pumping station and rising main would be required or a vacuum station and vacuum system. Also please note that the design engineers believe an additional pumping station may be likely depending on the levels. Therefore 2 pumping stations to serve 8 properties.”*

- 9 In a letter to the Environment Agency dated 7 May 2016 the first Applicant noted that there were 10 properties on Bradfield Road, as opposed to the 8 referred to by Anglian Water in its letter to the Environment Agency of 11 July 2016. The two additional properties at Swafield House were built after this exchange of correspondence.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 10 A number of other relatively isolated premises within the assessment area, located on Pond Road, Church Road and Trunch Road, had been the subject of the Parish Council's original application but had also been excluded from the first time sewerage proposed by the Company. The Environment Agency therefore asked the first Applicant to confirm that they only wished to dispute the Company's decision regarding the (then) ten properties on Bradfield Road. In a letter to the Environment Agency dated 30 November 2016 the first Applicant duly confirmed that, following discussion at the most recent Parish Council meeting that:

*"It was agreed that the dispute did relate to the ten properties on Bradfield Road, Swafield which you identified in your letter. These are properties sited in low lying water logged land. It was also agreed that Anglian Water's decision with regard to the thirteen other properties which you identified was not being disputed. These properties are on higher sandy ground."*

- 11 Although only one property owner indicated in questionnaire responses gathered by the Company in the course of its assessment that they experienced problems with their existing sewerage system, the Environment Agency notes that the owners of five of the six premises on Bradfield Road closest to Swafield were party to the original application to the Company and cited various problems arising from their respective systems. The Environment Agency also notes that questionnaires do not appear to have been circulated to two of the properties on Bradfield Road and that those properties would not therefore have had the opportunity to highlight any problems they experienced with their existing private sewerage systems at that time.
- 12 The Environment Agency confirms that the dispute is in respect of the duty to provide a public sewer to be used for the drainage for domestic sewerage purposes of premises in the localities of Bradfield Road and Knapton Road, Swafield. This dispute has been referred to the Environment Agency in accordance with section 101A Water Industry Act 1991, (s101A(7)(a) WIA 1991).

**DESCRIPTION OF THE AREA**

- 13 Swafield is located approximately half a mile north of North Walsham, with Bradfield located approximately a further mile to the north-west. Most of the properties in the area lie within the villages of Swafield and Bradfield with further small groups of properties, individual properties and farms, being located across the wider area. The properties that this dispute relates to are those along Bradfield Road between Swafield and Bradfield and those along the B1145, Knapton Road (also known at different points as North Walsham Road and Mundesley Road), between Swafield and Knapton Green.
- 14 Along Bradfield Road, six of the twelve premises that this dispute relates to are grouped loosely together, with the remaining six properties being located between those six properties and Bradfield.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 15 The closest existing public sewer to Bradfield Road is currently the existing gravity sewer on the northern edge of North Walsham. However, as part of the first time sewerage scheme that will be provided to serve Swafield that public sewerage network will be extended to Swafield and as far along Bradfield Road as The Wollery and Meadowsweet Cottage, approximately 530m south-east along Bradfield Road from The Red House.
- 16 The first time sewerage scheme that the Company intends to construct to serve Bradfield and Swafield would also extend as far along Common Road, Bradfield as Brook Cottage, approximately 220m west of Beck Cottage.
- 17 Along Knapton Road the properties that this dispute relates to are situated either individually or in small groups over a distance of approximately 1.5km between Swafield and Knapton Green.
- 18 For those properties on Knapton Road the closest public sewers that would be provided as part of the first time sewerage scheme at Swafield would be located at the junction of Knapton Road and The Street, or in the land to the rear of The Lodge. These are approximately 530m and 440m to the south-west of Holmstead respectively.
- 19 At the northern end of Knapton Road there is also an existing public gravity sewer at Knapton Green, approximately 470m north of Camelot, the closest property within the locality that this dispute relates to.
- 20 Given the distribution of the properties along Knapton Road and the relative location of both the proposed public sewers at Swafield and the existing public sewer at Knapton Green the Environment Agency has considered whether Anglian Water has a duty to provide a public sewer to serve both those properties on Knapton Road considered in the Company's assessment and the other premises between Swafield and Knapton Green.
- 21 There is generally a natural fall along Bradfield Road from Tranquility to Swafield village. It was apparent during the joint site visit though that the road rises and falls along this stretch of Bradfield Road to a degree that is potentially significant enough to prevent the use of a gravity sewer along its length, depending upon the depth at which such a sewer might be laid. Between Tranquility and Bradfield the road crosses a shallow valley and it was clear from the joint site visit that at least one pumping station would be required to connect any of the properties along Bradfield Road to the proposed public sewers at either Bradfield or Swafield.
- 22 On Knapton Road the road initially falls from Swafield, past The Lodge, to a low point by the drive to The Old Rectory. There are then slight undulations in height before the road falls again to the properties in the vicinity of The Grove. From The Grove the road then climbs steadily to Knapton Green.

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of**  
**Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall**  
**against the decision by Anglian Water regarding the duty to provide a**  
**public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 23 The Environment Agency concludes that for the purposes of this determination, the area of the dispute will include the relevant premises shown on the map attached as Appendix A to this determination document. The 39 premises are listed below:

<b>Bradfield Road (12 properties)</b>		
Tranquility	Brookmeadows House	Spriggate House
2 Crudds Hole	Stone Cottage	Red House
Swafield House	Betty's Cottage	Beck Cottage
2 new properties at Swafield House	Red House Farm Cottage	
<b>Knapton Road (27 premises)</b>		
Holmstead	Park House	Grove House
Woodlands	Swafield Hall	1 Driftway Cottages
The Old Rectory	Swafield Mews	2 Driftway Cottages
Beeches Cottage (also known as Rose Cottage)	Swafield Barn	Knapton House
Lilac Cottage	Holm Eden	Coach House Cottage
Beeches Barn	Grove Corner Cottage	The Old Coach House
New property at Beeches Farm	Woolamaloo	East Barn
Beeches Farm	Rose Cottage (also known as Yule Cottage)	West Barn
Straithern Farm	Grove Cottage	Camelot

## **THE ENVIRONMENT AGENCY'S DETERMINATION**

- 24 The Environment Agency has considered the grounds of the dispute set out in the first and second Applicants' statements, the documentation from the Company and information from third parties. A joint site visit with the Applicants and Company was conducted by the Environment Agency on 27 June 2017 and its findings are also taken into consideration.
- 25 The duty to provide a public sewer is provided pursuant to section 101A Water Industry Act 1991 (s101A) which was inserted by paragraph 103 of Schedule 22 to Environment Act 1995. In order to establish a duty on the part of a sewerage undertaker to provide a public sewer, certain conditions must be satisfied, namely:
- a) That the application relates to premises on which there are buildings<sup>1</sup>;
  - b) That drains or sewers used for the drainage for domestic sewage purposes of the premises in question do not connect with the public sewer; and,

<sup>1</sup> The condition for buildings to be erected prior to 20 June 1995 was removed from 28 May 2004 under an amendment in the Water Act 2003 so that any buildings now qualify.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- c) That the drainage of the premises referred to at (a) is likely to give rise to adverse effects to the environment or amenity, and that having regard to the foregoing it is appropriate to provide a public sewer for the drainage for domestic sewage purposes of the premises in question.

These three conditions are examined in detail in paragraphs 26 to 33 below. These are the conditions to be satisfied to establish that there is a duty on the Company to provide a public sewer.

**Qualifying Premises**

- 26 In the course of the dispute the Environment Agency identified a property shown on maps as Swafield Lodge and asked both parties to this dispute to provide any information they had available regarding this premises in a letter dated 9 November 2016. In letters to the Environment Agency dated 30 November 2016 and 14 December 2016 the first Applicant and the Company respectively confirmed that they had no information regarding this premises. In its letter to the Environment Agency the Company stated that this was because this property was believed to be either derelict or unoccupied.
- 27 The Environment Agency therefore finds that the requirements of condition (a) in paragraph 25 above are satisfied for all the 39 premises listed in paragraph 23 above.

**Domestic Sewerage Purposes**

- 28 This has not been an issue in this dispute. All of the premises involved in this dispute discharge solely domestic sewage and none are currently connected to a public sewer. The Environment Agency therefore finds that the requirements of condition (b) in paragraph 25 above are satisfied for all of the 39 premises listed in paragraph 23 above.

**Effects on the Environment and Amenity**

- 29 Condition (c) in paragraph 25 above first requires the consideration of the existence or otherwise of adverse effects to the environment or amenity.
- 30 The Environment Agency has addressed the status of each of the premises included by the Company in its assessment and the nature of the discharge from each. These are dealt with individually below:

31 **Bradfield Road**

i) **Beck Cottage**

The tabulated summary in the Company's assessment indicated that this premises was served by a septic tank, which the Company's assessment noted caused flooding.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

As explained in paragraph 41 below, a percolation test that was carried out at this premises was abandoned because groundwater was encountered at a depth of 0.25 metres. This is above the minimum recommended depth of 1.4-1.5m of unsaturated soil that is required in order to enable a drainage field to operate effectively. Where less than this depth of unsaturated soil is available insufficient treatment is likely to take place within aerated soil before effluent enters groundwater, thereby potentially polluting groundwater or migrating to and polluting surface waters. Additionally, there is a risk in such circumstances that groundwater could backfill the system and compromise the operation of both the septic tank and the drainage field.

The owner of this premises wrote to the Company, in an e-mail dated 7 November 2016, asking for confirmation that their property would be included in the first time sewerage scheme for Swafield and Bradfield. The Company responded in an e-mail dated 25 Nov 2016 stated that:

*“It was determined at the assessment stage that your property is remote from the main area of the development within the area and the most appropriate solution, to alleviate any adverse environmental and amenity effects that may be occurring from the operation of your existing private sewage system, is the continued maintenance/replacement of the system. As such the property is not considered a `duty` property as it does not satisfy the criteria comprising the statutory obligation under Section 101A of the Water Industry Act 1991.*

*We believe that the most appropriate solution, in the case of your property is the continued use of a private system. Replacement with a sealed cesspool or a Package Treatment Plant with discharge to watercourse if practical is advised.”*

The owners of this property and the adjoining annexe indicated, in an e-mail to the Environment Agency dated 26 November 2016, that they also wished to dispute the Company’s decision to exclude their property from the first time sewerage scheme proposed to serve Swafield, due to the environmental, amenity and health effects arising from their existing sewerage system. They explained that the property was occupied at present by six people and that, following heavy rain and when the water table was high, the groundwater level prevented the drainage field from operating. This reflected the results from trial holes dug at this property in the course of the Company’s assessment.

The owners of this property also noted that the properties whose systems were having the greatest adverse environmental impact were those discharging adjacent to Bradfield Common and the properties along Common Road and Bradfield Road, Swafield. They indicated that the

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

systems serving these properties caused pollution of the ditches opposite these properties and the adjacent verges.

In the course of the joint site visit the owner of this property explained that the system was in poor condition, did not work well and would back up and flood. The owner of this property explained that the ground conditions meant the existing system did not work effectively and limited their options for alternative systems and confirmed that they did not have direct access to the stream.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

ii) **Tranquility and 2 Crudds Hole**

The tabulated summary in the Company's assessment indicated that the nature of the foul sewerage system serving Tranquillity was unknown, and the Company confirmed, in a letter to the Environment Agency dated 14 December 2016, that the owner of that premises had not responded to the questionnaire circulated to residents in the course of the Company's assessment.

In the course of the joint site visit the owner of this premises explained that she was in the process of selling the house and that this and the adjoining cottage (2 Crudds Hole) were served by a shared septic tank which worked well.

The Environment Agency notes that this property is situated on relatively high ground, which given the soils and drainage characteristics across the locality described in paragraph 41 below, may explain why the system works adequately when others on Bradfield Road do not.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

iii) **Swafield House**

The tabulated summary in the Company's assessment indicated that this premises was served by a septic tank.

The questionnaire response provided by the owner of this premises in the course of the Company's assessment described the system serving it as a cesspool that worked adequately and was emptied once every three months but also wrote that "*roof water appears to flow into septic tank*".

As explained in paragraph 41 below, a percolation test that was carried out at this premises was abandoned because groundwater was encountered at

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

a depth of 1.2 metres. This is above the minimum recommended depth of 1.4-1.5m of unsaturated soil that is required in order to enable a drainage field to operate effectively. Where less than this depth of unsaturated soil is available insufficient treatment is likely to take place within aerated soil before effluent enters groundwater, thereby potentially polluting groundwater or migrating to and polluting surface waters. Additionally, there is a risk in such circumstances that groundwater could backfill the system and compromise the operation of both the septic tank and the drainage field.

In the course of the joint site visit the son of the owner of Swafield House pointed out the septic tank serving this premises, which is located in an overgrown area on the road boundary to the front of the house. He confirmed that this system was old and in poor condition and did not work well. The Chair of the Parish Council described how this system regularly overflowed, causing effluent to run across the road to the extent that it caused waterlogging of the roadside bank on the far side and associated foul odour.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

iv) **2 new properties at Swafield House**

In the course of the joint site visit the son of the owner of Swafield House explained that they were building two new houses behind the agricultural buildings located to the north of Swafield House. These were not yet completed but they had installed a package treatment plant, with the intention of pumping effluent from that to a drainage field in the fields behind and above the properties.

The Environment Agency is of the opinion that the system serving these premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

v) **Brookmeadows House**

In the original application to the Company the owner of this premises stated that it was served by a septic tank and that their reasons for applying related to health, amenity, environment and soil conditions.

In a letter to the Environment Agency dated 30 November 2016 the first Applicant explained that there had previously been unsuccessful attempts to repair the septic tank serving this premises.

The questionnaire response provided by the owner of this premises in the course of the Company's assessment also described the system serving this premises as a septic tank but indicated that it worked adequately

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

As noted in paragraph 41 below, a percolation test that was carried out at this premises was abandoned because groundwater was encountered at a depth of 1 metre. This is above the minimum recommended depth of 1.4-1.5m of unsaturated soil that is required in order to enable a drainage field to operate effectively. Where less than this depth of unsaturated soil is available insufficient treatment is likely to take place within aerated soil before effluent enters groundwater, thereby potentially polluting groundwater or migrating to and polluting surface waters. Additionally, there is a risk in such circumstances that groundwater could backfill the system and compromise the operation of both the septic tank and the drainage field. There is a pond in the front garden of this premises, close to Bradfield Road, supporting the conclusion that groundwater levels are likely to be seasonally high.

In the course of the joint site visit the owner of this property explained that the septic tank that serves this property is located in a shrubbery in the back garden and drains to a system of weeper drains, which works satisfactorily.

The Environment Agency is of the opinion that the system serving this premises is likely to give rise to adverse effects on the environment and amenity.

vi) **Stone Cottage**

In the original application to the Company the owner of this premises stated that it was served by a septic tank and that their reasons for applying related to health, amenity, environment and soil conditions. However, the tabulated summary in the Company's assessment indicated that the nature of the foul sewerage system serving this premises was unknown, and the Company confirmed, in a letter to the Environment Agency dated 14 December 2016, that the owner of this premises had not responded to the questionnaire circulated to residents in the course of the Company's assessment.

The tank cover for the system serving Stone Cottage was visible in the front garden of that premises, between the property and the road.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

vii) **Red House Farm Cottage and Betty's Cottage**

In the original application to the Company the owner of Betty's Cottage stated that it was served by a septic tank and that their reasons for applying related to health, amenity, environment and soil conditions.

The questionnaire response provided by the tenant of Red House Farm Cottage in the course of the Company's assessment also described the

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

system serving this premises as a septic tank but indicated that it worked adequately. They also confirmed that their system was shared with the property next door.

In the course of the joint site visit the owner of Brookmeadows House confirmed that he also owns Red House Farm Cottage and that that property had flooded the previous winter, leaving it unoccupiable for six months. He confirmed that these two premises are served by a shared septic tank and described the soakaway serving those properties as not working and the ground in that area as always soggy. He further explained that surface water runoff from adjacent fields filled the tank at times, causing it to overflow. The owner of Betty's Cottage also described the same problems as arising from their existing system.

The Chair of the Parish Council explained during this joint site visit that the problems with this system were among the most apparent on Bradfield Road as they caused effluent to flow across the road and into the ditch on the far side of the road, resulting in pollution and odour problems.

The Environment Agency is of the opinion that the system serving these premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

viii) **Spriggate House**

In the original application to the Company the owner of this premises stated that it was served by a septic tank and that their reasons for applying related to amenity and environment.

The questionnaire response provided by the owner of this premises in the course of the Company's assessment also described the system serving it as a septic tank and indicated that it was emptied annually but that effluent from it caused waterlogging of the garden at times. They indicated that these problems arose for approximately 15 weeks every year.

As explained in paragraph 41 below, a percolation test that was carried out at this premises was abandoned because groundwater was encountered at a depth of 1.23 metres. This is above the minimum recommended depth of 1.4-1.5m of unsaturated soil that is required in order to enable a drainage field to operate effectively. Where less than this depth of unsaturated soil is available insufficient treatment is likely to take place within aerated soil before effluent enters groundwater, thereby potentially polluting groundwater or migrating to and polluting surface waters. Additionally, there is a risk in such circumstances that groundwater could backfill the system and compromise the operation of both the septic tank and the drainage field.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

In the course of the joint site visit the owner of this premises showed the party the septic tank which was located in a shrubbery in the back garden, close to the road boundary. He believed that this drained to a soakaway but was unsure of the location of that. He also confirmed that groundwater in the immediate vicinity is high at times and the ground around the tank gets very wet in wet weather, suggesting waterlogging from the system.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

ix) **Red House**

In the original application to the Company the owner of this premises stated that it did not currently have any foul sewerage provision. The tabulated summary in the Company's assessment described the nature of the foul sewerage system serving this premises as 'unknown', and the Company confirmed, in a letter to the Environment Agency dated 14 December 2016, that the owner of this premises had not responded to the questionnaire circulated to residents in the course of the Company's assessment.

In the course of the joint site visit the owner of Spriggate House confirmed that they owned this property and rented it out. He indicated that it was served by a septic tank and that it was the tenant's responsibility to have the tank emptied when necessary, although the current tenant only occupied the property intermittently.

The Environment Agency notes that the premises immediately surrounding Red House have either noted problems with their existing private sewerage systems at some point during the assessment or dispute determination process or have been found to drain to land where groundwater is too high to enable drainage fields to reliably operated effectively.

The Environment Agency is of the opinion that the system serving this premises is likely to give rise to adverse effects on the environment and amenity.

32 Knapton Road

(i) **The Lodge**

In the course of the joint site visit the owners of this property confirmed that it was served by a septic tank which they had emptied annually and which worked well. This system served both the main house (formerly used as a B&B) and a static caravan in the garden. The property owners confirmed that the ground was sandy and drained well at surface level.

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of**  
**Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall**  
**against the decision by Anglian Water regarding the duty to provide a**  
**public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(ii) **Holmstead, Holm Eden, Grove Corner Cottage, Woolamaloo, Knapton House, Coach House Cottage, The Old Coach House, East Barn, West Barn, Camelot**

No information on the existing private sewerage systems serving these ten premises has been provided by either of the Applicants or the Company in the course of this dispute.

The Environment Agency is consequently of the opinion that the systems serving these ten premises are not giving rise, and are not likely to give rise, to adverse effects on the environment and amenity.

(iii) **Woodlands**

The tabulated summary in the Company's assessment indicated that this premises was served by a septic tank.

In a letter to the Environment Agency dated 3 March 2017 the owner of this property indicated that she did not currently experience any problems with the system serving it. The owner of this premises also noted that she was currently the only person living in the house and she was concerned that the system might not cope if the house were to be occupied by a family in the future.

In the course of the joint site visit the owner of this premises explained that it was served by two septic tanks; one of these takes water from the kitchen, utility room and one bathroom whilst the other takes effluent from a further two bathrooms and a loo. These drain to drainage fields adjacent to ditches on the property's southern and eastern boundaries respectively. Both of the ditches in question were dry and the owner of this premises confirmed that they remained so for much of the year. When inspected at the time of the joint site visit neither ditch showed any sign of pollution.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(iv) **The Old Rectory**

The original application to the Company indicated that this premises was served by a septic tank. The owners of this premises indicated that they were applying for the provision of a public sewer on the grounds of health, amenity, environment and soil conditions reasons and referred to safety concerns arising from 'excess water'. The Company's assessment also showed the system serving this premises as giving rise to odour.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

As noted in paragraph 41 below, a percolation test that was carried out at this premises was abandoned because groundwater was encountered at a depth of 0.44 metres. This is above the minimum recommended depth of 1.4-1.5m of unsaturated soil that is required in order to enable a drainage field to operate effectively. Where less than this depth of unsaturated soil is available insufficient treatment is likely to take place within aerated soil before effluent enters groundwater, thereby potentially polluting groundwater or migrating to and polluting surface waters. Additionally, there is a risk in such circumstances that groundwater could backfill the system and compromise the operation of both the septic tank and the drainage field.

In the course of the joint site visit the owner of this premises explained that it was served by two septic tanks which drain to drainage fields situated close to the ditch to the west of the house. The owner of this property explained that they had been granted planning permission to convert the Coach House at this property into further residential accommodation and were currently in the process of obtaining Building Regulations approval for the associated work. Their intention was to utilise the existing septic tank serving the house, although they were concerned that this could potentially over load the existing system. This proposal was noted to be dependent upon Building Regulations approval, as foul drainage had not been considered by the local authority when granting planning permission for the conversion of the Coach House. The owner of this premises confirmed that the system currently worked well as far as she was aware, although she had only moved into the property the previous October.

The Environment Agency is of the opinion that the system serving this premises is likely to give rise to adverse effects on the environment and amenity.

- (v) **Beeches Cottage (also known as Rose Cottage) and Lilac Cottage**  
It was observed in the course of the joint site visit that there was what appeared to be a septic tank cover located in the garden of Beeches Cottage but no sign of any covers at Lilac Cottage, where the ground surrounding the house is at a higher level than the house itself. These two properties appear to be former farm cottages and the Environment Agency has concluded that the system in the garden of Beeches Cottage is likely to also serve Lilac Cottage.

The Environment Agency is of the opinion that the system serving these premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

- (vi) **Beeches Barn and Beeches Farm**

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

In the course of the joint site visit the owner of Beeches Barn explained that it had been converted approximately 30 years ago and had been connected at that time to the existing system serving Beeches Farm. This was located close to the back door of Beeches Barn and there was a smell of sewage in that area at the time of the joint site visit, although the owner of Beeches Barn confirmed that the system did not cause them any concern. There was no apparent area where a drainage field could be located in the immediate vicinity of the tank, so it may be that effluent drains away directly from the tank. The owner of Beeches Barn confirmed that both of these properties and a third property recently built at Beeches Farm are currently owned and occupied by the extended family of the owners of Beeches Farm.

In the case of the system regarding these two premises the Environment Agency considers that there is the potential for this to have an adverse amenity impact, particularly on the owners or occupiers of Beeches Barn, as a consequence of the proximity of the system to the house and its age. The Environment Agency notes that whilst the current owners of Beeches Barn do not have any concerns as to the current operation of the system, such concerns might well arise if the performance of that system were to deteriorate further.

The Environment Agency is of the opinion that the system serving this premises is likely to give rise to adverse effects on the environment and amenity.

**(vii) New property at Beeches Farm**

In the course of the joint site visit the owner of Beeches Barn explained that a further property has recently been converted within the outbuildings at Beeches Farm and that this was served by its own, new, septic tank system.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

**(viii) Straithern Farm**

In the course of the joint site visit the owners of this premises showed us the old two chamber septic tank system serving it. They explained that this was reaching the end of its life and flooded above ground at times from the tank covers. The system was not thought to have originally incorporated a drainage field and following initial problems they had installed a pumped system to take effluent from the tank to a new drainage field located on ground higher than the tank. This drained satisfactorily but the owners of this premises explained that they experienced problems with the pumps and had had to replace these twice

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

since the new arrangement had been installed. They confirmed that the septic tank also received the roofwater from house.

The Environment Agency is of the opinion that the system serving the main house at Straithern Farm is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

There is also a detached annexe at this premises which is served by a separate Klargest system, which drains to a soakaway and which the owners of this premises indicated worked well.

The Environment Agency is of the opinion that the system serving the annexe at Straithern Farm is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(ix) **Park House**

In the course of the joint site visit the owner of Swafield Hall confirmed that the existing house at this premises is being demolished and a new one built. No information has been provided in the course of this dispute as to the nature of the existing foul drainage system serving this premises, how well it currently functions or whether it is proposed to improve or replace it as part of the work being undertaken at this premises.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(x) **Swafield Hall**

In an e-mail to the Environment Agency dated 24 January 2017 the owner of this premises set out its current drainage arrangements:

*“We have a septic tank installed in the garden, probably about 8m from Knapton road. The overflow would go somewhere under our lawn or the wooded area to the east of our lawn, towards the road. The tank itself has not caused any major problems. I don’t know how old it is.*

*Our property does not have good water drainage. At some point the field opposite the house (across Knapton) Road belonged to the Hall and water drainage pipes go under the road somewhere into the field. This ‘right’ is mentioned in the deeds to our house. There is no visible signs as to where these pipes emerge and one of the villagers told me that there used to be a small structure in the field that’s no longer there. I’m not sure whether the current owner of the field knows of this historical arrangement or not.*

*In periods of intense rainfall the area between our backdoor and our outbuildings can become flooded as the soakaway under the road is*

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

*either blocked or just can't cope. On a few occasions this has caused flooding in our garage of a few inches.*

*Unfortunately I don't have any photos of when this happened but will take one next time it occurs. I would suppose that if the pipe under the road were damaged or became damaged that this could potentially cause damage to the highway."*

In the course of the joint site visit the second Applicant confirmed that the problems he experienced with flooding at his premises were believed at that time to be from the surface water drainage system and not from the septic tank or drainage field. The second Applicant also confirmed that this system was emptied once a year and did not give rise to any problems at the moment but he was concerned that it could do in the future when levels of occupancy and consequently use of the system increased.

In an e-mail to the Environment Agency dated 25 September 2017, however, the second Applicant explained that:

*"...since your visit we found out that the overflow from the sewerage system & cess pit at Swafield Hall flows under the highway to the opposite field. Unfortunately we had an overflow a few weeks ago which resulted in sewerage discharging on the highway from a manhole cover that's on Swafield Hall side of the highway."*

As such there appears to be an ongoing risk that effluent from the system serving this property will both overflow onto the road and contribute to flooding in the area at this property which had previously been believed to be solely from surface water.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

(xi) **Swafield Mews**

In the course of the joint site visit it was confirmed that this premises is served by a septic tank in the garden of the property which drains to a soakaway in the corner of the garden by the roadside wall. The second Applicant had previously indicated, in an e-mail to the Environment Agency dated 24 January 2017, that this premises was in the same ownership as Swafield Barn and was for sale at that time.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(xii) **Swafield Barn**

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

In the course of the joint site visit it was confirmed that this premises is served by a recently installed second-hand septic tank. This had not been put into full use at that time, as the property had only just been converted from a former outbuilding. The second Applicant had previously indicated, in an e-mail to the Environment Agency dated 24 January 2017, that this premises was in the same ownership as Swafield Mews and was for sale at that time.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

**(xiii) Rose Cottage (also known as Yule Cottage)**

In the course of the joint site visit the owner of Rose Cottage explained that he had lived at this property for 32 years and had installed new land drains and a pump to pump effluent to a raised drainage field when he had first move in to the property. However he noted that they sometimes experienced problems with the pumps and these had to be replaced approximately once every ten years. The ground immediately behind the property is higher than the house and the boundary of this premises extends only a few feet behind the house, with the only other land in their ownership being the front garden, which includes a large fish pond.

The Environment Agency notes the problems that the owners of this premises described regarding having to rod the drains and replace the pumps that pump effluent from the tank to the drainage field. However the Environment Agency considers that the frequency at which this is required appears normal for such a system and not indicative of any more fundamental underlying problem with the system serving this premises.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

**(xiv) Grove Cottage**

In an e-mail to the Environment Agency dated 19 February 2017 the owner of this property described their existing sewerage system and the problems they had had, and continued to have, with it:

*“Currently we have a private septic tank and it is fraught with problems! We created a new soak away when we moved into the property in 2001 as the original one was leaking onto the road. However, this new arrangement still struggles to contain all the fluid and we have a constant area of drenched soil. We have to arrange for the tank to be emptied at least twice a year and it is very costly, inefficient and unpleasant.”*

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

In the course of the joint site visit the owner of this premises explained that the tank was located in the front garden of the property and drained to a soakaway in the drive that had been installed about ten years previously. This had worked satisfactorily up until recently but she was now having to empty the tank approximately once every four months, with this due to happen again on the day of the site visit. She was unsure as to whether surface water was connected to the tank. The tank was also observed to be overflowing and seeping through the retaining wooden sleeper wall separating the garden from the driveway and the owner of this premises confirmed that this was a recurring problem.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

(xv) **Grove House**

In an e-mail to the Environment Agency dated 22 February 2017 the owner of this property described their existing sewerage systems and the problems they had had, and continued to have, with it:

*“I purchased the property in 1981 and installed a septic tank. Over the years there were issues with drainage, with some grey water going onto the road outside the property. Short term remedial measures were put in place to avoid the discharge onto the road (over pumping to a soakaway higher up on the property) but a longer term solution was required.*

*To this end I purchased land adjacent to my property and in 2007 installed a new septic tank with an extensive drainage system away from the road. This system generally works satisfactorily but there are still occasional issues with the system depending on the groundwater regime around the soakaway. For this reason I would be interested in considering a connection to mains drainage.”*

In a further e-mail to the second Applicant, dated 2 June 2017, the owner of this premises explained that:

*“The current septic tank is to the north of the property and the french drain runs for approximately 35m to the north of the tank. Despite the topography (i.e. the tank/drain is above the road and adjacent water course), the north end of my garden can flood. This is due to run off from the adjacent field which in turn can back up the tank, despite the length of the french drain.”*

In the course of the joint site visit the owner of this property explained that he had lived at this property since 1981 and it was served by a two chamber septic tank located behind the house. The property had originally drained to a septic tank with small soakaways either side of it,

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

located under a tree between the front of the house and the road. The owner of the property also explained that the drainage field had been replaced with a similar soakaway in a similar location after the original one failed. After this second soakaway also failed he had installed a pumped system to take effluent from the tank to an area of the garden on higher ground to the north of the house. However he explained that this was ineffective after heavy rain, something which he believed was due to a combination of the rate of run off from the field behind the property and possibly a perched water table and/or an outcrop of clay in the area of the drainage field. The problems with the drainage field led in turn to the tank, which was emptied once every 12-18 months, backing up and overflowing into the area immediately behind the house. The owner of the field had agreed to dig a ditch along the field boundary to try and reduce the influence of field runoff on the system and although this seemed to have mitigated the problems with the drainage field it had not solved them and was reliant on the goodwill of the landowner.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

(xvi) **1 Driftway Cottages**

In the course of the joint site visit the owner of this property explained that they did not have any problem with their existing system but would be interested in connecting to a sewer if one were to be provided.

The Environment Agency is of the opinion that the system serving this premises is not giving rise, and is not likely to give rise, to adverse effects on the environment and amenity.

(xvii) **2 Driftway Cottages**

In the course of the joint site visit the second Applicant explained that the owners of this premises had had problems with sewage from the tank, which is at a higher level than the house, overflowing into their garden. The covers on the system were of concrete and brick construction and were old and cracked and not watertight and there was a smell of sewage in the vicinity of the tank.

The Environment Agency is of the opinion that the system serving this premises is giving rise, and is likely to give rise, to adverse effects on the environment and amenity.

- 33 The Environment Agency therefore considers that there are adverse environmental and amenity effects arising from the existing private sewerage systems serving premises in the assessment area.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 34 The Environment Agency takes the view that the general duty upon the Company under s101A WIA '91 is to provide public domestic sewerage facilities for premises in a particular locality subject to the conditions and qualifications set out. The Environment Agency has therefore considered the question of the 'particular locality' in this case. There is neither a definition in the Act nor any assistance in Ministerial guidance. The Environment Agency therefore considers all the individual factors of the case in question in coming to a conclusion on what constitutes the particular locality. Topography, physical proximity of buildings and premises, the existence or otherwise of barriers between premises, the nature of the area and other matters may all be relevant in this question in this particular case. The Environment Agency has assessed the dispute application and has determined that the premises listed in paragraph 25 form two distinct localities with some common characteristics.
- 35 The Environment Agency then considered, in view of its finding that adverse environmental or amenity effects were arising in the assessment area, whether the provision of a public sewer was appropriate. All relevant considerations were taken into account particularly the specific matters in s101A(3). The Company provided a technical and economic assessment which formed part of the consideration.

**Technical and Economic Assessment**

- 36 Condition c) in paragraph 25 above provides that, if all other conditions are satisfied, consideration must be given as to whether provision of a public sewer is the appropriate solution. Condition c) therefore encompasses both a technical and economic assessment. Section 101A(3) sets out the following considerations which should be regarded in making a decision:
- (a) the geology of the locality in question or of any other locality;
  - (b) the number of premises, being premises on which there are buildings, which might reasonably be expected to be drained by means of that sewer;
  - (c) the costs of providing that sewer;
  - (d) the nature and extent of any adverse effects to the environment or amenity arising, or likely to arise, as a result of the premises or, as the case may be, the locality in question not being drained by means of a public sewer; and
  - (e) the extent to which it is practicable for those effects to be overcome otherwise than by the provision (whether by virtue of this section or otherwise) of public sewers, and the costs of so overcoming those effects.
- 37 The Environment Agency has considered all of the criteria in s101A(3) and has had regard to the Guidance from the then Department of the Environment / Welsh Office

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of**  
**Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall**  
**against the decision by Anglian Water regarding the duty to provide a**  
**public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

issued on 1 April 1996. The following paragraphs of that guidance (shown in bold) are considered to be the most relevant in this case.

**Technical Assessment**

- 38 ***Ministerial Guidance paragraph 3.2 Pollution and nuisance (a) Any evidence from bodies such as local authorities and/or health authorities of a risk to public health and nuisance arising from the existing sewage arrangements not caused by owners/occupiers neglect e.g. lack of proper maintenance.***

The Company's assessment indicated that, when consulted, the Environment Agency's local team had indicated that it had no record of any environmental problems or complaints arising from existing private sewerage systems in Bradfield or Swafield. The Environmental Health department of North Norfolk District Council provided details of two complaints they had received, although neither of these related to either of the localities relevant to this dispute.

- 39 ***Ministerial Guidance paragraph 3.2 Pollution and nuisance (c) The presence of sewage, fungal growth or solids or other visual impact on the receiving waters or land, which is significant enough to damage or undermine the environment and the amenity value of the locality or any other area or likely to cause health hazard, odour nuisance, or the inhibition of aquatic life or organisms in any water course or its bed. (Section 101A(3)(d)).***

In a letter to the Environment Agency dated 30 November 2016 the first Applicant explained, with regard to the premises along Bradfield Road, that:

*"None of the septic tanks at these properties work well.*

- They don't work properly as the water table is high and they get flooded regularly.*
- Foul water overflows from many of them into open dykes which then drain into Bradfield Beck and on to the main water courses.*
- Those that don't drain into the dykes overflow on to the road outside the properties and then on down the road.*
- It often gets very smelly along the road...*

*At Swafield House foul water overflows from the septic tank it then flows across and down the side of road to an open ditch."*

The first Applicant also noted that during wet weather the septic tank serving Red House Farm Cottage and Betty's Cottage had to be emptied every two weeks to prevent similar problems occurring.

Residents and the Chair of the Parish Council described similar problems arising from the systems serving Beck Cottage (paragraph 31(i)), Swafield House

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of**  
**Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall**  
**against the decision by Anglian Water regarding the duty to provide a**  
**public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

(paragraph 31(iii) and Red House Farm Cottage and Betty’s Cottage (paragraph 31(vii)) in the course of the joint site visit.

Amongst the properties on Knapton Road the Environment Agency considers that there appear to be relatively isolated examples of existing sewerage systems adversely affecting the environment or amenity. These problems appear to relate primarily to old septic tanks which have reached the end of their life, or what appear to be property-specific problems with drainage fields or the location of existing systems.

- 40 ***Ministerial Guidance paragraph Section 3.3 Practical and engineering (f) Percolation tests as set out in BS 6297 (or subsequent superseding standard), preferably carried out in winter conditions when the soils are saturated, show that the local soil conditions preclude effective disposal of the sewage effluent; and Ministerial Guidance paragraph 3.3(g) Evidence such as ‘rest water level’ in trial holes which shows that the water table in the locality is so high; that at any time of the year it could inhibit or impede effective drainage.***

A total of twenty percolation tests were carried out on behalf of the Company in the course of its assessment, five of which were within the areas immediately relevant to this dispute. The results from these tests are summarised below and indicate that in all cases groundwater was encountered at less than the minimum recommended depth that would allow the effective operation of drainage fields:

<b>Property</b>	<b>Depth of groundwater below ground level</b>
Beck Cottage	0.25m
Swafield House	1.20m
Brookmeadows Farm	1.00m
Spriggate House	1.23m
The Old Rectory	0.44m
Recommended minimum depth of groundwater below ground level <sup>2</sup>	1.40-1.50m

Based upon the results from percolation tests carried out across the assessment area the Company’s assessment concluded that, although four out of a total of 20 tests had passed in other parts of Bradfield and Swafield:

*“... there is no area that can be derived from these tests as they are not in the same area and are close to tests returning high water tables, therefore it has been concluded that only the [two] properties with the passing tests and sufficient land can be excluded from the duty area.”*

<sup>2</sup> BS6297:2007, paragraph 6.7 and Building Regulations Approved Document H2, paragraphs 1.33 and 1.42 respectively

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
 Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
 Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
 against the decision by Anglian Water regarding the duty to provide a  
 public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

As those properties along Knapton Road north of Woodlands lay outside the area considered in the Company’s assessment no percolation tests have been carried out in that area. The Environment Agency has therefore considered the likely suitability of ground conditions in that area for the use of drainage fields on the basis of percolation tests carried out elsewhere in the locality and observations and conversations with residents from the joint site visit.

The majority of those premises between Swafield and Knapton Green have not reported any problems with their foul drainage systems. Of those properties that have reported problems with their existing systems there is no clear pattern as to where those problems have occurred. In the course of the joint site visit there was also no evidence that groundwater levels or ground conditions would be likely to prevent the effective operation of drainage fields except in isolated instances. The Environment Agency has therefore considered the circumstances of individual properties in order to conclude whether any adverse effects that are arising, or are likely to arise, can be resolved through the repair and maintenance of each property’s existing system and, if not, what works or what alternative sewerage system may be appropriate.

- 41 The Environment Agency therefore accepts, having regard to the evidence provided by both parties and from the joint site visit as identified in paragraphs 24, 31, 32, 39 and 40 above, that the drainage of the following premises in the locality of Bradfield Road and Knapton Road, Swafield is giving and is likely to give rise to adverse effects on the environment or amenity:

<b>Bradfield Road (8 premises)</b>		
Swafield House	Betty’s Cottage	Red House
Brookmeadows House	Red House Farm Cottage	Beck Cottage
Stone Cottage	Spriggate House	
<b>Knapton Road (8 premises)</b>		
The Old Rectory	Straithern Farm	Grove House
Beeches Barn	Swafield Hall	2 Driftway Cottages
Beeches Farm	Grove Cottage	

- 42 The Environment Agency has addressed whether the adverse effects to the environment and amenity can be overcome practicably in the long term by repair, proper maintenance or reconstruction of the existing systems.

Bradfield Road

- 43 In a letter to the Environment Agency dated 7 May 2016 the first Applicant stated that:

*“The property owners have had their septic tanks replaced in some cases and drained and treated on a regular basis but this has not helped the situation due to the bad drainage of the soil in the area.”*

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 44 The Environment Agency requested further information as to what remedial works had been attempted at the relevant properties in a letter to the first Applicant dated 9 November 2016. In a response dated 30 November 2016 the first Applicant explained that:

*“Replacement septic tanks and other unsuccessful remedial works have been carried out at some of the ten properties at Bradfield Road, Swafield...”*

*The repairs to the septic tank at Brookmeadows Farm have been unsuccessful...*

*Bettys Cottage and Red House Farm Cottage, Bradfield Road share a septic tank which is always full; it has to be emptied every two weeks to prevent overflow seepage of foul water into the environment.”*

Knapton Road

- 45 As noted in paragraph 40 above the only percolation test carried out at any of the properties on Knapton Road was at The Old Rectory. Although this test indicated that groundwater at the site of the test was too high to allow a drainage field to operate effectively a relatively small proportion of properties on Knapton Road have indicated that they experience any problems with their existing private sewerage systems. Of those premises that do, there does not appear to be any pattern as to where those problems area or the nature of the problems that individual householders experience. The Environment Agency is consequently of the opinion that such problems are specific to the premises at which they are occurring and are not indicative of any underlying problems in the area which would compromise the operation of those systems serving other premises on Knapton Road.
- 46 Due to the high water table at The Old Rectory, the Environment Agency is of the opinion that the adverse effects that this system is considered likely to give rise to cannot be overcome through the repair or maintenance of the existing private sewerage system serving that premises.
- 47 With regard to the systems serving Straithern Farm and 2 Driftway Cottages the Environment Agency is of the view that the apparent age and condition of the existing private sewerage systems serving those premises suggests that it will not be possible to resolve the problems with them by repairing or maintaining those existing systems.
- 48 Regarding the problems currently experienced with the system serving Swafield Hall it is unclear to what degree these are arising as a consequence of the capacity or condition of the pipe under the road and to what degree as a result of drainage design or soil characteristics where that pipe discharges on the far side of the road. As noted in paragraph 32(x) above an easement is believed to exist that entitles the owner of Swafield Hall to rely on the continued use of the field opposite for foul and surface water drainage purposes. Nevertheless, the Environment Agency has

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- considered, in paragraph 63 below, whether it would be possible to redirect effluent from the system into a system located solely on land owned by Swafield Hall in case any problems with the pipe draining to the field beneath the road from that premises cannot feasibly be overcome.
- 49 As the problem with the existing system serving Beeches Barn and Beeches Farm relates principally to the location of that system the Environment Agency is of the opinion that the adverse effects arising from that system cannot be overcome through its repair or maintenance.
- 50 Due to the history of problems with the drainage fields at Grove House and Grove Cottage and the limited land available within which a replacement drainage field could be built at Grove Cottage the Environment Agency has also considered alternative private sewerage systems to serve those premises. The Environment Agency has consequently considered what options might be available to the owners of these premises if it were found not to be possible to make septic tank and drainage field systems at those properties work effectively in the long term.
- 51 The Environment Agency therefore finds that the existing private sewerage systems serving the 16 premises listed in paragraph 41 above are giving rise, or are likely to give rise, to adverse environmental or amenity effects that cannot be overcome practicably by maintenance or repair.

**Economic Assessment**

**Bradfield Road**

- 52 The Company's assessment indicated, with regard to the potential scope of a public sewerage option involving installing a gravity sewerage system pumped to North Walsham Sewage Treatment Works, that:

*“Property references 60 to 65 were checked for financial viability to gravitate into this solution but were found to be too expensive.”*

- 53 The Environment Agency asked for further information as to how the Company had arrived at the decision set out in paragraph 52 above in a letter to the Company dated 9 November 2016. The Company responded, in a letter dated 14 December 2016, explaining that:

*“It was deemed that this area had properties too remote from each other and from the main concentration of housing in the area to be Duty.*

*The additional infrastructure to serve the 8 properties on Bradfield Road as part of the public sewer serving the duty area, would have been more costly to construct than to make any necessary alternative private sewerage provision at the properties. Costs were run through our Asset Plus cost base system to inform*

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

*this decision. These cost are shown in the Asset Plus cost extracts attached. The NPV per property is £216.6k.”*

Along with this letter the Company provided an estimated capital cost of £1,368,538 for a public sewerage option consisting of two pumping stations and associated gravity sewers and rising mains to serve eight premises on Bradfield Road and connect those properties to the planned first time sewerage scheme to serve Swafield.

- 54 In a letter to the Company dated 9 November 2016 the Environment Agency asked the Company why the proposed sewerage scheme that would serve Bradfield Road required two pumping stations. The Company responded, in a letter dated 14 December 2016, explaining that:

*“You are right in that the initial spot levels contained within our assessment appears to show a steady fall from north to south along Bradfield Road. However, on closer inspection the road undulates and rises and falls significantly. The engineer designing the duty scheme did visit the Bradfield Road area whilst visiting the duty area at my request. He confirmed that the ground level varies between 20.5 and 19.0 AOD with general fall towards Swafield. He confirmed 2 pumping stations would be required.”*

- 55 With regard to those premises on Bradfield Road the Environment Agency is of the opinion that consideration should be given to options that would serve different numbers of premises on the basis of whether one, two or more pumping stations would be required. This is because of the proportion of the cost of the public sewerage options that each pumping station would represent.

- 56 At the Environment Agency’s request the Company considered six alternative public sewerage options serving different groups of properties on Bradfield Road and provided details of these in an e-mail to the Environment Agency dated 25 August 2017. These six options were:

Option 1 A gravity solution with a single pumping station serving Tranquility, Swafield House, Brookmeadows House, Stone Cottage, Red House Farm, Betty’s Cottage, Spriggate and Red House. This option would also be able to potentially serve 2 Crudds Hole and the two new properties being built at Swafield House.

The Company indicated that this was not a practicable option as it was believed that it would require sewers to be laid at depths of almost 6 metres within a narrow road.

Option 2 A gravity solution with 2 pumping stations serving Swafield House, Brookmeadows House, Stone Cottage, Red House Farm, Betty’s Cottage, Spriggate and Red House. This option would also be

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

able to potentially serve the two new properties being built at Swafield House.

- Option 3 A gravity solution with 2 pumping stations serving Tranquility Swafield House, Brookmeadows House, Stone Cottage, Red House Farm, Betty’s Cottage, Spriggate and Red House. This option would also be able to potentially serve 2 Crudds Hole and the two new properties being built at Swafield House.
- Option 4 A gravity solution with 3 pumping stations serving Beck Cottage, Tranquility, Swafield House, Brookmeadows House, Stone Cottage, Red House Farm, Betty’s Cottage, Spriggate and Red House. This option would also be able to potentially serve 2 Crudds Hole and the two new properties being built at Swafield House
- Option 5 A gravity solution with 1 pumping station serving Brookmeadows House, Stone Cottage, Red House Farm, Betty’s Cottage, Spriggate and Red House
- Option 6 Connection to the new vacuum system being installed as part of the current Swafield and Bradfield s101A scheme

The Company explained in its e-mail to the Environment Agency that it was not feasible to connect any of the premises on Bradfield Road to the vacuum sewerage system that the Company is constructing to serve Bradfield as part of their planned first time sewerage scheme:

*“A vacuum system has a vacuum station located centrally about the network with legs into the catchment of as near as possible equal length and number of vacuum pots. The vacuum station has a maximum number of “lifts” – the movement of sewerage from a vacuum pot to the next length of gravity network – and the current design for Swafield and Bradfield is at its design limit for these “lifts” therefore it cannot be extended to include the appeal area.”*

- 57 A comparison of the potentially feasible public sewerage options set out in paragraph 56 above therefore indicates that one pumping station would be required to serve the six properties nearest Swafield, another to incorporate Swafield House, Tranquility and 2 Crudds Hole and a third to incorporate Beck Cottage. The Environment Agency is of the opinion that the cost of including an additional pumping station to serve individual premises listed in paragraph 41 above would mean that private sewerage options to serve Swafield House and Beck Cottage would be significantly cheaper than extending any public sewerage option to incorporate those premises. The Environment Agency did, however, request that the Company provide estimated capital, operating and NPV costs for public

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

sewerage option 5 and a comparable private sewerage option, in an e-mail to the Company dated 25 August 2017.

- 58 The Company provided the following costs for public sewerage option 5 and an equivalent private sewerage option in an e-mail to the Environment Agency dated 19 September 2017:

Public sewerage option 5 (as described in paragraph 58 above)	
Capital cost	£859,200
NPV at a discount rate of 3.7% per annum over 40 years	£906,300
Private sewerage option – cesspools to serve 6 premises	
Capital cost	£85,300
NPV at a discount rate of 3.7% per annum over 40 years	£395,300

- 59 The Environment Agency has compared the costs set out in paragraph 58 above for public sewerage option 5 with the costs for the public sewerage option for other areas of Bradfield and Swafield, provided with the Company's letter to the Environment Agency dated 11 July 2016. Based on the unit costs from the Company's assessment the estimated cost for public sewerage option 5 provided by the Company would be expected to be approximately 25% lower. However the Environment Agency is satisfied that there are valid reasons why the comparative unit costs for public sewerage option 5 may be higher than for the larger scheme, such as the greater proportion of the length of gravity sewer that would be laid in the road and the narrowness of Bradfield Road. The Environment Agency has also noted though that the NPV cost of the private sewerage option would have been approximately 15% lower, had the estimated cost of that option been estimated using the same Anglian Water cost database that was used in the Company's assessment. The Environment Agency has therefore accepted the costs provided by the Company, summarised in paragraph 41 above, as reasonable for the purpose of this dispute.

Knapton Road

- 60 The Environment Agency has considered the cost of providing a public sewer to serve some or all of the 8 properties on Knapton Road listed in paragraph 31 above. The closest of those properties to Swafield, The Old Rectory, is approximately 550m from the closest potential point of connection to the first time sewerage scheme that the Company will be providing to serve Swafield and would require a pumped connection to that sewer. The Old Rectory is set within extensive gardens and the Environment Agency is satisfied that even if the high groundwater table at this premises, referred to in paragraph 39 above, could not be overcome so as to enable the use of a drainage field it would cost significantly less to install and empty a cesspool (typically the most expensive potential private sewerage option) than to connect this property to the new public sewer at Swafield.

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- 61 At the other end of Knapton Road any connection to the public sewer at Knapton Green would require a pumped connection from the approximate location of The Grove and Grove Cottage. Approximately a further 270m length of sewer would be required in order to connect 2 Driftway Cottages to any such pumping station, in addition to approximately 900m of rising main from a pumping station to the existing public sewer at Knapton Green. The Environment Agency has concluded that, for the same reasons as set out in paragraph 60 above regarding The Old Rectory, any private sewerage option required for these three premises would consequently be significantly less costly than the provision of a new pumping station and rising main to take effluent from them to the Company's existing sewer at Knapton Green.
- 62 The remaining four premises listed in paragraph 41 above are located roughly halfway between The Grove and The Old Rectory. Whilst the Environment Agency is of the view that the problems with the existing systems serving those properties cannot be overcome through repair and maintenance of the existing systems, due to either their age, their position or both, the Environment Agency is of the view that the information provided in the course of this dispute suggests that it should be possible to replace them with new septic tank and drainage field systems. The Environment Agency is satisfied that the cost of replacing the existing private sewerage systems serving these premises would be significantly less than the cost of providing a public sewer over the relevant distance, even in combination with some or all of the other properties on Knapton Road listed in paragraph 41 above.
- 63 In the case of Swafield Hall, Straithern Farm, Beeches Cottage, Beeches Farm and 2 Driftway Cottages the Environment Agency is satisfied that sufficient suitable land is available to enable the replacement of the existing systems with septic tanks or package treatment plants draining to drainage fields and that this is therefore a practicable private sewerage option. Given the relatively low cost of constructing any such system and the lengths of sewer that would be required for any alternative public sewerage option the Environment Agency is satisfied that the cost of a private solution for these premises would be significantly less than the provision of a public sewer.
- 64 In the case of The Old Rectory, Grove House and Grove Cottage the Environment Agency is of the opinion that, respectively, groundwater levels, topography and ground conditions, and limited land availability may mean that systems relying on drainage fields could not be made to reliably work effectively in the long term at these premises. In the case of those properties the Environment Agency has considered whether a duty to provide a public sewer might arise if these properties had to install cesspools in place of their existing septic tanks and drainage fields.
- 65 As noted in paragraph 60 above the closest of the three properties listed in paragraph 64 above, The Old Rectory, is located approximately 550m north-east of the closest potential point of connection to the proposed public sewer in Swafield and would require a pumped connection. Grove House and Grove Cottage are located approximately a further 1km north-east of The Old Rectory. Similarly Grove House and Grove Cottage are located approximately 900m from the existing public

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

sewer in Knapton Green and would also require a pumped connection to that system. The Environment Agency is therefore satisfied that the significant distance between the relevant premises on Knapton Road, the need for pumping stations as part of any public sewerage option and the distance between the properties and the closest existing or planned public sewers would mean that even if cesspools were required to serve these three premises the associated cost would also be significantly less than the cost of constructing a new public sewer to connect these properties to public sewers at either Swafield or Knapton Green. The Environment Agency is also satisfied that that option would be feasible for the three properties in question, as set out in paragraph 66 below. Given these combined facts the Environment Agency has concluded that it is unnecessary to ask the Company to design in detail, or provide costs for, a public sewerage system to serve the relevant properties in order to decide whether the Company has a duty to provide a sewer to serve them under s101A.

**Other Considerations**

- 66 The private sewerage option in this case would rely on the installation of cesspools to serve the 8 properties on Bradfield Road listed in paragraph 41 above and, potentially, a further 3 properties on Knapton Road (The Old Rectory, Grove House and Grove Cottage). The Environment Agency is of the opinion that suitable land is available at all of these premises that would enable a cesspool to be installed at a location consistent with the recommendations in Building Regulations Approved Document H.
- 67 Experience with cesspools is reflected in CIRIA technical note 146 dated 1993. Cesspools, compared with public sewer provision, provide only a relatively short term solution. Old or incorrectly maintained cesspools cause pollution via contamination of ground and sometimes surface water with crude (and often septic) sewage leaking from the tank.
- 68 The Environment Agency has calculated how often cesspools would need to be emptied based upon a per capita figure of 150 litres of effluent per day, as recommended in paragraphs A22 of Building Regulations Approved Document H2, an average occupancy rate of 2.5 people per property and assuming the use of a 9,000 litre tanker due to Bradfield Road being a narrow lane.
- 69 The Environment Agency considers that the provision of cesspools to serve the premises listed in paragraph 41 above would therefore result in, on average, an additional tanker visit every 2 to 3 days across the locality and an additional tanker visit once every three days for those premises on Bradfield Road.
- 70 The Environment Agency is of the opinion that the tanker movements associated with the emptying of cesspools in Swafield would, though undesirable, be acceptable given the frequency of such visits and the distribution of the properties that would potentially be served by such systems. In reaching this view the Environment Agency has also taken account of the greater risk to the environment

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- posed by cesspools as compared to other types of private sewerage system or the provision of a public sewer.
- 71 The individual circumstances of a case may indicate that cesspools are the proper or perhaps the only practicable solution. The Environment Agency is of the view that the environmental disbenefits associated with cesspools, stated in paragraphs 67 to 70 above, must be considered in determining this dispute along with the difference in cost between the available public and private sewerage options.
- 72 The Environment Agency notes that the owners of Swafield House were considering at the time of the joint site visit, the possibility of pumping effluent from the package treatment plant serving the two new properties there to a drainage field on higher ground. Although no percolation tests had been carried out the Environment Agency notes that the expectation that the soils on the higher ground would drain better than those on lower ground is consistent with the findings from the percolation tests carried out across Bradfield and Swafield in the course of the Company's assessment. If the system proposed for these two new properties is found to be appropriate the Environment Agency is of the opinion that the replacement of the existing septic tank at Swafield Hall with a package treatment plant and a pumped connection to a drainage field on higher ground owned by this property may well be a better solution than the replacement of the existing septic tank with a cesspool. A similar option may be available to other premises on Bradfield Road, subject to land ownership and obtaining any necessary easements.

**DECISION**

- 73 Of the 12 premises on Bradfield Road and the 27 premises on Knapton Road listed in paragraph 23 above the Environment Agency has concluded in paragraph 51 above that only the sewerage systems serving 8 premises in each of the two areas are giving rise to adverse effects on the environment and amenity which cannot be overcome by repairing or maintaining existing private sewerage systems.
- 74 Of the 8 houses on Knapton Road the Environment Agency is of the view that, as set out in paragraph 63 above, the information provided to it in the course of this dispute indicates that septic tanks and drainage fields would work satisfactorily in the long term at all premises except the Old Rectory, Grove Cottage and Grove House. The Environment Agency is also satisfied that this is a practicable option, which could be carried out for a significantly lower cost than the construction of a public sewer to serve those premises.
- 75 Regarding the remaining three relevant properties on Knapton Road the Environment Agency is of the view that it may be necessary to replace the existing septic tank and drainage field systems with cesspools, for the reasons set out in paragraphs 46 and 50 above. The NPV cost of a cesspool is significantly higher than the cost of a septic tank and drainage field or a package treatment plant but,

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

- as set out in paragraph 64 above, the Environment Agency is nevertheless satisfied that it would be much more expensive to connect these three properties to a public sewer than to install and empty cesspools, if that were found to be necessary.
- 76 Of the 8 relevant houses on Bradfield Road the Environment Agency has taken account of the problems that the systems serving those properties give rise to, as set out in paragraphs 31 and 40 above. The Environment Agency has also concluded that the high groundwater levels in the area, summarised in paragraph 41 above, mean that systems that rely on drainage fields will not operate satisfactorily, although for those properties that have access to land on higher ground it may be possible to install satisfactory drainage fields there, where a greater depth of unsaturated ground is believed to be available throughout the year.
- 77 Having considered the public sewerage options potentially available to serve the 8 relevant properties on Bradfield Road the Environment Agency has noted that significant additional infrastructure would need to be built in order to connect either Swafield House or Beck Cottage. As shown by the public sewerage options set out in paragraph 56 above this would include an additional pumping station to serve each of those two properties. Consequently, the Environment Agency has concluded that it would be significantly cheaper, and practicable, to install cesspools to serve these premises if necessary rather than a public sewer. The Environment Agency has also concluded in paragraph 72 above that it may be possible to reduce the cost of the private sewerage option further if it is possible to relocate drainage fields on adjacent higher ground.
- 78 For the remaining six premises on Bradfield Road the Environment Agency is of the opinion that the cost of connecting these to a public sewer is likely to be the lowest amongst the groups of premises within the locality. Nevertheless the Environment Agency has concluded, in paragraph 59 above that the cost of connecting these premises to the public sewer would still be far in excess of the cost of installing and emptying cesspools, in place of the existing septic tank and drainage field systems.
- 79 The Environment Agency has considered the submissions of the parties and, in particular, the options considered by the Company. The Environment Agency has had regard to all the considerations outlined in s101A(3) and the guidance issued by the Secretary of State. The Environment Agency finds that, in this case, the most appropriate solution to alleviate the adverse environmental and amenity effects is the repair or, where necessary, the replacement of existing private sewerage systems.
- 80 Accordingly, the Environment Agency having regard to the Ministerial guidance and all relevant considerations in this particular case, including, in particular, technical factors, finds that the provision of a public sewer is not considered to be the appropriate solution.
- 81 For the reasons set out above the Environment Agency therefore finds that the duty to provide a public sewer does not apply to the premises in Bradfield Road and

**Section 101A of the Water Industry Act 1991 – Dispute Determination  
Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of  
Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall  
against the decision by Anglian Water regarding the duty to provide a  
public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

Knapton Road, Swafield and that the Company is not under a duty to provide a public sewer.

82 The Environment Agency therefore determines the dispute in favour of the Company.

A copy of this decision has been sent to both the Applicants and the Company.

A handwritten signature in black ink, appearing to read 'D Shepherd', written in a cursive style.

**DOMINIC SHEPHERD  
WATER QUALITY MANAGER, PERMITTING AND COMPLIANCE  
4 DECEMBER 2017**

**Section 101A of the Water Industry Act 1991 – Dispute Determination**  
**Dispute raised by Julie Chance, and subsequently Ros Calvert, on behalf of Swafield and Bradfield Parish Council and Tim Payne of Swafield Hall against the decision by Anglian Water regarding the duty to provide a public sewer at Bradfield Road, Swafield and Knapton Road, Swafield.**

**Appendix A – Map**

