

Guidance Notes

Existing Private Sewers

Water and Sewerage Services (Northern Ireland) Order 2006: Article 159

Legislation

The adoption of an existing private sewer legislation may be possible under Article 159 of the Water and Sewerage Services (Northern Ireland) Order 2006 (the 2006 Order). Article 161 of the 2006 Order deals with the adoption of new sewers within new development.

When a new development is planned, the developer has the opportunity to construct the sewers using approved materials and to a standard suitable for adoption by Northern Ireland Water when construction is complete. An adoption agreement can be entered into under Article 161 of the 2006 Order prior to the sewers being built. This is the most desirable arrangement. However, there are some private sewers that were built without an adoption agreement in place. Article 159 provides for the adoption of such private existing sewers to be considered.

A sewerage network system consists of drains, lateral drains and sewers and these have their individual functions.

- 1) **Drains** are pipes carrying sewage from a single property to the boundary of the public property (this is usually the curtilage of the building or property).
- 2) **Lateral drains** are those pipes under the public property which extend from the curtilage or boundary of a single building or property to the point of connection with an existing public or private sewer. The public property is the roadway, footpath and grass verge, and is that which has been or will be adopted by Department of Regional Development Roads Service.
- 3) **Sewers** are pipes carrying waste water from more than one property.
- 4) **Public sewers** are pipes that carry waste water from 2 or more properties and have been designated as a public sewer by the water company.

Northern Ireland Water can adopt Lateral Drains constructed after 1 April 2007. Lateral drains constructed prior to 1st October 1973 are the responsibility of Water Service and will be transferred to Northern Ireland Water.

Reasons why the sewers may not be adopted?

The owner of the existing sewers may not have requested adoption of the sewers. If the owner of the sewers has offered the sewers for adoption, there are a number of reasons why they may remain unadopted: (a) generally they may not be constructed in accordance with the required standard specifications for sewers; (b) they have been constructed of sub-standard materials; (c) they may be inadequately sized or in a state of disrepair; or (d) the developer may have deliberately chosen to let the sewers and associated apparatus remain in private ownership and constructed them to different standards to those required by our Sewers for Adoption Procedures (Current Edition).

The developer may have failed to achieve the required construction standard and declined to carry out any remedial works to effect the necessary improvements. Even recently constructed sewers may not be constructed to the required standards. Alternatively the developer may have chosen to ignore the specified standards, instead opting to provide an unadoptable system. Unfortunately prospective purchasers are not always aware of this fact only learning the truth after occupation when they have little or no redress.

Criteria for adoption of an existing sewer

When deciding whether Northern Ireland Water should adopt a private sewer we must have regard to all the circumstances, in particular, the following points are taken into consideration.

Whether the sewer is adapted to, or required for, any general system of sewerage which the undertaker has provided, or proposes to provide, for the whole or any part of the area

Whether the sewer is constructed under a roadway, or under a street designated for adoption, or in lands with planning approval for future development including a street

The number of buildings which the sewer is intended to serve, and whether it is likely to be required to serve additional buildings or future development.

The method of construction and state of repair of the sewer

In case when an owner objects, whether the making of the proposed declaration under Article 159 of the 2006 Order would be seriously detrimental to him/her

Whether the lateral drains have been constructed in accordance with the standard specification used by Northern Ireland Water for Water and Sewerage Systems

The cost of operation and maintenance of the sewers if they are adopted by Northern Ireland Water. Sewers that are poorly maintained or do not meet our standards will cost more to look after and maintain.

The cost of bringing to an acceptable standard sewers that were at one time of the required standard but are in a state of disrepair due to age and perhaps neglect. The owners of the sewer, who are usually those whose properties are served by it, would be required to meet the cost of the necessary repairs to bring the sewers to an adoptable standard.

The cost of relaying sewers constructed of sub-standard materials, pipes that are too small or with gradients too flat. These can seldom be brought up to the required standard and the only solution may be to re-lay the sewer which can be an expensive option.

Steps Towards Adoption

There are some private sewers that could be made suitable for adoption at reasonable cost. The first step is to determine the condition of the sewer, lateral drain, associated manholes and pumping station (if applicable) offered for adoption. Carrying out a Close Circuit Television (CCTV) Survey and a physical inspection of the system will be necessary to find out what we need to know.

There will be a charge for providing this service and this will include the initial application fee, the cost of the CCTV survey, cleansing of the sewer and site inspection fees. Details of our charges are set out in the current Scheme of Charges under Miscellaneous Standard Charges.

Following the receipt of the application fee and **'As constructed'** drawings we will carry out a survey and a schedule of required repairs will be prepared with an estimate of costs of the remedial works to bring the sewer up to an adoption standard.

If the sewer or lateral drain is defective, you will be required to bring it up to the specified standard, following which we will make a further inspection (again the cost of the inspection(s) will have to be met by the applicants/owners of the system). The standards required are those set out in Sewers for Adoption Procedures (Current Edition).

In some instances the cost of the necessary repairs to bring the sewers up to a satisfactory standard may be more than the owners may be prepared, or able, to meet. Additionally there will be sewers which were constructed in such a way that remedial works to raise them to the required standard are not possible and re-laying may be the only solution. In these

circumstances the sewers are likely to remain unadopted, unless the sewers are relaid.

This does not mean that serious defects will be left unattended. The local authority Environmental Health Officer has powers that can be used to ensure urgent repairs are made. However, the cost of such repairs would be recovered from the owners of the sewer. Urgent repairs such as repairing sections of sewers in danger of imminent collapse are unlikely by themselves to improve the condition to a standard where adoption is possible.

Adoption procedures

It is sometimes difficult to establish who are the owners of the sewers. If at the time of construction the developer conveyed the sewers to the purchasers of the properties then those purchasers have become the owners of the sewers. This ownership is likely to have been transferred as the properties have changed hands. If the developer did not convey the sewers, they may still be in his ownership. A difficulty arises if he is no longer in business.

The owners of a private sewer may make an application under Article 159 to Northern Ireland Water requesting a declaration for adoption. The receipt of such a request would be the start of the inspection arrangements previously described. Adoption will be dependant on the sewers being constructed to the satisfactory standard stipulated by Northern Ireland Water.

Before adopting the sewer, Northern Ireland Water must first give notice to the owner(s) of the sewer. Only after two months have elapsed and no objections raised, may we adopt the sewer. Subject to this and any legal formalities (eg transfer of land for a pumping station and rights to discharge surface water to a watercourse) we will make a declaration of vesting, which completes the adoption.

Right of Appeal

- If Northern Ireland Water refuses to adopt your sewer or to give you a decision within two months of receiving your application with all necessary information provided, you may appeal to NIAUR. An appeal should be sent to:

Northern Ireland Authority for Utility Regulation (NIAUR)

Queens House
14 Queens Street, BELFAST
BT1 6ER

If an objection is made about our decision or how Northern Ireland Water handled your application, NIAUR will make a decision on whether an adoption should proceed. It should be noted that this could be a lengthy process taking up to a year for the decision to be made.

Summary

When you apply to have a sewer or lateral drain adopted under Article 159, you must complete form ESA1-A159 and send it to the address shown together with the following items:

- location plan highlighting the sewer(s) or public lateral drain(s) to be adopted and **“As Constructed”** drawings. Sewers and easements should be coloured as per the requirements of Sewers for Adoption Procedures (Current Edition) and in accordance with our Code of Practice for Submission of Watermain and Sewer records;
- the lengths and levels of the sewers being offered for adoption;
- the parameters used in the sewer or lateral drain design and all calculations;
- material and Workmanship specification used in construction;
- transfer of land, easement, wayleaves or other consents information relevant to the adoption;
- any additional supporting material or information;
- proof/identification that all owners of the sewer are in support of the application for adoption;
- details of all properties connected to the sewer and sewer connection details;
- confirmation you will meet the full costs of all inspections and necessary remedial works;
- the developer’s Health & Safety file prepared in accordance with the Construction (Design and Management) Northern Ireland Regulations 1995 (as amended) (if appropriate);
- an initial deposit in accordance with the fees and charges set in the Scheme of Charges under Standard and Miscellaneous Charges. Cheques should be made payable to Northern Ireland Water Ltd.
- Adoption of an Existing Sewer Form ESA1-A159

On completion please return the full application form to:

Northern Ireland Water

Academy House
121a Broughshane Street
Ballymena
Co. Antrim
BT43 6BA

While Northern Ireland Water considers each case for adoption with care, it will not adopt sewers in such a condition that future maintenance will impose an unfair financial burden on its other customers.