

BUILD OVER AGREEMENTS FACT SHEET

Dean Wilson LLP Solicitors

Ridgeland House, 165 Dyke Road, Brighton, BN3 1TL **01273 249 200**

When is a Build Over Agreement needed?

The water authority have a statutory right of access to public sewers and so nothing can be built over them unless the authority's consent is first obtained, in the form of a "build over agreement". Anyone planning to build close to (within 3 metres) or over a public sewer is therefore required to obtain permission from the relevant company. This also works to prevent damage to sewers – the additional weight of the new building could cause the sewer to collapse resulting in structural damage to the property.

Where no agreement is in place the authority has powers to remove any structures which are blocking access and they are not liable for any damage caused. In reality they now have machinery which will usually allow them to access the damaged pipe from a different, unobstructed point and will avoid causing damage wherever possible, but a risk does still remain. If a build over agreement is in place then the water authority cannot remove the structure which is the subject of the agreement.

A sewer is a pipe that serves more than one property. All drainage pipes that serve more than one property which were in existence before July 2011 are now public sewers (from Oct 2011) whether they are on private land or not.

A drain is a single pipe and will be privately owned and maintained to the property boundary by the home owner and then becomes responsibility of the water company when it crosses the property boundary.

What if I want to build and there is a sewer or drain on my property?

The general rule is that if you will be building within 3 metres from a sewer or drain that the building works will need to be approved by the water company.

Before an application is made it is worth considering the following options:

- Avoiding the sewer through a modification to the plans
- Diverting the sewer

If having considered the alternatives the only option is to apply to the water company for a build over agreement then an application should be made. Each of the water companies have different processes to follow and different costs involved.

How does it affect the Conveyancing Process?

When we check the drainage report we will check the plans and location of the sewers/drains.

If any part of the building appears to be within 3 metres of a sewer or drain then we will need to investigate further and ensure that agreement was provided by the sewerage provider.

If a build over agreement is referred to in the drainage report then we will need to obtain a copy

Options for the client if a build over agreement was not entered into:

Indemnity Insurance: To protect against any financial loss incurred as a result of the property (or part of the property) being built over a public sewer without a build over agreement. This option will be the quickest and cheapest option and avoids alerting the authority to work they may not agree.

Retrospective Consent from the Sewerage Company: There is no guarantee you will be given consent when you apply for it and if not, you may be requested to make changes to the property which could result in significant expense being incurred. Please also note that you are not able to obtain indemnity insurance once the sewerage company have notified of the issue.