

## Annex 2: Cross-Reference Legal Matrix

Issue	Evidence from Mr. D Clarke	Legislation / Regulation	Case Law	Planning Principle / Consequence
<b>1. Sewerage is not a reserved matter</b>	<i>“The arrangement for sewerage is not a reserved matter... the committee needs to know what the arrangements... are before considering the grant of any planning permission.”</i>	DMPO (Wales) 2012, Reg. 2 (definition of reserved matters)	—	Sewerage must be resolved <b>before</b> outline permission; cannot be deferred.
<b>2. ES inadequate – cannot lawfully grant permission</b>	<i>“The ES should be rejected as inadequate and therefore the Council cannot, in law, proceed to consider the possible grant of planning permission.”</i>	EIA Regs (Wales) 2017, Reg. 3	Gillespie; Swire	Permission <b>must not</b> be granted unless ES is adequate.
<b>3. Cog Moors already breaching environmental law</b>	<i>“Overflows... are already breaching regulations... discharging untreated and partially treated sewerage into the Bristol Channel.”</i>	Environmental Permitting Regs; Water Industry Act	—	Additional load is unacceptable; precautionary principle applies.
<b>4. NRW non-enforcement does not remove legal breach</b>	<i>“NRW is not enforcing the breaches... disguising the lack of capacity at Cog Moors.”</i>	Environmental Permitting Regs	—	Non-enforcement ≠ compliance; capacity deficit remains material.
<b>5. Need for foul drainage strategy</b>	<i>“The ES is meant to demonstrate... adequate arrangements... and to spell out what they are.”</i>	EIA Regs Sch. 4 (information requirements)	Gillespie	ES must include mitigation detail; cannot rely on later work.
<b>6. Need for hydraulic modelling</b>	<i>“Why would such a requirement... be left to a later stage?”</i>	EIA Regs	Gillespie	Capacity must be demonstrated at outline stage.
<b>7. Pumping station capacity unknown</b>	<i>“Is the pumping station... sufficient for the increased load?”</i>	EIA Regs	—	Infrastructure adequacy must be proven before permission.
<b>8. No viable sewer connection route</b>	<i>“There is nothing to show it is a viable option... a convenient line drawn without any regard to what can be safely delivered.”</i>	EIA Regs; Sewerage Design Standards (Welsh Ministers)	—	ES must demonstrate deliverability; speculative routes are unlawful.
<b>9. Third-party land constraints ignored</b>	<i>“Assumes access... across land in third party ownership... no regard to ground conditions.”</i>	EIA Regs	—	ES must assess land control, access, maintenance

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<b>10. Reinforcement works required but uncosted</b>	<i>“Urgent need for reinforcement/upgrade... the development is uneconomic and cannot meet the expense.”</i>	EIA Regs; Well-being of Future Generations Act	—	feasibility. Undeliverable mitigation cannot be relied upon; ES defective.
<b>11. Water supply reinforcement also unassessed</b>	<i>“Likely reinforcement works of the local water supply system... no obvious reason why this cannot be carried out ahead of permission.”</i>	Water Industry Act; EIA Regs	—	Water supply capacity is a material consideration at outline stage.
<b>12. Viability evidence shows scheme cannot fund mitigation</b>	<i>“The development proposed is uneconomic... loss making... cannot meet proper standards.”</i>	—	—	If mitigation cannot be funded, ES must acknowledge this; otherwise misleading.
<b>13. Public health risk from existing overflows</b>	<i>“The environment already receives too much untreated sewerage... public health and safety.”</i>	Environmental Permitting Regs; Public Health Act	—	Public health is a primary planning consideration.
<b>14. EIA must include controversial issues</b>	<i>“Highly controversial... failure to cover the issue in the ES... suspicious.”</i>	EIA Regs	Gillespie	Controversial mitigation <b>must</b> be assessed in ES.
<b>15. ES must allow public participation</b>	<i>“These things need to be properly included... to allow the public to comment.”</i>	EIA Regs (public participation duties)	Gillespie	ES must be transparent; cannot defer key issues.
<b>16. Council must not rely on Dŵr Cymru letter alone</b>	<i>“The Council should not rely on... a letter from Dwr Cymru... when the Council is well aware of the pollution.”</i>	EIA Regs; DMPO	—	LPA must make independent, informed assessment.
<b>17. Developer’s omission appears deliberate</b>	<i>“Perhaps the failure... is not accidental?... applicant is playing fast and loose with public health.”</i>	EIA Regs	—	ES must be complete and honest; omission undermines validity.
<b>18. Regulation 3 prohibits granting permission</b>	<i>“Regulation 3 prevents the grant of a planning permission.”</i>	EIA Regs 2017, Reg. 3	Gillespie; Swire	LPA <b>legally barred</b> from granting permission.
<b>19. Reserved matters cannot fix fundamental constraints</b>	<i>“Reserved matters are mere tweaking... not issues that determine whether the development is in the wrong place.”</i>	DMPO 2012	—	Sewerage capacity is a fundamental constraint, not a detail.
<b>20. Public interest</b>	<i>“The public already have issues with the sewer</i>	Well-being of Future	—	LPA must protect residents

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<b>strongly engaged</b>	<i>and water systems.”</i>	Generations Act		and environment.
<b>21. Developer’s approach risks future public cost</b>	<i>“Danger that the public is then required to cover the cost of issues that suddenly need to be sorted.”</i>	Well-being of Future Generations Act	—	Planning must avoid shifting risk to public.
<b>22. ES must assess cumulative impacts</b>	<i>“Overflowing of the CSOs is an issue around the Vale.”</i>	EIA Regs (cumulative effects)	—	ES must consider existing system stress.
<b>23. Lack of NRW enforcement does not justify inaction</b>	<i>“NRW... disguising the lack of capacity.”</i>	Environmental Permitting Regs	—	LPA must assess environmental harm independently.
<b>24. Developer’s viability claims undermine mitigation</b>	<i>“Applicant claims it cannot afford this additional expense.”</i>	—	—	If mitigation cannot be funded, permission cannot be granted.
<b>25. ES must include costed, viable mitigation</b>	<i>“Absence of a fully considered, proposed, costed analysis... is a fundamental defect.”</i>	EIA Regs	Gillespie	ES must show mitigation is deliverable.
<b>26. Requirement to resubmit an ES</b>	<i>“Council should require the applicant to resubmit their ES and deal with issues in a lawful fashion.”</i>	EIA Regs	Gillespie	ES must be corrected before determination.
<b>27. Outline permission would be premature</b>	<i>“It would be wrong to consider (and allow) outline permission at this time.”</i>	EIA Regs; DMPO	—	Prematurity due to unresolved infrastructure constraints.
<b>28. Precautionary principle applies</b>	<i>“Any additional load is unacceptable at this time.”</i>	EIA Regs; Environmental law	—	Where uncertainty exists, permission must be refused.
<b>29. LPA must protect existing users</b>	<i>“Vale has to have regard to protecting other users... residents, businesses, the environment.”</i>	Planning Act; Well-being Act	—	Infrastructure capacity is a material planning consideration.
<b>30. ES omissions undermine transparency</b>	<i>“Where is the information?”</i>	EIA Regs	—	ES must be complete, transparent, and publicly examinable.