

**Peter Strudwick, Castle Farm Partnership, Downs Farm,
Amberley, Arundel, West Sussex, BN18 9LZ**

FAO Dr Thérèse Coffey MP

Parliamentary Under Secretary of State

DEFRA

Nobel House

17 Smith Square

London

SW1P 3JR

04 APR 2017

28th March 2017

Dear Dr Coffey

Ref: LDC 2505: Proposed Abolition of the Arun IDB

We write in response to the draft notice of abolition of the River Arun IDD that appeared in the London Gazette of 6th March 2017 and also in response to your letter to The Rt Hon Nick Herbert MP of 15th February 2017 in which you state you have agreed to proceed to the second stage of the abolition process for the Arun Internal Drainage Board.

Our family have farmed in the river valley and on the downs above for over one hundred years, firstly as tenants and latterly as land owners, through two World Wars and two recessions. Our farming created the SSSI site, we continue this work by supporting HLS and Stewardship schemes. We are farming and grazing most of the Amberley Wildbrooks SSSI and adjoining Castle Brooks. Our experience over the last one hundred years has taught us that this land needs functioning water courses to sustain the flora and fauna and profitable livestock grazing.

We feel that EA have handled this whole process extremely poorly throughout and that the matter should be the subject of a Public Inquiry. We feel that we have been repeatedly misled by EA locally and it appears to us that you and Defra may have also been misled by EA as evidenced by the statements made in your response to Nick Herbert and also previous responses we have had from Defra.

Locally, we understand that EA will pull out of the direct ownership and management of the IDB but currently EA's approach is simply one of attempted abandonment and there is currently no replacement body in position to continue with these essential functions.

There is widespread concern over EA's proposals locally; so much so that a special project, the ***Arun Vision Project***, has been set up to try and allay these concerns and to create a necessary replacement local body to carry on EA's current essential land drainage and flood defence functions. The Rt Hon Nick Herbert MP was instrumental in the formation of this project. Earlier Ministerial commitments (e.g. the Rt Hon Owen Paterson MP) have been ignored by EA, particularly regarding ensuring that an appropriately locally constituted and powered replacement body is put in place at IDD abolition.

On the face of it your decision to proceed to the second stage of the abolition process for the Arun IDB completely undermines the Arun Vision Project. This project must be allowed to run its course if there is to be a smooth transfer of EA's assets and responsibilities. *We therefore urge you to put the abolition process in to abeyance for circa 2 years to allow the Arun Vision Project to be concluded.* To abolish the Arun IDB at this time would be foolhardy and would remove all current mechanisms for local funding (through drainage rates and special levy) for the ongoing necessary works.

In July 2016 Carol Tidmarsh (Senior Policy Advisor on Flood Risk Management at Defra) acknowledged that further work and agreement was required with local parties on the EA proposals to conclude a Scheme. No such agreements have yet been concluded by EA.

EA have regularly moved the goalposts and changed their position since August 2015 and the full details of the proposed scheme are still not clear and continue to be in a state of flux.

We have a number of EA IDB and main river structures on or adjacent to our land at Amberley – all of these have been put in position by EA using compulsory powers of access without any consideration for the current circumstances (abandonment by EA). As with all adjacent landowners, we are prevented from access to and any form of management of EA/IDB structures because to do so would be a criminal offence under the Water Resources Act 1991. We are also specifically excluded from the ability to access or manage such structures and IDB maintained ditches by both Natural England and local authority consenting procedure.

The 'Scheme' dated 19th August 2015 was consulted upon by EA in late 2015 and this is the document that EA are asking you to confirm by Statutory Instrument under Section 3(5) of the Land Drainage Act 1991. Clause 6 of that Scheme reads as follows:

“For avoidance of doubt, as from the commencement date, all property (i.e. IDB property) is transferred to and vested in the Environment Agency absolutely and the Scheme operates as conclusive evidence of such transfer and vesting without the necessity of any further assignments, conveyance or deed of transfer.”

All IDB structures (assets) such as pumps, sluices etc would therefore automatically transfer to EA at commencement of the Scheme (6 months after the Order) but EA locally have subsequently stated that they will cease to maintain or operate such structures and in effect abandon them. When this was then linked with obvious conflicts with EA's legal requirements in November 2015, EA started to seek to establish an entirely new position that they now considered that they didn't actually own any EA/IDB drainage and flood defence structures contrary to the long-established legal position.

EA have accepted that their current position regarding land drainage assets is a legally untested approach and that no agreements at all are in place for the assignment, conveyance or deed of transfer of such IDB assets to anybody other than EA. We have also taken legal advice cooperatively with other interested parties in the Arun Valley which shows that such an approach from EA would be legally unsound and open to widespread challenge.

In July 2016 Defra stated that EA was still working with Natural England to ensure that EA meet the requirements of environmental legislation such as the Habitats Regulations (in

connection with designated sites in the Arun Valley). This process has not yet been concluded so no firm conclusion can yet be made by EA regarding the Scheme for abolition.

We were misled again by EA at a recent meeting in Amberley (22nd March 2017) where EA stated that Full Assent had been granted by NE, the inference being that this had removed a procedural barrier and allowed EA to advise you that the current stage of the IDD abolition process could proceed. NE have subsequently again confirmed that their position remains unaltered since late 2015 and that no Full Assent has been granted. EA are also currently continuing to withhold information from us that we have requested in connection with this and EA's associated advice to you and Defra.

EA's actions and proposals in connection with the proposed abolition of the Arun IDD do not reflect the situation locally and I am advised they are both legally untested and procedurally unsound. The EA proposals are not in the best interests of local communities and by EA's own admission do not even represent the most cost effective solution.

Please could we remind you that there is no statutory reason for the abolishment of the IDD and that EA historically grossly mismanaged the Arun IDB in that there was no clear division between EA and IDB functions and finances – it has now emerged that there was no guarantee that funds raised by EA from landowners and local authorities in its IDD capacity were used for their stated purpose.

Please can we urge you to **review this situation urgently and order a Public Inquiry in to the proposals and actions of EA in connection with the proposed Arun IDD abolition. Failing this we urge you to put the Arun IDB abolition process in to abeyance until the Arun Vision Project has properly run its course and a new local replacement body for the IDB has been formed.** This will ensure that future funding of essential IDB works throughout the catchment can continue to be funded and that IDB responsibilities, work programmes and property such as pumping stations and sluices can be transferred properly and seamlessly to this new body.

Could we also ask that you consider providing some **funding for the Arun Vision Project** to assist with the formation of a locally constituted and properly empowered replacement IDB – the only support being offered by EA currently is unquantified 'staff time' from the EA member of staff responsible for the extremely poorly handled abolition process.

One of our overarching concerns is that you, your predecessors and Defra have been repeatedly misled by EA locally throughout this process. **We therefore invite you and your advisers to visit our farm and the wider area to see and discuss the issues first-hand before any further decisions are taken regarding the abolition of the Arun IDB at Ministerial level.**

Thank you for your consideration of these requests.

Yours sincerely

Peter Strudwick

cc Rt Hon Nick Herbert

**Paul Strudwick, Castle Farm Partnership, Downs Farm,
Amberley, Arundel, West Sussex, BN18 9LZ**

FAO Dr Thérèse Coffey MP

Parliamentary Under Secretary of State

DEFRA

Nobel House

17 Smith Square

London

SW1P 3JR

04 APR 2017

28th March 2017

Dear Dr Coffey

Ref: LDC 2505: Proposed Abolition of the Arun IDB

We write in response to the draft notice of abolition of the River Arun IDD that appeared in the London Gazette of 6th March 2017 and also in response to your letter to The Rt Hon Nick Herbert MP of 15th February 2017 in which you state you have agreed to proceed to the second stage of the abolition process for the Arun Internal Drainage Board.

Our family have farmed in the river valley and on the downs above for over one hundred years, firstly as tenants and latterly as land owners, through two World Wars and two recessions. Our farming created the SSSI site, we continue this work by supporting HLS and Stewardship schemes. We are farming and grazing most of the Amberley Wildbrooks SSSI and adjoining Castle Brooks. Our experience over the last one hundred years has taught us that this land needs functioning water courses to sustain the flora and fauna and profitable livestock grazing.

We feel that EA have handled this whole process extremely poorly throughout and that the matter should be the subject of a Public Inquiry. We feel that we have been repeatedly misled by EA locally and it appears to us that you and Defra may have also been misled by EA as evidenced by the statements made in your response to Nick Herbert and also previous responses we have had from Defra.

Locally, we understand that EA will pull out of the direct ownership and management of the IDB but currently EA's approach is simply one of attempted abandonment and there is currently no replacement body in position to continue with these essential functions.

There is widespread concern over EA's proposals locally; so much so that a special project, the ***Arun Vision Project***, has been set up to try and allay these concerns and to create a necessary replacement local body to carry on EA's current essential land drainage and flood defence functions. The Rt Hon Nick Herbert MP was instrumental in the formation of this project. Earlier Ministerial commitments (e.g. the Rt Hon Owen Paterson MP) have been ignored by EA, particularly regarding ensuring that an appropriately locally constituted and powered replacement body is put in place at IDD abolition.

On the face of it your decision to proceed to the second stage of the abolition process for the Arun IDB completely undermines the Arun Vision Project. This project must be allowed to run its course if there is to be a smooth transfer of EA's assets and responsibilities. *We therefore urge you to put the abolition process in to abeyance for circa 2 years to allow the Arun Vision Project to be concluded.* To abolish the Arun IDB at this time would be foolhardy and would remove all current mechanisms for local funding (through drainage rates and special levy) for the ongoing necessary works.

In July 2016 Carol Tidmarsh (Senior Policy Advisor on Flood Risk Management at Defra) acknowledged that further work and agreement was required with local parties on the EA proposals to conclude a Scheme. No such agreements have yet been concluded by EA.

EA have regularly moved the goalposts and changed their position since August 2015 and the full details of the proposed scheme are still not clear and continue to be in a state of flux.

We have a number of EA IDB and main river structures on or adjacent to our land at Amberley – all of these have been put in position by EA using compulsory powers of access without any consideration for the current circumstances (abandonment by EA). As with all adjacent landowners, we are prevented from access to and any form of management of EA/IDB structures because to do so would be a criminal offence under the Water Resources Act 1991. We are also specifically excluded from the ability to access or manage such structures and IDB maintained ditches by both Natural England and local authority consenting procedure.

The 'Scheme' dated 19th August 2015 was consulted upon by EA in late 2015 and this is the document that EA are asking you to confirm by Statutory Instrument under Section 3(5) of the Land Drainage Act 1991. Clause 6 of that Scheme reads as follows:

"For avoidance of doubt, as from the commencement date, all property (i.e. IDB property) is transferred to and vested in the Environment Agency absolutely and the Scheme operates as conclusive evidence of such transfer and vesting without the necessity of any further assignments, conveyance or deed of transfer."

All IDB structures (assets) such as pumps, sluices etc would therefore automatically transfer to EA at commencement of the Scheme (6 months after the Order) but EA locally have subsequently stated that they will cease to maintain or operate such structures and in effect abandon them. When this was then linked with obvious conflicts with EA's legal requirements in November 2015, EA started to seek to establish an entirely new position that they now considered that they didn't actually own any EA/IDB drainage and flood defence structures contrary to the long-established legal position.

EA have accepted that their current position regarding land drainage assets is a legally untested approach and that no agreements at all are in place for the assignment, conveyance or deed of transfer of such IDB assets to anybody other than EA. We have also taken legal advice cooperatively with other interested parties in the Arun Valley which shows that such an approach from EA would be legally unsound and open to widespread challenge.

In July 2016 Defra stated that EA was still working with Natural England to ensure that EA meet the requirements of environmental legislation such as the Habitats Regulations (in

connection with designated sites in the Arun Valley). This process has not yet been concluded so no firm conclusion can yet be made by EA regarding the Scheme for abolition.

We were misled again by EA at a recent meeting in Amberley (22nd March 2017) where EA stated that Full Assent had been granted by NE, the inference being that this had removed a procedural barrier and allowed EA to advise you that the current stage of the IDD abolition process could proceed. NE have subsequently again confirmed that their position remains unaltered since late 2015 and that no Full Assent has been granted. EA are also currently continuing to withhold information from us that we have requested in connection with this and EA's associated advice to you and Defra.

EA's actions and proposals in connection with the proposed abolition of the Arun IDD do not reflect the situation locally and I am advised they are both legally untested and procedurally unsound. The EA proposals are not in the best interests of local communities and by EA's own admission do not even represent the most cost effective solution.

Please could we remind you that there is no statutory reason for the abolishment of the IDD and that EA historically grossly mismanaged the Arun IDB in that there was no clear division between EA and IDB functions and finances – it has now emerged that there was no guarantee that funds raised by EA from landowners and local authorities in its IDD capacity were used for their stated purpose.

Please can we urge you to **review this situation urgently and order a Public Inquiry in to the proposals and actions of EA in connection with the proposed Arun IDD abolition. Failing this we urge you to put the Arun IDB abolition process in to abeyance until the Arun Vision Project has properly run its course and a new local replacement body for the IDB has been formed.** This will ensure that future funding of essential IDB works throughout the catchment can continue to be funded and that IDB responsibilities, work programmes and property such as pumping stations and sluices can be transferred properly and seamlessly to this new body.

Could we also ask that you consider providing some **funding for the Arun Vision Project** to assist with the formation of a locally constituted and properly empowered replacement IDB – the only support being offered by EA currently is unquantified 'staff time' from the EA member of staff responsible for the extremely poorly handled abolition process.

One of our overarching concerns is that you, your predecessors and Defra have been repeatedly misled by EA locally throughout this process. **We therefore invite you and your advisers to visit our farm and the wider area to see and discuss the issues first-hand before any further decisions are taken regarding the abolition of the Arun IDB at Ministerial level.**

Thank you for your consideration of these requests.

Yours sincerely

Paul Strudwick

cc Rt Hon Nick Herbert