

Horsham Local Plan Hearing Statement from R. Ethrington

Matter 1 Issue 2 Q6 Habitats Regulation Assessment

Matter 3 Issue 2 Q 1 Water neutrality

LP Reg. 19 Response ref; #1189143

There are major uncertainties about compliance (Matter 1. Issue 2. Q6) and soundness (Matter 3. Issue 2. Q 1) in the LP's water neutrality strategy.

This is due to the content of HDC's *Habitats Regulations Assessment November 2023 & The Sussex North Water Neutrality Strategy Part C Mitigation Strategy December 2022*:

- narrative explanations are unclear about the strategy's compliance and about how housing provision required to demonstrate neutrality is calculated
- numerical information is omitted about extant housing

The Habitats Regulations Assessment was issued after the Fry-v-Somerset CC High Court judgement of June 2023 and is therefore the up to date reference for those points.

§6.21

'The Strategy reiterates that water neutrality measures are required for any development that has not already been granted outline or full planning permission'

That means developments with outline planning permission before Natural England's position statement of September 2021 do not need to demonstrate water neutrality. However the High Court judgement of June 2023 had revealed this assumption was a misinterpretation of the Conservation of Habitats and Species Regulations 2017.

§6.24

'To reflect the newly identified issue regarding water neutrality within the Sussex North Water Resource Zone, the Councils have updated their strategic policy relating to water neutrality.'

This statement is referring to 'Water Neutrality and Planning Applications' which is the means of implementing the strategic policy for individual developments. The strategic policy on the other hand is the aims of water neutrality for the whole District within the SNWRZ. That strategic policy is contained in the Part C Mitigation Strategy that was not revised in the light of the June 2023 High Court judgment's 'newly identified issue'.

§6.21

'..... although the High Court decision handed down in June 2023 also requires that development granted before the Natural England position statement was issued, where there are outstanding consents to be issued, also need to demonstrate water neutrality.'

This statement implies developments with outline planning consent that have not reached the stage of reserved matters do not need to demonstrate neutrality. That also would be a misinterpretation of the Conservation of Habitats and Species Regulations.

The uncertainties in the water neutrality's narrative explanations could have been straightened out by providing numerical data on categories of extant housing (with/without full consent,

with/without outstanding consent issues) but that is missing from both the Habitats Regulations Assessment and the Mitigation Strategy. Also there is no numerical data on extant housing in the LP's evidence base to back up narrative in the Assessment and Strategy documents.

The unclear explanations and non-disclosure of numbers indicate probably several thousand houses had incorrectly been excluded from HDC's water demand projection of 12,800 houses in the December 2022 water neutrality strategy and therefore:

- it is likely, in the light of the June 2023 High Court judgement, that the water neutrality strategy is not compliant with the Conservation of Habitats and Species Regulations because water demand from those houses should have been included in demand requiring off-setting
- the strategy may not be sound because by omitting those houses from the demand projection it is unknown whether Southern Water's WRMP water savings plus available development offsetting would provide enough supply side increases to match projected water demand.

Main modifications are required to the LP's water neutrality strategy to eliminate the uncertainties. Flexibility is required in implementing the strategy but good decisions responding to a changing environment need a firm basis that is legally compliant and accurately reflects a rational demand to supply balance starting point.