

HORSHAM DISTRICT LOCAL PLAN 2023 to 2040 EXAMINATION

Hearing Statement: Matter 5b

The Spatial Strategy and site selection process (session for local groups and individual objectors)

Representor: Janina Pedan Representation reference: none issued; representations on the Main Modifications include comments 1648, 1677, 1680, 1681, 1893

Hearing session: Wednesday 14 October 2026

Agenda items addressed: 5b(ii) Constraints: habitats and biodiversity; services including water and sewerage. 5b(iii) Housing delivery: whether enough homes would come forward at the right time, so far as this depends on water and sewerage.

1. Summary

1.1 This statement addresses whether the plan's distribution of development is sound having regard to the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site, and to water and sewerage services. It relates to my representations on the Main Modifications (including comment 1681). My separate statement for Matter 6d deals with the Adversane allocation. This statement deals with the strategy as a whole and avoids repeating it.

1.2 I make three points. First, the Council's July 2026 Habitats Regulation Assessment ("HRA") concludes, beyond reasonable scientific doubt, that the plan will not harm the Arun Valley through water supply. That contradicts its own November 2025 position that it could not reach that conclusion until the Hardham licence was formally changed, and the licence still had not been changed when the HRA was published in July 2026. Second, the plan directs a large share of new growth to sewage works draining to the Arun Valley without any assessment of the combined nutrient load. Third, Southern Water records limited sewer and water supply network capacity at Adversane and the Billingshurst allocations, and says it cannot itself prevent early connections.

2. Water supply

2.1 The additional allocations needed to meet the housing requirement of 18,712 homes (MM142) include sites that were previously not carried forward owing to the water neutrality restriction (Inspector's letter of 5 May 2026, IDJB05). Natural England withdrew its position statement on 31 October 2025 on the basis of a package that included a reduced cap on Southern Water's Hardham groundwater abstraction licence, with the measures to be implemented by March 2026. Southern Water's own consultation response

states that its catchments are classified as under serious water stress (Environment Agency, 2021).

2.2 HRA paragraphs 6.3 to 6.7 conclude, beyond reasonable scientific doubt, that the plan will not adversely affect the Arun Valley sites through water supply, relying on strategic controls "recently put in place".

2.3 The Environment Agency told me in its response of 31 July 2026 to my request under the Environmental Information Regulations (see Appendix A), that the licence had not been determined, and that the next step was to sign off its own Habitats Regulations Assessment and consult Natural England before issuing it. As at the date of submission, the Council's own water neutrality webpage (last updated 11 November 2025) states that, because the licence change has not yet taken place, it "cannot be certain that the issue is yet fully resolved".

2.4 The assessment prepared for Southern Water's licence application (AtkinsRéalis, November 2025) itself found reasonable scientific doubt at the currently licensed rate of abstraction. It reached a favourable conclusion for the reduced rate only with summer water levels at Pulborough Brooks held higher than those in the RSPB reserve management plan (sections 4.9 and 5.3 of that assessment). I have found no instrument that secures those water levels.

2.5 In the meantime, the Council monitors permissions across the water supply zone against a fixed pool of Southern Water efficiency savings of 3,240,000 litres a day, according to its written reply to a councillor enquiry received on 17 August 2026. That reply states that the monitoring data is held internally and not published. Natural England's advice of 10 November 2025 is to be reviewed after 12 months, or once the savings have run out. The plan period runs to 2040.

2.6 That reply gives the position at 30 July 2026: permissions for 5,024 homes and 65,796 square metres of floorspace since 1 November 2025, assumed to use 1,409,324 litres a day, leaving about 1,830,676 litres a day (56.5%). On the Council's own assumptions of 2.5 persons per home and 110 litres per person per day, the full Adversane allocation would use about 880,000 litres a day, 48% of what remained. That is before its 20,000 square metres of commercial floorspace, other plan growth, and growth in the other authorities drawing on the same pool. The figures also imply an allowance of only about 0.42 litres per square metre per day for non-domestic floorspace. I do not say the pool is exhausted; I say its adequacy for the plan as modified has not been shown.

2.7 By email of 22 September 2026 (see Appendix B), I asked the Programme Officer to invite the Inspector to require the Council to place before the examination the monitoring data, the current balance of the pool, the assumption used to convert non-domestic floorspace to water demand, how the pool is shared between the local authorities that draw on it, and what will

replace the interim arrangement if the licence has not been varied by 10 November 2026.

2.8 The Council may give significant weight to Natural England's advice, and may depart from it only for cogent reasons: *R (Wyatt) v Fareham BC* [2022] EWCA Civ 983 at [9(4)]. But that advice is not binding (*R (Akester) v DEFRA* [2010] EWHC 232 (Admin) at [112]), and an assessment that relies on it without further inquiry, where obvious questions remain unanswered, is unlawful: *Wealden DC v SSCLG* [2017] EWHC 351 (Admin). Natural England's advice here depended on measures that are not yet in place. I do not ask the Council to disregard it, but to recognise that it does not cover the present facts, and to obtain Natural England's current view before relying on it.

2.9 A closely related issue has been decided in this district. In *Crest Nicholson Operations Ltd v SSHCLG and Horsham DC* [2025] EWHC 2194 (Admin), concerning the same abstraction, the Inspector found that reliance on "the unspecified future action of parties fulfilling responsibilities under the Habitats Regulations under other regulatory regimes" did not, "without more detail of what will happen and when", provide reasonable certainty (IR 10.68, quoted at [74]). The Secretary of State agreed and the challenge was dismissed. A decision-maker may presume that other regimes will operate effectively, but the presumption is rebuttable ([47]), and it must satisfy itself that the other regime is capable of regulating the issue ([55]). Although that decision predates Natural England's withdrawal, the licence variation on which the withdrawal depends has not been made. HRA paragraphs 6.6 and 6.7 rely on "the strategic regulatory framework" and "strategic controls recently put in place" without identifying those controls or when they took effect. The Council should identify them.

2.10 Mitigation may be relied on in an appropriate assessment only if it is sufficiently certain to be delivered and effective; benefits depending on a procedure not yet completed are uncertain: *Coöperatie Mobilisation for the Environment* (C-293/17 and C-294/17) at [126] and [130]. The licence variation has missed the March 2026 date given in Natural England's withdrawal statement and the end-of-August date given by the Environment Agency and the Council. HRA paragraph 6.7 reaches a conclusion beyond reasonable scientific doubt that the Council's own November 2025 template said it could not reach until the licence change was formalised, and nothing shows that it has been. The Council should show either that the variation is now in force, or that the interim savings pool covers the plan's growth, in combination with the other authorities drawing on it, until it is.

3. Water quality: the combined effect of growth in the Arun catchment

3.1 HRA paragraph 4.20 lists over 25 allocations whose wastewater is likely to reach the Arun catchment, including all three strategic sites named at paragraph 5.4: Land North West of Southwater, Land East of Billingshurst and Land at Adversane. By contrast, HRA Appendix C (screening table of site allocations, page 98) records that sites draining to the Adur, such as PG3, have no linking pathway.

3.2 The HRA's screening of phosphorus (paragraph 4.21) relies on permits being tightened at four works, and is carried over unchanged from October 2023; paragraph 5.1 then screens water quality in, but the appropriate assessment never addresses it (see my Matter 6d statement). The 2023 HRA recorded that its nutrient calculations illustrated that, should nutrient neutrality be required, "many allocated sites would need to demonstrate nutrient neutrality before they can be consented" (paragraph 4.20). No equivalent calculation has been made for the main modifications, which add substantial growth in the same catchment.

3.3 Natural England's condition review (NERR143, May 2025) records the ditch systems at all three floodplain sites as Unfavourable Declining, sets a total phosphorus target for the ditches of 0.1 mg/l or less, and identifies water company discharges among the pressures. The Ramsar site's rare plants and ditch flora, which the 2023 HRA found likely to be vulnerable to reductions in water quality, have been protected by statute since 21 May 2026.

3.4 Whether it is sound to direct this scale of growth to works draining to the Arun depends on that combined assessment. It has not been carried out. The plan therefore does not comply with regulation 105 of the Conservation of Habitats and Species Regulations 2017, which requires an appropriate assessment before a plan is given effect where a significant effect on a European or Ramsar site cannot be excluded, and the distribution of development is not justified on the current evidence.

3.5 Natural England's letter of 10 November 2025 confines its revised advice to water scarcity, and asks the Council to continue consulting it on appropriate assessments for impacts other than water scarcity. The HRA contains no Natural England advice on water quality more recent than November 2021.

4. Sewerage and water supply services

4.1 Southern Water's response to the Main Modifications consultation (14 August 2026) reports an assessment carried out in June 2026. It records that the local wastewater network closest to 13 allocations, totalling about 5,870 homes, has limited capacity to accommodate the proposed development. These include Land at Adversane (3,200 homes and 20,000 square metres of commercial floorspace), Land East of Billingshurst (650), Land at Rosier Park (350) and Old Reservoir Farm, Billingshurst (100). It records the same for the

local water supply network at eight allocations, again including Adversane and the three Billingshurst sites.

4.2 Southern Water states that limited capacity is not a constraint "provided that planning policy and subsequent conditions ensure that occupation of these developments is phased to align with the delivery of wastewater infrastructure" (and says the same for water supply). It warns that connecting development before the infrastructure is delivered could lead to an increased risk of sewer flooding, and that it "has limited powers to prevent connections to the wastewater network, even when capacity is limited". Phasing therefore depends on the plan itself.

4.3 Southern Water's recommended criterion provides only that occupation "may need to be phased". Since Southern Water cannot itself prevent early connections, a criterion that only says phasing "may" be needed does not secure the phasing on which its view depends. The criterion should require it.

4.4 Strategic Policy 23 is the plan's general safeguard. The HRA screens it out on the basis that it "ensures that development is appropriately phased and supported by infrastructure, including wastewater infrastructure" (Appendix B, page 79). But MM93 deletes the requirement that necessary infrastructure be capable of completion before occupation, leaving only that it 'should be put in place at the right time' As set out in my representation on MM93, a requirement to be operational in time should be restored.

4.5 Southern Water's assessment concerns network capacity only; it says nothing about treatment capacity. Southern Water's statement for the Billingshurst works upgrade (June 2021, paragraph 3.1) records a current load of 8,003 population equivalent, its own forecast of 8,997 by 2030, and design capacity of 9,204 to 2035. The forecast predates the plan's allocations, and the works' permit caps dry weather flow at 1,445 m³ a day."

4.6 A statement of common ground with Southern Water, identifying which works serve each allocation, the permitted treatment headroom and the timetable for network and treatment upgrades, would allow this to be tested.

4.7 Southern Water has confirmed (EIR 4915, 1 September 2026) that it holds correspondence with the Council on Adversane's infrastructure requirements; I ask the Council to place that correspondence, and the evidence it relied on to find SA597 deliverable for water supply, before the examination.

5. Habitats and biodiversity: functionally linked habitat

5.1 The Council's HRA consultant advised on 22 June 2026 (HDCJB12a) that 17 allocated sites, including existing allocations, fall within the relevant zone and support suitable habitat for Bewick's swan, and that 28 support suitable habitat for barbastelle bats. In each case it said only that the submitted plan's

policy approach "can cover these sites". Three weeks later, the HRA (HDCJB12, Table 3) assessed 17 site references for Bewick's swan and found 15 not suitable, one borderline and one with potential, on the basis of GIS analysis and aerial imagery rather than survey (paragraph 6.9). Natural England disagrees in the case of Adversane: "[W]e do not agree with the HRA's assessment of habitat (Table 3 P44-45) as not being potentially suitable as functionally linked habitat for the qualifying bird species of the Arun Valley SPA and Ramsar sites (namely Bewick swan and waterfowl assemblage)" (comment ID 887, 21 August 2026).

5.2 As set out at Grounds 3.3 and 6.2 of my representation, the Council should confirm whether the 17 sites in the technical note are those assessed in Table 3; explain how the June finding of suitable habitat was reconciled with the July conclusions; and show that the combined loss of habitat across the 17 and 28 sites has been assessed, rather than treated as resolved by a general policy cross-reference.

6. What I ask the Inspector to do

6.1 Require the Council to:

- (a) confirm the status of the Hardham licence and provide the information requested in my email of 22 September 2026; and, if the licence has not been varied, obtain Natural England's current advice and either revisit the HRA's conclusion on water supply or show that the interim savings pool covers the plan's growth, in combination with the other authorities drawing on it, until the variation is in force;
- (b) carry out a combined nutrient assessment for all allocations draining to the Arun, using the method in Appendix D of the 2023 HRA or an equivalent, and an appropriate assessment of water quality covering the SAC, SPA and all Ramsar features, in consultation with Natural England, before adoption;
- (c) agree a statement of common ground with Southern Water on wastewater capacity and phasing for the allocations it has identified with limited network capacity; and
- (d) confirm whether the 17 sites in the technical note are those assessed in Table 3; explain how the June finding of suitable habitat was reconciled with the July conclusions; and show that the combined loss of habitat across the 17 and 28 sites has been assessed, rather than treated as resolved by a general policy cross-reference.

6.2 Recommend main modifications (a) to the policies for the allocations Southern Water has identified, requiring occupation to be phased to the delivery of wastewater and water supply infrastructure and to confirmed treatment capacity, secured by condition; and (b) to Strategic Policy 23,

restoring the requirement that necessary infrastructure be operational in time to serve the development or relevant phase, as set out in my representation on MM93.

7. Soundness and legal compliance

7.1 The water supply and water quality points go to legal compliance under the Habitats Regulations and, as soundness, to whether the distribution of development is justified. The sewerage point goes to whether the plan is effective, that is, deliverable over its period.

7.2 I do not claim that harm to the Arun Valley has been shown. My point is that the evidence needed to rule it out, as the law requires, is not before the examination.

Word count (excluding heading): 2682

Appendix A: 21.07.2026 EIR response - EIR202634449



Janina Pedan

Our ref:

EIR2026/34449 Date:

31 July 2026

Dear Janina Pedan,

RE: Environmental Information Regulations: EIR2026/34449

Thank you for your request for information regarding Hardham groundwater abstraction licence enquiry, which we received on 20 July 2026.

We respond to requests for information that we hold under the Environmental Information Regulations 2004 (EIR). The Regulations requires that we respond to requests by advising you whether information is held or not, and if so by providing you with that information.

Information provided

1. Whether the Environment Agency has formally determined and completed this licence modification, and if so, the date of that determination.

The licence has not yet been formally determined but discussions with Southern Water have been productive, and we expect the licence to be determined in the near future and look set to include the agreed reductions you highlight in your letter.

2. If not yet completed, the current status of the modification and the

expected timeframe for its completion.

As stated, the main details of the licence have been agreed in principle. There are some minor operational wordings to be finalised between Southern Water and our National Permitting Service, but we are confident these will be addressed quickly. The next step is for us to sign off our Habitats Regulations Assessment and consult Natural England prior to issuing the licence. Natural England have been involved in the licence modification process throughout. These remaining steps are likely to be completed and the licence issued by the end of August 2026 at the latest.”

Please refer to the [Open Government Licence](#) which explains the permitted use of this information.

Information not held

3. If completed, whether you can provide a copy of, or reference number for, the varied licence or decision notice.

As the licence is yet to be fully determined we would not be able to share this with you. However, the Environment Agency do maintain a public record of abstraction licences which can be shared once any personal/confidential details have been redacted, so you will be able to request this once it is determined.

EIR Regulation 3(2) states that information is held if it is in our possession and has been produced or received by us, or it is held by another person on our behalf at the time the request is received.

Where a request is for environmental information, the Regulations allow us to refuse to disclose it if the exception at EIR Regulation 12(4)(a) applies. The regulation states that a public authority may refuse to disclose environmental information to the extent that it does not hold that information when an applicant's request is received.

In this case, the information you have requested is not held by the Environment Agency. Therefore, we are refusing your request on the grounds that there is no information we can provide.

It is not possible for us to conduct a public interest balancing test because the reason for non-disclosure is that the information is not held.

Rights of appeal

If you are not satisfied with our decision, you can contact us within two calendar months to ask for the decision to be reviewed. We will then conduct an internal review of our response to your request and give you our decision in writing within 40 working days.

If you are not satisfied with the outcome of the internal review, you can then make an appeal to the Information Commissioner Office, the statutory regulator for the Environmental Information Regulations 2004 and the Freedom of Information Act 2000. Please follow this link to the [ICO online complaints portal](#). The address is: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate) | Fax: 01625 524 510 Email: icocasework@ico.org.uk | Website: www.ico.org.uk

Yours sincerely,

Dorah Phiri
SSD Area Customers and Engagement Team

Please tell us how we did

To help improve your experience as a customer we are currently gathering feedback. If you would like to take part in a short customer satisfaction survey, please click the link below:

[Environment Agency FOI Customer Satisfaction Survey](#)

Appendix B:

From: programmeofficer <programmeofficer@horsham.gov.uk>

Date: 24 September 2026 at 13:09:38 CEST

To: Janina Pedan [REDACTED]

Subject: Re: Request for participation in hearings

Dear Janina,

Further to my response below, the Inspector has read and is familiar with your representations. As regards your demand for specific data, you would need to raise your request directly with the Council, not through the Inspector. However, the Inspector will ask the Council to produce a topic paper on the water supply and the Arun Valley habitats and you are also welcome to produce your own hearing statement on those subjects within the parameters set for such statements in his guidance note. The Inspector will take into account your statement and representations and the Council's topic paper as written submissions. The need to use hearing time efficiently means that there will not be a technical discussion on water supply evidence during the hearing.

Kind regards,

Kerry

Kerry Trueman

Programme Officer

Email: programmeofficer@horsham.gov.uk

Address: Pendragon House, [1 Bertram Drive, Wirral, CH47 0LG](#)

Phone: 07582 310364

Working Schedule: Part-time flexible working hours.

Examination Website:

<https://www.horsham.gov.uk/planning/local-plan/local-plan-examination>

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I am impartial and work under the Inspector's direction but use a Council email address to securely exchange information.**

From: programmeofficer <programmeofficer@horsham.gov.uk>

Sent: 22 September 2026 15:05

To: Janina Pedan [REDACTED]

Subject: Re: Request for participation in hearings

Dear Janina Pedan

Thank you for your email.

I can confirm that I have included **Janina Pedan** in the provisional hearing programme for **Matters 5b and 6d**.

Shortly after the participation deadline has elapsed, the Inspector will review all participation requests and a draft hearing programme will be made available in the examination library. It is recommended that when this document is made available all representors verify that their participation request has been accepted by the Inspector.

I have passed your request for monitoring data to be placed before the examination to the Inspector.

Kind regards,

Kerry

Kerry Trueman

Programme Officer

Email: programmeofficer@horsham.gov.uk

Address: Pendragon House, [1 Bertram Drive, Wirral, CH47 0LG](#)

Phone: 07582 310364

Working Schedule: Part-time flexible working hours.

Examination Website:

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I am impartial and work under the Inspector's direction but use a Council email address
to securely exchange information.**

From: Janina Pedan [REDACTED] >

Sent: 22 September 2026 09:54

To: programmeofficer <programmeofficer@horsham.gov.uk>

Subject: Request for participation in hearings

Dear Programme Officer,

I am writing to request participation in two hearing sessions for the Horsham Local plan examination, and second, to ask that the Inspector be invited to require the Council to place a document before the examination in advance of the Matter 5 session.

1. Request to participate

I am a duly-made representor on the Main Modifications although I never received a reference number to my submissions. You can find me under comment 1681 for example. My representations propose changes to the plan in

order to make it sound and legally compliant, and I should be grateful to participate in the following sessions:

- Matter 5: The Spatial Strategy and site selection process — session for local groups and individual objectors. My representations concern the distribution of growth having regard to services including water and sewerage, and the evidence underlying the site selection process.
- Matter 6d: Land at Adversane (Kingswood) . My representations concern MM227 and, in particular, impacts and mitigation in relation to wildlife and biodiversity and to drainage and utilities, and the identification of potential impediments to delivery.

I recognise that it is not necessary to appear in order for written representations to be considered and I have limited this request to the two sessions most relevant to my representations.

I expect to be supported by solicitors as part of my team in accordance with the Guidance Note. Their instructions are being settled and I will confirm names as soon as I am able.

2. Request that the Council's water demand monitoring data be placed before the examination

Since 1 November 2025 the Council has monitored water demand arising from new development within the Sussex North Water Supply Zone against a fixed pool of water efficiency savings, pending implementation of the Hardham groundwater abstraction licence change. The mechanism is described in a written reply from the Council provided through a councillor enquiry and received on 17 August 2026.

That reply states that the Council conducts "a weekly review of all planning applications that have been approved within the water supply zone, across all Local Authorities", converting each permission to an assumed daily water demand and comparing the running total against a pool of 3,240,000 litres per day. It gives a position as at 30 July 2026 and concludes that "there remains considerable capacity for the proposed development to be delivered without resulting in adverse impacts on the integrity of the Arun Valley sites." It also

records that "the monitoring data is held internally and not published", being provided in response to specific queries.

The Matter 5 agenda includes constraints relating to services including water and sewerage, and whether enough homes would come forward at the right time during the plan period. The monitoring data is the document by which the Council satisfies itself that development in the supply zone can proceed without adverse effects on the integrity of the Arun Valley sites, and the Council's conclusion quoted above rests upon it. It is not presently available to participants.

I would therefore be grateful if the Inspector could be invited to require the Council to provide, in advance of the Matter 5 session:

(a) the monitoring data, or a summary of it in a form the Council considers appropriate for publication;

(b) the current balance of the pool as at the date it is provided;

(c) the employment-density assumption used to convert non-domestic floorspace to assumed water demand. On the figures in the reply, the amount attributable to 65,796 square metres of non-domestic floorspace appears to be in the order of 0.4 litres per square metre per day, and I should like to understand whether that is correct;

(d) an explanation of how commitment of the pool is reconciled between the local authorities drawing on it; and

(e) confirmation of whether the Hardham abstraction licence variation has been formally determined, and of what will replace the interim mechanism if it has not been by 10 November 2026, being twelve months from Natural England's letter to the Council of 10 November 2025, which states that its advice is "to be reviewed in 12 months' time from the date of this letter or once the savings identified to be used as mitigation have run out".

The Council's reply notes that the data "requires some degree of technical knowledge to correctly interpret". I would have no objection to it being provided with whatever explanatory note the Council considers necessary.

I am grateful for your assistance.

Yours faithfully,

Janina Pedan



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