

22nd November 2024

By email: programmeofficer@horsham.gov.uk

Dear Inspector,

Matter 1 (Issue 2) – Legal and Procedural Requirements (Q4) – Sustainability Appraisal (SA)

CBRE is instructed by Wain Estates (**Respondent ID: 1192387**) in respect of their land interest at Kingsfold (Brookvale Garden Village). The site is assessed through the Council's evidence base as one of the alternative strategic sites and within the Draft Plan has the status of an omission site. The application is currently the subject of an EIA Scoping Request with Horsham District Council (HDC) (REF: EIA/24/0006).

Q4. Does the SA assess all reasonable alternative spatial strategy options, levels of housing and employment need and options relating to other policies in the Plan? Where it is considered that there are no reasonable alternatives, relating to all policies in the Plan is this clearly explained?

We note that no formal update has been undertaken to the LUC Sustainability Appraisal (SA) since 2021. The Council has produced its own Sustainability Summary (**SD03a**) to seek to capture the changes that have arisen as a consequence of water neutrality. For the reasons set out below, we consider that the SA is not procedurally robust in its assessment of water quality.

For the purpose of the SA (**SD03a**) water neutrality is viewed by the Council as an absolute constraint to the amount of development that could be permitted:

“However, the potential for both water efficiency and offsetting are finite, which may constrain the amount of development possible in an area.”

This sentence is completely at odds with the sentence that then follows it which acknowledges that some site promoters are proposing their own schemes which eliminate the needs for mains water, for example using on-site boreholes and water treatment centres. The principle of a site-specific solution to water neutrality being acceptable is also considered in the recent Government Recovered Appeal (**HDC04**) within HDC. As set out in our Reg 19 response, the ability to deliver these types of bespoke solutions will be more focused on larger sites (given greater capacity to deliver infrastructure) compared with smaller sites. Moreover, larger sites in delivering commercial buildings and social and community infrastructure will often have greater propensity to capture rainwater and re-harvest it. The fact that bespoke solutions exists confirms that the issue, at least for the purpose of the SA, should not be treated as a finite one.

We are also aware of a recent Appeal Decision¹ in HDC from earlier this year (7th March 2024) in which an Inspector allowed a scheme for 135 units, concluding that the scheme demonstrated water neutrality. With the circumstances of this case, the proposed water neutrality solution is a bespoke one (secured by way of Unilateral Undertaking) involving a combination of on-site measures and off-site mitigation. The scheme highlights the ability of the industry to innovate and respond to overcome challenges. In this sense water neutrality, whilst clear adding an additional layer of challenge and complexity in and of itself is not an absolute prohibition on development being able to be brought forward.

Assessment of Reasonable Alternatives

Chapter 6 of the SA (**SD03a**) states that the reasonable alternatives that have been tested in respect of water neutrality are whether or not 85l/p/d or 110 l/p/d can be sustained. There is no assessment as whether or not a different spatial distribution of development has the potential to have different environmental effects. We subsequently learn in Chapter 7 that the Council have not sought to look at any alternative spatial distributions of development as:

“The LUC appraisal assessed all development sites as having a neutral impact on water resources. That assessment has not been changed for this SA, since water neutrality applies to all sites equally, and it is required by HRA legislation that all development is mitigated by means of water efficiency and offsetting (or other site specific means) to be water neutral”.

The issue of water neutrality is one that has a geographical basis and thus there is scope that the opportunity for mitigation may vary between sites. At present this is not accounted for in the updated SA work. As set out in the separate **Technical Appendix (Water Supply & Neutrality Solutions report, prepared by PJA – see Reg 19 Response)**, Brookvale Garden Village is located at the boarder of the water resource zone and discussions are currently ongoing as to the scope for surplus capacity from the neighbouring water resource zone to be utilised by Brookvale Garden Village. Such an opportunity is rooted in the geographic location of Brookvale Garden Village relative to other sites yet this is not factored into in the updated SA work with a blanket assessment being applied.

The Council's own Water Neutrality Topic Paper (**CC14 Para 2.19**) notes that arrangements between water utility companies can result in areas that were previously identified for constraint not being so. As stated:

*“Some areas within Mid Sussex district were initially identified as within the WRZ. However, through discussions with the water companies and Natural England it has been clarified that new development within the main area identified would not be subject to the same water neutrality requirement – this is because development within Mid Sussex will not increase water abstraction from the affected sites (**due to existing water supply arrangements between the water companies**).”*

¹ APP/Z3825/W/23/3321658

It is also reasonable to assume that larger sites will have the capability to deliver new infrastructure that can assist in alleviating the issues identified. This gives the role of larger sites a distinct difference to a collection of smaller sites which will typically be reliant upon a Council led scheme of mitigation as they may not have the land/ viability to make such a scheme of offsetting work. Again, the blanket assumption that all sites will respond to the water neutrality issue in the same way is a failing in the SA and its assessment of reasonable alternatives.

Notwithstanding Spatial Distribution, Chapter 6 of the updated SA is also slightly unclear as to how the overall housing target of the Local Plan has been reassessed in light of the water neutrality issue. It reads as though the “fixed” capacity of the Water Management Resource Plan (WRMP, 2019) (coupled with the more stringent water consumption policies) has been used to dictate the housing target rather than this being a product of a full SA that re-evaluates worsening social and economic objectives as a consequence of fewer homes being delivered.

This is grappled with by the Council in Chapter 7 of **CD03a**:

“A significant change has been made to the housing supply target, and a strategic site (Buck Barn) has also been removed as an allocation that would otherwise have contributed to housing supply. The housing target is now an average 777 homes a year which takes account of the need for a 10% supply uplift or ‘buffer’ during years 1-5 of the Plan period. This is significantly less than the 1,100 homes a year set out in the July 2019 version of the policy.

There is a clearly changed effect in relation to SA1: Housing as less housing will be delivered. However, the score assigned to this objective is not changed as this policy still performs very strongly for this objective compared with other policies in the draft Plan. It is, however, considered that the removal of Buck Barn changes the ‘+/-’ (mixed positive and negative effects) for SA3: inclusive communities to a ‘+’ (minor positive) effect as the negative effect had related to the challenges of building a new settlement community ‘from scratch’. A further change is to the effect on SA11: Water Resources. The new requirement for water neutrality removes some of the uncertainty on these impacts therefore the criterion changed from a ‘-?’ to just a ‘-’ (minor negative), which assumes full implementation of water neutrality requirements.”

There is a 1,100 shortfall against the July 2019 version of the policy is a significant change as identified by the Council. It is therefore misleading and unjustified for the Council to not seek to amend the assumed housing benefits associated with the scenario in which housing growth is more suppressed following the Council’s approach to the issue of water neutrality.

In the context of the most acute housing crisis in a generation it cannot be said to be accurate for the SA to suggest that the shortfall of circa 2,275 homes is not consequential for the purpose of the SA and its assessment of reasonable alternatives.

Water companies are subject to statutory duties under S37 and 94 of the Water Industry Act 1991 (WIA 1991). Section 37 of the Act imposes a statutory duty on all water companies to provide and maintain adequate infrastructure and potable water supplies.

Consideration of water supply and development needs is undertaken primarily through the production of a Water Resources Management Plan (WRMP) which water companies are required to produce every five years. The most recent WRMP for the relevant geographic area and catchment dates from 2019 and is based upon the housing figures adopted in local plans at that time.

Relevant guidance informs what is expected in the production of a WRMP. The relevant extract of this guidance states that the WRMP should “*achieve a secure supply of water for your customers and a protected and enhanced environment.*” Importantly, in the context of local plan making and housing targets, the WRMP guidance is clear that the WRMP should reflect **local growth ambitions** (our emphasis) and plan

to meet the needs of new businesses and households. It is for the water company to plan for and support the development needs generated by local plans.

The current WRMP dates from 2019 and is based on a different housing target and has been produced and formalised in the absence of the water neutrality position (which has arisen post the adoption of the WRMP from 2019). The adopted WRMP is thus not set up in its scope to engage with this issue. Despite this, the WRMP from 2019 becomes the key reason to restrict growth in the Draft Horsham Local Plan which seeks to plan development over a much longer period of time. As stated at Paragraph 6.14 of (SD03a):

“Growth is therefore restricted to what Southern Water’s Water Resources Management Plan (WRMP) and the local authorities’ offsetting scheme can in combination support.”

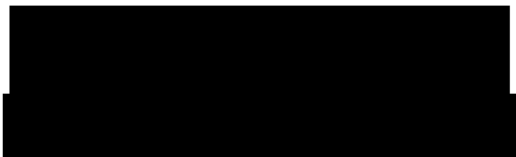
With the requirement to update WRMPs every five years, Southern Water’s WRMP is due to be updated by December 2024. This serves as the opportunity for Southern Water to assess the level of demand that is anticipated for in the wider housing market areas and to ensure that at the strategic level it implements initiatives and solutions that ensure water neutrality to balance the competing need to protect the environment. This duty sits firmly with the utility providers.

With the Draft Local Plan being submitted ahead of this work being done, the Draft Local Plan is in effect suppressing housing need (or local growth ambition) in order to accord with a now dated WRMP from 2019. Such an approach cannot be taken to be positively prepared. In seeking to “bake in” a lower housing number the WRMP that is due to be produced will need to respond to a lower housing number rather than accommodating (as is required under the relevant WRMP guidance) local growth ambitions. The emerging Local Plan takes the capacity arising from the now out-of-date WRMP19, which is adopted on a lower level of growth as the maximum available. This approach cements the failure to maintain an up to date WRMP in HDC (and beyond), constraining growth, which will result in a Plan that is not sound.

The SA is not robust in its assessment of reasonable alternatives. A reasonable alternative should be that the forthcoming WRMP (2024) could result in a betterment to the WRMP (2019) such that more homes could be delivered whilst maintaining water neutrality. The SA does not consider this as a potential nor does it consider the potential for offsetting that may come from bespoke, on-site solutions.

For the reasons set out above the SA is not robust resulting in a Draft Plan that is not justified.

Yours Sincerely,

A large black rectangular redaction box covering the signature and name of the sender.

CBRE LIMITED ON BEHALF OF WAIN ESTATES LIMITED