

Houses for Homes Consortium – Written evidence (IER0032)

The effect of environmental regulations on the future of house building within the Sussex North Water Supply Zone, Southern Water

Summary

1 This paper addresses the use of an EU Court of Justice decision on Case C-323/17 People over wind and Sweetman to impose a complete ban on planning approvals in the Southern Water , Sussex North Water Supply Zone.

The submission suggests this is an incorrect use of the Case and that it should be withdrawn.

2 The paper points out that Southern Water have an unused reserve of 9 Megalitres per day available from Portsmouth Water Company and that this is more than will be required by the houses we build.

3 The paper refers to a previous House of Lords Committee which contained statement that doubted whether water demand could ever be reduced. As this position statement requires a per capita demand reduction of 16% **by every customer** we doubt its certainty.

4 In an attempt to find a way forward this paper reiterates a proposal for conjunctive use of the resources at Hardham and shows evidence that this will provide sufficient water whilst reducing groundwater abstraction.

5 Natural England has instituted this ban on planning approvals without consultation with the Developers and without the provision of an organisational system to make it work. We have attempted to engage with the Local Planning Authority for the past 18 months with very little constructive dialogue. It was clear that they had no expertise and were unable to come to any satisfactory conclusion regarding our numerous proposals. We have unsuccessfully sought meetings and are continually rebuffed. It is obvious that this sort of major change to a well accepted system was beyond the LPA and should have been preceded by in depth discussion.

The effect of environmental regulations on the future of house building within the Sussex North Water Supply Zone, Southern Water

This submission is concerned with the need for the water industry to provide an adequate supply of water and meet environmental regulation. We are most concerned with the way in which the Natural England environmental requirements in the North Sussex Water Supply Zone have stopped the planning process altogether. We explain how we believe this position statement is incorrect as it has been served on the wrong people and we have offered a very simple alternative.

Houses For Homes Consortium

The consortium is a group of Agents, Developers and Builders working in the area affected by the Natural England position statement. In association with the National House Builders Federation (HBF)we are opposed to the imposition of water neutrality in the Sussex North Water Supply Zone considering it be wrongly served, of no certainty of success and that it will not improve the situation.

Housing developments in the Sussex North Water Supply Zone.

In September 2021, Natural England issued a Position statement informing Local Planning Authorities that developers' plans must not be approved unless they exhibited water neutrality. That is, any additional property must not cause an increase in water demand in the zone. Natural England state that one way of achieving this would be by minimising water use in the new builds and retrofitting water saving apparatus to existing properties.

There were no systems in place to determine how this would be assessed; developers had no notice of its publication, hence planning has been halted for 18 months (and likely to continue for much longer- a moratorium) whilst the parties involved attempt to find a solution

Developers are beginning to see the completion of their existing projects with no identified and approved schemes for the future. Concern is now growing about possible bankruptcy, unemployment, loss of material manufacture and a significant down turn in the provision of much needed new housing.

Consultation

The Natural England position statement was issued without prior consultation with those making planning applications and without the LPAs having a proper pre arranged system or staffing in position to deal with the subsequent implementation. The position statement goes as far as stating that water neutrality is 'one way' of solving the problem which obviously indicates that they believe there are other solutions. Consultation is the accepted method of examining the possible solutions and arriving at a fully acceptable answer. It

gives the opportunity to seek the advice of those experienced in the subject without imposing a view.

We have attempted to discuss the problem with the LPA's and it has proven difficult if not impossible to make any meaningful progress. We have explained to them the serious nature of this ban on planning approvals – no matter who actually imposes the ban – and that speed is of the essence if we are to avoid a real breakdown in the building industry. 18 months later we have made no progress.

The built environment expansion requires a consistent competent system properly administered. By accepting without question the position statement, these processes have stopped completely.

We have offered a number of very sensible and easily implemented solutions as 'other ways' of not only preventing any further damage but actually making improvements. The LPA has admitted it does not have the expertise to accept our proposals and the problem persists.

This is very disquieting situation where the LPA does not recognise the urgency, does not have the expertise to make a decision and attempts to overcome the problem by ignoring our attempts to reach a solution.

The position statement.

This position statement is based upon the recent caselaw, Case C-323/17 People over wind and Sweetman. Ruling of CJEU.

It is our belief that the position statement does not follow the above caselaw.

Case C-323/17 concerns the proposal by an Irish company to connect a wind turbine electricity generator to the electricity grid. The cable required would have crossed a protected waterway and cause further environmental damage where an existing adverse effect is known.

That case refers solely to the actions of a utility supplier potentially affecting a protected species. There is no mention of the eventual users of that electricity. In the Sussex North case we, the developers, are the eventual customers, we are not the utility provider.

Therefore, it is our considered opinion that Southern Water, the utility supplier in this case, should be the subject of the Position Statement and it is their duty both to supply our new properties with an adequate supply of water and to demonstrate to the Local Planning Authorities that they will not contribute further to the existing adverse effect.

We, the Developers, have no control or knowledge of the source of the water supplied and we cannot be held responsible for the solution to this environmental problem.

The Position Statement should be withdrawn and then reissued, with Southern Water as the subject body.

Ability to achieve water neutrality

The current average per capita consumption is around 132 litres per head per day. In order to achieve water neutrality all the occupants of both the new houses and the retrofitted existing houses will have to reduce their per capita consumption to at least 110 litres per head per day, possibly less. A reduction of 16.6%.

This is a wide scale implementation of a system that has not been trialled in the UK. And there is no absolute certainty that it will work.

In Your Lordships' Science and Technology Committee, 8th Report of Session 2005/06, Water Management, Page 122, Appendix 4 Comments from Professor Adrian McDonald, he states

'It is very difficult to foresee any plausible scenarios in which a water demand **increase** as low as 0.1 percent per year is reasonable.

Water neutrality requires every customer, young or old, to **reduce** the average by 16.6 per cent **all the time**.

We question the certainty of this ever being achieved even after we have invested tens of millions of pounds in fitting water reducing devices.

The ability to abstract more than the 'existing abstraction

We have been unable to establish from Natural England the quantity of water constituting the 'existing abstraction' having the adverse impact on the Arun Valley Site. Subsequent to the issue of the position statement and using data obtained from Southern Water, it would appear that this 'existing' rate of abstraction is around 12.7 Megalitres per day.

A recent email from Natural England states :-

'As I understand it we do not know what the sustainable level of groundwater abstraction from the Pulborough abstraction is, **if any at all** there is currently an investigation to ascertain this.' (my italics).

We find it difficult to accept that Southern Water would be able to increase abstraction beyond the existing rate, given the Natural England email.

Importing water into the zone to meet demand

Around 2006, Southern Water announced that the water resources within the Sussex North Water Supply Zone were insufficient to meet demand. To overcome this shortfall, Southern have reached an agreement with the

neighbouring Portsmouth Water Company for the supply of 15 Megalitres per day. The necessary infrastructure was installed and the system is in operation.

However, even during the 2022 dry Summer, Southern were able to meet all water demands in the zone with only using 6 Megalitres per day of this import agreement. There is, therefore, a further 9 Megalitres per day available to meet any future increase in demand and it is estimated that at the end of the current building programme the new properties will increase demand by 7 Megalitres per day.

We cannot see the requirement for Southern to increase the existing groundwater abstraction given it would cause further damage and it already has more water available from Portsmouth Water Company.

Longer term benefits

The Natural England Position Statement is made on the basis that existing water abstraction is causing damage and it does not wish to see an increase that would contribute further damage. Therefore, the end result of water neutrality is that the damage continues.

What is required is a solution that not only prevents an increase in groundwater abstraction but actually enables a reduction. This will start the ecological regeneration we all seek.

The Position Statement says that water neutrality is 'one way' of solving the problem. We have taken the opportunity of carrying out our own investigations into the resource available, including 2022, recognised as a very dry summer.

Geology

The whole of the South of England sits on aquifers, one of them being the greensand, the subject of the Natural England Position Statement. These aquifers form a natural reservoir of clean wholesome water, enabling the expansion of the built environment as population increased. The environmental regulators now believe they recognise that this abstraction is causing damage (However this is unproven .)which they first of all seek to prevent getting worse and second, if possible, reduced.

In the case of Hardham Water Works, the only way this can be achieved is to prioritise the abstraction of water from the River Rother (which flows through the site) and to minimise the groundwater abstraction. Water that would otherwise flow into the salt water estuary would be used and not lost, the water not used from the aquifer would remain. This we call conjunctive use.

An alternative solution

Hardham has two licences. The site can deliver a maximum of 75Megalitres per day. All of that can be abstracted from the river provided the flow into the

estuary does not fall below 63.56 Megalitres per day. The groundwater abstraction, the cause of the damage, can be up to 34 Megalitres per day, but the combined river and groundwater abstraction is capped at 75 megalitres per day.

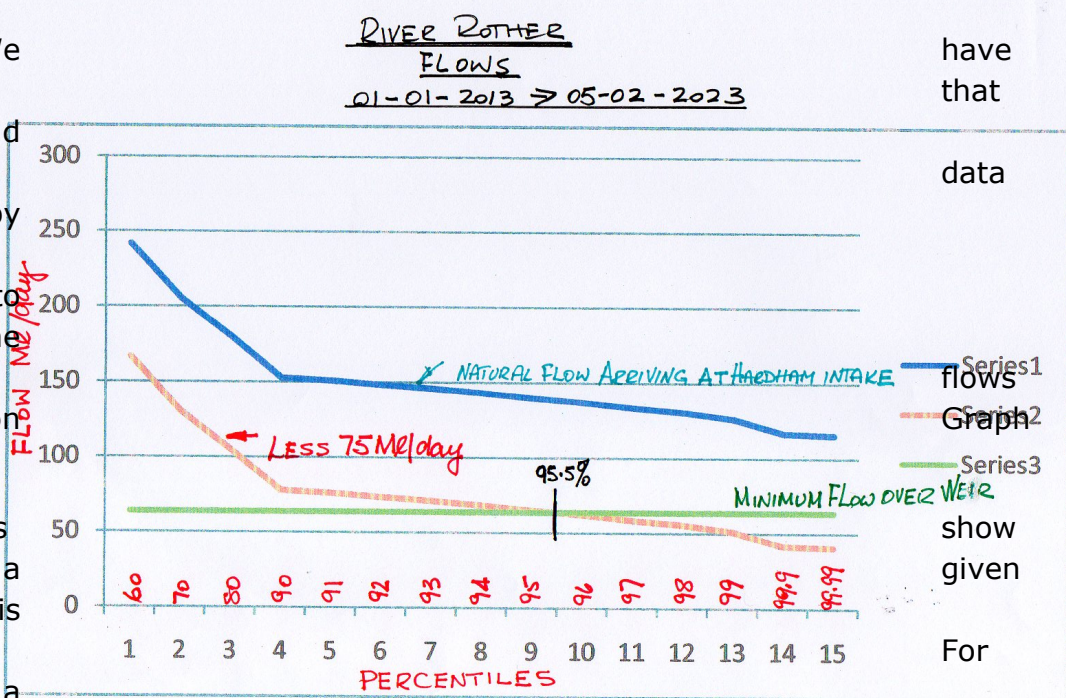
The questions we ask.

Is it possible for Southern Water to prioritise maximum abstraction from the river to the full licensed quantity of 75 Megalitres per day and if possible eliminate the need to abstract from the groundwater? If this is not possible, could the groundwater abstraction be reduced to a maintenance level, say 3 Megalitres per day (to prevent deterioration) and then 'top up' to the full station output for the period the river cannot supply the full amount? Would this solve the problem?

All river flows are recorded and stored in National River Flow Archive. We analysed data (and additional supplied by Southern Water) to produce the percentile as shown on 1.

(Percentiles show how often a flow is exceeded. For example a 50%ile flow exceeded of the time: 95%ile flow very low exceeded by of all flows record.)

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From Graph 1 it can be seen that the natural flow less the 75 Megalitres per day abstraction causes the residual flow to fall below the 63.56 Megalitre per day limit placed on flows over the weir and into the estuary only lower than the 95.5%ile. Putting it into day terms, the full 75 Megalitres per day should be available for 348 days of the year and a top up from the groundwater will be required for the remaining 17 days.

There is no 'hands off flow' for the River Rother. In this case, the water company would have to reduce abstraction to ensure the regulated limit is not breached. As a maximum this will require an abstraction of around 15 Megalitres per day from the groundwater for the 17 day period.

The aquifer can supply this amount and still leave large quantities of water remaining. This will stop the existing damage and create the conditions for ecological improvement. Conjunctive use is the way to solve this problem, not water neutrality.

We have suggested this to Southern Water and to Natural England. At the moment we understand they wish to carry out pumping tests to establish a regular output and we await the results.

Would this be possible during dry weather.

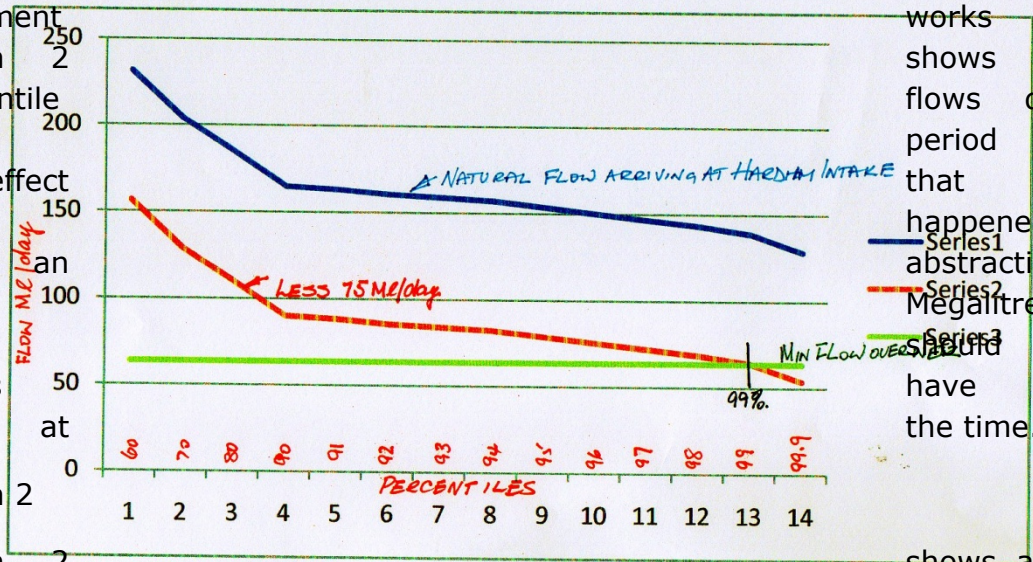
We are aware of the constant talk of impending droughts. The rainfall record held by the Sandgate Conservation Society (Storrington near Pulborough) shows that there have been less than a dozen months without rain since the start of their record in 1938. The present rainfall is slightly above the long term average.

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This system of prioritising river abstraction before groundwater abstraction is conjunctive use. We suggest our proposal, already sent to Southern Water, is an alternative solution and that it would simply require a letter of agreement by Southern Water that they will prioritise the abstraction from the river up to the maximum of 75 Megalitres per day and that they will not exceed the existing abstraction referred to in the Natural England Position Statement (on an annual basis).

Result

This will meet the requirements of the Natural England Position Statement and the moratorium on planning approvals can be removed.

April 2023