



## **Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone: February 2022 V2**

This Advice Note is designed to expand upon and clarify the Statement issued on 14 September 2021 and applies solely to the Sussex North Water Supply Zone

### **Background**

The impact of groundwater abstraction within the Sussex North Water Supply Zone has been of concern to Natural England since 2019. In particular, Natural England believes that the ongoing abstraction is having a detrimental impact on a number of designated sites including Amberley Wild Brooks SSSI and Pulborough Brooks SSSI. These form part of Arun Valley SPA, Arun Valley SAC and Arun Valley Ramsar site ("together the Habitats Sites").

Natural England first advised Southern Water in December 2019 that it could not conclude, with certainty, that the existing abstraction within the Sussex North Water Supply Zone was not having an adverse impact on the integrity of the Habitats Sites, through reduced water levels and potential water quality impacts.

In addition to existing pressures, Natural England is also concerned that the Sussex North Water Supply Zone is likely to be subject to significant future development pressures. These will necessitate increased abstraction within the region and are likely to further exacerbate any existing impacts on the Habitats Sites.

Natural England is currently undertaking a full integrated condition assessment of the SSSI sites that make up the Habitats Sites. The present indication (on the basis of water levels) is that the sites' condition is Unfavourable. Monitoring is ongoing in relation to water quality and the final report is expected by the end of June 2022. Natural England awaits the findings of this report before drawing any definitive conclusions regarding the Habitats Sites. However, at this stage existing abstraction cannot be ruled out as contributing to or causing an ongoing adverse impact on the sites.

Pursuant to these concerns, on 14 September 2021 Natural England advised the relevant Local Authorities that the existing abstraction within the Sussex North Water Supply Zone could not be ruled out as causing an adverse effect on the Habitats Sites. Furthermore, if further development were to be consented in this region (with the requirement for additional abstraction) such development was likely to have an adverse effect on the Habitats Sites.

Natural England is closely involved with the relevant local authorities, the Environment Agency and Southern Water in developing a longer-term strategy to integrate Water Neutrality into the relevant Local Plans. However, while this broader strategy remains in development, Natural England are seeking to propose mechanisms whereby the concept of Water Neutrality can be integrated into individual planning decisions to ensure that future development can proceed in a manner that does not further adversely affect the Habitats Sites, notwithstanding these pressures.

## **Definition of Water Neutrality**

Water Neutrality is not currently defined in legislation, but is drawn from the Gatwick Sub regional Water Cycle Study (2020)<sup>1</sup>

*“For every new development, **total water use in the Sussex North Water Supply Zone** after the development must be **equal to or less** than the total water-use in the region before the new development.”*

‘New development’ is considered to be any relevant project requiring a public water supply from Southern Water’s Sussex North Water Supply Zone, but is likely to be dominated by large planning applications.

The decision on whether the 2017 Regulations apply to a specific project will be a matter for the relevant Competent Authority (usually the local planning authority). However, the 2017 Regulations are likely to apply to any development which could materially increase water consumption. This could include dwellings, office, commercial and educational development among others.

Water Neutrality requirements would not apply to existing public water supply use (save in respect to their potential for off-setting).

## **Achieving Water Neutrality**

Further details on how Natural England suggest Water Neutrality be achieved are set out in the Frequently Asked Questions documents (December 2021).

In summary, the amount of water from new developments using public water supply in the Sussex North Water Supply Zone will be calculated on an individual or cumulative basis to produce a predicted “demand” for water from growth.

Once this per-capita calculation has been made, each new qualifying development will need to demonstrate how that development will achieve no net increase in water consumption. This can be done through a combination of:

- water efficiency measures; and,
- offsetting

Natural England particularly welcomes nature-based solutions where these are available.

Whilst a range of measures are likely to be possible, it will be important to ensure that any measures take the form of mitigation rather than compensation to the Habitats Sites, in order to comply with the 2017 Regulations. This means that measures must avoid impacts (reduction in water reaching the Habitats Sites), rather than addressing the impacts once they have occurred.

## **Legal basis for Water Neutrality**

In order to avoid an adverse effect on integrity, the conservation status of a habitat must, if favourable, be preserved. If unfavourable, it must not be further harmed or rendered more difficult to retore to a favourable status. It is this which Water Neutrality is seeking to achieve.

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<sup>1</sup> Gatwick Sub-Region Water Cycle Study, Final Report (August 2020) JBA Consulting

The concept of Water Neutrality has been developed to form what is intended to be a legally robust and proportionate route to consenting plans and projects where a site is in Unfavourable Conservation Status or in Favourable Conservation Status but exceeding the relevant thresholds.

However, whilst Natural England encourages the adoption of Water Neutrality by decision makers, this is only a tool to help ensure compliance with the 2017 Regulations, and does not preclude the consideration by local planning authorities of alternative methods to protect the Habitats Sites whilst enabling development, provided the Habitat Regulations Assessment tests are met.

Furthermore, each project will continue to require its own assessment. The Advice Note is not intended to pre-judge the outcome of individual applications, each of which will need to be considered on its individual merits and the findings of its accompanying assessment.

For the avoidance of doubt, since the 2017 Regulations cannot be applied retrospectively, the requirement for Water Neutrality will not apply to any projects with full planning permission prior to the Natural England Statement being published on 14 September 2021, in addition this would equally apply to not requiring future developments to mitigate the impact of those developments already granted full permission at that point.

It is Natural England's intention that Water Neutrality is integrated into relevant Local Plans in partnership with local authorities. However, given the existing stresses on the sites and the need to engage with individual planning decisions, the Statement is considered the most effective interim approach to help ensure that any planning applications within the Sussex North Water Supply Zone can be determined in compliance with the 2017 Regulations whilst the Strategy is evolving.

### **Strategic long-term approach**

Given existing pressures, both environmental and developmental, achieving Water Neutrality is likely to remain necessary for as long as the adverse effect risk from water supply abstraction continues, and may be required until the Habitats sites in question are restored to FCS. In practical terms, this is likely to require the delivery of an alternative water supply (estimated around 2030 with significant uncertainty).

The situation continues to evolve, and Natural England intends to update this Statement periodically as the evidence base on the Water Neutrality, the strategic solution and other material matters develops.