



Secretary of State for Environment, Food and Rural Affairs
FAO Mr Martin Woolhead, Deputy Director for Water Sector Delivery
Department for Environment, Food and Rural Affairs
Seacole Building
2 Marsham Street London
SW1P 4DF
27 September 2024

Dear Mr Woolhead,

Hampshire Water Transfer and Water Recycling Project – Request to vary a direction under section 35(1) of the Planning Act 2008

1. Introduction

- 1.1 On 31 May 2022, following a qualifying request from Southern Water Services Limited (Southern Water), the Secretary of State gave a direction under section 35(1) of the Planning Act 2008 (the Direction) that certain elements of the Hampshire Water Transfer and Water Recycling Project (the Project) should be treated as development for which development consent is required.
- 1.2 Since the Direction was given, Southern Water has continued developing the Project with a view to submitting an application for development consent during the course of 2025. This has included engagement with Portsmouth Water around the interfaces between the Project and its plans related to Havant Thicket Reservoir which is now under construction and due for delivery by Portsmouth Water in 2031.
- 1.3 As a result of this work, Southern Water has concluded that it would be beneficial to seek minor variations to the Direction to better reflect the description of the Project as it currently stands. In addition, Southern Water has noted a technical drafting point that it considers requires variation to avoid unintended consequences. However, the variations as sought would not result in material alterations to the nature of the Project, including its physical scale and regional/national importance, when compared to the development which is already the subject of the Direction.
- 1.4 Under section 233(2) of the Planning Act 2008, the Secretary of State has the power to vary directions given under section 35(1), in response to a “qualifying request” (within the meaning of that term as defined in section 35ZA(11) of the Planning Act 2008). Accordingly, this letter comprises such a “qualifying request” from Southern Water to seek a variation to the Direction.

2. Background to the Project

- 2.1 Southern Water's 'Water for Life – Hampshire' (WfLH) programme represents an integrated approach to addressing the sustainability objectives of reduced abstractions from Hampshire's two main rivers and ensuring a resilient water supply for 855,000 of the County's residents during a drought. Infrastructure investment, nature-based solutions, land management and customer behaviour all have a role to play in achieving these objectives. A key part of the WfLH programme is the Project, which comprises both pioneering water recycling infrastructure and extensive water transfer pipelines. The Project will provide an enhanced use of Havant Thicket Reservoir by enabling increased volumes of water to be abstracted from the reservoir to maintain water supplies in Hampshire and neighbouring supply areas.
- 2.2 It is crucial that the Project is delivered at the earliest opportunity in order to avoid both a significant deficit of water supply for many of Southern Water's customers in drought conditions, and further delays to protecting the ecological status of the County's two main rivers. This would ensure compliance with Southern Water's statutory water supply duty and its 'all best endeavours' obligation to deliver the Project as quickly as possible pursuant to the operating agreement between Southern Water and the Environment Agency under s.20 of the Water Resources Act 1991.
- 2.3 The Project is within the field of water and would be located entirely within England – these facts remain unchanged since the Direction was originally given.

3. Description of the Project and sought variations to the Direction

Description of the Project

- 3.1 As alluded to above, Southern Water has been developing the Project following the Direction being given in May 2022. This has resulted in the description of the principal elements of the development comprising the Project (or "the Principal Development") now being minorly different when compared to those set out in the Direction. Southern Water considers that, as a result, it would be beneficial for the Direction to be varied to reflect these minor changes ahead of its proposed application for development consent being made for the Project during the course of 2025.
- 3.2 The description of the Principal Development as it now stands is set out below – this differs from that in the Direction:
 - underground water transfer pipeline(s) to enable the transfer of approximately 90MI/d of water during peak operation (i.e. during severe drought conditions) from Havant Thicket Reservoir to Otterbourne Water Supply Works (WSW);
 - Water Recycling Plant (WRP) in the vicinity of Budds Farm Wastewater Treatment Works (WTW) with an output of at least 15MI/d;
 - underground pipeline to enable the transfer at peak operation of at least 15MI/d of recycled water from the WRP to Havant Thicket Reservoir;
 - underground pipelines between Budds Farm WTW and the WRP to accommodate minimum 19MI/d peak transfer volumes in each direction;

- high lift pumping station, either located at the site of the WRP or located along the underground water transfer pipeline(s) between Havant Thicket Reservoir and Otterbourne WSW; and
 - second stage pumping station and break pressure tank located along the underground water transfer pipeline(s) between Havant Thicket Reservoir and Otterbourne WSW.
- 3.3 How this description differs from the description of the Principal Development set out in the Direction is shown in the Appendix to this letter in tracked changes.
- 3.4 It will be noted that two proposed variations add in the word 'enable' to the description of the Principal Development. This is to reflect the fact that Southern Water proposes to seek a level of flexibility in its development consent application for the Project, including in respect of precise connection points for certain pipelines as well as the precise lengths of those pipelines that will be over/above ground, subject to appropriate parameters, constraints and controls. As such, it is proposed that the Direction is varied to refer to the purpose of the pipelines in question (i.e. to 'enable' the transfer of water between X and Y) rather than defining the start/end points of those pipelines (i.e. a pipeline 'between' X and Y).
- 3.5 Southern Water requests that these variations are made to the description of the Principal Development in the Direction.
- 3.6 The other elements of the Project as described and defined in the Direction (namely the Associated Development and the Ancillary Matters) remain unchanged.

Development that is to be treated as development for which development consent is required

- 3.7 In addition, Southern Water has noted that the Direction states that, for example:
- “THE SECRETARY OF STATE HEREBY DIRECTS that the proposed development, namely, the Hampshire Water Transfer and Water Recycling Project, is to be treated as development for which development consent is required.”*
- 3.8 In the Direction, the “proposed development” is defined as comprising the Principal Development, the Associated Development (itself defined in the Direction) and the Ancillary Matters (which, again, is defined in the Direction). The wording of the Direction therefore results in all three of these components comprising the Project requiring development consent.
- 3.9 This is contrary to the scope of the direction originally sought by Southern Water and has the consequence of putting the Project on a basis that is contrary to all other projects moving through the Planning Act 2008 process.
- 3.10 This is primarily because the general position (absent the Direction) is that development comprising associated development (within the meaning of section 115(2) of the Planning Act 2008) and matters comprising ancillary matters (within the meaning of section 120 of the Planning Act 2008) can be included within development consent orders, but are not required to be. Indeed, both aspects can be authorised separately, should a project promoter consider that to be appropriate in the circumstances. It also limits Southern Water’s flexibility in the future in terms of the consenting/authorisation route should changes need to be made to aspects of the Project that do not comprise the Principal Development.

3.11 Further, other directions given by the Secretary of State under section 35(1) in relation to water-related projects take an approach that more reflects the position set out in paragraph 3.10 and that which was originally requested by Southern Water. See, for example, the directions given in relation to the River Thames flood alleviation scheme and the Teddington Direct River Abstraction project.

3.12 In light of this, Southern Water therefore requests the reference to the “proposed development” (and, in one instance, the “NSIP development”) in the Direction is varied to read “Principal Development”, as indicated in the Appendix to this letter.

Variations sought to the Direction

Southern Water therefore formally requests that the Direction is varied such that:

1. the Principal Development, as defined in the Direction, is amended to reflect the revised version set out above in paragraph 3.2 and as highlighted in the Appendix to this letter; and
2. it is only “the Principal Development”, rather than “the proposed project”, that is to be treated as development for which development consent is required (see suggested variations highlighted in the Appendix to this letter).

Case for the Project being of national significance

3.13 In the Annex to the Direction, the Secretary of State stated that they were:

“...of the opinion that the proposed development, the Hampshire Water Transfer and Water Recycling Project is nationally significant and therefore treated as a development of national significance having in particular taken into account that the project would:

- *be for a complex and substantial scheme, involving extensive infrastructure works and requiring multiple powers and consents (including multiple planning permissions, compulsory acquisition powers and highway orders), which should be seen as nationally significant development in its own right; and*
- *benefit from an application being determined in a timely and consistent manner by way of the Development Consent regime, and by removing the need to apply, and the uncertainty of applying, for a large number of separate powers and consents.”*

3.14 The Secretary of State further stated in that Annex that the Project would:

- *“provide a substantial number of people across Hampshire with a resilient water supply during drought conditions and would be a key piece of strategic regional infrastructure in meeting the modelled supply deficit for Southern Water’s water supply zone;*
- *make a significant contribution (c. 47%) to resolving the overall supply demand deficit in Southern Water’s Western Area of supply;*
- *support the delivery of up to 87,000 new homes by 2045;*
- *have the capacity to be upgraded to support further increases in population growth, housing supply and / or further water resource pressures;*

- *mitigate against the social and economic risks of debilitating water restrictions for both businesses and households when the weather is dry; and*
- *make a significant contribution to the UK Government's environmental objectives and policy priorities.”*

3.15 Southern Water submits that these conclusions remain fully valid and relevant in respect of the Project and the Principal Development, and the variations sought to the Direction in no way alter the scale, nature of complexity of the Project/Principal Development. They are primarily of a technical nature, as opposed to a substantive change to the nature or description of the Project/Principal Development.

3.16 Indeed, since the Direction was given by the Secretary of State in May 2022, the need for, and importance of, the Project in providing a resilient regional water supply has been updated and re-confirmed in Southern Water's revised draft Water Resources Management Plan, which is currently out for public consultation until 4 December 2024.¹

4. Conclusion

4.1 As set out above, Southern Water requests that the Secretary of State exercises the power under sections 35(1) and 233(2) of the Planning Act 2008 to vary the Direction in the manner set out above, such that:

- 4.1.1 the Principal Development, as defined in the Direction, is amended to reflect the revised version set out above in paragraph 3.2 and as highlighted in the Appendix to this letter; and
- 4.1.2 it is only “the Principal Development”, rather than “the proposed project”, that is to be treated as development for which development consent is required (see suggested variations highlighted in the Appendix to this letter).

4.2 This document constitutes a “qualifying request” for the purposes of section 35ZA of the Planning Act 2008, specifically as it:

- 4.2.1 requests the Secretary of State to exercise the power under sections 35(1) and 233(2) of the Planning Act 2008 to vary the Direction;
- 4.2.2 specifies the development to which it relates (paragraphs 3.1 to 3.6);
- 4.2.3 confirms that it relates to development that is in the field of water (as the Project and the Principal Development involve water recycling and transfer), in accordance with section 35(2)(a) of the Planning Act 2008 – the principle of this was confirmed by the Secretary of State when giving the Direction originally; and
- 4.2.4 confirms that the Project (and specifically the Principal Development) is entirely within England, in accordance with section 35(2)(b) of the Planning Act 2008 - the principle of this was again confirmed by the Secretary of State when giving the Direction originally.

4.3 Ultimately, the fundamental nature of the Project and the Principal Development has not changed since the Secretary of State gave the Direction originally and would not change as

¹ [Our revised draft plan – Southern Water WRMP](#) [accessed 13 September 2024]

a result of the variations to the Direction now sought by Southern Water. As such, the reasons given by the Secretary of State at that time for why they considered the Project to be of national significance remain fully valid and relevant.

Yours sincerely,



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Attached: Appendix 1 (below) – proposed variations to existing section 35 direction

APPENDIX 1

SOUTHERN WATER SERVICES LIMITED

HAMPSHIRE WATER TRANSFER AND WATER RECYCLING PROJECT

PROPOSED VARIATIONS TO EXISTING SECTION 35 DIRECTION

“The Secretary of State notes that the applicant describes the proposed project as comprising of the following:

- *Underground water transfer pipeline(s) to enable the transfer of approximately 90MI/d of water during peak operation (i.e. during severe drought conditions) from Havant Thicket Reservoir to Otterbourne Water Supply Works (WSW) ~~to transfer approximately 90MI/d during peak operation (i.e. during severe drought conditions);~~*
- *Water Recycling Plant (WRP) in vicinity of Budds Farm Wastewater Treatment Works (WTW) with an output of at least 15MI/d.*
- *Underground pipeline to enable the transfer at peak operation of at least 15MI/d of recycled water from the WRP to Havant Thicket Reservoir;*
- *Underground pipelines between Budds Farm WTW and the WRP to accommodate minimum 19MI/d peak transfer volumes in each direction;*
- *High lift pumping station, either located at the site of the WRP or located along the underground water transfer pipeline(s) between Havant Thicket Reservoir and Otterbourne WSW;*
- *Second stage pumping station and break pressure tank located along the underground water transfer pipeline(s) between Havant Thicket Reservoir and Otterbourne WSW;*

(together, "the Principal Development")

- *associated development (within the meaning of section 115(1)(b) of the Planning Act) including, but not limited to: temporary works to support construction, works to support operation and maintenance, site accesses, temporary and permanent utility connections, highway diversions and landscaping, environmental mitigation, enhancement and compensation measures ("the Associated Development"); and*
- *ancillary matters ("the Ancillary Matters").*

The proposed project does not include the construction of any dwellings.

The proposed project can therefore be summarised as comprising:

- *the Principal Development;*
- *the Associated Development; and*
- *the Ancillary Matters,*

all as detailed or referred to in the applicant's formal request.



The Secretary of State is of the view that the ~~proposed~~ Principal Development by itself is nationally significant, for the reasons set out in the Annex below.

THE SECRETARY OF STATE HEREBY DIRECTS that the ~~proposed~~ Principal Development, namely, the Hampshire Water Transfer and Water Recycling Project, is to be treated as development for which development consent is required. Any development consent order application for the ~~proposed~~ Principal Development may also include any matters that may properly be included in a development consent order (within the meaning of section 120 of the Planning Act) including ancillary matters (section 120(3)) and associated development (within the meaning of section 115(2) of the Planning Act).

THE SECRETARY OF STATE FURTHER DIRECTS in accordance with section 35ZA(3)(b) and (5)(b) of the Planning Act that any proposed application for a consent or authorisation mentioned in section 33(1) or (2) of the Planning Act in relation to the ~~NSIP development~~ Principal Development is to be treated as a proposed application for which development consent is required.

This direction is given without prejudice to the Secretary of State's consideration of any application for a development consent order which is made in relation to all or part of the ~~proposed project~~ Principal Development."