



SECTION 35 DIRECTION REQUEST FOR ANGLIAN WATER SERVICES LIMITED

FENS RESERVOIR

1. BACKGROUND

- 1.1 This statement is prepared by Anglian Water Services Limited (**AW**) as a qualifying request for a direction from the Secretary of State under section 35 of the Planning Act 2008 (**Planning Act**) in relation to the Fens Reservoir (**the Project**).
- 1.2 AW is an appointed water undertaker under the Water Industry Act 1991 that supplies water and wastewater services to almost 7 million customers in the east of England and Hartlepool. AW is the largest water company in England by geographic area. Around half of Anglian Water's supply comes from groundwater sources (accessed through 400 boreholes) and the other half comes from surface water sources made up of 8 reservoirs and 13 rivers. The supply from these sources is then divided up across the region into Water Supply Zones (WRZ's). Anglian Water has 27 WRZ's. These WRZ's are the geographical areas used by Anglian Water to develop forecasts of supply and demand, and supply vs demand balances.
- 1.3 Cambridge Water (**CW**) (part of South Staffordshire Water) is developing the Project in partnership with AW. CW is a water only company supplying drinking water to around 351,000 people in and around the city of Cambridge. Its operating area extends from Ramsey in the north to beyond Melbourn in the south, and from Gamlingay in the west, to the east of Cambridge city.
- 1.4 CW's source of supply is 97 percent from ground water sources while the remaining 3 percent comes from a greensand source to the west which feeds Gamlingay and the surrounding villages.
- 1.5 The Fens Reservoir would comprise a water storage reservoir with an approximate capacity of 55 million cubic metres (**Mm³**) with a usable volume of approximately 50 Mm³, as well as associated development and ancillary matters. It would be located in the Cambridgeshire Fens approximately 2.2km north of Chatteris, east of Doddington and approximately 3km south of March in the administrative area of Fenland District Council (see **Appendix 3**).
- 1.6 Water would be abstracted from existing watercourses for onward transfer to the reservoir where it would be stored and, when needed, treated to a potable quality and transferred via pipelines to connection points within the existing supply system.
- 1.7 The Project sits within the context of both a national water resources framework and national and local planning policies which, together, drive the need and requirements for national water resource management. It has been identified as a key infrastructure component of both the Water Resources East (**WRE**) Regional Water Resources Plan for Eastern England (December 2023)¹ (**WRE regional plan**) prepared by WRE in

¹ WRE, *Regional Water Resources Plan for Eastern England* (December 2023). Available at: [WRE-Regional-Water-Resources-Plan-for-Eastern-England.pdf](#) (Accessed: 6 March 2025).

accordance with the *National Framework for Water Resources (2020)*² (**National Framework**) and AW's published Water Resources Management Plan 2024³ (**WRMP24**). The Project is also included in CW's final Water Resources Management Plan 2024.⁴ The Project would provide a strategic water resource in the east of England to secure water supply for AW and CW customers. As set out above, AW and CW are partnering to deliver the Fens Reservoir.

- 1.8 The location and scale of the Project would meet the relevant criteria and thresholds for being a reservoir Nationally Significant Infrastructure Project (**NSIP**) under section 27(1)(a) and (c) of the Planning Act. However, because the Project is proposed to be delivered by an Infrastructure Provider (**IP**) under the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 (**SIPR**)⁵ (which would not be a "water undertaker" as defined in section 27(3) of the Planning Act⁶), at the time of the DCO application being made the relevant NSIP criteria in section 27(1)(b) of the Planning Act would not be satisfied. Therefore, the Proposed Development would not strictly meet all the criteria to be classified as a NSIP and would not automatically be required (or be able to be) authorised by a Development Consent Order (**DCO**) under the Planning Act.
- 1.9 AW considers that the principal elements of the Project (given its scale and complexity, and the fact that it is of a scale that is equivalent to an NSIP) would benefit from being authorised by way of a DCO.
- 1.10 Accordingly, AW is seeking a section 35 direction from the Secretary of State for the principal elements of the Project to be treated as nationally significant infrastructure for which development consent is required. A proposed draft of the sought direction is at **Appendix 1**.
- 1.11 Subject to this request for a section 35 direction being granted, AW would apply for a DCO under the Planning Act for the Project.

2. DESCRIPTION OF THE PROPOSED DEVELOPMENT

- 2.1 The principal element of the Project to which this section 35 direction request relates (**the Principal Development**) is a non-impounding reservoir with an approximate capacity of 55 Mm³ of water (with a usable volume of 50 Mm³) in the east of England.
- 2.2 Specifically, the Principal Development would comprise:
- 2.2.1 water storage of approximately 55 Mm³ (with a usable volume of 50 Mm³) and a water surface area of approximately 5km²; and
- 2.2.2 an embankment to create a continuous low-permeability barrier against the flow of water.
- 2.3 The Project as a whole would also comprise:

² Environment Agency, *Meeting our Future Water Needs: a National Framework for Water Resources (2020)*. Available at: [National Framework for water resources summary.pdf](#) (Accessed: 6 March 2025).

³ Anglian Water, *Our Water Resources Management Plan 2024* (September 2024). Available at: [V4 WRMP24 main report](#) (Accessed: 6 March 2025).

⁴ Cambridge Water, *Water Resources Management Plan 2024* (March 2025). Available at: [cam-water-resources-management-plan-2024-final.pdf](#) (Accessed: 7 April 2025).

⁵ Please see confirmation within Ofwat's PR24 Final Determination: <https://www.ofwat.gov.uk/wp-content/uploads/2024/12/11.-PR24-final-determinations-Major-Projects-development-and-delivery.pdf> (Accessed: 6 March 2025)

⁶ As even though the IP would be appointed/receive a project licence under the Water Industry Act 1991 and SIPR regime, this is separate and would not mean it would become an appointed "water undertaker" under the Water Industry Act 1991.

- 2.3.1 a range of associated development (as defined by section 115(2) of the Planning Act), which may include, but is not limited to:
- (a) works to enable raw water transfer to and treated potable water supply from the reservoir including water intakes, pumping stations, treatment works, pipelines and service reservoirs;
 - (b) temporary works to support construction, works to support operation and maintenance (including pipelines), site accesses, temporary and permanent utility connections, highway diversions and landscaping, environmental mitigation, enhancement and compensation measures; and
- 2.3.2 ancillary matters (including matters that fall within the scope of section 120 of the Planning Act).
- 2.4 As noted above, the Principal Development does not strictly meet the definition of an NSIP under section 27 of the Planning Act purely because of its proposed delivery method (meaning it does not fulfil the criteria in section 27(1)(b) only) and not because of its scale or location (indeed, the Principal Development is *above* the relevant size thresholds in the Planning Act). However, the Principal Development and Project as a whole would constitute key infrastructure in England and is identical in form and function to other NSIPs which do automatically qualify as being able to be authorised by a DCO under the Planning Act.
- 2.5 Accordingly, AW considers that the construction and operation of the Principal Development is a nationally significant development which should be authorised via the development consent regime under the Planning Act.
- 2.6 An image showing the indicative design of the Principal Development is shown in Appendix 2.
3. **REQUEST FOR A SECTION 35 DIRECTION**
- 3.1 Section 35(1) of the Planning Act states that the Secretary of State may give a direction for development to be treated as development for which development consent is required in circumstances where:
- 3.1.1 the development is, or forms part of, a project in the fields specified in section 35(2)(a) (**Criterion 1**);
 - 3.1.2 the development will be wholly in an area set out in section 35(3) (**Criterion 2**); and
 - 3.1.3 the Secretary of State considers that the project is of national significance, either by itself or when considered with one of more other projects or proposed projects in the same field (**Criterion 3**).
- 3.2 AW considers that the Principal Development meets all three criteria for the reasons set out below:
- 3.2.1 **Criterion 1:** The Principal Development is a non-impounding reservoir with the capacity to store approximately 55 Mm³ of water (with a usable capacity of approximately 50 Mm³) and is therefore clearly a project in the field of water thereby meeting one of the listed criteria in section 35(2)(a)(i) of the Planning Act;

- 3.2.2 **Criterion 2:** The Principal Development would be located wholly in England in accordance with section 35(2)(b) and 35(3)(a) of the Planning Act;
- 3.2.3 **Criterion 3:** The Principal Development is of national significance for the reasons set out below at section 4 of this direction request per section 35(2)(c)(i) of the Planning Act.
- 3.3 Section 35ZA(1) of the Planning Act states that the power in section 35(1) to give a direction in a case within section 35(2)(a)(i) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates. AW confirms that no application for consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the Principal Development to which this request relates.
- 3.4 Section 35ZA(11) defines a ‘qualifying request’ as:
- ‘a written request for a direction under section 35(1) that:*
- (a) *specifies the development to which it relates, and*
- (b) *explains why the conditions in section 35(2)(a) and (b) are met in relation to the development.’*
- 3.5 This request represents a ‘qualifying request’ because it is made in writing and specifies the development to which it relates (see section 2 onwards of this direction request above) and the conditions in sections 35(2)(a) and 35(2)(b) of the Planning Act are met (see section 3.2 above).
4. **CASE FOR NATIONAL SIGNIFICANCE**
- 4.1 This section provides information to assist the Secretary of State (**SoS**) to determine whether the Principal Development is of ‘national significance’ per section 35(2)(c)(i) of the Planning Act.
- 4.2 At the outset, it is important to reiterate that the sole reason for the Project, including the Principal Development, not being a NSIP under section 27 of the Planning Act relates to the proposed delivery method of the Project (which does not meet the criteria set out in section 27(1)(b) of the Act) and has nothing to do with its scale, complexity or location. All other criteria and thresholds set out in section 27 of the Planning Act for a reservoir NSIP are met by the Principal Development.
- 4.3 Section 27(1)(a) of the Planning Act requires a reservoir NSIP to be located in England, which the Principal Development would be.
- 4.4 Section 27(1)(c) of the Planning Act confirms the overarching principle that a reservoir that will store over 30 Mm³ of water is of a scale that is nationally significant. In that context, it is important to note that the Principal Development is well above that threshold.
- 4.5 Given all of this, it is submitted by AW that it is a legislative drafting ‘quirk’ that results in the Principal Development not qualifying as an NSIP, and has nothing to do with its scale, significance or location.

- 4.6 Indeed, this fact appears to have been recognised by the Government. In a recent consultation on planning reforms⁷, it was stated (at Chapter 9) that:

“We believe that the Planning Act 2008 could be amended to bring into the definition of NSIP...the construction, maintenance or operation of water infrastructure by a third party on behalf of a water undertaker.”

- 4.7 In its response to the same consultation, published in December 2024, the Government confirmed it would be considering how to take this forward.⁸

- 4.8 Accordingly, AW considers that the case is clear that the Principal Development is, by itself, of national significance and should be brought ‘into’ the Planning Act consenting regime.

- 4.9 However, to assist the Secretary of State further, AW has set out some additional factors below that it considers further demonstrates the national significance of the Principal Development, and the Project as a whole, namely:

4.9.1 the Project will play an important role in contributing to a resilient and secure water supply for people in the east of England and is recognised as a needed and important piece of infrastructure in the WRE regional plan and AW’s published WRMP24 (with the Project also identified as a key piece of infrastructure in CW’s WRMP24);

4.9.2 the Principal Development is a significant and complex piece of infrastructure and the scale of its development and anticipated benefits are identical to other NSIPs which automatically qualify as being able to be authorised by a DCO under the Planning Act;

4.9.3 the Project would contribute to the UK’s environmental objectives; and

4.9.4 the Project requires a variety of consents, powers and rights from various organisations and authorities (including planning consent and temporary and permanent rights over land and acquisition of land) which will be best secured by a DCO.

Contribution to resilient and secure water supply and recognition in regional plans

- 4.10 Pursuant to requirements under the National Framework, AW has worked with other water companies (as part of Water Resources East) to produce a regional plan which set out actions required to ensure resilient water supplies for future generations which has resulted in the draft WRE regional plan.

- 4.11 The WRE regional plan notes that unless urgent action is taken via significant new investment in water supply-side options (as outlined in the plan), the east of England will face severe water shortages that will constrain agricultural production and curtail economic growth, impacting the region’s prosperity and endangering existing watercourses, peatlands and wetlands.⁹ The WRE regional plan is built around ‘low regret’ options for investment in water supply infrastructure, being options that make sense to pursue in almost any future climate, demand and environmental scenario.¹⁰

⁷ *Proposed reforms to the National Planning Policy Framework and other changes to the planning system*. Available at: [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK](#). Accessed: 6 March 2025.

⁸ [Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation - GOV.UK](#). Accessed 6 March 2025.

⁹ See WRE regional plan, p. 8.

¹⁰ See WRE regional plan, p. 55.

The Project (which includes the Principal Development) is identified as a key part of the regional solution.¹¹

- 4.12 Under the Water Industry Act 1991, water companies are also required to produce Water Resource Management Plans (**WRMPs**) every five years. The water stressed status of eastern England was recognised by Ofwat (as Water Services Regulation Authority) in 2021¹² and, subsequently, funding was provided for water companies to investigate and develop Strategic Resource Options that will benefit customers and the wider society and to help protect and enhance the environment.
- 4.13 Accordingly, AW developed its (now published) WRMP24 which establishes the need for the Project (including the Principal Development).¹³ The Project is also included in the CW WRMP24.¹⁴ As a key long-term infrastructure solution, the Project (including the Principal Development) needs to be consented and implemented rapidly to secure water supply for customers.
- 4.14 The National Policy Statement for Water Resources Infrastructure (2023)¹⁵ (**Water Resources Infrastructure NPS**) sets out the need for, and UK Government policies relating to, development of water resources in England. Paragraph 1.4.5 of the Water Resources Infrastructure NPS states:
- 'If a nationally significant infrastructure project is included in a published final water resources management plan, the 'need' for that scheme will have been demonstrated in line with government policy.'*
- 4.15 The Project (including the Principal Development) is therefore of national significance by virtue of its role in securing water supply for customers as recognised by the WRE regional plan, AW's WRMP24 and CW's WRMP24.

Scale of development and anticipated benefits

- 4.16 The Principal Development would comprise a non-impounding reservoir with the capacity to store approximately 55 Mm³ of water (with a usable volume of approximately 50 Mm³), which is well above the 'size threshold' for a reservoir NSIP contained in the section 27 of the Planning Act.
- 4.17 The Project (including the Principal Development) has the potential to benefit and provide water to a variety of people in the east of England (including customers of AW and CW), enhance flood protection, contribute to a system of water management that can respond to different events or changes in delivery, and provide greater resilience capability across the water resources network to meet the 1:500 drought resilience standard.¹⁶
- 4.18 Accordingly, it is clear that the proposed scale and anticipated benefits of the Project (including the Principal Development) means that it is necessary and appropriate to designate it as a development of national significance, to be treated as a development for which development consent is required.

Contribution to UK's environmental objectives

¹¹ See WRE regional plan, p. 55-56 and 59-60.

¹² Environment Agency, *Water stressed areas – final classification 2021* (July 2021). Available at: <https://www.gov.uk/government/publications/water-stressed-areas-2021-classification>. Accessed: 6 March 2025.

¹³ See, for example, AW's WRMP24, [1.9] and [8.2].

¹⁴ Cambridge Water's WRMP24, [10.5.5].

¹⁵ Department for Environment, Food & Rural Affairs, *National policy Statement for Water Resources Infrastructure* (2023). Available at: [National Policy Statement for Water Resources Infrastructure](#) (Accessed: 6 March 2025).

¹⁶ See WRSE regional plan, p. 43, 59-60, 65.

- 4.19 The Project (including the Principal Development) would make a significant contribution to the UK Government's environmental objectives and policy priorities.
- 4.20 Paragraphs 3.4.2 and 3.4.3 of the Water Resources Infrastructure NPS recognises that new water resources infrastructure projects have the potential to deliver significant benefit and enhancements resulting in wider environmental net gains and progressing towards national policy priorities such as improvements to water quality.
- 4.21 In addition to the Project's primary objectives of ensuring a secure and sustainable water supply in the east of England and to protect the environment from the effects of climate change, there is the additional potential environmental benefit to allow AW and CW to reduce or cease water abstractions from sensitive sources such as chalk aquifers.
- 4.22 AW and CW together have wider ambitions for the Project to support the health, well-being and future prosperity of communities. These ambitions include creating space for wildlife, such as wetlands, alongside enabling new recreational and educational activities and natural places for people to explore and creating new jobs and other socio economic opportunities.

Consents best secured by single DCO

- 4.23 In the absence of a section 35 direction, AW would need to submit several planning applications for the Project (including the Principal Development) to at least seven local planning authorities, within which elements of the Project are proposed to be located.
- 4.24 Delivering planning permission for the Project using the *Town and Country Planning Act 1990 (TCPA)* increases the risk of not achieving timely project delivery. A DCO application supported by the WRE regional plan, AW's WRMP24 and CW's WRMP24 and the Water Resources Infrastructure NPS would address these concerns, in relation to there being clear policy support in the context of the decision-making framework for DCO applications under the Planning Act.
- 4.25 A DCO application would also provide a single process for conferring statutory powers (including compulsory acquisition powers) and the majority of the requisite consents, permissions and licences for construction and operation of the Project, rather than requiring AW to secure those authorisations and powers of acquisition individually under the TCPA or Water Industry Act 1991, among others.
- 4.26 These alternative processes significantly increase the risk of delay for the Project. A section 35 direction would enable AW to "wrap up" the majority of these consents in a single application for a DCO which would be determined according to a comprehensive and inclusive examination process that all relevant and interested parties and authorities could fully participate in.
- 4.27 In turn, this would enable the Secretary of State to determine an application for the granting of the necessary powers, permissions, consents and licences in a coordinated, comprehensive and coherent manner with a predictable timeline to decision.
- 4.28 AW would also be able to provide a single authorisation dealing with the majority of the required consents to the IP constructing the Project rather than having to coordinate the delivery and management of multiple consents and authorisations thereby reducing the risk of delay and uncertainty within the proposed delivery model.
- 4.29 Minimising risk of delay and uncertainty is critical to enabling AW to deliver the Project (including the Principal Development) to address identified need and to meet AW's obligations to deliver the WRE regional plan and its WRMP24.

5. **CONCLUSION**

- 5.1 AW requests that the Secretary of State gives a direction under section 35 of the Planning Act for the Principal Development because the Principal Development meets all relevant criteria under the Planning Act and is of 'national significance'.
- 5.2 The Principal Development is a project in the field of water which will be located entirely within England. It is of 'national significance' because the Principal Development (and the Project generally):
- 5.2.1 will play an important role in contributing to a resilient and secure water supply for people in the East of England and is recognised as a needed and important piece of infrastructure in the WRE regional plan and AW's WRMP24 (with the Project also identified as a key piece of infrastructure in CW's WRMP24);
 - 5.2.2 is a significant and complex piece of infrastructure and the scale of its development and anticipated benefits are comparable to other NSIPs which automatically qualify as being able to be authorised by a DCO under the Planning Act – the reason the Project is not already a NSIP is due to a legislative 'quirk' around delivery models, as opposed to its physical scale/complexity/location (as the Principal Development meets all the requirements to be a NSIP in section 27 of the Planning Act aside from the delivery model);
 - 5.2.3 would contribute to the UK's environmental objectives; and
 - 5.2.4 requires a variety of consents and permissions from various organisations and authorities (including temporary and permanent rights over land and acquisition of land) which will be best secured by a single DCO.
- 5.3 There are also major benefits to authorising the Principal Development via a DCO under the Planning Act including:
- 5.3.1 the comprehensive assessment and timely delivery of a complex and significant piece of water resources infrastructure supported by the WRE regional plan, AW's WRMP24 and CW's WRMP24;
 - 5.3.2 the ability to draw on strong and relevant national policy in relation to the Principal Development; and
 - 5.3.3 the ability to provide a single authorisation dealing with the majority of the required consents to the IP constructing the Principal Development thereby decreasing risks of delay and uncertainty.
- 5.4 AW further wishes to request that should the Secretary of State direct that the Principal Development is development for which development consent is required, they (as part of that direction) confirm, for the avoidance of doubt, that the Water Resources Infrastructure NPS applies to the Principal Development, such that any application for development consent for the Project must be determined in accordance with section 104 of the Planning Act.
- 5.5 Finally, AW would further request that, should the Secretary of State propose that the Planning Act be amended such that the Principal Development would qualify as a NSIP prior to any DCO being granted for the Principal Development, the Secretary of State discusses with AW how any transitional and savings provisions contained in the amending instrument would apply to any section 35 direction granted pursuant to this request, including as to whether that direction should/would be revoked.

APPENDIX 1 DRAFT SECTION 35 DIRECTION

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35(1) OF THE PLANNING ACT 2008 (AS AMENDED) RELATING TO THE FENS RESERVOIR PROJECT

By email to the Secretary of State dated 22 April 2024 ("**the Request**"), Anglian Water Services Limited ("**the Applicant**") formally requested that the Secretary of State exercise the power vested in the Secretary of State under section 35(1) of the Planning Act 2008 (as amended) ("**the Planning Act**") to direct that the Principal Development of the proposed Fens Reservoir project ("**the Project**") referred to in the Request be treated as development for which development consent is required.

In its Request, the Applicant advises that the Principal Development of the Project comprises a non-impounding reservoir with the capacity to store c.55 Mm³ of water (with a usable volume of c.50 Mm³), to be located in the East of England (in the Cambridgeshire Fens) ("**the Principal Development**").

Other elements of the Project include:

- associated development (within the meaning of section 115(1)(b) of the Planning Act) which may include, but is not limited to, temporary works to support construction, works to support operation and maintenance (including pipelines and treatment works), 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 Project can therefore be summarised as comprising:

- the Principal Development;
- the Associated Development; and
- the Ancillary Matters.

The Secretary of State notes that the Request relates to the Principal Development.

Having considered the Request and the details of the Principal Development, the Secretary of State is satisfied that:

- the Principal Development does not form part of a project that automatically falls within the definition of a "nationally significant infrastructure project" ("**NSIP**") under the Planning Act and therefore it is appropriate to consider use of the power in section 35 of that Act;
- the Principal Development forms part of a project in the field of water in accordance with section 35(2)(a)(i) of the Planning Act;
- the Principal Development will (when completed) be wholly within England in accordance with section 35(2)(b) and (3) of the Planning Act;
- no application for consent or authorisation mentioned in section 33(1) or (2) of the Planning Act has been made in relation to the Principal Development to which the Request relates; and

- the Applicant's Request constitutes a "qualifying request" in accordance with section 35ZA(11) of the Planning Act.

Having considered the details of the Applicant's proposals as set out in the Request, the Secretary of State concludes that the Principal Development is nationally significant in accordance with section 35(2)(c) of the Planning Act; the reasons for this are included in the Annex below.

The Secretary of State has taken the direction within the conditions as required by sections 35A(2) and (5) of the Act, and issues this Direction accordingly under sections 35(1) and 35ZA of the Act.

THE SECRETARY OF STATE HEREBY DIRECTS that the Principal Development is to be treated as development for which development consent is required. Any application for development consent for the Principal Development may also include any matters that may properly be included in a development consent order (in accordance with 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) of the Planning Act that any proposed application for a consent or authorisation mentioned in section 33(1) or (2) of the Planning Act for the Principal Development is to be treated as a proposed application for which development consent is required.

THE SECRETARY OF STATE FURTHER DIRECTS in accordance with section 35ZA(5) of the Planning Act that the National Policy Statement for Water Resources Infrastructure (and any revised version of it) will apply and has effect in relation to any application for development consent for the Principal Development so far as the National Policy Statement is relevant to the application.

This direction is given without prejudice to the Secretary of State's consideration of any application for development consent which may be made in relation to all or part of the Project.

Signed by

[name of person signing]

[position or role of named person]

Authorised to sign on behalf of the Secretary of State

[Date]

APPENDIX 2 INDICATIVE DESIGN OF FENS RESERVOIR

