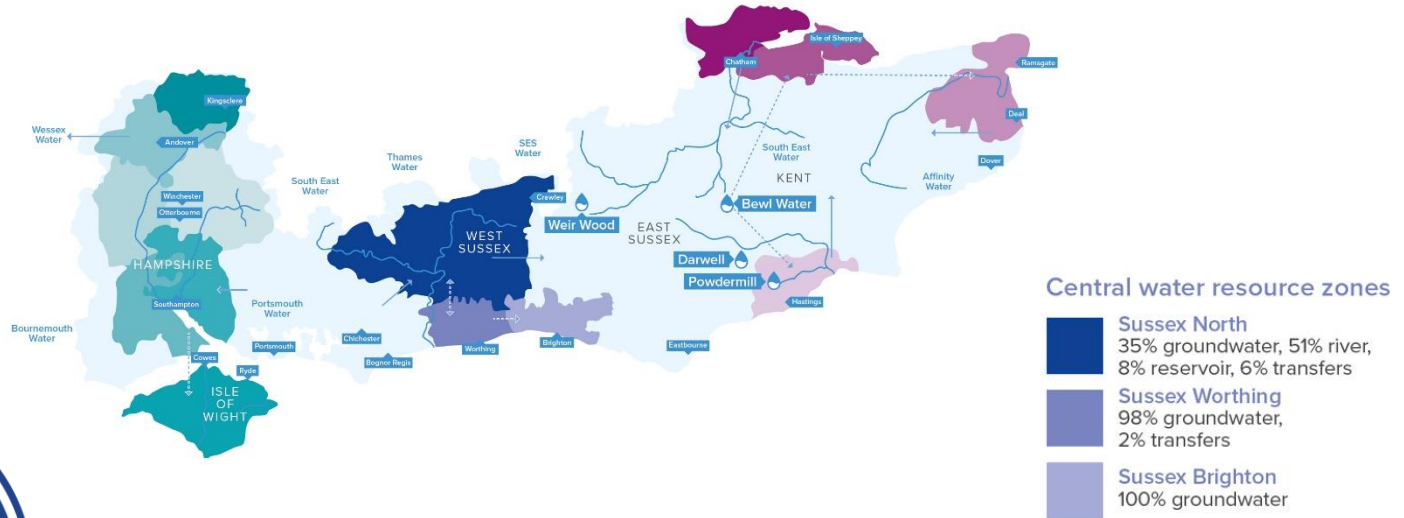


# Water Neutrality in Sussex North

5<sup>th</sup> October 2023



from  
**Southern  
Water** 

# Welcome!



from  
**Southern  
Water** 

The Southern Water logo graphic consists of three stylized, wavy blue lines of varying lengths, positioned to the right of the word "Water".

# Housekeeping



Please note we will be recording today's session; this will be available on website next week [Water Neutrality \(southernwater.co.uk\)](https://southernwater.co.uk)



Please remain on mute during the presentations.



Please submit your questions on [Slido](#) using code #3054297



# Agenda

**11.05 Southern Water update**

Sandra Norval – Water Strategy Manager

**11.10 Sussex North Offsetting Scheme (SNOWS) update**

Clark Gordon – Water Neutrality Project Manager at Horsham District Council

**The impact of the C G Fry v SoS and Somerset Council on Water Neutrality**

Adrian Smith, Major Applications Team Leader at Horsham District Council

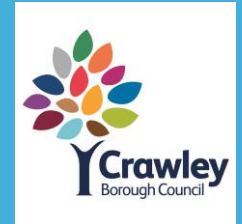
**11.45 Q&A for Clark Gordon and Adrian Smith**

**12.00 Close**



# WATER NEUTRALITY SUSSEX NORTH OFFSETTING WATER SCHEME SNOWS

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# MEET THE TEAM



**Clark  
Gordon**

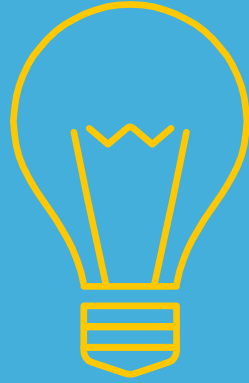
WATER NEUTRALITY  
PROJECT MANAGER



**Adrian  
Smith**

MAJOR APPLICATIONS  
TEAM LEADER –  
HORSHAM DC





# WATER NEUTRALITY

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What is it?





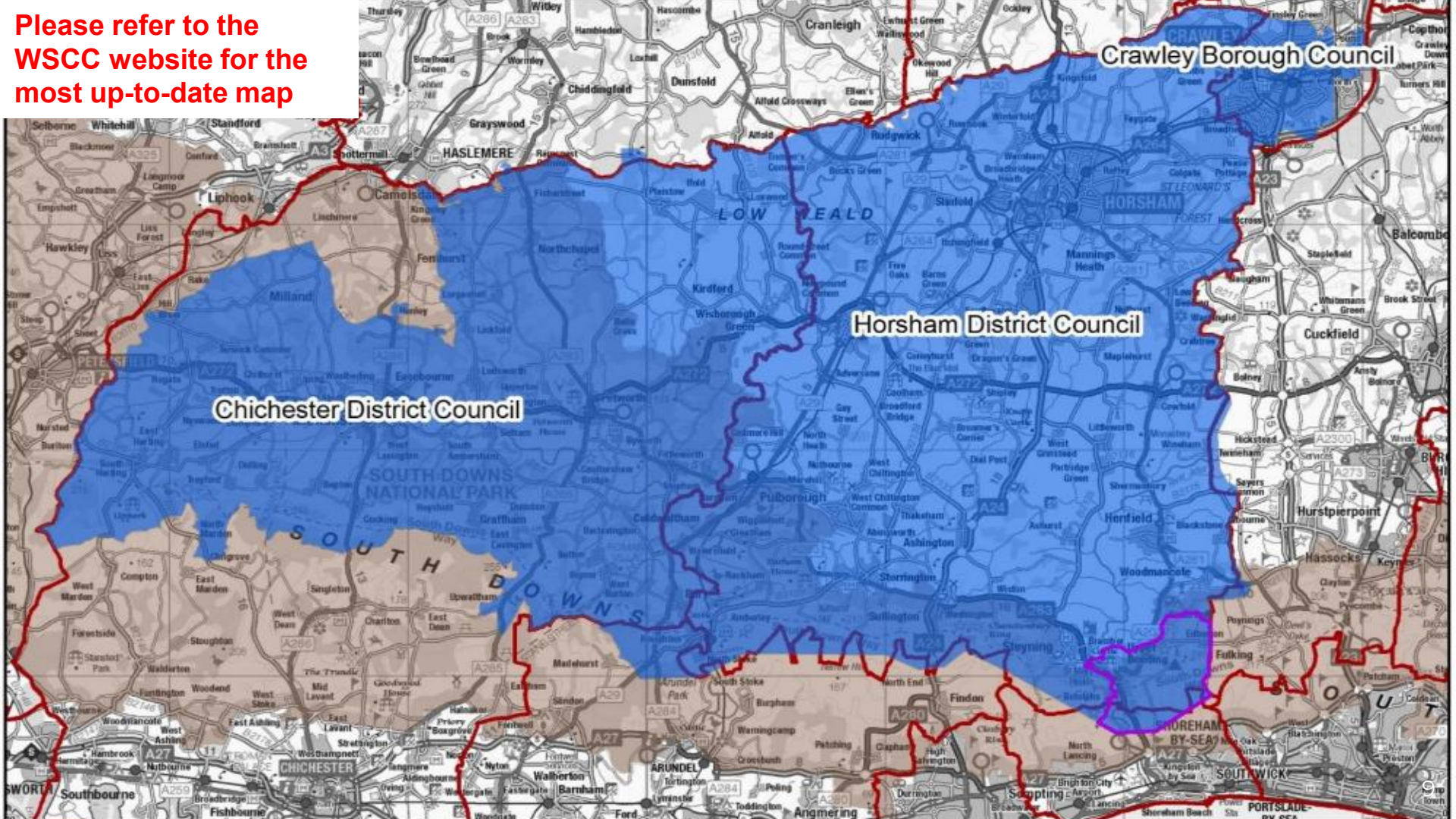
# SUSSEX NORTH

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Where are we?



Please refer to the WSCC website for the most up-to-date map



Chichester District Council

Horsham District Council

Crawley Borough Council

# What are the challenges?

## Regulatory



Any novel proposals for securing water neutrality need to be agreed with Natural England.

## Southern Water



We are heavily reliant on Southern Water meeting their delivery targets.

## Government



Unlike for nutrient neutrality, local authorities have had no financial support from central government for water neutrality.

## Planning



Planning has been severely affected across the local authorities. They need to unlock growth opportunities.

## Policy ambitions



The strength of action required by the local authorities does not seem to be matched by government ambition.

## First mover



Water neutrality has never been tried at this scale. There is no authority-led water offsetting scheme elsewhere to learn from.

# ■ HOW HAVE WE RESPONDED?

## **Planning Policy**

The local authorities have jointly developed a water neutrality policy to be included in forthcoming Local Plans.

## **Development Management**

The local authorities have convened a DM group to agree water neutrality principles and discuss emerging proposals.

## **Partnership working**

There are multiple governance layers to include many of the key stakeholders involved in water neutrality.

**WHAT'S  
THE  
SOLUTION?**





# SNOWS



Sussex North Offsetting Water Scheme

# SNOWS OVERVIEW



# MILESTONES TO DATE

Local Enterprise Partnership seed funding secured in 2022

1

Crawley Homes offsetting pilot trial in summer 2022

3

Water Neutrality Project Manager employed in January 2023

5

Partnership governance agreement finalised in April 2022

2

Water Neutrality Strategy ('Part C') signed off in November 2022

4

Stakeholder Comms & Engagement Strategy finalised in April 2023

6



# MILESTONES TO DATE

Outline Business Case approved in April 2023

7

Project Risk Strategy agreed in July 2023. Risk register finalised in September 2023.

9

Detailed project scope agreed in June 2023

8

Project delivery plan is now under development

10



# MILESTONES TO COME

Monitoring & Reporting  
Plan to be agreed

1

Delivery Plan to be  
produced

3

Procurement of offset  
properties and  
offsetting services

5

Costs & Funding Plan to  
be developed

2

Data Management Plan  
to be produced

4

SNOWS launched

6

## PROJECT **ENGAGEMENT**

We will be engaging with key stakeholders over the coming months.

Keep informed! Sign up to our project update newsletter:

<https://shorturl.at/erwx7>



# What are the **benefits?**

## Unlocks planning



The local planning authorities can deliver sufficient housing and business growth to support the local economies.

## Cost of living



Residents in properties with offset measures installed will benefit from lower water bills and reduced water heating costs.

## Developer certainty



SNOWS will provide a clear, simple process for developers of local plan supported development to access water offset 'credits'.

## Offsetting market



Implementation of the scheme will help to support the developing market for the provision of offsetting measures.

## Sustainability



There will be wider environmental and sustainability benefits for all stakeholders, such as lower carbon emissions.

## Cost of access



SNOWS will have access to Southern Water's offset contribution, lowering access costs to developers over using their own solutions.

# IN SUMMARY...

## **Pressures...**

...on our water resources from an increasing population and climate change are leading to supply vs demand issues - "the jaws of death".

## **Sussex North...**

...is the first area in the UK where this issue requires immediate, concerted action by the local authorities and other partners.

## **SNOWS...**

...is the local authorities' proposed solution to address water neutrality and to unlock the local planning system to deliver much needed growth.

# The impact of *C G Fry v SoS and Somerset Council* on Water Neutrality

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Adrian Smith – Major Applications Team  
Leader, Horsham DC

# THE HABITATS REGULATIONS

The legal framework for assessing impact on protected habitats and species

STATUTORY INSTRUMENTS	
<b>2017 No. 1012</b>	
<b>WILDLIFE COUNTRYSIDE</b>	
<b>The Conservation of Habitats and Species Regulations 2017</b>	
<i>Made</i>	<i>30th October 2017</i>
<i>Laid before Parliament</i>	<i>31st October 2017</i>
<i>Laid before the National Assembly for Wales</i>	<i>31st October 2017</i>
<i>Coming into force</i>	<i>30th November 2017</i>



# Habitats Regulations Assessment (HRA)

S.63(1) requires that a competent authority, before deciding to give any consent, permission or other authorisation for a plan or project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), must make an appropriate assessment of the implications of the plan or project in view of that site's conservation objectives.

S.63(5) states that in light of the conclusions of the appropriate assessment, a competent authority may agree the plan or project only after ascertaining that it will not adversely affect the integrity of the European site.

## ■ C G Fry...

- CG Fry & Son Ltd vs Secretary of State for Levelling Up Housing and Communities & Somerset Council
- High Court decision issued 30 June 2023
- Relates to Nutrient Neutrality, but the Court's decision is equally applicable to Water Neutrality

## ■ What did the High Court say?

52. Consequently, the requirements of article 6(3) of the Habitats Directive remain part of UK law. That article requires that the competent authorities should not agree a project until an appropriate assessment has been undertaken and it shows that it will not adversely affect the integrity of a site. **A planning consent is part of agreeing a project when it is necessary to implement a development. In this case the discharge of pre-commencement conditions was a necessary step in the implementation of the development. An appropriate assessment had not been undertaken up to that point, so consequently the Inspector determined that he could not discharge the conditions prior to one being undertaken.** His conclusion was consistent with article 6(3) of the Habitats Directive.

## ■ What did the **High Court** say?

64. The upshot is that **the Habitats Directive and Habitats Regulations 2017 mandate that an appropriate assessment be undertaken before a project is consented. That is irrespective of whatever stage the process has reached according to UK planning law. The basal fact in this case is that neither at the permission, reserved matters, or conditions discharge stage has there has been an appropriate assessment.** Application of the Habitats Directive and a purposive approach to the interpretation of the Habitats Regulations 2017 require the application of the assessment provisions to the discharge of conditions. The strict precautionary approach required would be undermined if they were limited to the initial - the permission - stage of a multi-stage process.

## ■ What did the **High Court** say?

69. **Regulation 63 requires an appropriate assessment to consider the implications of the project, not the implications of the part of the project to which the consent relates.** In this regard regulation 63 is consistent (unsurprisingly) with the Habitats Directive, which the CJEU has held requires a full assessment of a project which has not been assessed.....**As Mr Wilcox for the Council put it, the thing which is to be the subject of the appropriate assessment is the thing which will be permitted by the authorisation, so that where the decision is the final stage in granting authorisation for a development, it is the development which is to be assessed.**

# What is **Horsham DC's** current position?

⚠ Important to note that the fallout from *C G Fry* is fluid. Our stance may evolve as further evidence/legal opinion comes to light ⚠

Currently:

- The High Court case effectively concludes that it is never too late to undertake an AA, where an implementing consent is required from the LPA.
- Planning permission granted prior to Sept 2021 is therefore now subject to Water Neutrality requirements if there remains any further consent required from the Council.
- We estimate an additional 1,000+ further homes may now be subject to Water Neutrality requirements.

# What is **Horsham DC's** current position?

- S.96A Non-material amendments caught
- S.73 Minor material amendments caught
- Condition discharge caught
- But NOT s106 variations or discharge of obligations
- Beware reliance on fallback of an existing consent
- Existing multi-phase developments: the AA can address WN for just that RM parcel, or WN can be screened out if that RM parcel will not in itself consume water.
- We will continue to be careful in the discretionary and proportionate use of our enforcement powers



# THANKS!

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## Any questions?

Contact us at [SNOWS@horsham.gov.uk](mailto:SNOWS@horsham.gov.uk)

# Q&A

Please submit your questions on [Slido](#) using code #3054297



# Thank you!

We look forward to seeing you again at our next event!

If you have any questions, feedback or suggestions for  
future events please get in contact:  
[waterneutrality@southernwater.co.uk](mailto:waterneutrality@southernwater.co.uk)



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