IN THE MATTER OF WATER NEUTRALITY

AND IN THE MATTER OF CARAVAN ROOF RAINWATER HARVESTING

OPINION

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1. I am instructed by Phil Rowe of PROwe Planning Solutions.

2. I am essentially asked to advise on the ability to use a caravan roof (or roofs) for rainwater harvesting as a mechanism for ensuring that proposed development demonstrates water neutrality.

3. There is in fact a recent Appeal Decision which addresses this very issue.

4. At the Tanglewood Equestrian site,[1] the development proposed was a change of use of the land from equestrian to a mixed use including a settled Gypsy accommodation site comprising 2 pitches. The proposed development also included the retention of certain hardstanding and biodiversity enhancements.

[1] Forest Grange, Horsham RH13 6HX.

5. The application was supported by a Water Neutrality Report and Water Management Plan, which explained that rainwater harvesting was proposed to be installed (utilising two 15,000l potable rainwater harvesting tanks) to meet 100% of the demand for both potable and non-potable water. It appears that the rainwater would be harvested from the proposed caravans and an existing barn. The documentation drew attention to, amongst other things, British Standard 16941-1:2018 on rainwater harvesting and certain 2016 Regulations.

6. On 1 October 2024, subsequent to an earlier representation, Horsham District Council's Environmental Health and Licensing department adopted the position that the application was insufficiently detailed to be determined. Its concern appeared to be a perceived lack of clarity as to whether there would be one or two water treatment systems. Plainly, it did not object to the rainwater harvesting proposal in principle. It noted that a number of private water supplies were being proposed in the District to satisfy ongoing water neutrality requirements (including rainwater harvesting systems).

7. Ultimately, the conclusion in the officer report as to water neutrality was as follows: "…were a positive recommendation to be made, a revised Appropriate assessment would be required and a condition would be required to submit the test results for the rainwater being provided to the Local Planning Authority and a regulatory condition being needed to ensure the implementation of the management plan."

8. In other words, there was no in principle objection to rainwater harvesting to achieve water neutrality and there was no water neutrality reason for refusal in the 24 October 2024 decision notice.

9. Ms Starns appealed.

10. It appears from the Appeal Decision[2] that Natural England were consulted during the appeal process and that it raised no objection to the proposal subject to the imposition of conditions relating to the treatment of rainwater as well as the delivery, management and maintenance of the proposed water neutrality measures.

11. All things considered, the Inspector concluded as follows on water neutrality (in the context of the effect of the proposed development on the integrity of European sites):

> "48. Subject to securing the strategy for water neutrality and treatment of collected rainwater through planning conditions, the proposal would not increase water abstraction. Therefore, the potential harm to the integrity of the Arun Valley SPA/SAC would be adequately mitigated.
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> 49. I therefore consider appropriate mitigation would be secured and is necessary to make the development acceptable in planning terms. Consequently, the proposal would not have significant effects on the

[2] APP/Z3825/W/24/3355610 dated 28 April 2025.

integrity of the Arun Valley SPA/SAC and the proposal would satisfy the requirements of the Habitats Regulations.

50. The proposal would therefore comply with HDPF Policy 31 which requires development with the potential to impact the Arun Valley SPA/SAC be carried out in accordance with mitigation measures.

51. In addition, the proposal would comply with paragraphs 192 and 193 of the Framework which safeguards internationally designated sites and requires proposals avoid or mitigate significant harm to biodiversity."

12. In short, the Inspector effectively endorsed the rainwater harvesting proposal and concluded that the water neutrality issue (and hence the European sites issue) could be addressed by the imposition of suitable planning conditions.

13. However, the Inspector dismissed the appeal on other grounds meaning that no water neutrality planning conditions were set out or imposed.

14. It is trite law that an Appeal Decision (or an authority decision) is capable of being a material consideration in the event of a subsequent application for planning permission for development on the same site or indeed an application for planning permission for development on a different site. The test for materiality in this context is essentially that the two cases are sufficiently closely related. The principle underlying this approach to materiality is the principle of good practice in development control that like cases should be decided in a like manner. That is not to say that like cases

must be decided alike, but before the decision-maker disagrees with the judgment of a prior decision-maker it ought to have regard to the importance of consistency and give reasons for any departure from the previous decision.[3]

15. It follows, distilling the matter to its essence, that a subsequent decision-maker is not *bound* to adopt Inspector Dade's approach to water neutrality but (assuming the Appeal Decision is material) it would need to give *reasons* for any departure from that approach. It almost goes without saying that any such reasons would need to have the necessary legal qualities including rationality.

16. As for the actual wording of conditions in this context, Promethean Planning in fact suggested wording on page 9 of its documentation (which it took from conditions 6, 14 and 15 imposed on planning permission DC/23/1460 dated 19 June 2024). Incidentally, it also drew attention to the conclusion of Inspector Madge as to mains water supply connection when allowing an appeal at the Pear Tree Farm site.[4]

17. I cannot really improve upon the substance of the three conditions suggested by Promethean Planning, albeit that there would need to be some amendments to them (and the reasons for them) in any given case. For example, condition 6 of planning permission DC/23/1460 refers to "Water

[3] For these propositions, see North Wiltshire DC v Secretary of State (1993) 65 P&CR 137, R v Secretary of State, ex p Baber [1996] JPL 1034 and Pertemps Investments Ltd v Secretary of State [2015] EWHC 2308 (Admin).

[4] Appeal B (APP/Z3825/W/22/3311819) dated 29 February 2024. Note condition 11. The undersigned appeared for Appeals A and C.

Neutrality Statement prepared by Phil Rowe received on 27.07.2023". That wording would obviously not be duplicated in a different case. Moreover, as another example, there are references in the reasons for the three conditions to "the National Planning Policy Framework (2021)" and that wording would obviously need to be updated. I would add that the officer report for the Tanglewood Equestrian site referred to a condition requiring submission of the test results for the rainwater being provided. It is not clear to me if the officer had in mind something additional to the three salient conditions imposed on planning permission DC/23/1460. If so, no doubt a condition could also be imposed requiring the submission of such results.

Conclusion

18. Adopting Inspector Dade's approach, a caravan roof (or roofs) may be used for rainwater harvesting as a mechanism for ensuring that proposed development demonstrates water neutrality. A subsequent decision-maker would need to give reasons for departing from that approach, on the premise that Inspector Dade's decision would be a material consideration. Plainly, it is perfectly possible to impose suitably-worded planning conditions on a planning permission to secure such a water neutrality strategy and treatment of the collected rainwater.

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