Environment Agency position statement regarding water quality risks due to wastewater capacity pressures related to the Lightwater STW.

Context

The Lightwater STW has a catchment that sits wholly within Surrey Heath Borough Council and serves the settlements of Lightwater, Bagshot, and areas up towards the south of Sunningdale.

Under the Water Environment (Water Framework Directive) Regulations 2017, there is a requirement for water bodies not to deteriorate and to achieve 'Good Status' by 2027. Under Regulation 33, local planning authorities as 'public bodies' and the Environment Agency as a planning advisor mush have regard to these requirements as they are part of River Basin Management Plans. Under the National Planning Policy Framework, there is a requirement for plans and planning decisions do not result in unacceptable levels of water pollution (paragraph 187e).

The Catchment Data Explorer dataset on gov.uk provides data on the status of waterbodies. The Hale/Mill Bourne (Bagshot to Addlestone Bourne confluence near Chobham) | Catchment Data Explorer | Catchment Data Explorer which is15.395 km length and a catchment area of 45.282 km2 is according to the WFD status classification at' moderate' status and has been from cycle 1 to cycle 3 -2009 to 2022.

This position statement is intended to be a live document that will be reviewed and updated as our understanding of the issues and solutions evolves.

Evidence of capacity issues at Lightwater STW and risks to water quality and meeting statutory environmental objectives

According to the Hale/Mill Bourne (Bagshot to Addlestone Bourne confluence near Chobham) | Catchment Data Explorer | Catchment Data Explorer dataset, Phosphate is the main 'Reason for not achieving good' (RNAG) and 'reason for deterioration' (RFD). Water industry discharges are confirmed as the activity responsible for Phosphate failure in the waterbody which is preventing it from meeting 'Good' status.

Through our regulatory duties we are aware that Lightwater STW has exceeded its permitted Q80 Dry Weather Flow (DWF) discharge permit and Q90 flow for 3 out of the last 4 years. It did not exceed DWF in 2022. In 2022 there was significantly less rainfall than normally, thus the risk of DWF exceedance is significantly reduced.

The DWF permit is set against the measured Q80- which is the flow value exceeded 80% of the time. Discharge permits are set with conditions against the Q80 flow to protect the environment to ensure the discharge does not lead to a deterioration of the receiving waterbody. When the Q80 discharge permits are exceeded, these conditions are no longer protective and there is a significant risk of deterioration under the Water

Environment Regulations. It is imperative that new developments are supported by adequate infrastructure, which includes ensuring that wastewater can be treated without causing an adverse environmental impact.

Permit compliance is measured against the Q90. The Q90 is the flow that is exceeded 90% of the time. The measured Q90 is always lower than the measured Q80. Q90 is used for permit compliance as it takes into account year on year variations in catchment flow rates and monitor uncertainty. This tries to ensure that operators are not penalised for exceedances outside of their control. However, we expect permit holders to plan to remain within their measured Q80 to avoid the risk of harm to the environment. Consistent exceedance at Q80 highlights the need for an updated DWF permit with tighter conditions to protect the environment.

Thames Water need to apply for a new Dry Weather Flow permit to support new development over the future local plan period. This will require tighter nutrient discharge limits and an increase to Flow to Full Treatment and storm tank capacity. The Environment Agency have provided Thames Water with pre application advice on what permit conditions would be required to increase Dry Weather Flow at Lightwater STW. However, we have not received a formal permit application for Lightwater STW and have no assurance on when the required upgrades will be delivered. This means we do not believe there will be sufficient capacity at the Lightwater STW to cope with increased discharges due to new development coming forward in applications and in the next local plan. Improvements are needed to increase the capacity and improve discharge quality at Lightwater STWs to prevent deterioration and work towards achieving 'good' status in the Hale/Mill Bourne (Bagshot to Addlestone Bourne confluence near Chobham) waterbody.

Considerations for decision making on applications

Until the works to increase the capacity are delivered, all development requiring new connections to mains sewer will increase the load to the Lightwater STW and increase nutrient concentrations in discharges from it to the Hale/Mill Bourne, presenting a risk of deterioration to water quality. It is important that LPAs account for this risk in their decision making. Paragraph 201 of the NPPF does not state that emissions or pollution arising from a use of land are not material considerations in the determination of planning applications. They often will be. The weight that can be given to them will be affected by the extent to which the emissions or pollution can (and will) be controlled by other regulatory regimes. This is supported by Hopkins Developments Ltd v First Secretary of State [2007] Env LR 14, George Bartlett QC.

New developments connecting to the STW that increase discharges to the STW cumulatively, with planned growth, will have a greater impact. The cumulative impact of developments in applications combined with planned growth should be assessed using

information provided by developers as part of their Environmental Impact Assessment (EIA). Planned growth' should be defined as the amount of growth planned for in the local plan and known from other applications (that constitute windfall development).

National planning policy does not require assessment of cumulative risks to the water environment when determining applications, so this assessment is not required for applications that are not EIA developments. On this basis, the risks from non-EIA developments will be smaller.

Considerations for plan making

Cumulative impact assessment is required as part of the plan making process to ensure that there is sufficient wastewater capacity for all future developments in the plan. It will also be required for the Strategic Environmental Assessment of the plan. This cumulative assessment can be undertaken as part of a Water Cycle Study prepared as part of the local plan evidence base.

The Surrey Heath Local Plan 2019-2038 is currently being examined. A Water Cycle Study (February 2025) has been produced which highlights and acknowledges the issue of lack of capacity at the Lightwater STW. It is stated in a few places in the Surrey Heath Water Cycle Study - Stage 2 (February 2025) that (emphasis on Lightwater STW);
"Within Surrey Heath, Camberley WwTW and Lightwater WwTW have been identified as operating at capacity and will require upgrades and/or a change in permit to serve additional growth over the Local Plan period."
And
"Lightwater and Camberley WwTW are currently problematic and are likely to be close to or exceed their permit during the plan period. An increase in flow permit, and/or upgrades to treatment capacity will be required at these WwTW."
This indicates that situation relating to lack of capacity at Lightwater STW to accommodate growth in Surrey Heath Borough Council should be reviewed to ensure sustainable growth is promoted and the water environment is not impacted. We have been working with Surrey Heath Borough Council to address the issue.

Environment Agency advice

This position statement will be the basis for the Environment Agency's advice for applications we are consulted on that will result in new connections to the Lightwater STWs and for growth proposed in the emerging local plan.

Advice on planning applications

Given that national planning policy does not require assessment of cumulative risks to the water environment when determining applications, for developments that do not require EIA, it is unlikely that the impact of increased discharges from individual developments will be significant enough to contribute an unacceptable risk of water

pollution (as per NPPF paragraph 187(e)). LPAs should be satisfied this is the case for each development.

For developments requiring EIA and for the local plan, assessment of the cumulative risks from planned growth should be considered. It is our view, based on the evidence in this position statement, that the cumulative impact of increased discharges is likely present an unacceptable risk of water pollution. The cumulative impact of developments in applications combined with planned growth should be assessed using information provided by developers as part of their Environmental Impact Assessment (EIA).

Risk to the environment from the development combined with wider planned growth could be mitigated by using a condition to delay occupation of the development until the Lightwater STW due by has been completed. We welcome the opportunity to discuss any such condition.

Local Plan

We always strongly advise that a Water Cycle Study is prepared to as part of the local plan evidence base that assesses wastewater capacity to support growth and achievement of statutory environmental objectives. This should assess capacity at the Lightwater STW to accommodate growth coming forward in applications and the next local plan. Should this identify risk that environmental objectives will not be met, the LPA should liaise with Thames Water to understand when improvement works will be undertaken, as part of a foul drainage strategy, at the Lightwater STW and plan growth that connects to it accordingly. We understand this engagement between the LPA and Thames Water is ongoing.

Next steps

It is important that the cumulative impact of planned growth on risk to water quality due to increased discharges to the Lightwater STW are understood. This will enable the LPA to properly account for them in their emerging local plan and for developers and the LPA to account for them when preparing and determining developments that require EIA.

To support this Thames Water, need to provide the following information: Future Q80 and Q90 flow projections for Surrey Heath Borough Council to help us assess the environmental risks as part of the Water Cycle Study.

Should this information confirm a lack of capacity to support growth, Thames Water should set out their plans and timescales to increase capacity to meet the needs of growth, alongside statutory environmental objectives, as part of a detailed foul water strategy for the improvement of the Lightwater STW, with a timeline for delivery of improvement works to ensure they are provided in tandem with planned growth.