



Planning Inspectorate

Adequacy of Consultation Representation Proforma

Under Section 55(4)(b) of the Planning Act 2008 (PA2008) the Planning Inspectorate, on behalf of the Secretary of State, must take any adequacy of consultation representation (AoCR) received from a local authority consultee into account when deciding whether to accept an application for development consent, and this will be published should the application be accepted for examination.

An AoCR is defined in s55(5) in PA2008 as “a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48”.

Project name	Hampshire Water Transfer and Water Recycling Project
Date of request	28 May 2026
Deadline for AOCR	12 June 2026
Return to	HampshireWaterProject@planninginspectorate.gov.uk

Please complete the proforma outlining your AoCR on the above NSIP.

Local Authority	Portsmouth City Council
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In the opinion of the local authority, has the applicant complied with the legislative requirements listed below?

Please note that this is specifically about the statutory consultation(s) undertaken.

Assessment of Compliance - Required	
S42 Duty to consult	Yes
S47 Duty to consult local authority	Yes
S48 Duty to publicise	Yes

If you would like to give more detail on any of the above, please do so below.

Please keep it as succinct as possible and refer to facts and evidence related to consultation, rather than the merits of the application.



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Additional comments - *Not compulsory*

S42 Duty to consult

Portsmouth City Council is satisfied that in respect of the statutory consultations the Section 42 duty, specifically S.42(1)(b), (b) 'each local authority that is within section 43', has been complied with.

The Applicant undertook statutory consultation under Section 42(1)(b) with local authorities within Section 43 of the PA 2008. The local authorities identified and consulted on the Project under Section 42(1)(b) at the commencement of the Summer 2024 Consultation, Spring 2025 Consultation and Autumn 2025 Consultation are located within Table F17-2 of Appendix F.17 (Lists of consultees) and includes Portsmouth City Council as a Unitary council or a lower-tier district council in which the proposed development and any associated development is situated (a host authority).

Whilst the 'Duty to Consult' can be clearly evidenced it is nevertheless the case that having regard to the Gunning Principles:

1. that consultation must be at a time when proposals are still at a formative stage;
2. that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
3. that adequate time is given for consideration and response; and
4. that the product of consultation is conscientiously taken into account when finalising the decision.

PCC would query whether the consultation material adequately demonstrated that the proposal would involve supplying mixed water (Havant Thicket Reservoir water plus recycled water) to Portsmouth Water customers who are the residents of Portsmouth. It is acknowledged that water quality for customers is flagged in Table 9-10 of the Consultation Report, but it is silent as to whether these 'customers' include Portsmouth Water Customers as well as the Southern Water customers being the customers of the applicant.

As such PCC would request that the Inspectorate may want to consider whether the consultation material adequately allowed intelligent consideration of this aspect by the affected Portsmouth Water customers.



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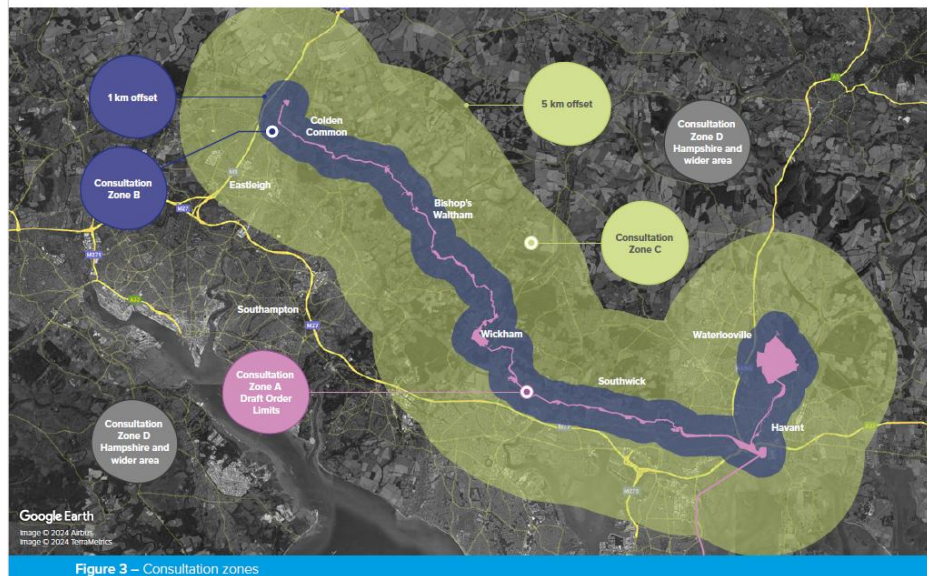
S47 Duty to consult local authority

Please note that S47 as described in the Planning Act 2008 is the; Duty to Consult Local Community'.

Section 47 requires the promoter to consult the local community. S47(1) states that 'The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land' and S47(2) requires the applicant to consult each local authority about what is to be in the statement.

Section 47 of the Act also requires promoters to consult people living in 'the vicinity of the land'. Promoters are encouraged to view this requirement from a broad perspective and aim to capture the views of those who work in or otherwise use the area, as well as those who live there (for example consulting small businesses, leisure users, and other groups as appropriate to the area in question). It is noted that the local authority is not expected to provide a view on the project itself, only on how the promoter should go about consulting people in its area.

As far as Portsmouth City Council, is concerned, with respect to the duty to consult, the S47 requirement has been adequately carried out in respect of consulting with people living in close proximity to the project (see the figure below taken from the Statement of Community Consultation Summer 2024 Consultation..



However, the council are aware that Portsmouth residents who are Portsmouth Water customers, namely the "persons likely to be affected" standard in the Water Industry Act 1991 have not been adequately consulted.

Noting that the Guidance Note on pre-application consultation ([Planning Act 2008](#)), advises that promoters will need to strike a balance between



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	<p>consulting those significantly affected by the proposals and consulting a wider group who may not be directly affected but who will have reasonable fear that they might be or will have strong feelings about the project, Portsmouth City Council is aware that Portsmouth Water customers (i.e. the residents of Portsmouth) who will be supplied with water including recycled water from the scheme from 2034 onwards (Final Water Resources Management Plan-non-technical-2024.pdf) may not have been individually consulted on the issue. Whilst the Consultation Report produced by the applicant refers to customers and acknowledges that there may be a potential change in taste to the water supplied to customers (Table 6-8), it is not a requirement under the Planning Act 2008 to consult on this process. This is a process regulated by the Water Industry Act 1991 and the Water Supply (Water Quality) Regulations 2016. As set out in guidance published by the Drinking Water Inspectorate, any change of water source is covered by a separate regulatory regime outside of the remit of this process - Information-Letter-03 2023-final.pdf.</p> <p>Having regard to the four Gunning Principles and the two additional principles added by the Supreme Court in <i>Moseley v Haringey (Moseley, R (on the application of) v London Borough of Haringey [2014] UKSC 56 (29 October 2014)</i> namely that:</p> <ul style="list-style-type: none">• the degree of specificity regarding the consultation should be influenced by those who are being consulted, and• the demands of fairness are higher when the consultation relates to a decision which is likely to deprive someone of an existing benefit <p>it will be for the Planning Inspectorate to determine whether by ignoring the functional impact on Portsmouth residents, Southern Water have failed the test of fairness and breached the duty to consult a primary stakeholder community.</p> <p>The Council are also aware of allegations that:</p> <ol style="list-style-type: none">1. Southern Water failed its duty under S37A of the Water Industry Act 1991 and that this failure to comply with the statutory consultation process set out in the Water Industry Act has denied the community affected by Southern Water's planned infrastructure the opportunity to engage at the formative stage of the plan when the HWTWRP was selected in 2021, and2. this is considered to also represent a failure of the duty for the applicant to consult the local community as set out in Section 47 of the Planning Act, as there was no consultation at the formative stage of the plan when the HWTWRP was selected. <p>However as these issues fall outside of the remit under S47 of the Planning Act 2008 they are not commented upon further at this stage.</p>
S48 Duty to publicise	Portsmouth City Council consider that the applicant has, notwithstanding the issues identified above, fulfilled its duty in publicising the proposed application in the proposed manner. Section 48 notices for the Summer 2024 and Spring 2025 consultations were published and displayed.



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Any other comments	Portsmouth City Council consider that the Statutory Consultation requirements have been met. However they cannot comment on whether every single interested party or affected individual has been and as such it is for the Planning Inspectorate to determine if the consultation is legitimate having regard to the Gunning Principles.
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