Oral Submission to the Inspector

(Wastewater, Environmental Risk and Planning Balance – CA/23/00484)

Tim Bostock 17 Feb 2026

Introduction

My submission examines wastewater capacity and environmental water quality — matters central to the Council's July 2025 refusal. I will not address housing need or site allocation.

I'm a local volunteer citizen scientist with an international background in environmental management. For several years, supported by our four villages' Post Office, I have monitored physico-chemical and biological water quality in the Little Stour and Wingham Rivers alongside other volunteers.

My evidence draws on our monitoring data, public regulatory records, Environmental Information Regulation responses, and correspondence with Southern Water, the Environment Agency, and other relevant sources.

My focus is on environmental risk, compliance, and the adequacy of existing infrastructure.

I cover the following five points with final conclusions:

1. Chalk stream impacts

2. Systemic infrastructure failure

3. Remediation prospects

4. Water Industry Act

5. Planning balance

1. Environmental Sensitivity of the Chalk Stream Catchment

The appeal site drains to the Nailbourne–Little Stour chalk stream system. This is a groundwater-dominated catchment hydrologically connected to Preston Marshes SSSI and ecologically linked to the wider Stodmarsh designated sites.

Chalk streams are nationally scarce and recognised as **Habitats of Principal Importance under the Natural Environment and Rural Communities Act 2006**. They are sustained by groundwater recharge through the chalk aquifer and historically characterised by stable flows and low nutrient concentrations.

Because flows in chalk streams are groundwater-fed and relatively gentle, their capacity to dilute pollution is naturally limited. As a result, any pollutants that enter the system are not quickly washed away but remain within it, moving slowly through both surface-water and groundwater

pathways. Their ecological communities have evolved under chemically stable conditions and are sensitive to incremental nutrient change.

Our monitoring indicates that nutrient concentrations vary significantly across seasons and locations, with results ranging from *High* to *Poor* status. While the river's overall Water Framework Directive classification —currently *Poor*— is affected largely by historic barriers to fish migration, the Directive's principle of "*no-deterioration*" applies to each individual component of water quality, including nutrient levels. This means that nutrient conditions must not be allowed to worsen, even if the river's overall ecological status remains unchanged.

The Environment Agency has described **this catchment as among the most complex systems of which it is aware.** In planning terms, it requires a precautionary approach.

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2. Systemic Infrastructure Failure: Network and Treatment Constraints

The Nailbourne–Little Stour catchment is served by approximately **130 kilometres of ageing sewer network**, covering around **95 square kilometres** of North Downs chalk landscape and serving approximately twelve village settlements. Flows gravitate to the treatment works at Newnham Valley near Preston.

During high groundwater periods, structural defects allow **groundwater infiltration** into the pipe network. Flows increase to several times dry-weather levels. This overwhelms pipes and pumping stations, leads to sewer surcharge, disruptive tanker operations and discharges of untreated or partially treated sewage to watercourses.

These are not isolated events. They typically persist for months during wet winters.

Residents in lower-lying villages, particularly Bridge and Littlebourne, are regularly advised to restrict toilet use during high groundwater conditions in order to prevent internal flooding.

During drier conditions, **e*xfiltration*** from defective pipes occurs. This is when sewage escapes into surrounding soils and the chalk aquifer. This creates a further groundwater pathway for nutrient loading that subsequently re-emerges within the chalk stream system.

The Newnham Valley Treatment Works has operated above its Environment Agency–permitted Dry Weather Flow for at least a decade, with recorded discharges in 2017 approximately 45–50 percent over the consented limit.

Both **sewer network** and **treatment works** must be considered together: **Infiltration drives hydraulic overload, while limited treatment capacity increases environmental risk**. The system functions as a **single constrained unit with minimal resilience to additional loading**.

All of the above represents stark evidence of a system already operating well beyond its hydraulic limits.

3. Remediation Prospects and Absence of a Deliverable Capacity Solution

Remedial works are essential to stabilise the existing system, and protect our village communities and the receiving environment. They are necessary to address long-standing failure, rather than providing additional capacity for growth.

Addressing these deficiencies across approximately 130 kilometres of sewers in groundwater-sensitive chalk valleys is a **major infrastructure undertaking by Southern Water**. It requires extensive investigation, systematic sealing and relining of large sections of the network, together with significant additional treatment capacity at Newnham Valley. Infiltration reduction at this scale demands **multi-year programming, repeated access to rural roads and private land, traffic management and phased construction extending beyond a single AMP**[1] cycle.

Even on conservative assumptions, works across 130 kilometres would extend over **multiple regulatory investment periods**. The capital cost would run to **many millions of pounds for relining alone,** before accounting for treatment expansion, process upgrades, land requirements or tighter permit compliance standards.

Crucially, **no comprehensive remediation programme is funded or timetabled within the development plan period.** The Infiltration Reduction Plans identify works, but they do not amount to a secured capital scheme. The SRN50 business case confirms that only around 20% of identified sewer repairs are proposed within current AMP8 cycle, with the majority deferred.

The absence of a deliverable solution is not speculation —it was confirmed by Southern Water in response to our FoI request (EIR 3735; October 2025). Their reply states:

- To date, only 1 kilometre of sewer has been sealed so far in the entire Upper and Lower Nailbourne catchment;
- The £4.5 million proposal for sealing approximately 26 kilometres of sewer (20% of network) was not fully endorsed by Ofwat;
- The current AMP8 programme has been reduced to a pilot project with no firm commitment to full implementation;
- The purpose of the works is t**o restore the system to its original "as-built" condition**, not to remove flow or create capacity for new connections; and
- No firm AMP9 funding commitment is yet in place, and that treatment upgrades at Newnham Valley will depend on future permit needs and review.

In all likelihood therefore very little is likely to change, with the underlying constraints remaining.

A further hydrological concern also arises. In groundwater-dominated catchments, long-standing leaks in defective sewers can inadvertently act as drainage pathways during periods of high groundwater. When those pipes are sealed, this incidental "sink" effect is removed. Unless accompanied by wider catchment groundwater management, remediation may therefore increase local groundwater levels and heighten flood risk. It follows that such works cannot be assumed to be hydrologically neutral.

[1] Asset Management Plan

The Appellant proposes phasing conditions to **bridge the capacity gap until future remediation works are completed.** However, this approach depends on the **timely and effective delivery of major infrastructure upgrades** that are **neither funded nor programmed**. At present, there is no secured investment, approved design, or defined timetable for the scale of reinforcement required. A planning condition **cannot ensure delivery of infrastructure that is not yet committed within the regulatory investment cycle**.

This underscores the central tension between the theoretical assurances offered by regulation and the practical realities described by the water company itself. This brings me onto the next section….

4. Reliance on the Water Industry Act

The July 2025 refusal identified the absence of demonstrated wastewater capacity as a determinative reason under NPPF (=Framework) paragraph 187 and Local Plan Policy QL12.

The Statement of Common Ground does not assert that sufficient capacity now exists. Instead, it records reliance on the proposition that the Water Industry Act 1991 provides a statutory mechanism through which infrastructure may be delivered in future.

I do not dispute that the Act establishes the framework governing connections to the public sewerage network. Section 94 places a general duty on the sewerage undertaker, and Section 106 confers a right of connection. However, while the Act enables connection, it does not guarantee that adequate network capacity or wastewater treatment headroom will exist when required. Nor does it guarantee the necessary reinforcement works will be funded, designed, and delivered within a reliable timeframe aligned with the occupation of the development — or without adverse environmental consequences arising from delay.

A statutory right to connect does not transform an acknowledged capacity deficit into **demonstrated deliverability**; nor **does a statutory duty equate to a funded and timetabled infrastructure solution**.

National planning policy requires development to be supported by infrastructure that is available, adequate, and capable of timely delivery. The Framework makes clear that development must not give rise to unacceptable levels of water pollution. Reliance on the statutory right of connection does not provide that degree of planning certainty — particularly where, as set out earlier, the scale, complexity, and cost of remediation mean that delivery remains uncertain and beyond the applicant's control.

5. Planning Balance

My final section attempts to draw these various points together in order to demonstrate that the planning balance is very clear.

If we look first at policy.

As you are aware, the Water Framework Directive requires prevention of deterioration and progress toward improved ecological status. These objectives are reflected in national planning policy, including Framework paragraphs 180(c) and 187, and in Local Plan Policy QL12.

The recent Government's White Paper, *A new vision for water*, reinforces the national objective of reducing sewage pollution and strengthening accountability for failing wastewater infrastructure. It recognises that many catchments are already under significant stress and require structural reform to prevent — **indeed *reverse*** — further pollution of our waterways.

The Appellant relies on Natural England's June 2024 review removing the Little Stour catchment from the Stodmarsh nutrient neutrality area, noting that a **Habitats Regulations Assessment** is no longer required. While this may address the HRA position, it does not disapply the Water Framework Directive. Also, any absence of a **nutrient neutrality** requirement should not translate into **environmental neutrality…** The decision-maker must still be satisfied that the proposal would not cause deterioration or prejudice the achievement of Good Ecological Status.

Against this policy background, the position in this case is clear. We have shown that the wastewater system serving this catchment is already operating beyond its permitted limits. Remediation is aimed at stabilising long-standing failure rather than creating capacity for growth, and those works remain only partially funded and significantly delayed.

Granting permission for large-scale additional foul loading under these circumstances would run profoundly counter to the policy objective of preventing deterioration.

As a compounding issue, the applicant's own investigations show mostly impermeable subsoils, and the Flood Risk Assessment confirms that infiltration-based SuDS are unsuitable because of variable permeability, shallow groundwater, and the site's position within a Source Protection Zone. Surface water will therefore need to discharge to the receiving watercourse. While the proposed *SuDS treatment train* may slow flows and provide some improvement in water quality — and any discharge would need Environment Agency consent — this does not demonstrate that nutrient inputs can be made without risking deterioration, as required by the Water Framework Directive.

Under these circumstances, the presumption in favour of sustainable development is disapplied under Framework paragraph 11(d) and **Footnote 7**, which expressly includes Sites of Special Scientific Interest among those assets of particular importance. The risk of harm to Preston Marshes SSSI, together with the risk of deterioration of the Little Stour chalk stream contrary to the Water Framework Directive requirement to prevent deterioration and secure improved ecological status, provides a clear and compelling reason for refusal.

If, despite the above, the tilted balance were still assumed to apply, **Footnote 9 then becomes decisive.** Necessary wastewater mitigation is **neither secured nor demonstrably deliverable within an appropriate or reliable timescale**. And in any event **it does not create additional treatment capacity.**

As noted, the Statement of Common Ground accepts that capacity constraints remain. The Appellant's position relies instead on the existence of a statutory mechanism, rather than on demonstrated infrastructure delivery. However, that mechanism depends upon complex, unfunded third-party works outside the applicant's control and introduces further hydrological uncertainty.

Foul drainage capacity was a determinative reason for refusal in July 2025. No new technical evidence has been presented to show that this fundamental constraint has been overcome. In the absence of secured and timely infrastructure provision, the environmental and infrastructure harms attract substantial weight. By contrast, the benefits of the proposal are contingent upon uncertain future upgrades and therefore carry materially reduced weight in the planning balance.

Accordingly, whether the **presumption in favour of sustainable development is disapplied** under Footnote 7 or, in the alternative, the tilted balance is engaged with Footnote 9 applied, the **adverse impacts significantly and demonstrably outweigh the benefits.** Planning permission should therefore be refused.

Conclusion

• The receiving environment is a highly prized, vulnerable chalk stream with hydro/ecological links to designated sites.

• The wastewater system has operated in a failed state for years, beyond its hydraulic and treatment limits, increasing nutrient pollution and requiring regular emergency interventions from Southern Water.

• Remediation is required for existing communities; this does not create capacity for growth and no funded or timetabled solution exists within foreseeable plan periods.

• Infrastructure resilience must be secured in advance of further loading, not assumed to follow it.

• Adding approximately 300 dwellings would materially increase the risk of deterioration affecting both the chalk stream and the SSSI.

• The presumption in favour of sustainable development is disapplied under Framework paragraph 11(d) and Footnote 7. Even if the tilted balance under Footnote 9 were engaged, the absence of secured and deliverable mitigation means the adverse impacts significantly and demonstrably outweigh the benefits.

• National and local policy provide a clear and compelling reason for refusal.

• **The Appeal should therefore be robustly refused**.

Additional point made during session:

Counsel for the Appellant noted in her opening statement the target of the existing government to build 1.5m homes during the current parliament.

We acknowledge her recommendation that ***this is the context within which this Appeal should be reviewed.***

So, the assumption here is that this development of 300 homes in Littlebourne both comprises a key part of this target, and that this would be completed by 2029 (assumed end of current Parliament).

However, we have shown (in the above) that this is not possible given the scale of the remediation challenge as outlined.