

North Norfolk Local Plan

Statement of Common Ground with Natural England in relation to Nutrient Neutrality Policy

(August 2023)

1. Purpose of the Statement

1.1 This Statement of Common Ground (“SoCG”) documents the agreed position of North Norfolk District Council and Natural England (NE) relating to the requirement that relevant development promoted by the North Norfolk Local Plan (“the Plan”) must be nutrient neutral in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (‘the Habitat Regulations’). Document references used in this SoCG are those used in the North Norfolk Local Plan Examination Library and are indicated in square brackets [REF]. These documents can be accessed on the North Norfolk District Council Examination website www.north-norfolk.gov.uk/localplanexamination

2. Position Statement

- 2.1 On 16 March 2022, a Written Ministerial Statement (WMS) on Nutrient Levels in River Basin Catchments was issued. It signalled changes in the approach to the assessment of development proposals in catchments where water bodies that are protected sites under the Habitats Regulations are in unfavourable condition due to nutrient pollution. The WMS stated that *“Local Planning Authorities can only approve a project if they are certain, it will have no negative effect on the protected site”*.
- 2.2 At the same time, the Chief Planner sent a letter to the affected local planning authorities (LPAs) on nutrient pollution issues.
- 2.3 NE also published advice and a nutrient neutral methodology on how to evidence that nutrient neutrality can be achieved for relevant new development in order to mitigate impacts on the protected habitats. Supporting documentation (catchment maps) identified that relevant development in large parts of Norfolk would result in impacts on protected water bodies of the River Wensum and The Broads Special Areas of Conservation (SACs) and in the Broadland Ramsar.
- 2.4 This NE advice post-dated the publication of the proposed submission version of the Plan [A1] and consequently the consultation version of this Plan made no reference to nutrient neutrality.
- 2.5 North Norfolk District Council has tabled a main modification to the Plan [A5.12] and requested that the Inspector consider making this modification. The modification proposes changes to Policy CC13 of the Plan and its supporting text which deals with Protecting Environmental Quality, including water quality. An extract of the Plan incorporating the requested modification is appended to this statement as **Appendix A**.
- 2.6 The government and Chief Planner provided updates on measures being developed nationally to address nutrient pollution on 20th July 2022. The government’s press release announced:

- a. A new legal duty on water companies in England, to be introduced via the Levelling Up and Regeneration Bill, to upgrade some wastewater treatment works by 2030 in nutrient neutrality areas to the highest achievable technological levels.
 - b. A new Nutrient Mitigation Scheme established and accredited by NE, allowing LPAs to grant planning permission for new developments in areas with nutrient pollution issues. Defra and the Department for Levelling Up, Housing and Communities will provide funding towards the scheme.
- 2.7 The legal duty on water and sewerage companies to upgrade wastewater plants is being introduced via an amendment to the Levelling Up and Regeneration Bill. Government stated that the improvements should be factored in for the purposes of Habitats Regulations Assessments.
- 2.8 The Natural England Nutrient Mitigation scheme will enable developers to purchase ‘nutrient credits’ which will discharge the requirements to provide mitigation. NE will accredit mitigation delivered through the Nutrient Mitigation Scheme, enabling LPAs to grant planning permission for developments which have secured the necessary nutrient credits. The aim is to ensure developers have a streamlined way to mitigate nutrient pollution, allowing planned building to continue and creating new habitats across the country. The scheme is particularly intended to benefit smaller building companies and sites which would be unlikely to be able to provide on-site mitigation measures and will comprise nature-based mitigations.
- 2.9 Developers of impacted proposals can independently provide mitigation either directly on development sites as part of their proposals or via off site mitigations provided they meet the requirements of the Habitat Regulations.
- 2.10 The Norfolk Authorities working together as part of the Duty to Cooperate have commissioned Royal Haskoning to provide the Authorities with expert technical advice. Royal Haskoning have.
- Refined and defined the extent of the impacted catchments ([Home | Nutrient Neutrality \(north-norfolk.gov.uk\)](#))
 - Produced a Norfolk specific nutrient calculator. ([Home | Nutrient Neutrality \(north-norfolk.gov.uk\)](#))
 - Identified those types of mitigation which would help to address the issue. (Strategy [G.15])
- 2.11 Five Norfolk Planning Authorities and Anglian Water have formed a not-for-profit Joint Venture, Norfolk Environmental Credits Ltd, with the remit to purchase and make available suitable accredited mitigation to the development industry [Nutrient Neutral Development - Norfolk Environmental Credits](#). This will sit alongside the NE scheme and is expected to include a wide range of potential mitigations. The Joint Venture has made a bid under the government’s Local Nutrient Mitigation Fund [Local Nutrient Mitigation Fund: call for evidence and expression of interest - GOV.UK \(www.gov.uk\)](#) for approximately £11 million to purchase mitigations and sell to the market.
- 2.12 It is anticipated that NE mitigation schemes could be in place in 2023. Norfolk Environmental Credits Ltd launched a call for sites/expressions of interest in June

2023. Once the schemes are ready to be implemented, it is expected that planning permissions for housing and other impacted developments will be able to be granted from that point onwards.

3. Statement of Common Ground Agreements

3.1 The following statements provide an agreed position between North Norfolk and NE on addressing nutrient neutrality through the Plan:

Agreement 1 - Co-operative work on Nutrient Neutrality Mitigation

The signatories agree that North Norfolk and Natural England will continue to work together to provide short-, medium- and long-term solutions for nutrient neutrality as identified through the county wide mitigation study through the Nutrient Mitigation Scheme which will be accredited by Natural England. The mitigation schemes will support the delivery of the North Norfolk Local Plan housing trajectory.

Agreement 2 - Updates to the North Norfolk Local Plan Habitats Regulations Assessment (HRA)

The signatories agree that North Norfolk District Council will commission updates to the North Norfolk Local Plan HRA to update coverage of nutrient neutrality, taking account of the revised situation since publication of the Local Plan (new proposed Policy CC13). Natural England will be consulted on the updated HRA in accordance with the requirements of the Habitats Regulations.

Agreement 3 - The North Norfolk Policy

Subject to confirmation via the updated HRA, the signatories agree that inclusion of the revised Policy (CC13) would prevent development resulting in an adverse effect on designated habitat sites and allows the LPA to demonstrate that the North Norfolk Local Plan addresses the requirements of the Habitat Regulations.

Signatories:

On behalf of North Norfolk District Council



Mark Ashwell

Planning Policy Manager, North Norfolk District Council
30/08/2023

On behalf of Natural England:



Helen Dixon

Manager, Norfolk & Suffolk Area Team, Natural England
30/08/2023

Appendix A - Main Modification Request

The requested main modification **PMAIN/3.13/01** seeks the addition of the following supporting text as preamble and justification for Policy CC13:

- 3.13.6 The River Wensum Special Area of Conservation (SAC) and The Broads SAC and Broadland Ramsar are designated under the Conservation of Habitats and Species Regulations 2017 as amended and the Ramsar Convention. These are collectively known as Habitats Sites.
- 3.13.7 The River Wensum SAC is an internationally significant naturally enriched lowland chalk river. Its catchment covers a predominantly rural area, but also includes the Large Growth Town of Fakenham. In 2022, evidence demonstrates that the SAC is in unfavourable condition due to high levels of phosphorus in the river.
- 3.13.8 The Broads SAC and Broadland Ramsar consist of component Sites of Special Scientific Interest (SSSIs), of which five individual SSSIs are failing water quality targets. These include broads and fens, with some drained marshes, containing rich and rare aquatic habitats and species. The catchment area covers much of mid and east Norfolk, including the whole of the River Wensum catchment. Significant parts of North Norfolk and Breckland, along with smaller parts of Great Yarmouth and Kings Lynn & West Norfolk, are within the catchment. Consequently, development in large parts of North Norfolk including proposed growth at Fakenham, Stalham, and Hoveton along with many service villages and the wider countryside, is impacted. In 2022, evidence demonstrates that these habitats sites were in unfavourable condition due to high levels of both nitrogen and phosphorus.
- 3.13.9 If not properly managed some types of development including those proposing new overnight accommodation, some commercial proposals and agricultural uses have the potential to increase water pollution via foul and surface water discharges into the designated Habitat sites To ensure no further reduction in water quality applicants should demonstrate, beyond reasonable scientific doubt, that their development proposals will not result in adverse effects on habitat sites This will require the submission of sufficient information which compares the existing and proposed uses and allows the Local Planning Authority to conclude that no more nutrients will enter the designated watercourses than is currently the case.
- 3.13.10 To allow “nutrient neutral” development to take place within the catchments while the sites are in unfavourable condition without giving rise to additional pollution, Policy CC13 requires relevant developments to be supported by evidence to demonstrate that the development Will have no adverse effect on Habitat Sites.
- 3.13.11 To support nutrient neutral development, the Norfolk authorities have produced ‘Norfolk Nutrient Guidance -Nutrient Mitigation Solutions’ for the River Wensum and The Broads SAC and Broadland Ramsar catchments. This identifies short-, medium- and long-term mitigation solutions. The Norfolk Authorities impacted by this issue have published detailed guidance on the information requirements and process that applicants will need to follow.
- 3.13.12 Where possible, mitigation measures should contribute to wider benefits such as enhancing green infrastructure and reducing flood risk. Nature based solutions which improve biodiversity will be particularly supported.

The requested modification would add the following wording to the requirements of Policy CC13.

New criteria 6:

All qualifying development⁽¹⁾ proposals located within the catchments of the River Wensum Special Area of Conservation (SAC), the Broads SAC and the Broadland Ramsar must provide evidence to enable the Local Planning Authority to conclude through a Habitats Regulations Assessment that the

proposal will not have an adverse effect on the integrity of the habitats sites. Proposals that fail to demonstrate at least nutrient neutrality will not be permitted.

Add Footnote (1)

⁽¹⁾ Qualifying development: all development resulting in overnight accommodation.