

Matter 10 Natural Environment (Policies NE1–NE11)

Policy NE1- Protection of Nature Conservation, Biodiversity and the Local Ecological Network

1. Is the policy consistent with the Framework? Is the Policy clear and would it be **effective**?

a) Assessment:

An accurate Habitats Regulations Assessment (HRA), Para 9.10 of the Local Plan, is essential to ensure that the implementation of the Local Plan will not have an adverse effect on the integrity of these sites. However, there is a question of how long it takes for the benefits of the implemented HRA to be realised (benefits realisation). The timeframe for benefits to be realised depends, amongst other aspects, on the location of the off-setting land. Natural England (NE – Alison Potts – Manager, Thames Solent Team) have confirmed to me (Rob Megginson) on the 25th June 2020 that the process does NOT take into account any delay in effectiveness, and that it is up to the Local Planning Authorities to explore.

*'The methodology recognises that sites relied upon to mitigate the impact of development need to be appropriately located. In practice, this means that they are likely to be close to the coast, or to connecting watercourses, and will usually be located on tertiary geology. In those cases, much of the benefit to the designated sites will be felt quickly (within the first year), with the full benefit expected to accrue by year 5. In contrast, in localities in the upper reaches of chalk catchments where the nutrient transport between the land and rivers and streams is mostly via groundwater, which moves only slowly through chalk, it can take much longer for nitrogen applied to farmland to reach the Solent. **The methodology does not build in a delay to effectiveness, as this will vary between sites.** It is a factor we consider in our advice to mitigation providers and Local Planning Authorities and can be explored as part of the Habitats Regulations Assessment.'*

Since the introduction of the principal of offsetting was introduced, I have observed many planning applications using off setting and am not aware of any HRA's where the LPA have considered any benefits realisation assessment.

b) Effectiveness of Policy: Evidence that the mitigation strategy works - Validation

Strategic Policy NE1: Protection of Nature Conservation, Biodiversity and the Local Ecological Network Development will be permitted where: a) Designated international, national sites and local sites of nature conservation value are **protected and enhanced**, reflecting their status in the hierarchy of nature conservation designations; and b) Protected and priority habitats and species, including breeding and foraging areas are **protected and enhanced**.

Where in the plan is any evaluation checkpoints to confirm that the mitigation strategies are effective and provide assurances that the local conservation sites are indeed protected and enhanced?

The mitigation are new processes unproven in the field, which create a significant risk that appears unchecked and unmonitored by various authorities, including Natural England. The Councils risk assessment for Nitrate Mitigation – Legal Agreement with Hampshire and Isle of Wight Wildlife Trust & Isle of Wight Council of July 2020 focuses only on legal risks, with no mention of any environmental risks:

LPA's RISK ASSESSMENT

This Council's Solicitors are satisfied that the legal agreement as drafted provides an appropriate mechanism for securing nitrate mitigation for residential development being undertaken within Fareham Borough.

The Council's Solicitors are further satisfied that the construction of the legal agreement, including the monitoring of its provisions by the Isle of Wight Council, would ensure that it meets the requirements of the Habitat Regulations as emphasised through recent European Court Judgments.

Is the Nitrogen Mitigation Scheme effective and will it be successful in perpetuity? In Natural England's paper, 'Advice on Achieving Nutrient Neutrality for new Development (Solent), June 2020', section 2.6 states: 'the achievement of nitrate **neutrality if scientifically and practically effective** is a means of ensuring that development (housing) does not add to existing nutrient burdens.'

Natural England were approached to see if they were aware of any evaluation of the effectiveness of the mitigation strategies on the 4th March 2022. Their response (Graham Horton – Manager – Thames Solent Team) confirms that they are not aware of any checkpoints to validate that the mitigation is effective:

The focus, post implementation, is ensuring that the mitigation remains in place in perpetuity. The nutrient mitigation is created by ceasing the agricultural practices which have previously been adding the nutrients into the waterbody.

This will result in a change of land use and so the main tests are to ensure that:

agricultural practices do not resume such that the mitigation would no longer exist and

that the land use change remains in situ or develops naturally, this is usually described in a long-term management plan which is part of the planning permission issued by the LPA.

Is this sufficient assessment to remove any doubt that the Nitrate Mitigation will work?

Why is there apparently no validation that the mitigation work? Is there any validation by any other organisation is aware of to assess the effectiveness of the mitigation strategies?

What if these mitigation strategies are ineffective, how will this be corrected and how will this be funded?

What are the legal consequences should the mitigation methods turn out to be ineffective?

The Plan cannot be judged as sound given there is no evaluation of the mitigation measures!

Policy NE2 Biodiversity Net Gain

2. Are the requirements of the policy sufficiently clear in relation to i) the ability for developments to buy 'credits' where net gain on site is not achievable. ii) That compensation can include new habitat or restoring/enhancing existing habitats.

Strategic Policy NE2 Biodiversity Net Gain Appendix C Local Ecological Network Map

The Hampshire and Isle of Wight Trust & Natural England advocate 'net gains' in biodiversity. It is difficult to see how the developments in HA1 can truly achieve net gains in biodiversity. The cumulative effect of the proposed 842 houses surrounding Greenaway Lane would lead to habitats and wildlife being impacted negatively, reducing the effectiveness of wildlife corridors. This will lead to a decline in genetic diversity over time, because of habitat loss.

3. How has viability been addressed (Protection of Nature Conservation, Biodiversity and the Local Ecological Network)

CUMULATIVE EFFECT:

The viability of individual planning applications and the combined effect of other local applications is a key element in protection of the environment. Many residents have raised the issue of 'cumulative effect' on many planning applications which have been consistently ignored by this LPA. These include but not limited to the following applications:

- P/18/0756 – 28 dwellings off Greenaway Lane
- P/18/0402 – 100 houses off Greenaway Lane
- P/18/0884 – 6 dwellings off Greenway Lane
- P/19/0303 – 85 houses off Brook Lane

Ignoring the Cumulative effect, as evidenced by NE comments on a very recent planning application justify that this plan is unsound and created significant uncertainty around the protection of the natural environment.

I would like to ask the Council when and how they will assess the cumulative effect of 1000 plus new residential houses in addition to the hundreds of houses already added in the last 5 years in Warsash?

Policy NE3 Recreational Disturbance on the Solent SPA

5. Is the Policy clear in relation to how it would be implemented, and would it be effective?

The local community would like to draw the Inspector's attention to the mitigation measures for the Council's Interim Mitigation Scheme for recreational impact on the New Forest. The effectiveness of the interim plan is being measured on

- Providing alternative recreational opportunities (to deflect potential visits away from the New Forest protected sites)
- access management and wardening in the New Forest protected sites themselves
- accompanied by monitoring of the impacts and effectiveness of mitigation measures (to provide a better understanding of the impacts of recreation on the New Forest protected sites and enabling future refinements of mitigation policies and measures).

The interim strategy at Paragraph 21 describes new green spaces being created, improving existing open spaces to divert Fareham residents who might otherwise visit the New Forest.

Can the Council tell us where these open spaces are being created as most, if not all, said green spaces across the borough are earmarked for development?

The use of the new or improved green spaces will be monitored for this interim strategy. The measurement of this 'behavioural change' approach replicates the approach taken for monitoring the Strategic and Mitigation Partnership (Bird Aware) and is totally inadequate in tackling the impact of recreational disturbances on the New Forest SAC/SPA and RAMSAR. To answer the Inspector's question, the programme of work and timetable in this interim strategy are both nonspecific and consist of a timetable simply described as 'up to March 2025.' The interim solution for NEW FOREST is also unproven and lacks significant certainty for nature conservation.

Policy NE4 Water Quality Effects on the SPAs, SACs and Ramsar sites

6. Is the policy clear and would it be effective?

Our rivers are officially in a poor state, with only 14% meeting Good Ecological Status and our Bathing Waters are at the bottom of the European Bathing Water table. Sewage overflow release from many water companies is a daily occurrence, even in times of little rain. This is causing widespread public outrage, with shocking levels of raw effluent being discharged into the blue arteries of the country daily. Both water companies and the government view rivers as places that can absorb pollution which has turned these precious watercourses into all but an open sewer, bearing the brunt of more than 3 million hours of sewage discharge in 2020 alone. This is because of weakened legislation and a defunded regulator, which has allowed the water industry to operate with by self-regulation and reporting pollution when it feels like it.

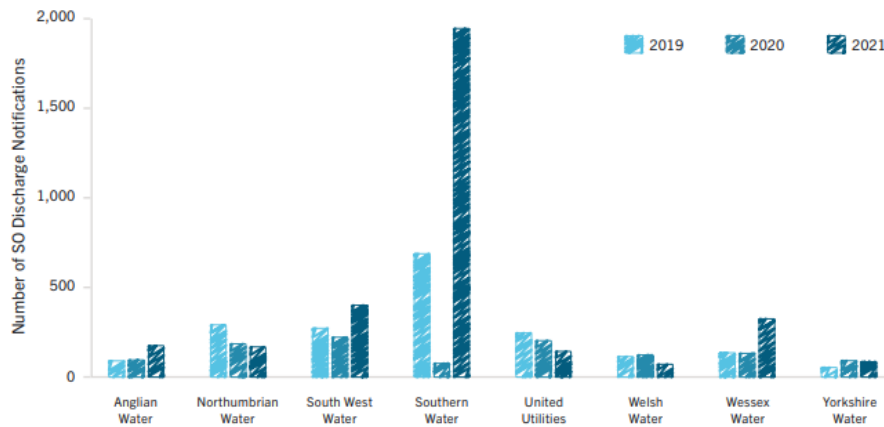
We are in the midst of a new wave of sewage pollution. In 2020 alone, sewage was pumped into rivers and seas nationwide over 400,000 times, totalling over 3.1 million hours of sewage pollution.

Following significant public concern and pressure on the growing issue of sewage pollution, the Environment Agency and Ofwat announced a large-scale investigation into potentially illegal sewage discharges at over 2,000 sewage treatment works across England. New monitoring requirements have brought to light suspected breaches in sewage discharge permits, forcing some water companies to take the unprecedented step of announcing that they could indeed be responsible for unlawful sewage discharges into both rivers and seas. This long overdue investigation will be widespread and cover every water company in England. The investigation will culminate in the full force of the law being thrown at water companies that have been systematically flouting their legal responsibilities and obligations to treat sewage properly and protect the environment. It's time for regulators to force water companies to come clean and face punishment for any illegal and immoral practices. But of course, the proof will be when sewage emissions are drastically reduced or eliminated, and our rivers and coastline meet the standards that the water industry and those that regulate them should have helped deliver many years ago.

Southern Water is responsible for the water supply on the South Coast covering Fareham and one of the worst offenders of pollution of all the water companies. On the 9th July 2021, they were fined a record £90m after bosses admitted deliberately dumping billions of litres of raw sewage illegally thousands of times over a five-year period into the sea.

The company pleaded guilty to nearly 7,000 unpermitted sewage discharges from 17 sites - the equivalent to one pipe leaking continuously for seven years. Tonnes of sewage polluted rivers and coastal waters in Kent, Hampshire and Sussex between 2010 and 2015, the court was told. There has also been an alarming increase in the reported number of reported sewage overflow discharges from Southern Water in 2021 with a total of 1,949 notifications issued compared to 78 in 2020 and 690 in 2019. The low number was put down to 'technical issues' by Southern water and is represented graphically below:

FIGURE 4 TOTAL NUMBER OF SEWAGE OVERFLOW DISCHARGES 2019-2021



The wastewater plant that serves Fareham is Peel Common. This is operating at near capacity and to add a significant load with massive investment to significantly increase the capacity the wastewater works will continue to pollute our waterways and will not improve the status of them as required by the HRA.

Southern Waters own 'Problem Characterisation Peel Common (PEEL)' dated august 2021 classifies the treatment work for investment strategy as IMPROVE. This means that SW consider that the current performance of the drainage and wastewater system needs to be improved to reduce the impacts on our customers and/or the environment. SW will plan investment to reduce the current risks by actively looking to invest capital funding in the short term to address current performance issues (and consider future risks when implementing improvements). However, there are no details available where this investment comes from and what the implementation timeframes are and how this relates to the Local Plan and its implementation timeframe.

We have heard from a local fisherman of the problems experienced in the local seas, and as an example of Southern Waters assessment, in relation to shellfish, SW state that: *'The discharges from this wastewater system might affect the designated shellfish waters shown in Table 7. The risk of not achieving the faecal standards for shellfish in these designated waters from this wastewater system is very significant'!*

How will FBC and Southern Water and FBC improve the water quality as required by Policy D4 given all of the above issues without any improvements to the water treatments works and any phasing of the developments across the Borough?

This fails the NPPF presumption in favour of development as it fails to promote a sustainable pattern of development that aligns growth and infrastructure, in this case the treatment of water, which will lead to continued deterioration of the environment by failing to improve the status of our rivers and seas and thus failing protect and enhance our natural, built and historic environment.

Policy NE5 Solent Wader and Brent Goose Sites
10. Is the policy clear and would it be effective?

The Solent Waders and Brent Goose Steering Group 2020 documented significant risks and issues with the developments. The group comprises the following organisations:

Hampshire & Isle of Wight Wildlife Trust (HIWWT)
Natural England (NE)
The Royal Society for the Protection of Birds (RSPB)
Hampshire County Council (HCC)
Coastal Partners Hampshire Ornithological Society

Key findings included, but are not limited to:

*P.34 - Many of the sites for both brent geese and waders are low-lying and close to the Mean High Water mark, and it is clear from this analysis that flooding and future sea level rise are likely to have significant impacts. **Therefore, alternative sites must be actively secured and appropriately managed to buffer these effects in order to maintain the network of feeding and roosting sites necessary to support brent goose and wader populations in the Solent in the long-term.***

*P.35 - **Increases in development across the Solent are likely to significantly damage the integrity of the coastal bird site network.** The ‘in-combination’ effects of increased proximity to housing, increased visitor pressure, recreational activity and **habitat loss are likely to be even greater.** This further highlights the need to buffer the existing site network through **improved management and creation of alternative sites to secure the Solent’s brent goose and wader populations into the future.***

Given the unequivocal summary from these experts, where are the follow up actions to ensure no further loss of the brent geese and wading population?

Sections 9.62 and Sections 9.63 of the Local Plan provide little information about mitigation and replacement habitats, and begs a number of questions such as:

Who is responsible for creating alternative sites?
Where are these sites?
Is there an implementation plan for the ‘improved management’ of the existing sites?
Who is the group accountable to?
When will these sites be available in relation to the new developments that are already underway?
What monitoring, in addition to the Bird Aware scheme will be arranged
How will funds be secured to facilitate the above, as per 9.63.....securing of long term funds!

The report describes ‘**likely significant damage**’ on the integrity and that the habitat losses ‘**are likely to be even greater**’.

Is there a response from NE on these questions?

Policy NE8 Air Quality

18. Are the requirements of the policy clearly articulated and would they be effective? Is it clear what is expected in terms of good practice and principles of design in part b) of the policy?

Strategic Policy CC1

Climate change, pollution and habitat loss are having a serious impact on our planet. This is a climate

crisis and we have to reduce emissions fast, we have to do a much better job of looking after our environment. The plan should contain Specific information about CO2 emissions from the homes and how the carbon footprint of the buildings planned will be kept as low as possible. It should also state how it will implement any new regulations that are introduced post reserved matters approval but prebuilding commencement, in the event that the regulations require implementation prior to building occupation.

22. What is the justification for the policy requiring major development to contribute to the delivery of green infrastructure? Does this duplicate Policy NE9?

Para 8.60 Section 8 mentions the requirement of meeting CO2 emission reduction targets, it is of great concern that there is scant consideration of the cumulative effect of the HA1 developments, that the plan refers to individual developments power generation but does not give detail of what targets they should achieve above Building Regulations and therefore it the plan is sketchy. When climate change is such an enormous threat to our planet there is no room for being vague or leaving key decisions to individuals.

23. Have any Clear Air Zones been designated in the borough? If not, what is the justification for their inclusion in the policy?

Policy NE9 Green Infrastructure (GI)

24. Is the policy clear and would it be effective?

Policy D1: Para 11.36: Developers are encouraged to design for natural ventilation and green infrastructure' that 'maximises the potential for generating renewable energy and is designed to reduce energy consumption as much as possible. The location of development needs also to recognise the need to minimise emissions from transport. These requirements should be made clear to all applicants for planning approval.'

In the light of the climate change emergency, there seems to be lack of detailed provision for energy efficiency in the new homes planned for Warsash or in the Local plan as a whole. There appears to be no detailed information around sustainable heating, use of renewables such as solar panels and insulation to improve energy efficiency.