The Upper Nene Valley Gravel Pits Special Protection Area Supplementary Planning Document

Addendum to the SPA SPD: Mitigation Strategy

Document for adoption approval

Borough Council of Wellingborough – 31st October 2016

East Northamptonshire Council – 21st November 2016

Please note that no change is being made to the already adopted SPA SPD, this addendum will slot into the end of the document as a new section 6.
This addendum (to the Special Protection Area SPD for the Upper Nene Valley Gravel Pits) applies to the council areas of East Northamptonshire and Wellingborough. These two authority areas in North Northamptonshire have the potential for residential sites to be located within the 3km buffer zone of the SPA, which is detailed further below.
1. Purpose

1.1 Local Planning Authorities have the duty as competent authorities under the Conservation of Habitats and Species Regulations 2010 (Habitat Regulations) to ensure that planning application decisions comply with the Habitats Regulations. The North Northamptonshire Joint Core Strategy 2011 – 2031 (Local Plan part 1) policy 4 safeguards the Upper Nene Valley Gravel Pits Special Protection Area, which was designated in April 2011 under the regulations, due to its number and type of bird species present. If Habitat Regulations are not met and impacts not mitigated then development must not be permitted.

1.2 Evidence produced to inform the production of the Councils’ Local Plan as identified in the Habitats Regulation Assessment for the Joint Core Strategy (JCS) and detailed in paragraph 3.40 – 3.42 and policy 4 of the JCS, states that all new residential development within 3km of the SPA will result in a significant effect on the SPA, a map can be found in Appendix 1 showing the 3km buffer. The ‘in-combination’ impact of proposals involving a net increase of one or more dwellings within a 3km radius of the SPA are concluded to have an adverse effect on its integrity unless avoidance and mitigation measures are in place. This is through an increase in visitors that will in turn increase the level of disturbance to the wintering waterbirds, particularly through dog walking.

1.4 For residential developments which result in a net increase in the number of dwellings within 3km of the SPA it is proposed to avoid and mitigate likely significant effect on the SPA by making a financial contribution towards Strategic Access Management and Monitoring (SAMM) and/or other suitable mitigation. This would reduce the adverse impact of people visiting the SPA through specific measures and monitoring.

1.3 This section of the SPD sets out the mitigation costs for residential developments that fall within the 3km catchment. For most development, the contribution to mitigation will remove the adverse impact on the integrity of the SPA. Alternatively applicants can undertake their own project level Appropriate Assessment and fulfil the mitigation that is required through that Assessment.

1.5 Sites that already have planning permission will not be required to pay any additional mitigation sum, unless they are resubmitted for consideration. Due to its size Rushden East will provide its own Suitable Alternative Natural Greenspace (SANG) and is therefore not considered to fall in the remit of this mitigation, however if suitable space is not provided within that development, this will need to be reassessed. Other large scale development, that have the scope to deliver SANGs, are unlikely to be required to meet the standard contribution as a bespoke project level HRA will be required and the mitigation identified in that assessment will need to be delivered.

2. Background

2.1 An assessment of need was undertaken to understand the impacts of recreational use in the SPA, this can be found in Appendix 2. This primarily used data collected by Footprint Ecology in their Visitor Access Study of the Nene Valley (2014). This demonstrates that the number of dog walkers

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2 This definition means any new residential development that includes land within its red line boundary that falls within the 3km buffer and the whole site is expected to pay towards access management as set out in this document.
visiting the area is high and that further development will increase pressure at various locations along the SPA.

2.2 The required mitigation includes access management such as screens and fencing as well as directing walkers to less sensitive areas, alongside wardening and monitoring to minimise or address the adverse effects of people visiting the SPA.

2.3 Table 1 and 2 in Appendix 2 demonstrate that wardening and off-lead exercise areas are both necessary for successful mitigation of visitor impacts to the SPA. Both are very high-cost measures: over the life of the Joint Core Strategy. Including them would render new development unviable and would cause it to pay for existing effects on the SPA’s qualifying features. The mitigation strategy has instead included an appropriate but representative proportion of the total measures required. Strategic Access Management and Monitoring (SAMM) costs have then been apportioned by distributing the costs evenly across the anticipated development within 3km of the SPA within the plan period.

3. Regulations

3.1 The Strategic Access Management and Monitoring (SAMM) contributions are a specific SPA mitigation measure. They are sought for the management of access to the SPA and do not provide wider benefit or represent the provision of infrastructure. These contributions should not be classed as providing infrastructure so can be secured through section 106 obligations without any restriction on pooling of contributions from 5 or more developments (Regulation 123 of the Community Infrastructure Levy regulations). This approach is consistent with the views of other local authorities across the country in dealing with mitigation requirements for other SPAs and has been accepted by inspectors at appeal.

3.2 The National Planning Practice Guidance4 also confirms that local planning authorities may seek planning contributions for sites of less than 10 dwellings to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of regulatory or EU Directive requirements.

3.3 The SAMM contribution is a legal obligation to mitigate against effects on a European site. By following the process set out in this SPD it will be quicker and more efficient for applicants than the requirement to undertake a project level Habitats Regulation Assessment (HRA) for any residential development applications, which may lead to higher mitigation costs.

3.4 Appendix 3 demonstrates compliance with the three tests of Regulation 122 of the Community Infrastructure Levy Regulations (2010 as amended) and paragraph 204 of the NPPF.

3.5 Where developments result in the need for specific new infrastructure in addition to the SAMM contribution to mitigate impacts on the SPA, contributions will be negotiated on a case by case basis in dialogue with Natural England and the Local Authority, and will need to meet the relevant regulations. This would include items such as Suitable Alternative Natural Greenspaces (SANGs). Such infrastructure would not be sought from sites of less than 10 dwellings.

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4 Paragraph: 020 Reference ID: 23b-020-20160519 of the national Planning Practice Guidance
4. Implications and Contribution to Access Management

4.1 The contribution figure detailed below was arrived at through the needs assessment work that costed out the required works, mainly screening and fencing alongside the use of a warden to guide and educate dog walkers in the sensitive locations of the Nene Valley. Monitoring is an important part of access management to ensure that the schedule of works are completed in a timely manner, identify any significant changes in access which could require alterations to management works, and investigate how disturbance affects the birds to inform future management. These works are those required over the lifetime of the Joint Core Strategy to 2031.

Developments of 9 or fewer

4.2 Any new residential development will have an impact and therefore must be mitigated. The calculated contributions are for each new dwelling to contribute a set figure of £269.44. This will be indexed linked, with a base date of 2016. This will be reviewed periodically.

4.3 Making this contribution will remove the need for developments to undertake project level Appropriate Assessment and speed up the process of approval from Natural England. This would, in turn, speed up the determination of these minor applications.

4.4 An example of specific wording to secure this contribution through a planning obligation can be found in Appendix 4. If following this mechanism of payment then a legal fee will also be required. Alternatively a payment through section 111 of the Local Government Act 1972 can be made with no further legal cost, see Appendix 5. Templates and guidance notes can be downloaded from the Council’s website.

Developments of 10 or more

4.5 Where a development will create 10 or more net additional dwellings it is advised that early dialogue with Natural England should take place. Natural England will then advise the Local Planning Authority if mitigation may be dealt with through a fixed contribution of £269.44 per dwelling (indexed linked, with a base date of 2016) and/or bespoke mitigation. Further mitigation will be in exceptional circumstances and where Natural England advise. If a bespoke process is required then a project level Appropriate Assessment will be required.

4.6 The contribution would be set out in a legal agreement for the application. An example of specific wording to secure this contribution through a s106 agreement can be found in appendix 4. If appropriate, phasing of payments for larger schemes can be written into the legal agreement with the agreement of Natural England, but some upfront payments would normally be required.

Permitted Development Rights

4.7 The General Permitted Development Order (GPDO) allows for the change of use of some buildings and land to Class C3 (dwelling houses), with this development subject to prior approval process. However the Habitats Regulations also apply to such developments. The Council is obliged by the regulations to assume that there will be an in-combination significant effect on the SPA.

4.8 Any development for prior approval should also be accompanied by an application for the council to do a Habitats Regulations Assessment on the proposed development (please note there will be a
charge for this). The development will need to include a mitigation package to remove the significant effect on the SPA which new residential development would otherwise result in.

4.9 The mitigation package will be secured through a direct payment using a Section 111 agreement.

**Examples of different level of contribution**

- Development of 8 units within the 3km buffer – 8 x £269.44 = contribution of £2,155.52 for SAMMs.

- Development of 27 units within the 3km buffer - 27 x £269.44 = contribution of £7,274.88 for SAMMs PLUS cost of access infrastructure due to location near to an access point.

- Development of 44 units within the 3km buffer – 44 x £269.44 = contribution of £11,855.36 for SAMMs.

5. Process

5.1 The flow chart set out on the next page shows how the process will work.
Development involving net additional dwellings within 3km of SPA to contribute to mitigation measures as follows:

**Committed Developments** (see FC 21 of the JCS) - No further HRA or contributions to mitigation required unless scheme is resubmitted.

**New Developments**

- **9 or fewer** net additional dwellings, or (for outline applications) less than 0.4 Ha site area, provided that the scheme does not form part of a larger potential development.

- **10 or more** net additional dwellings, or (for outline applications) 0.4 Ha or greater site area.

    - **Natural England to advise LPA whether mitigation may be dealt with through one or both of**
    - Fixed contribution to Strategic Access Management and Monitoring (SAMMs).
    - Bespoke contribution to mitigation measures based on detail of scheme.
    - Fixed contributions to Strategic Access Management and Monitoring (SAMMs) and where necessary, contribution to infrastructure.
    - No project level Appropriate Assessment required for recreational pressure impacts subject to per-dwelling contribution being secured.
    - Project level Appropriate Assessment and bespoke legal agreement/condition required to secure mitigation measures.
    - No project level Appropriate Assessment required subject to contribution being secured.

Developer contributions held by LPAs and drawn down by implementing bodies for:

- Strategic Access Management and Monitoring.
- Infrastructure specific projects (pooling from up to 5 Developments).

Process Chart 1 to determine contributions to mitigate impact on the SPA.
6. Payment mechanisms

6.1 If using a planning obligation, on commencement of development the contributions to SAMM will be required as per the legal agreement. It is important that the contribution towards SAMM is made on commencement to ensure the mitigation is in place ahead of any significant effect on the SPA. For dwellings of 9 or less and the s111 mechanism has been followed as in paragraph 4.4 a form should be completed with payment at the application stage.

6.2 To comply with Habitats Regulations, payment for the mitigation must be in place before occupation of the development. The obligation will contain the following occupation restriction. This is non negotiable.

Not to occupy the development or any part thereof until the Council has issued written confirmation that the payment for the Strategic Access Management and Monitoring contribution has been received.

As referred to in paragraph 4.6 above phasing options can be considered for larger schemes on a case by case basis. Occupation restrictions could relate to specific phases of the development.

7 Governance

7.1 The Local Authority will hold the developer contributions and this will be paid to third party providers to undertake the physical work required or to undertake the wardening. One of the partners will be the local Wildlife Trust who also own or manage a number of sites along the Nene Valley.

8 Conclusion

8.1 The above contributions are in line with the CIL pooling restrictions and are necessary to enable the proposed development to satisfy policy, guidance and the Habitats Regulations. Failure to mitigate the impacts on the SPA will result in an approval of the application being unlawful and contrary to Policy 4 of the JCS.

8.2 This approach to SPA mitigation has been fully endorsed by Natural England.
Appendix 1 – map of the SPA

Upper Nene Valley Gravel Pits SPA 3km zone
(in respect of Wellingborough and East Northamptonshire)
Appendix 2 – Mitigation Needs Assessment

Introduction

This summarises the measures needed to mitigate the recreational impact on the Upper Nene Valley Gravel Pits SPA arising from proposed housing provision in the North Northamptonshire Joint Core Strategy 2011-2031.

The Habitats Regulations require that the effects of plans and projects be assessed and mitigation implemented for any likely significant effects on a European site. This report presents a suite of measures which are considered feasible, appropriate and necessary to mitigate the likely effects of additional housing proposed in the North Northamptonshire Joint Core Strategy.

It is the intention that all new residential development within 3km of the SPA will be subject to the Mitigation Strategy, irrespective of whether such development is included in this needs assessment.

SPA mitigation Options

Mitigation needs have been determined on a unit-by-unit basis at the request of Natural England. The most common requirements are screening, fencing, wardening and monitoring, which is required throughout the SPA to evaluate visitor pressure and patterns over time. Below is the short list of options which could provide effective mitigation for additional recreational pressure.

Access management

Access management measures are focused on a) screening the SPA’s qualifying features from disturbance and b) redirecting visitor access away from highly sensitive areas towards less sensitive parts of the SPA. Some interpretation is also included to explain the reasoning behind these measures and help visitors to continue to enjoy using the site while protecting its conservation value.

Wardening

Wardening is by far the single most costly mitigation element. In addition to enforcement and education, wardening may be able to facilitate measures like car park charging and seasonal zoning/access management. It is estimated that a team of four wardens would be required to mitigate visitor impacts across the SPA.

Monitoring

The role of monitoring must be restricted in an SPA mitigation strategy. It is not permissible, for example, to include monitoring the effectiveness of mitigation measures as this presupposes the possibility of their failure. Implementation of the mitigation strategy itself must be monitored however to ensure it progresses on schedule. Patterns of visitor access to and around the SPA must be monitored for any significant changes that could require adjustments to access management. Finally, the reaction of the SPA’s birds to disturbance needs to be monitored to better inform future mitigation measures.
**Designated off-lead exercise areas**

Off-lead exercise was an issue mentioned frequently by dog walkers interviewed. Natural England considers off-lead dogs to be the most significant cause of disturbance to the SPA’s birds. Dog owners generally agree that off-lead exercise and socialising are important for their dogs and will let their dogs off lead wherever possible.\(^4\) However there appear to be only two designated off-lead exercise areas in Northamptonshire: a section of Rushden Hall Park in Rushden and an area of Sywell Country Park. By contrast the much smaller county of Bedfordshire has at least six large designated off-lead areas, primarily located at country parks. Given the low provision in Northamptonshire and the dog walking pressure on the SPA, mitigation measures include the creation of new off-lead exercise areas.


Figure 1: Units 2 – 8 of the Upper Nene Valley Gravel Pits SSSI/SPA

Unit 1 is located in Northampton and does not appear to be visited by North Northamptonshire walkers and is therefore not considered further.
Mitigation Options by SPA unit

Unit 2:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Disturbance to birds along Nene Way</td>
<td>• Fencing (2-3km) along Nene Way (black hashed line; see map below)</td>
</tr>
<tr>
<td>• Potential for overspill from Summer Leys (unit 3), which is already very crowded</td>
<td>• Promote Sywell Country Park as local off-lead area (e.g. in new home packs). Would also include promoting Country Parks Annual Car Park Passes scheme to encourage regular park use</td>
</tr>
</tbody>
</table>

![Map of Sywell Country Park and Summer Leys](image-url)
### Unit 3:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Overspill onto Mary’s and Moon Lakes</td>
<td>• Fencing (2km) around Mary’s Lake (black hashed line; see map below)</td>
</tr>
<tr>
<td>• Visitors diverting off paths, especially around Moon Lake which has no formal access</td>
<td>• Wardening</td>
</tr>
<tr>
<td></td>
<td>• Interpretation</td>
</tr>
<tr>
<td></td>
<td>• Potential for off-lead exercise area south of Mary’s Lake (blue dotted line; see map below. Would require negotiation with landowner)</td>
</tr>
</tbody>
</table>
Unit 4:

No map included as nothing to indicate.

<table>
<thead>
<tr>
<th>Issues</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Highly sensitive wigeon in southern lakes</td>
<td>• None identified at this time beyond that already agreed for Stanton Cross development</td>
</tr>
</tbody>
</table>

Unit 5:

No map included as exact location of fencing needs further discussion with land owners.

<table>
<thead>
<tr>
<th>Issues</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Visitors diverting off paths</td>
<td>• Fencing throughout to keep people on paths</td>
</tr>
<tr>
<td>• Rights of way through sensitive areas</td>
<td>• Interpretation</td>
</tr>
<tr>
<td></td>
<td>• Wardening</td>
</tr>
<tr>
<td></td>
<td>• Reroute footpaths away from sensitive areas</td>
</tr>
<tr>
<td></td>
<td>• Promote Rushden Hall Park as local off-lead area (e.g. in new home packs)</td>
</tr>
</tbody>
</table>

Unit 6:

A new survey has identified the need for some screening in this unit, further discussion with the landowner to take place on the exact location.
Unit 7:

<table>
<thead>
<tr>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Low disturbance area however needs to be kept as such</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Interpretation at Kinewell Lake</td>
</tr>
<tr>
<td>• Potential for off-lead area at southern lake (see map below; blue dotted line. Would require negotiation with fishery)</td>
</tr>
</tbody>
</table>

![Map of the area showing potential mitigation areas](image)
Unit 8:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Shorter grass in northwest part of unit attracts dog walkers and free-running dogs</td>
<td>• Screening (0.5km) around cut-through to shield birds from visual disturbance (black hashed line; see map below)</td>
</tr>
<tr>
<td>• Informal cut-through has been created around sensitive corner of a lake</td>
<td>• Might be potential for off-lead area at adjacent field (would need to be investigated further)</td>
</tr>
<tr>
<td>• Wardening not feasible in this unit (too remote) so access management must be robust</td>
<td></td>
</tr>
</tbody>
</table>

Indicative costs

The costs in Table 1 are indicative costs to implement a full complement of measures required to mitigate the impacts of visitor pressure as identified above.
### Table 1  Indicative costs to implement full complement of measures required to mitigate the impacts of visitor pressure in the Upper Nene Valley Gravel Pits SPA

<table>
<thead>
<tr>
<th>Measure DESCRIPTION</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fencing @£30/m $^5$</td>
<td>£180,000</td>
</tr>
<tr>
<td>Screening @£30/m $^*$</td>
<td>£15,000</td>
</tr>
<tr>
<td>Wardening @£30K/yr/warden $^{***6}$</td>
<td>£2,465,484</td>
</tr>
<tr>
<td>Interpretation panel (each) $^7$</td>
<td>£14,529</td>
</tr>
<tr>
<td>Interpretation leaflet A3 10,000 copies $^8$</td>
<td>£17,148</td>
</tr>
<tr>
<td>Right of Way/path rerouting @£3500/path $^{***9}$</td>
<td>£10,500</td>
</tr>
<tr>
<td>Identified potential off-lead area $^{10}$</td>
<td>£300,000</td>
</tr>
<tr>
<td>Monitoring $^{11}$</td>
<td>£40,000</td>
</tr>
<tr>
<td><strong>TOTAL per unit</strong></td>
<td><strong>£3,042,661</strong></td>
</tr>
</tbody>
</table>

$^*$ assumes screening costs = fencing costs  
$^{**}$ assumes four wardens 5 (WT estimate). Assumes 2% annual inflation. Does not include equipment, transport or administration costs. Based on recent WT experience the annual figure is likely to be closer to £46,000.  
$^{***}$ includes administration and legal fees only. Three paths are considered to require rerouting.

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$^5$ Average of several sources  
$^9$ Newcastle City Council. Date Unknown. Information, guidance and application form to divert a public Right of Way.  
$^{10}$ Based on average local agricultural land prices 2015 as advertised on www.bletsoes.co.uk August 2015. Legal/conveyance fees not included.  
Measures included in the mitigation strategy

The access management measures included in the strategy have been selected for their combination of low cost and high effectiveness. These are:

- Fencing
- Screening
- Path redirection/rerouting
- Interpretation

Wardening and off-lead exercise areas are both necessary for successful mitigation of visitor impacts to the SPA. Both are very high-cost measures: the cost of four wardens alone would be £2,465,484 over the life of the Joint Core Strategy. Including them would therefore render new development unviable and would cause it to pay for existing effects on the SPA’s qualifying features. The mitigation strategy must instead include an appropriate but representative proportion of the total measures required.

Some on-site presence is required, to oversee implementation of the access management measures on the ground, talk to visitors, and answer questions about and generate public support for the changes. In dialogue with the local Wildlife Trust and Natural England it is estimated that this could be accomplished by 0.5 FTE (full-time equivalent) of a warden position.

At present no further work has been done on the off-lead areas, and Natural England are of the opinion that these are not needed as part of the mitigation package to ensure no significant effects. They are therefore not included in the set of mitigation measures. Creation of new off-lead areas in the future may occur through other funding.

Resources will also be required to coordinate the collection of mitigation funds, oversee works contracts and report on mitigation strategy progress. It is estimated that this would require 0.5 FTE to be placed within the local planning authorities.

Indicative costs are presented in Table 2, these are the costs to take forward to be contributed by development within the 3km buffer.
Table 2: Indicative costs to implement recommended mitigation measures in the Upper Nene Valley Gravel Pits SPA

<table>
<thead>
<tr>
<th>Access Management Measure</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fencing @£30/m*</td>
<td>&lt;£180,000</td>
</tr>
<tr>
<td>Screening @£30/m*</td>
<td>£15,000</td>
</tr>
<tr>
<td>Interpretation panel (each)*</td>
<td>£14,529</td>
</tr>
<tr>
<td>Interpretation leaflet A3 10,000 copies*</td>
<td>£17,148</td>
</tr>
<tr>
<td>Right of Way/path rerouting @£3500/path*</td>
<td>£10,500</td>
</tr>
<tr>
<td>Monitoring</td>
<td>£40,000</td>
</tr>
<tr>
<td>Wardening 0.5 FTE @ £46K/yr**</td>
<td>£460,277</td>
</tr>
<tr>
<td>Admin 0.5 FTE @ £30K/yr</td>
<td>£300,181</td>
</tr>
<tr>
<td><strong>TOTAL per unit</strong></td>
<td><strong>£1,037,635</strong></td>
</tr>
</tbody>
</table>

* Access management (AM) measures include fencing, screening, interpretation and path rerouting.

** While the figure of £30,000/warden/year has been used in Table 1, the Northamptonshire Wildlife Trust has suggested that the true cost is closer to £46,000/warden/year once equipment, transport and administration costs are included. For that reason the higher figure has been used here.
Apportioning mitigation costs

Mitigation costs can be apportioned in different ways. For example they can be spread evenly among all new dwellings or targeted such that developments which generate the greater impact pay the greater share of the costs. Using the indicative costings above as an example, basic ‘even’ and ‘proportional’ apportioning would yield the following results:

- **‘Even’ cost distribution**: Dividing the sample total allocation costs (£1,037,635) by the total number of dwellings (3851; Appendix 3) produces an average per dwelling cost of £269.44.

- **‘Proportional’ cost distribution**: In this example, access management costs are allocated based on the expected number of dog walking visits to each unit of the SPA. Therefore a development which is expected to contribute 20% of new visits to unit A and 45% of new visits to unit B would pay for 20% and 45% of the access management for units A and B respectively.

It is concluded for usability that the ‘even’ cost distribution is used ie the same contribution is paid per new dwelling anywhere within the 3km zone. This will be easier for both applicants understanding the amount they have to contribute, and easier for the councils to administer.

Using this approach means that each new dwelling in the 3km zone will pay £269.44 to cover their Habitats Regulations requirements to ensure no significant in-combination effect occurs on the SPA. This has been calculated using the £1,037,635 cost to implement the recommended mitigation (Table 2) and the level of expected development over the course of the Joint Core Strategy within the 3km zone as 3,851 units (Table 3).
Table 3: Housing figures used to calculate mitigation contribution

<table>
<thead>
<tr>
<th>Area</th>
<th>Project Details</th>
<th>Figures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wellingborough</td>
<td>Park Farm Way/Shelley Road (U7)</td>
<td>700</td>
</tr>
<tr>
<td></td>
<td>East of Eastfield Road (U20)</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td>Windsor Road (U9 &amp; U10)</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Leys Road/Highfield Road (U1)</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>WEAST independent landowners</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>Town Centre AAP sites (B, C, D, E1, E2, F, G, H, I)</td>
<td>590</td>
</tr>
<tr>
<td></td>
<td><strong>Wellingborough Total</strong></td>
<td><strong>1540</strong></td>
</tr>
<tr>
<td>Wollaston</td>
<td>Emerging Neighbourhood Plan</td>
<td>96</td>
</tr>
<tr>
<td></td>
<td>Outstanding requirement</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td><strong>Wollaston Total</strong></td>
<td><strong>122</strong></td>
</tr>
<tr>
<td>East Northamptonshire</td>
<td>Higham Ferrers Land east of Ferrers School</td>
<td>273</td>
</tr>
<tr>
<td></td>
<td>Other smaller sites (&lt;200 dwellings)</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Irthlingborough Irthlingborough West</td>
<td>700</td>
</tr>
<tr>
<td></td>
<td>Other smaller sites (&lt;200 dwellings)</td>
<td>291</td>
</tr>
<tr>
<td></td>
<td>Raunds Smaller sites (&lt;200 dwellings)</td>
<td>79</td>
</tr>
<tr>
<td></td>
<td>Rushden Rushden Total (excluding Rushden East)</td>
<td>119</td>
</tr>
<tr>
<td></td>
<td>Thrapston Thrapston South</td>
<td>525</td>
</tr>
<tr>
<td></td>
<td>Other smaller sites (&lt;200 dwellings)</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td><strong>Urban areas total</strong></td>
<td><strong>2026</strong></td>
</tr>
<tr>
<td></td>
<td>Ringstead Smaller sites (&lt;200 dwellings)</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>Chelveston Smaller sites (&lt;200 dwellings)</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Titchmarsh Smaller sites (&lt;200 dwellings)</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td><strong>Rural areas total</strong></td>
<td><strong>33</strong></td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>3851</strong></td>
</tr>
</tbody>
</table>
Appendix 3 –
Compliance with the three legal tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Paragraph 204 of the National Planning Policy Framework.

Planning obligations should only be sought where they meet all of the following tests:

1. *Necessary to make the development acceptable in planning terms.*

   Local Planning Authorities have the duty as competent authorities under the Conservation of Habitats and Species Regulations 2010 (Habitat Regulations) to ensure that planning application decisions comply with the Habitats Regulations.

   Evidence produced to inform the production of the Councils’ Local Plan as identified in the [Habitats Regulation Assessment for the Joint Core Strategy (JCS)](#) and detailed in paragraph 3.40 – 3.42 and policy 4 of the JCS, states that all new residential development within 3km of the SPA will result in a significant effect on the SPA. The ‘in-combination’ impact of proposals involving a net increase of one or more dwellings within a 3km radius of the SPA are concluded to have an adverse effect on its integrity unless avoidance and mitigation measures are in place. This is through an increase in visitors that will in turn increase the level of disturbance to the wintering waterbirds.

2. *Directly related to the development.*

   Evidence demonstrates that visitors come mainly from within a 3km zone around the SPA and visit different areas within the SPA. Therefore new development that falls within the 3km buffer can be seen to be directly increasing visitors to the SPA. The ‘in-combination’ impact of proposals involving a net increase of one or more dwellings within a 3km radius of the SPA are concluded to have an adverse effect on its integrity unless avoidance and mitigation measures are in place.

   Natural England have considered what is required to mitigate against increased visitors to the SPA, this takes into account the in-combination effects, as required by the Habitat Regulations.

   Walkers and dog walkers, by their nature means that their impact can be some distance away from the development site. The in-combination assessment and spread of the SPA means that the impact and therefore mitigation needs to take place across the SPA.

3. *Fairly and reasonably related in scale and kind to the development.*

   The measures put forward represent the lowest cost set of options available which will be both deliverable and effective in mitigating the anticipated increase in recreational pressure from new development. The costs are apportioned between all development across the identified area and this will mitigate the impacts across the SPA. Wardening costs need to be spread across a wide area to achieve economies of scale and a manageable area to cover. They would not be able to warden one parcel, this would increase, significantly, the costs involved.

   Wardening and off-lead exercise areas are both necessary for successful mitigation of visitor impacts to the SPA. Both are very high-cost measures: the cost of four wardens alone would be £2,465,484 over the life of the Joint Core Strategy. Including them would therefore render new development unviable and would cause it to pay for existing effects on the SPA’s
qualifying features. The mitigation strategy must instead include an appropriate but representative proportion of the total wardening measures required, in this instance £460,277.

Strategic Access Management and Monitoring (SAMM) costs have then been apportioned by distributing the costs evenly across the anticipated development within 3km of the SPA within the plan period. This has been calculated as a cost of £269.44 for each new dwelling. This contribution is therefore a proportionate cost dependent on the scale of development proposed and it is therefore fairly and reasonably related in scale and kind to the development.
Appendix 4 – Planning Obligation Wording

Wording for SAMMs contributions to be included in any legal agreement.

To pay to the Council (ENC or BCW) on or before commencement of development the following sums Indexed Linked:

1.1 The Strategic Access Management and Monitoring contribution in the sum of [ ] pounds and [ ] pence (£ ) for use by the Council for providing strategic access management and monitoring arrangements in relation to the Upper Nene Valley Gravel Pits Special Protection Area to mitigate any adverse significant effect arising from the development. This is in accordance with the Joint Core Strategy policy 4 and the Special Protection Area Supplementary Planning Document.
Appendix 5 – S111 Template

The following template would need to be submitted at the planning application stage.

Habitats Mitigation Contribution Agreement

DRAFT

To the Planning Manager,
Borough Council of Wellingborough/East Northamptonshire Council

Application Reference Number: ..............................................
Address of Planning Application: ...........................................

I am contributing a sum of £........................... towards the cost of measures to mitigate the impact of the proposed residential development at the above address on the Nene Valley Special Protection Area (SPA) – known as the ‘Strategic Access Management and Monitoring contribution’.

I hereby acknowledge and agree that:

a) The Strategic Access Management and Monitoring contribution has been paid to Borough Council of Wellingborough/East Northamptonshire Council as a contribution towards mitigation of the effect of the proposed development on the Nene Valley SPA as set out in North Northamptonshire Joint Core Strategy (2016) Policy 4;

b) No refund of this habitats mitigation contribution will be made unless the application does not receive approval or is later withdrawn.

c) In respect of any refund (including where an application is withdrawn) I further acknowledge that:
   • A request for a refund will be made to the Local Planning Authority in writing;
   • The total amount refunded will be the sum of the original habitats mitigation contribution payment less an administration fee of £50;
   • No interest will accrue to be refunded; and,
   • No refund will be made until the period for appeal has passed or an appeal has been dismissed or six months has elapsed since the date of withdrawal.

Signature of applicant/agent: ............................................................ Date: ..........................

Full name of applicant/agent: ............................................................

Borough Council of Wellingborough/East Northamptonshire Council

Signed:

Borough Council of Wellingborough/East Northamptonshire Council Planning Manager

This receipt signifies the agreement on behalf of Borough Council of Wellingborough/East Northamptonshire Council to the terms in which the habitats mitigation contribution is made by the applicant as set out in this form and in accordance with Section 111 Local Government Act 1972.

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5 A signed copy of this form and a direct payment by cheque must accompany the relevant application as a contribution towards mitigation of the effect of proposed development on the Nene Valley SPA.

6 This amount must be the sum of £269.44 for each dwelling to be developed.
Definitions:

Commencement: commencement of development is in accordance with the legal requirements in section 56 of the Town and Country Planning Act 1990. This states that ‘development is taken to be begun on the earliest date on which a material operation is carried out’. A material operation is defined in the Act and can include any works of construction, digging foundations, laying out or constructing a road and a material change in the use of the land.

Strategic Access Management and Monitoring (SAMM): this comprises of various methods of access management including wardening and general monitoring of the SPA. It is not classed as infrastructure.

Suitable Alternative Natural Greenspace (SANG): this is provision or enhancement of an alternative greenspace that will provide an alternative greenspace to the SPA. Sometimes known as Suitable Accessible Natural Greenspace.