

Annex One: detailed comments on Otterpool planning application – HRA, SSSIs, soils, GI, biodiversity and net gain

Habitats Regulations Assessment (HRA)

On the basis of information provided, Natural England advises there is currently not enough information to rule out the likelihood of significant effects on European protected sites. Natural England therefore advises your authority should not grant planning permission at this stage.

Uncertainties remain relating to effects that may become significant when considered in combination with other plans or projects.

We advise that additional information should be submitted by the applicant in order for your authority to fully assess the proposal. This would then provide an opportunity for your authority to repeat your screening to check for the likelihood of significant effects of the project as submitted (i.e. with all new information provided as part of the proposal) but excluding, at this stage, any measures specifically intended to avoid harmful effects on European sites.

If following the submission of additional information you conclude, as the competent authority, that there is a likelihood of significant effects, or uncertainties, you should undertake an appropriate assessment in order to fully assess the implications of the proposal in view of the conservation objectives for the European site in question. Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Additional information should be requested from the applicant with particular regard to air quality impacts, as set out below.

Natural England's advice on the supporting information for the HRA, and additional information required

The HRA is set out in a rather confusing way in that it is not clear at what stage of the HRA process European sites are considered, ie Stage 1 for likely significant effect or Stage 2 for Appropriate Assessment.

Nevertheless, we generally agree with the European sites scoped in for more detailed consideration for the impact pathways of **recreational pressure and functionally-linked land**. We note in combination effects for these impact pathways include the Folkestone and Hythe DC emerging Core Strategy Review and Places and Policies Local Plan (PPLP).

However, with regard to the **air quality impact pathway**, we advise the HRA has not been undertaken correctly to ensure in combination effects are considered at the screening stage for likely significant effect.

Our detailed comments are as follows:

Air quality

Following the *Wealden* judgment¹, road traffic effects of other plans or projects which are known or can be reasonably estimated (including those of adopted plans or consented projects) should be included in road traffic modelling at the screening stage, as has been undertaken for the FHDC Core Strategy Review submission. The Design Manual for Roads and Bridges (DMRB) screening criteria of 1,000 AADT or the 1% exceedance test for critical loads and levels (CL) for key emissions can then be applied to the traffic flows of the proposals in combination. This should all be undertaken as part of the screening stage for likely significant effect, to inform which European sites should be scoped in for further detailed assessment under the appropriate assessment stage (ie for

¹ *Wealden District Council v. (1) Secretary of State for Communities and Local Government; (2) Lewes District Council; (3) South Downs National Park Authority and Natural England*

sites where the process contribution exceeds 1% of the CL and the background is less than 70% or 1000 AADT).

As it stands, the HRA only relies on DMRB screening criteria for the proposed development alone, when considering air quality.

We have the following comments to make on the air quality assessment, as submitted. In Table 3, baseline information is entered for average N deposition rates in years 2013-15, and 2017. It is not clear in the HRA where this baseline information is derived from, upon which modelling for future predictions is then based. The HRA should clearly cross-reference to *Chapter 6 Air Quality, Section 6.3 Baseline*.

For the detailed assessment for Folkestone to Etchinghill Escarpment SAC, as set out in Table 7, it is not clear that impacts particularly from NO_x and N deposition have been properly assessed. We would expect to see both NO_x and N deposition each clearly expressed as a % of the APIS critical level and load for the designated site, for both Process Contribution (PC, ie the development alone and in combination) and Predicted Environmental Concentration (PEC, ie the development in combination, plus the background level). This should be undertaken for the various future scenarios. This should all be undertaken under Stage 1 for likely significant effect.

At the moment, the results only appear to show N deposition expressed as a % of the critical load. These results show parity or exceedance of the 1% threshold for N deposition for scenarios 2029 and 2046, respectively. This should have automatically triggered further detailed assessment as part of the appropriate assessment stage. Yet the conclusions go on to state no likely significant effect on the integrity of the SAC. This is also despite no data for the contribution of the development, together with baseline, to NO_x emissions.

We strongly advise the air quality assessment should be amended as per our above comments, to ascertain whether there may be an adverse impact on integrity of European sites.

Notwithstanding the above, we welcome the various mitigation measures proposed to reduce air emissions as set out in Chapter 6 *Air Quality*, para 6.4.21, including promotion of alternative use of transport such as public transport, cycling, walkways and electric charging points.

Recreational disturbance

We agree with the scoping out from Appropriate Assessment stage of Tankerton Slopes and Swalecliffe SAC and Stodmarsh SAC, given their distance from the proposed site and their qualifying features are not likely to be susceptible to recreational pressure.

For Folkestone to Etchinghill Escarpment SAC and Wye and Crundale Downs SAC, it is not clear in the HRA (section 6.6.1.5) how the conclusions were drawn that the proposals are not likely to have a significant effect through recreational pressure. It is likely residents of Otterpool Park will visit these sites given their proximity, and are likely to use it for walking and walking with dogs, and as such this impact pathway should have been considered as part of the appropriate assessment stage. Nevertheless, given the substantial onsite provision of publically-accessible greenspace as part of the proposals, we do not consider the scheme will have an adverse effect on integrity of these sites, alone or in combination with other plans and projects.

Similarly for Dover to Kingsdown Cliffs SAC and Parkgate SAC, we consider the proposals alone will not have an adverse effect on the integrity of these sites, alone or in combination.

For the Dungeness complex, based on latest evidence, visitor pressure comes largely from tourists visiting from beyond the Folkestone and Hythe District. This pressure is not currently having an adverse effect on integrity of these sites, however Folkestone and Hythe and Rother District Councils are developing an approach to address future increase in tourism to the area with a suite of visitor and site management measures. In light of this, we concur with the conclusion drawn that the proposed scheme will not have an adverse effect on integrity of these sites, alone or in

combination, as well as taking into consideration the considerable on-site provision of publically accessible greenspace for the scheme itself.

Functionally linked land

We concur with the conclusions made that the proposed site does not provide functionally-linked habitat for European sites in the vicinity.

Sites of Special Scientific Interest (SSSI)

Otterpool Quarry SSSI

One of the key existing assets of the proposed site is the Otterpool Quarry SSSI, which occurs in the centre of the site, and forms the focus of the proposed Woodland Country Park.

This SSSI is notified for its geological interest, of particular value to the scientific community. We are pleased to see it will be protected in its entirety, with no hard development occurring within the SSSI boundary, and will form a key element of the wider GI strategy with benefits for public access and education.

In the Non-Technical Summary, Section 10 *Geology, Hydrogeology and Land Quality* (p30), the photo caption for the SSSI refers to '*its existing overgrown state*'. This site is regularly grazed by sheep and as a result is in favourable condition. The site is now owned by Folkestone and Hythe District Council and we would expect the Council as landowners to continue protecting the site from scrub encroachment by continuing the management regime which has been successful for the last 30 years.

Chapter 10 states in para 10.4.7 that the '*former quarry face will be maintained and potentially enhanced (benched back) to expose additional areas of the Hythe formation geology*'. Natural England welcomes this, and the benefits of this for scientific purposes and public education.

We are also pleased to note the proposed biodiversity enhancements within the Country Park to include mixed deciduous woodland, ponds and native species-rich scrub and wildflower grassland.

However there is little information provided on how the Country Park and the SSSI specifically will be managed, particularly on how the SSSI feature will be maintained and enhanced. Currently, the exposure itself is best managed by sheep grazing, which is otherwise difficult to achieve with machinery, but it is not clear if this is envisaged for the ongoing SSSI management.

Although the planning application is for outline, **further information should be provided on what habitat management practices will be adopted for the Country Park and SSSI in particular, to ensure the SSSI will be maintained in favourable condition and how it will be enhanced. A more detailed management scheme, to be agreed with the Council and Natural England at Reserved Matters, should form a specific condition in the event of this application being granted permission.**

Lympne Escarpment SSSI

Lympne Escarpment SSSI is located approximately 240m south of the proposed Otterpool Park site and supports notified features which are sensitive to water quality and air quality (in particular nutrient nitrogen and nitrous oxides), including calcareous grassland, wet ash-maple woodland and lowland fen meadows. Our comments on these two impact pathways are provided as follows:

Hydrological impacts

We note in Chapter 7 *Biodiversity*, para 7.5.13, that drainage for the proposed site flows to the north-west and as such Lympne Escarpment SSSI should not be subject to hydrological impacts from the development in terms of surface runoff/ groundwater drainage.

However, the proposed site abuts the Roman Road B2067 on its southern boundary. It is not clear from the application whether increased use of this road as a result of the proposals has been

assessed for impacts on the SSSI. **Clarification should be provided on whether increased run-off from the B2067 as a result of the proposals may potentially reach the Lympne Escarpment SSSI, and the likely impacts of this on the notified features.**

Air quality

In Chapter 6 *Air Quality*, Lympne Escarpment SSSI is assessed. For construction emissions (ie dust), we are satisfied with the proposed best practice construction mitigation measures to minimise dust emissions (as set out in para 6.4..20), which should be secured through specific conditions in the event of permission being granted.

However, it appears operational impacts particularly from traffic emissions, have not been assessed for this SSSI. Given its proximity to the scheme, and similarly for Folkestone to Etchinghill Escarpment SAC, this site should be assessed especially for NO_x emissions and N deposition. The development's PC and PEC should be expressed clearly as a % of the APIS critical level and load specific for this SSSI. Where there is exceedance of the critical load/ level 1% threshold, these impacts should be considered in further detail for the SSSI.

Folkestone to Etchinghill Escarpment SSSI

Similarly for Lympne Escarpment SSSI and Folkestone to Etchinghill Escarpment SAC, air quality impacts should be considered further for Folkestone to Etchinghill Escarpment SSSI particularly in terms of nutrient nitrogen and NO_x. The development's PC and PEC should be expressed clearly as a % of the APIS critical level and load specific for this SSSI. Where there is exceedance of the critical load/ level 1% threshold, these impacts should be considered in further detail for the SSSI.

Soils and land quality

Natural England has considered the proposals as a consultation under the Development Management Procedure Order (as amended), and in the context of Government's policy for the protection of the 'best and most versatile' (BMV) agricultural land as set out in paragraph 170 and 171 of the National Planning Policy Framework.

As submitted, the application does not appear to include a detailed Agricultural Land Classification (ALC) survey or soil resources survey. Instead, the applicants have based information on agricultural land quality largely on the published provisional ALC map. This map is broad brush and suitable for strategic planning purposes only, with the stated accuracy being to about the nearest 80ha. Whilst there is a detailed ALC survey covering a small proportion of the site, there is no detailed ALC information for the rest of the area to confirm the grades present so that the LPA can be properly appraised of the agricultural land quality circumstances of the site. Further details on information required and methodology are provided on Gov.uk [here](#)².

Without a detailed ALC survey for the whole site, it is not possible to know whether the permanent impact on BMV can be minimised/ mitigated by sensitive design, for example by siting the hard development on the lower quality land. The master plan needs to be informed by this detailed ALC information and on an appraisal of the soil resources information in line with best practice contained in Defra's [Code of Practice for the Sustainable Use of Soils on Construction Sites](#)³, particularly section 4.1. In practice, both sets of field information can be collected at the same time, so the resource requirements will be not be very different from that already proposed, but ultimately detailed ALC information is needed to support the planning application.

² <https://www.gov.uk/government/publications/agricultural-land-assess-proposals-for-development/guide-to-assessing-development-proposals-on-agricultural-land>

³ <https://www.gov.uk/government/publications/code-of-practice-for-the-sustainable-use-of-soils-on-construction-sites>

Green/ blue infrastructure

As part of Natural England's pre-application engagement with the applicants, we provided advice alongside the Environment Agency on the need for a comprehensive green and blue (GI) strategy for the proposed development as a whole.

This included discussion on GI vision, typologies, functions, and specifics such as a pollinators network. We have also consistently advised on the need to consider long term management of the GI 'estate' as a whole, to ensure it is not diminished during detailed design phase and the long construction period as the scheme is divided into parcels for separate developers to build out.

GI is reflected in some key parts of the application, including the *Design and Access Statement* and the *Biodiversity* chapter. However it is disappointing there is no specific chapter devoted to the overarching GI Strategy. The key plans relating to GI is the GI Framework as depicted in the Design and Access Statement (Figures 87 and 88), however this comes with relatively little supporting information.

Notwithstanding this, GI is clearly integrated throughout the development, comprising a wide range of types and functions, and we note in Chapter 7 *Biodiversity* in para 7.5.24 that over 50% of the development area is identified as GI, including retained habitats and newly created GI areas, which is impressive in relation to other development schemes.

We note this includes the three key open spaces including Otterpool Woodland Country Park, the Riparian Park and Westernhanger Town Park, along with naturalised 'resilience' areas buffering Lympne village to the south-east, and in the north-west corner of the proposed site. For the latter, we note this will have limited public access and include the water treatment works, and provide receptor habitat for great crested newt, water voles and reptiles to be translocated from other parts of the site.

We also note the incorporation of 'dark corridors' for ecological benefit, including along the East Stour river and also the watercourse which runs through the eastern part of the site.

These various forms of GI will provide key natural capital services which will benefit the local environment, community and local economy, ranging from countering climate change, supporting habitats and wildlife and providing flood storage, to improving landscape character, sense of place, and benefitting people's health and wellbeing.

GI will also be critical in providing mitigation for impacts on views from the Kent Downs AONB, however the ability to achieve the maximum screening benefit will depend on the location, density and height of built development, which we elaborate on in detail in our first letter in response to this application (dated 03 June 2019, same ref as this letter).

The drive for integrating GI into planning and development is underpinned in national planning policy⁴, and Folkestone and Hythe DC's adopted Core Strategy policy *CSD4 – Green infrastructure of Natural Networks, Open Spaces and Recreation*, which is being further strengthened in the emerging Core Strategy Review.

Yet, for a scheme that is so substantial in extent and scale, and its status as a 'garden town', we would expect all the details relating to the proposed GI to be reflected and elaborated on in a comprehensive and ambitious GI Strategy, despite the application being submitted as outline.

Natural England strongly urges such an overarching GI strategy is provided in support of the application which clearly demonstrates how GI will form the foundation of a sustainable community at Otterpool Park through providing multiple natural capital services and the

⁴ NPPF paragraph 20 and 171 requiring local authorities to maintain and enhance GI at a strategic level; 91, 150 and 181 requiring local authorities to positively plan for GI provision to address health and wellbeing, counter climate change and improve air quality, respectively.

benefits of these for people, the local environment and local economy, and how the GI estate will be managed as a whole for the long term including ownership and responsibility of the local community.

The Strategy should outline key parameters and principles for providing GI throughout all aspects of the development, from planned open spaces through to construction and building design of homes and public and commercial buildings, infrastructure and highways, and more specific features such as those described for biodiversity value such as green walls and roofs, 'hedgehog friendly' permeable fences and bat and swift boxes. These principles and parameters should be carried throughout the whole planning process as key drivers for detailed design and where the scheme is then divided into parcels for construction. It will be crucial for details to be provided on how the GI estate will be secured for the longterm future.

Specific measures for biodiversity, as elaborated on in Chapter 7 *Biodiversity*, will of course be critical to the GI strategy, our comments on which are provided below.

Biodiversity

We very much welcome the estimated 20% uplift for biodiversity across the proposed site, as set out in Chapter 7 *Biodiversity* and Appendix 7.21 *Biodiversity net gain calculations*. Our comments in relation to net gain are provided further below where we believe there is opportunity to further enhance this. Given the extent of the site, and that it is currently by far occupied by arable land, there is plenty of scope to achieve significant uplift for biodiversity, however ultimately much of this will depend on the ability for the noble principles and targets for biodiversity net gain to be upheld throughout the planning process including reserved matters stage and where the scheme is divided into parcels for construction.

In terms of the biodiversity assessment in this application, we welcome the emphasis made on following the mitigation hierarchy, as stated in para 7.5.17 of Chapter 7, to minimise impacts on existing biodiversity-rich 'hotspots' on site, and to seek net gain through enhancement and creation of habitats elsewhere.

We welcome that this includes valuable habitats to be retained and buffered as far as possible, as set out in Table 7-23 in Chapter 7, including all onsite woodland, river corridors, most hedges (92%), ditches/ tributaries (89%) and the majority of trees. We note 11 of the existing 17 ponds will be retained, with one ecologically valuable pond to be lost.

There is also some good detail provided on what habitat buffers will entail, as set out in Table 7-24 of Chapter 7, eg 25m wide buffer for hedgerows along dark corridors, and woodland; and 50m buffer for ancient woodland (eg adjacent to Harringe Brooks Woods); and 50-100m buffer along East Stour river.

We note a variety of habitats will be created including orchards, hedgerows, ponds and lowland meadows, trees, scrub and additional ditches, which together will support a variety of species including common toad and great crested newt; common reptiles; mammals including hedgehog, water vole and bats; and invertebrates.

We also note and welcome new habitat links such as connecting Harringe Brooks Woods to the East Stour river through woodland planting, as well as providing habitat through various SuDS features including ponds, drainage ditches, swales and rain gardens.

A key principle is the use of native species for habitat enhancement and creation, of local provenance, for the best value for wildlife. This should form the centre of choices for habitat and landscape planting. We are pleased to note specific pollinator planting, described on page 156 of the Design and Access Statement. A number of locations are depicted on a simplistic map of the proposed site, but this ethos should be embraced throughout all aspects of the GI estate across the site.

However the use of native species should also be applied as far as possible to the more formal public open areas such as the Westernhanger Town Park, and the 'scattered trees' for planting, where Chapter 7 currently states they will 'be native where appropriate' (para 7.5.27).

We would also strongly encourage the applicants and Folkestone and Hythe District Council to support community-led efforts to encourage and look after local wildlife and habitats of Otterpool Park, particularly through use of educational interpretation and guides, setting up of local environmental groups, and residents information packages.

Knowledge is power for people, and information could include providing wildlife friendly gardens as well as community spaces and assets. Public spaces could exhibit best practice wildlife features, for instance log piles and wild areas for insects such as the stag beetle; ponds and gaps in fencing to allow the movement of hedgehogs and amphibians; and refuge and nesting boxes for a range of bat and bird species. Installing public art which reflects Otterpool Park's natural heritage would also form a key means of carrying the message.

To inform and inspire the people who will live and work in Otterpool Park will help instil passion, pride and responsibility for their local natural heritage, providing custodianship through the community, and a place where people and nature can thrive together.

Biodiversity net gain

We very much welcome the provision of biodiversity net gain as a key part of the Otterpool Park proposals. We are pleased to note the Defra biodiversity offsetting metric has been used, as well as adopting the CIEEM underpinning principles of the net gain approach, including avoiding impacts on the most valuable areas of the proposed site for biodiversity.

For information, the revised Defra biodiversity metric 2.0 is currently being piloted, due to be published this summer 2019. The metric is much improved on the original, now including a larger range of habitats and linear features including hedgerows and rivers. Should the proposals be amended, the applicants may wish to consider updating the calculations using the latest version.

As it stands, the proposals will achieve 20% uplift for biodiversity, by uplifting biodiversity value of the site by 434 units (equating to 0.8 units uplift per hectare). This is very welcome, as well as expected given the opportunity to enhance what is an extensive site which mainly supports arable land of relatively low biodiversity value.

However, having considered the net gain calculations, in conjunction with the plans depicting uplift across the site pre- and post-construction, we would like to make the following comments where we think further net gain could in fact be achieved.

Detailed comments on calculations methodology

We note some key features which provide habitat in the development are not contained in the net gain calculations as they cannot be quantified at this stage, including gardens, SuDS, biodiversity roofs and street trees. These incidentally will be included in the new biodiversity metric. Nevertheless we are pleased to note the methodology includes biodiversity credits for the built areas including proportions of GI typologies such as gardens and green roofs.

However we advise other features such as bird boxes and permeable fences should not be included in the metric calculations as they are not habitat-based (ie cannot be used to offset habitat loss elsewhere), although they are excellent wildlife enhancement features which can easily be incorporated into building design as part of an overall biodiversity package.

It is disappointing that no biodiversity credits are planned for non-residential development, footpaths, business area and existing/ proposed roads. This is depicted as such in Figure 1 with low biodiversity values (0-4 credits/ ha), which amounts to significant areas including the proposed business area in the north-east. Enhancements for biodiversity in these areas are not only

achievable, but could provide a significant addition to the overall uplift, including edges of highways and footpaths. We would urge for this to be recognised and secured in a proportionate manner as has been done for other built areas.

We note the precautionary approach adopted to avoid overstating the valuation of biodiversity credits, including weighting depending on proportions of habitat types within GI typologies; for instance a lower valuation for the existing woodland typology to reflect the mix of semi-natural and plantation woodland. However, we would question a number of points around multipliers used, and target conditions applied, as follows:

- **Habitat typology – grasslands**

We would question Typology J – Existing water buffer, Table 47, where grassland habitats are separated out into lowland meadow (BAP) and wildflower grassland (not BAP). We would encourage all of this area to be created and managed as lowland meadow or BAP habitat.

- **Target condition**

Target condition for enhanced or created habitat, the calculations appear to aim for 'moderate' condition for several habitat types, including:

- Proposed woodland burial area (trees, species rich grassland)
- Existing water buffer (scrub, wildflower grassland non-BAP)
- Hedge buffer (species rich grassland)
- Wildlife margins (woodland and trees)
- Proposed SuDS water management (woodland and trees)
- SSSI grassland (woodland and trees, amenity grassland as poor)
- Existing veg to be retained (existing scrub – moderate condition)
- Grassland in Lympe resilience area (woodland and trees)

Whilst we recognise the aim of targeting moderate condition is to instil a reality check into the calculations as to what might actually be achieved in practice, we are concerned this may in effect dampen the number of biodiversity credits which could otherwise be aimed for, and have the effect of lowering expectations and effort on the ground to achieve as good a habitat condition as possible.

For a development of this scale, and status as a garden town, we would expect biodiversity enhancement to be maximised as far as possible. We consider ecological benefits could be maximised by targeting better condition for habitats post-construction, for retained, enhanced and created habitat, as far as possible within a reasonable timeframe. All of the above listed habitats are valuable to wildlife and should be managed as well as possible.

As such we suggest this should be reflected in the calculations by applying a target condition of 'high' for the habitats listed above where this can be achieved over a reasonable timescale. This would help enable the maximum amount of net gain that can be achieved.

Similarly for amenity grassland, which has a set target condition of poor, this habitat could be easily improved in terms of biodiversity value by aiming for a more species-rich grassland mix instead of *Lolium* monoculture for a higher distinctiveness score, even where it is mainly maintained as a short crop but margins could be mown less frequently to achieve a moderate condition.

- **Difficulty multipliers**

When considering difficulty multipliers (Table 4, Appendix 7.21), 'low' is applied to creation of species-rich wildflower grassland. This compares to 'medium' for lowland meadow. We suggest medium is applied to wildflower grassland to reflect there is some complexity in achieving this habitat to good condition (Tables 43, 51, 52, 56, 57, 58, 62).

- **Time multipliers**

The time multiplier for proposed woodland is currently included as 1.4 (<10 years) (Tables

44, 52 and 56), but we suggest this should be amended to 2 (<20 years, as set out for woodlands in Table 5, Appendix 7.21).

If the above points can be addressed this will likely see a further increase in net gain achievable as a result of the Otterpool Park scheme.

General observations on biodiversity uplift across the proposed site

The post-construction valuation of typologies, as depicted in Figure 4 of Appendix 7.21, clearly indicates the average uplift across the site, although there is a decline in 'hotspot' areas of highest value to biodiversity (13-18 credits/ ha bracket) when compared with the baseline. The remaining hotspots post-construction include the large pond in the proposed Westernhanger town park area and ponds in the north-central and eastern regions.

A number of the existing hotspots for biodiversity on the site are areas of broadleaved woodland on the south-east site boundary, adjacent to Lymgne village, and on the boundary with the Link Park business estate. It is not clear what is happening to these areas, which are not marked for development on the Masterplan, however they are identified on the GI Strategy overview (Figure 2) as being 'Otterpool margins', and in Figure 4 have markedly decreased biodiversity value (at 3-4 biodiversity credits/ ha post development, compared to the existing 13-18/ha). Clarification should be provided for likely impacts on these particular hotspots.

It is of interest that the north-central region of the development is clearly indicated as supporting an equivalent or increase in biodiversity value in Figure 4, despite this area being planned to be occupied by dense buildings, which is presumably down to the expectation of a proportion of green roofs/ walls being installed.

Conversely much of the Westernhanger town park, sports pitches and parks in the west, Barrow Hill and central areas, are indicated as having low biodiversity value (0-2 units/ ha) due to incorporation of amenity grassland. As mentioned above, we would strongly encourage the incorporation of more species-rich grasslands in parks and other public open spaces, which is easily achieved and would be of much more benefit to wildlife if managed appropriately.

The Lymgne resilience area is currently allocated for development in the Council's emerging Places and Policies Local Plan (PPLP). Confirmation will be needed by the Council to confirm if this allocation will be deleted in the event of the Otterpool Park scheme gaining planning permission.

Summary on net gain

Given the outline status of the application, and the extent of the site, we note the net gain methodology has been based on broad GI typologies and that it is not possible to specify which habitats will be located where.

Nevertheless habitat design has been outlined in several places in the application including the Biodiversity Action Plan (ES Appendix 7.20), GI Framework, Species Mitigation Strategies (ES Appendix 7.18) and Design and Access Statement. But it appears only a few select priority habitats (hedges, neutral grassland, ponds and ditches) will be specifically managed as part of the Otterpool BAP, via an Ecological Management Plan (EMP) with annual monitoring, with the EMP to be provided at later detailed design.

It is not clear in the application how proposed net gain in general will be secured. High level targets and principles should be adhered to and improved on where possible, at the detailed design stage. Net gain should then be secured via a management plan for at least 25-30 years from the start of operation of the scheme.

We therefore advise the principles and parameters for net gain, including target uplifts for habitats, are secured through the Ecological Management Plan, along with their long term management for at least 25-30 years of operation. This should also include suitable

reporting and monitoring, and provision of the data to the Local Biological Records Centre.

This should act as a key driver for the later, detailed designs throughout the planning process. This should provide information which gives certainty that meaningful net gain, for biodiversity and other ecosystem benefits, can be achieved across the whole development during operation.

It is crucial biodiversity uplift should not be diminished in overall terms through the planning process, and indeed opportunities should be sought to further improve net gain where possible. This should be particularly possible for the parts of the development which have currently been scoped out, including commercial areas, highways and footpaths.

Indeed roadside verges can easily be managed for species-rich grassland and orchids, which provide a key refuge for wildflower communities which have otherwise been lost through the eradication of 97% of the UK's wildflower meadows over the last 50 years. These habitats are extremely valuable, ecologically, as well as impactful for the local community. We would encourage discussions to be held with Kent County Council highways services to secure this as part of the overall biodiversity net gain package for the Otterpool development.

Other 'quick win' enhancements can be relatively easily incorporated such as creating species-rich grassland in place of standard amenity grassland (which tends to be a *Lolium* grass monoculture), amounting to approximately 11ha. Although much of this would be managed as short cropped grass, margins can be maintained around the edges of parks and recreational grounds with less intensive mowing regimes, to encourage species-rich mix by allowing grasses and herbs to set seed and provide additional habitat for mammals and invertebrates.

Another crucial means of achieving biodiversity enhancement is through incorporating simple features into construction and building design, such as bird/ bat boxes and permeable fences, which should also be secured through the EMP.

If the above points can be addressed, including those relating to the calculations and how net gain can be meaningfully secured throughout the planning process, we consider the proposals could achieve a higher net gain for biodiversity, which will in turn provide crucial ecosystem services and general sustainability of the new town.

Protected species

Natural England has produced [standing advice](#)⁵ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

⁵ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Appendix F: Arcadis memo on approach to nutrient neutrality (Jan 2021)

SUBJECT
Otterpool Park Framework Masterplan - Nutrient
Neutrality Mitigation EIP Queries

DATE
15 January 2021

DEPARTMENT
Water Management & Resilience

This brief technical note has been prepared on behalf of Folkestone and Hythe District Council (FHDC) in response to some queries and concerns expressed by Mr Jeremy Baker in his email of 13 Jan 2021, in relation to the latest Arcadis's nutrient budget calculations and mitigation proposals for the Otterpool Park Site Allocation that were recently examined at the Core Strategy Review EIP.

2. Arcadis Response to Mr Baker's Raised Points

Point 1 – Implications of Natural England's latest Nutrient Neutrality Methodology Guidance Note (November 2020)

It is acknowledged that Natural England (NE) July 2020 guidance was updated in November 2020. However, Arcadis had several detailed consultations with NE as already set out in the Statement of Common Ground and submitted the latest calculations to NE for review on 04 November 2020. At that time, the November 2020 guidance had not been formally published. Furthermore, NE's latest response to Arcadis (dated 02 December 2020) clearly confirms that the changes made between July and November advice do not materially affect our calculations made for the Otterpool Park and Sellindge Sites – please see the highlighted extract below.

Summary of Natural England's advice

As the competent authority, Folkestone and Hythe should satisfy itself that the values chosen and assumptions made are consistent with others used in the local plan. In addition, they are sufficiently precautionary to meet the tests for assessments of plans and projects set out in the Conservation of Habitats and Species Regulations (2017) as amended (HRA). The assumptions have been updated from previous versions of the calculation to be more precautionary, and now meet those suggested in the Natural England Nutrient Neutral methodology. **Natural England updated our Nutrient Neutral methodology in November 2020 and the Otterpool and Sellindge calculations use the July version of the guidance. However, the changes made between July and November advice do not materially affect the calculations made for the Otterpool and Sellindge sites in the above documents.**

Natural England's advice is that the calculations and mitigation proposals supporting documents provided above are likely to meet the HRA tests for water quality at the plan level. Our detailed advice contained in Annex I to this letter. Our role with regards protected species is in Annex II.

Arcadis of course will refer to the latest NE guidance document when we resubmit the updated calculations to the Local Planning Authority, as part of the updated Water Cycle Study/ project level Habitat Regulation Assessment within the forthcoming Tier 1 Otterpool Park Planning Application (OPA) Documentation later this year. We will also capture the ongoing preliminary design work for the proposed wetlands as part of this updated submission.

Arcadis (UK) Limited, Corner Block, 2 Cornwall Street, Birmingham, B3 2DX, United Kingdom, T +44 (0)121 503 2700 [arcadis.com](https://www.arcadis.com)

Arcadis (UK) Limited is a private limited company registered in England registration number: 1093549. Registered office, Arcadis House, 34 York Way, London, N1 9AB. Part of the Arcadis Group of Companies along with other entities in the UK. Regulated by RICS.

https://arcadis0365.sharepoint.com/teams/project-10029956/Shared Documents/20 Water/NN Assessment/Addressing Post EIP comments/Otterpool Nutrient Mitigation Analysis Update Memo_Jan 2021_P1.docx

Point 2 – Implications of Hotel (Class C1) and Extra Care Housing (Class C2)

The proposed Hotel (Class C1) and Extra Care Housing (Class C2) uses were not explicitly assessed before for the Core Strategy Review EIP purpose. However, we can confirm that the previously submitted nutrient budget calculations and proposed overall wetland mitigation provision were still precautionary as it had contingencies built in to fully accommodate such additional requirements at the later planning stages.

This is further explained below:

- As set out in Arcadis Technical Note (dated 04 November 2020), the urban area previously included in the nutrient budget assessment can be reduced by 25.2 ha to account for the extra strategic SuDS areas that are currently located outside the main designated open space. These additional strategic SuDS areas are currently being included in the emerging Otterpool Park Illustrative Masterplan although not shown in the latest parameter plans to ensure future flexibility in phasing and implementation. This adjustment to the urban area will immediately reduce the current total wetland area requirement of 22.5 ha by another 1.8 ha (i.e. revised total of 20.7 ha), due to the reduced nutrient budget from the urban storm pollutant runoff.
- On the hand, we have already identified a minimum of 24.8 ha of wetlands within the 8500 homes Tier 1 Otterpool Park OPA alone. Furthermore, additional stormwater wetland areas can be provided at the wider Otterpool Park Framework Masterplan (i.e. within 1500 homes site) and the two Sellindge Sites if required. This will supplement the stormwater wetlands that are currently being proposed at 8500 homes Otterpool Park OPA site.

We have since undertaken further calculations as set out below to address Mr Baker’s recent concerns expressed for the Hotel and Extra Care Homes not being explicitly assessed before.

The current Otterpool Park Framework Masterplan has provision for:

- 8704 Class C3 residential homes
- 1296 Class C2 extra care homes
- 117 rooms Hotel Class C1

The revised nutrient budget and associated wetland requirement for the above, along with 350 homes at Sellindge Sites are set out in Table 1 and Table 2 below. The reduced TN and TP values after reducing the urban area by 25.2 ha due to additional SuDS areas in the illustrative masterplan are also shown in italics/brackets.

Table 1 Nutrient Budget Assessment Summary

WwTW Option	PCC Rate – Scenario 1 (see Note 1)		PCC Rate – Scenario 2 (see Note 2)	
	TN (Kg/year)	TP (Kg/year)	TN (Kg/year)	TP (Kg/year)
Otterpool Park Framework Masterplan Only	3344 (3062)	298 (277)	2521 (2240)	287 (266)
Otterpool Park Framework Masterplan plus Sellindge Sites CSD9A and CSD9B	3606 (3325)	302 (281)	2784 (2502)	290 (270)

Notes

1. Per Capita Consumption (PCC) for Scenario 1:

- Residential (Class C3) = 110 l/p/d (as per NE recommendation)
- Residential (Class C2) = 350 l/p/d (as per British Water Flows and Loads – 4 Code of Practice, dated 2009)
- Hotel (Class C1) = 300 l/p/d (as per British Water Flows and Loads – 4 Code of Practice, dated 2009)

2. Per Capita Consumption (PCC) for Scenario 2:

- Residential (Class C3) = 110 l/p/d (as per NE recommendation)
- Residential (Class C2) = 262.5 l/p/d*
- Hotel (Class C1) = 225 l/p/d*

* PCC values recommended in British Water Flows and Loads – 4 Code of Practice, dated 2009 were reduced to 75% to reflect the additional water efficiency measures proposed at Otterpool Park. A similar % reduction can be seen for PCC in relation to the standard Class C3 dwellings when compared with the British Water recommended values.

Table 2 below summarises the indicative total area of the new wetlands required to offset the nutrient loading surplus shown in Table 1. The reduced wetland areas after reducing the urban area by 25.2 ha due to additional SuDS areas in the illustrative masterplan are shown in italics/brackets.

Table 2 Wetland Area Requirements

WwTW Option	PCC Rate – Scenario 1		PCC Rate – Scenario 2	
	TN Wetland Area ¹ (ha)	TP Wetland Area ² (ha)	TN Wetland Area ¹ (ha)	TP Wetland Area ² (ha)
Otterpool Park Framework Masterplan Only	3.6 (3.3)	24.8 (23.1)	2.7 (2.4)	23.9 (22.2)
Otterpool Park Framework Masterplan plus Sellindge Sites CSD9A and CSD9B	3.9 (3.6)	25.2 (23.4)	3.0 (2.7)	24.2 (22.5)

Upper Bound

Lower Bound

¹ Assumed TN removal rate of 93 g/m²/yr for both wastewater and stormwater discharges

² Assumed TP removal rate of 1.2 g/m²/yr for both wastewater and stormwater discharges

3. Summary

This technical note confirms that the lower bound and upper bound values for the required mitigation wetlands to ensure that the entire Otterpool Park Allocation and two Sellindge Sites are nutrient neutral varies between 22.5 ha and 25.2 ha. This now explicitly accounts for the proposed Hotel and Extra Care Housing to address Mr Baker’s recent concerns.

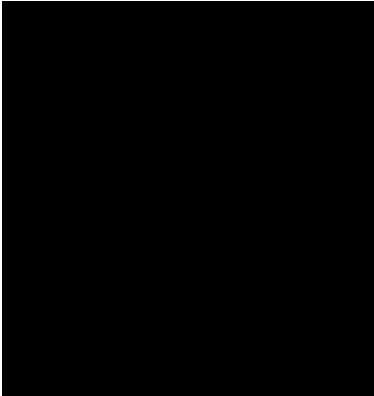
Sufficient area of wetlands (i.e. circa 25 ha) has been already identified at 8,500 homes Otterpool Park Tier 1 OPA site boundary to ensure this. There are further opportunities to include wetlands at the remaining 1500 homes Otterpool Park Site Allocation area and Sellindge Sites if required during the later planning application stages. Therefore, this clearly confirms that Nutrient Neutrality can be achieved at the Otterpool Park Site Allocation as per the published November 2020 NE Guidance, which follows the precautionary principle in order to protect Stodmarsh Lakes European Designated Sites.

Appendix G: Correspondence with Natural England Regarding Nutrient Neutrality

Date: 02 December 2020
Our ref: 11529/325393
Your ref: F&H NN updated memo Nov20



BY EMAIL ONLY



Dear 

Discretionary Advice Service (Charged Advice)

Development proposal and location: Folkestone and Hythe District Council proposed local plan Allocations including Otterpool and Sellindge pertaining to nutrients and their effects on Stodmarsh Special Protection Area (SPA), Special Area of Conservation (SAC) Ramsar Site, Site of Special Scientific Interest (SSSI) and National Nature Reserve NNR

Thank you for your consultation on the above dated and received on 04 November 2020.

This advice is being provided as part of Natural England's Discretionary Advice Service. Folkestone and Hythe District Council acting as a competent authority and planning authority has asked Natural England to provide advice upon:

- Folkestone and Hythe District Council housing proposals and allocations for their local plan specifically with respect to issues around nutrient neutrality.

This advice is provided in accordance with the Quotation and Agreement dated 12th June 2020.

The following advice is based upon the information within:

- Arcadis Otterpool Park Framework Masterplan – Nutrient Neutrality Mitigation Proposals - Technical Memo and appendices (Dated 4 November 2020 ref 10029956-AUK-XX-XX-FN-CW-0025-P2)
- Appendix 1 Otterpool Park existing land info
- Appendix 2 Otterpool Park Development Proposals
- Appendix 3 Sellindge Development Proposals
- Appendix 4 Nutrient Budget and Mitigation Proposals

The advice contained within this letter is restricted to the proposed nutrient neutral calculations with regard to the above documents. This is not the limit of Natural England's advice on the proposals and other environmental impacts and obligations that will apply, which are not covered in this response. The above documents recommend the calculations and mitigation proposals are added to an updated appropriate assessment for the local plan review. Natural England agree this step is required. Natural England has assessed a sample of the calculations in the spreadsheet but we have not checked the accuracy of every line or the hydraulic loading calculations.

Summary of Natural England's advice

As the competent authority, Folkestone and Hythe should satisfy itself that the values chosen and assumptions made are consistent with others used in the local plan. In addition, they are sufficiently precautionary to meet the tests for assessments of plans and projects set out in the Conservation of Habitats and Species Regulations (2017) as amended (HRA). The assumptions have been updated from previous versions of the calculation to be more precautionary, and now meet those suggested in the Natural England Nutrient Neutral methodology. Natural England updated our Nutrient Neutral methodology in November 2020 and the Otterpool and Sellindge calculations use the July version of the guidance. However, the changes made between July and November advice do not materially affect the calculations made for the Otterpool and Sellindge sites in the above documents.

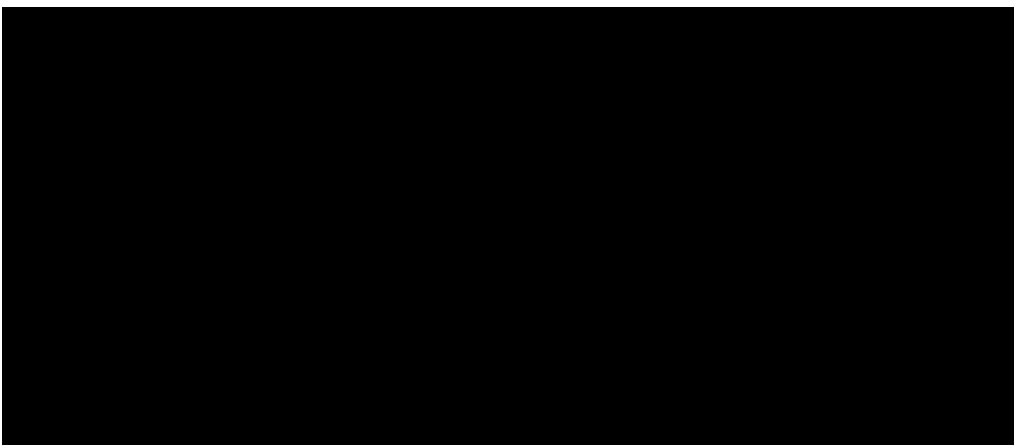
Natural England's advice is that the calculations and mitigation proposals supporting documents provided above are likely to meet the HRA tests for water quality at the plan level. Our detailed advice contained in Annex I to this letter. Our role with regards protected species is in Annex II.



The advice provided in this letter has been through Natural England's Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely



Annex 1

Natural England's detailed advice

1) Requirement for Appropriate Assessment

Natural England is the Statutory Nature Conservation Body with regards consultations on appropriate assessments for impacts of plans or projects and a statutory consultee on many planning applications. As the competent authority for the local plan, the Council should satisfy itself that the plan is able to meet the tests for assessments of plans set out in the Conservation of Habitats and Species Regulations (2017) as amended (HRA).

The Stodmarsh Nutrient Neutral methodology (NNM) we have proposed is one way for competent authorities to satisfy themselves that an adverse effect upon integrity of nutrient impacts of proposals can be avoided with sufficient certainty to meet the HRA tests. Natural England welcome the proposal (in the updated Arcadis memo) to update the appropriate assessment for the local plan review. We previously advised the types of information that should be included in the appropriate assessment (15 September 2020) and have not repeated that information here.

Natural England look forward to receiving the appropriate assessments consultation under the Conservation of Habitats and Species Regulations (2017) as amended that is proposed in the Arcadis updated report.

2) Changes to the calculations from previous versions

Natural England welcomes the changes to the nutrient budget calculations and additional information. We welcome:

- The confirmation of the potential sewerage service provider (Severn Trent Connect)
- The confirmation of the indicative licence for the new on-site WwTW and demonstration of discussion with the Environment Agency
- The confirmation that potential adoption of SuDs and wetland mitigation by the service provider to ensure ongoing maintenance
- The change in design and relative location of wetlands to better intercept nutrients and provide a permanent flow of water.
- Linking the wetlands to the rainwater harvesting system to help with water efficiency measures.
- The correction of the previous error with regards to woodland planting nutrient discharge figures
- The use of the 2.4 occupancy figure
- The inclusion of both 90 litres but also 110 litres per person per day water efficiency figures in calculation options and for reasons we previously noted the provision of mitigation for the 110 litres consumption figure.
- The inclusion of the two Sellindge parcels CSD9 A and CSD9 B to go to the new proposed WwTW and the inclusion of their mitigation in the calculations.
- Use of EA's *guidance manual for constructed wetlands, R&D Technical report P2-159/TR2* to provide the high level hydraulic loading assessments to check for efficacy of storm water drainage (though Natural England has not checked these calculations as it is a matter for the Environment Agency).

Natural England note the median value of nutrient removal described in Appendix 7 to NN Methodology appendix has been assumed. Arcadis note that further work will be done to refine this design and calculation going forward. Natural England consider this assumption to be reasonable for the large wetland W13 that will receive the hydraulic and nutrient loading from the WwTW and therefore be most likely to have the highest percentage removal rate of all the wetlands proposed.

Most of the remaining wetlands are small (less than the 2 hectares minimum recommended size for nutrient removal) and receive storm water flow. Assuming the same nutrient removal rate from these wetlands as the larger wetlands is not precautionary. Natural England note you have linked

the small storm water wetlands in series to increase their size and probable efficacy. Further evidence at the planning application stage will be required to ensure these small wetlands do not become net exporters of nutrients. In addition Natural England note that wetlands are on steep land, and an allowance has been made for the earthworks required to manage this in the wetlands surface area calculations. Natural England cannot advise on the efficacy of wetlands on such topography but recommend the applicant provides evidence for their chosen figures and likely efficacy.

Next steps

In addition to the updated appropriate assessment we note the mitigation for the small existing allocations in the “downstream” Wingham and Stour sub-catchment have not been included in these calculations. The Arcadis note advises the planning authority includes these smaller existing allocations within the in combination assessment. Natural England concur with this view.

Annex 2

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England’s [‘How to get a licence’](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England’s [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England’s pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England’s website](#).

Date: 15 October 2020
Our ref: 15328/318278
Your ref: F&H NN queries



[Redacted]

[Redacted]

[Redacted]

Dear [Redacted]

Discretionary Advice Service (Charged Advice)

Development proposal and location: Folkestone and Hythe District Council proposed local plan Allocations including Otterpool pertaining to nutrients and their effects on Stodmarsh Special Protection Area (SPA), Special Area of Conservation (SAC) Ramsar Site, Site of Special Scientific Interest (SSSI) and National Nature Reserve NNR

Thank you for your consultation on the above dated and received on 01 September 2020 with additional clarification questions provided on the 9th October 2020.

This advice is being provided as part of Natural England's Discretionary Advice Service. Folkestone and Hythe District Council acting as a competent authority and planning authority has asked Natural England to provide advice upon:

- Folkestone and Hythe District Council housing proposals and allocations for their local plan specifically with respect to issues around nutrient neutrality.

This advice is provided in accordance with the Quotation and Agreement dated 12th June 2020.

The following advice is based upon the information within:

- Otterpool Nutrient Mitigation Preliminary Analysis draft - Technical Memo and appendices (17 August 2020), on which NE previously commented.
- Arcadis Otterpool nutrient mitigation analysis update memo (1 October 2020).
- Arcadis Nutrient Neutral Memo appendices (part review only 1 October 2020) .
- Updated spreadsheet of Nutrient Neutral calculations (22 September 2020).
- Additional follow-up query and clarification by email from James Hammond (9th October 2020).

The advice contained within this letter is restricted to the proposed nutrient neutral calculations with regard to the above documents. This is not the limit of Natural England's advice on the proposals and other environmental impacts and obligations that will apply, which are not covered in this response. These include an appropriate assessment, which should be produced for the local plan, or as an additional section in the existing local plan appropriate assessment. Natural England has assessed a sample of the calculations in the spreadsheet but we have not checked the accuracy of every line.

Summary of Natural England's advice

Some of the assumptions are not precautionary, or differ materially from the values suggested in the Natural England nutrient neutral methodology. Where this is the case, we advise values should be evidenced in the update to the local plan appropriate assessment that is required. As the competent authority Folkestone and Hythe should satisfy itself that the values chosen and assumptions made are consistent with others used in the local plan, and are sufficiently precautionary to meet the tests for assessments of plans and projects set out in the Conservation of Habitats and Species Regulations (2017) as amended (HRA).

Natural England's advice is that the local plan supporting documents have the potential to meet the HRA tests for water quality at the plan level, subject to suggested changes and amendments provided in our detailed advice contained in Annex I to this letter. We draw attention to our advice that additional areas of wetland mitigation may be required above those listed in the Otterpool updated memo. Clarification of the difference in the nutrient budgets in the updated memo appendices, compared with those in the Local Plan for Otterpool options is required. Our role with regards protected species is in Annex II.

Senior adviser to QA letter and check box below

X The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely


Senior Water Adviser

On Behalf of Sussex and Kent Team



Annex 1

Natural England's detailed advice

1) Requirement for Appropriate Assessment

Natural England is the statutory Nature Conservation Body with regards consultations on appropriate assessments for impacts of plans or projects and a statutory consultee on many planning applications. As the competent authority for the local plan, the Council should satisfy itself that the plan is able to meet the tests for assessments of plans set out in the Conservation of Habitats and Species Regulations (2017) as amended (HRA).

The Stodmarsh Nutrient Neutral methodology (NNM) we have proposed is one way for competent authorities to satisfy themselves that an adverse effect upon integrity of nutrient impacts of proposals can be avoided with sufficient certainty to meet the HRA tests. An appropriate assessment should be produced for the local plan, or as an additional section in the existing local plan appropriate assessment. Natural England is a statutory consultee with regards to appropriate assessments under the Conservation of Habitats and Species Regulations (2017) as amended. We advise the appropriate assessment should include information on any likely significant effects the planned development could have and how to mitigate those to avoid an adverse effect upon the integrity of any relevant European sites. It is likely the information contained within the above documents (subject to the additional information and changes recommended in this letter) will form an important part of any appropriate assessment/ amendment to the existing local plan appropriate assessment.

As we previously advised, with respect to nutrients calculation, we recommend that the following information is included within the updated appropriate assessment:

- All the information, values and assumptions made in the nutrient calculations.
- Information and evidence to support assumptions used, especially where these deviate from Natural England's methodological advice (e.g. the Council's evidence on occupancy rates and their long term stability).
- Evidence to support any mitigation planned, including source evidence or link if a website or copies of documents are not readily or freely available.
- Evidence of types of mitigation (wetlands, proposals) including proposed locations to ensure the areas of mitigation are draining relevant areas of mitigation land/ WWTW so will function effectively.
- Any additional hydraulic loading or nutrient loading calculations undertaken for wetlands or bespoke mitigation.
- Clarification of how long term management of any mitigation land in particular wetland and other types of SUDS will be secured.
- Maps, locations, or identification of how any mitigation that is not within the developer's ownership will be secured. In particular, information on mitigation proposals for the allocations other than Otterpool.
- Any information on winter maintenance programmes or other information material to water quality assessment that may impact the efficacy of proposed nutrient removal systems.

2) Assumptions made in the base calculations- and Precautionary Principle

The information supplied was difficult to assess as the data in the Otterpool updated memo and accompanying spreadsheet have significantly different nutrient budget figures and therefore different mitigation requirements. This appears to be due to the more detailed land use and mitigation proposals supplied in the Otterpool updated memo appendices (1st October), compared

with the Local Plan nutrient budget spreadsheet (September). There are a number of assumptions and approaches that deviate from those recommended in the NNM or that are not precautionary for such assumptions.

Below are Natural England's comments on those assumptions.

1.1 Water Consumption 90 L, 100L & 110 Litres per person per day

The Council has presented calculations for water use of both 100 litres per person per day and 110 litres per person per day in the local plan budget. This is a useful comparator as the resultant mitigation requirements differ significantly for these two values of water use, and the proposals include the potential to mitigate for the higher water consumption. However, it is unclear where all the additional wetlands will be located. Natural England notes that the Otterpool Park technical memo also includes an option for 90 litres per person per day. Tighter water efficiency standards are proposed as greywater recycling may be included in the larger developments. Not all greywater recycling options reduce the flow to WwTW and are not therefore material in terms of nutrient neutrality. In-house water recycling, for example using bathwater or shower water to flush toilets will reduce effluent flow. Capturing rain water, and using it for toilet flushing does not reduce flow to WwTW though it does have water resource benefits.

Natura England recommends 110 litres per person per day, as this is the assumption and target used by the six water companies in the Water Resources South East plans (including all three of the water suppliers operating in the Stour Valley) for future planning of water resources and can be linked to the existing building regulations requirements.

If the Council chooses one of the proposed lower water consumption figures (of 100 or 90 litres per person per day) it must satisfy itself that it is sufficiently certain this will be achieved and sufficiently precautionary and that it is likely to be stable for the lifetime of the development. As set out in section 5.9 of the NNM *"It is Natural England's view that it would be difficult to evidence and secure delivery of tighter restrictions [than 110L] at this time, to provide certainty for the lifetime of the development."*

1.2 Household Occupancy 2.18 versus 2.4 people per household

Occupancy rates are a matter for the local authority, but we have provided some observations on their use. Although 2.18 is lower than the national occupancy figure suggested in the NNM (2.4), this may reflect genuine differences in the occupancy within the Folkestone and Hythe District Council Area. Natural England's advice is that the Council must satisfy itself this figure is well evidenced and that it is consistent with other decisions related to occupancy made in the local plan (such as provision for schools, roads or other services). It could then be considered as sufficiently precautionary for the calculation of nutrients from development.

1.3 Need to separate Upstream and 'downstream' catchments

The Core Strategy Review identifies the potential for future growth to provide a total of 8,000-10,000 homes (subject to detailed masterplanning) within the new garden settlement site allocation area beyond the plan period. The Core Strategy Review also allocates two parcels in Sellindge, labelled as 'CSD9 A' and 'CSD9 B', which will accommodate 350 dwellings across the two parcels. These proposed allocations are within the catchment upstream of Stodmarsh and are planned to discharge to works in the proposed upstream catchments in the spreadsheet, although the technical options notes some could in theory be sent to works outside the NNM boundary.

The mitigation in the Otterpool updated memo (1 October) is largely designed for the Otterpool Park development and does not set out what is planned for the CSD9 A and B in detail in terms of mitigation. In the email of the 9th October the District Council states:

One would imagine that would could tailor a solution to suit for the two parcels in Sellindge (i.e. would Natural England be accepting of an on-site solution for the two parcels that will accommodate 162 dwellings and 188 dwellings respectively?), or otherwise go down the route of proposing the

imposition of Grampian conditions as a safeguard. For the policy position the latter option is perhaps more straightforward to align at this stage.

An on-site new WwTW by an inset provider may or may not be viable for medium sized developments of this kind, and the Environment Agency has a presumption against private sewage treatment works in sewered areas. However, depending on the timing of the proposed provisions, it may be worth the District Council exploring whether the wastewater from these new proposed allocations 'CSD9 A' and 'CSD9 B', could be sent to the new works proposed at Otterpool. A new works of this kind can be designed to accommodate more development provided this is built in to the planning design This would require more wetland mitigation immediately downstream of the works than is currently proposed in the Otterpool updated memo and plan. However, there appears to be space on site to accommodate such a change, albeit necessitating changing the plan outline map. All such proposals should be discussed with the Environment Agency and the potential sewerage provider. The nutrient neutral calculations on these new allocation options and any proposed mitigation should be included within the appropriate assessment update of the local plan.

The other sites referenced are smaller sites that form part of the recently adopted Places and Policies Local Plan to 2031. The smaller site parcels ND4, ND5, ND8, ND9 and ND10 yield circa 232 dwellings.

ND4, ND5, ND8, ND9 and ND10 are in the little Wingham and Stour sub-catchment, which is a downstream catchment because water from this sub-catchment enters the lower portion of the Stodmarsh on the tide. These options are likely to go to a mixture of different WwTW– some to works outside the Stodmarsh catchment and some to works in a different sub-catchment which are upstream of the site. Natural England recommends that offsetting is only undertaken in the same sub-catchment as the impact.

It is not clear from the local plan spreadsheet what is proposed for these smaller developments, some of which may not need any, or only very limited land use mitigation (as their wastewater goes to works outside the scope of the NNM). As far as Natural England can tell these allocations do not have any mitigation proposed currently, but are included in the calculations for the local plan with notes on the areas of land needed to mitigate using offsetting, and the areas of land needed if interceptor wetlands are proposed. These options should be included in the in-combination appropriate assessment update of the local plan allocations, and any mitigation proposals clearly set out.

1.4 Use of Operator self-monitoring (OSM) and 2024 proposed permit values

The permit and OSM values, as well as agreed values for permits upgrades by 2024, are provided in the NNM alongside the current permit values. The calculations have used the 2024 or/ and the OSM values. However, there is a risk that if the Water Industry National Environment Programme (WINEP) need tighter standards to meet the lakes water quality standards, the upgrades to the works could be delayed to prevent wasted investment. At the application stage, the use of a Grampian-style condition related to occupancy may be a potential solution to this. The Environment Agency has informed Natural England that these proposed upgrades and OSM values are secure to be used for planning purposes and can therefore be used for the local plan mitigation calculations.

2 Assumptions on Mitigation and likely Efficacy

Location of mitigation in relation to the impacts is critical in determining the likely efficacy of mitigation. There are three approaches to mitigation proposed in the above listed documents for the allocations which are proposed to be combined to provide neutrality.

- **Offsetting mitigation (indirect mitigation)**

As described in section 6.7 to 6.15 of the NNM, offsetting is the change of land use from a high nutrient land use such as agriculture to a lower nutrient use. This type of mitigation uses the land use values proposed in the NNM.

The land use calculations for offsetting the existing onsite use appear to largely follow the methodology with two exceptions. Firstly, the existing allocations (ND4,5,8,9 &10), where it is unclear what is being proposed as mitigation or how the calculations have been incorporated in the final mitigation totals. There is no proposal for offsetting land outside of the allocation redline boundaries, although the calculations of how much land would be required are made.

Secondly is the woodland “mitigation” proposed as part of the Otterpool scheme (table 3 in the Arcadis updated memo 1st October). The calculation here has assumed no nutrient discharge from these to “prevent double counting” and then goes on to propose uptake by woodland as mitigation in the way that is proposed for wetlands. This results from a misunderstanding of the figures given in the nutrient neutral methodology (section 6.13).

The rate from semi-natural native woodland planting, likely to equate to 5kg/ha/yr and phosphorous 0.02 kg/ha/yr, is provided in the document, but these are figures for nutrient loss per year from these habitats, and not the removal of nutrients. The mitigating value of the planting comes from reductions compared to existing land uses. Therefore the draft calculations in the Arcadis updated memo have removed 25 hectares x 5 kg = 125Kg of Nitrogen and 25 hectares x 0.02 hectares= 0.5 Kg of phosphorus from the allocation, when these values should have been added to the figures.

This alters the values for mitigation, with 250Kg Nitrogen and 1Kg phosphorous additional mitigation required per year. Updated calculations to reflect this change should be included in the draft appropriate assessment. However, Natural England notes that, based on the updated memo, the change made by correcting this issue in the appendix spreadsheet would result in only 19.7 hectares of wetland being required. The Otterpool scheme updated memo states that there is space for 23 hectares of wetlands, although this is not necessarily all in the correct mitigation locations on the existing outline plan.

- **Interception (direct mitigation)**

Interception is the use of semi-natural habitats that remove nutrients in the long term based on wetlands, as these can provide the best offsetting potential. One of the best habitats for removal of nutrients from water are wetlands. Guidance on wetland design for nutrient removal is provided in Appendix 7 of the Stodmarsh NNM. This is when land between the development and the river or between the WwTW and the river is changed to a use that will actively remove nutrients. The location of this land is critical in relation to the efficacy of mitigation, as is the size of the wetland and the need for permanent flow. The positioning of the largest proposed wetland (11.8 hectares) downstream of the proposed new WwTW works is likely to offer the best mitigation options. The inclusion of a series of other wetlands of greater than 2 hectares will also offer significant mitigation.

The total wetland volume proposed in the updated memo for Otterpool is 23 hectares, though some of this area may offer little in the way of nutrient removal as it may have no permanent flow of water (as they are storm water wetlands) . This area is less than the total required to mitigate the whole local plan allocation in the local plan spreadsheet, and less than that required by Otterpool in the local plan spreadsheet. However, the 23 hectares is more than is required for Otterpool allocation based on the calculations in the updated memo appendices. The difference appears to be due to more precise land use allocation by the Otterpool updated memo nutrient calculations than in the local plan allocation calculations. Natural England recommends that the difference between the two calculations is examined (following the corrections described above) and that the most well-evidenced option is included within the updated local plan appropriate assessment.

- **Direct treatment Mitigation and feasibility of tight permit standards proposed**

On the call with Natural England on 9th October and in your email of the same date you raised the issue of whether it is feasible to achieve tight standards at WwTW. One of the solutions proposed in the Otterpool updated memo of 1st October is a new waste water treatment works, with a provisional suggested discharge permit standard of 7.2 mg/l total nitrogen and 0.1 mg/l total phosphorous, proposed by Severn Trent Connect.

Permitting and regulating mains WwTW is a matter for the Environment Agency via a regulatory process with the water sector. In order to help you determine if standards as tight as those

proposed are a feasible option, Natural England is able to share some information with you as it applies to the information you have provided in your technical note and on the proposed mitigation.

As a result of national trials using innovative techniques by the Environment Agency with the water sector, Technically Achievable Limit (TAL) for Phosphorous reduction at WwTW was tightened from 0.5 mg P/l to 0.25 mg P/l for PR19 (the 2019 water industry price review). In PR19 the Environment Agency would not impose permit standards tighter than TAL on a water company, however companies were able to agree to tighter standards. There are some exceptions to this, for example, legally enforceable operational agreement standards at Pevensey Levels SAC, Ramsar SSSI in Sussex of 0.1 and 0.08 mg/l Total Phosphorus on the Hailsham North and South WwTW are agreed as a stretch target. The upgrades to these two works, which use membrane technology more frequently used in drinking water treatment, will be completed by 2021. These tight standards will deliver favourable condition for the SSSI and contribute to favourable conservation status in terms of water quality for the SAC at Pevensey Levels. Housing which will discharge to these works has been given permissions with a Grampian-style condition linked to a first occupancy date of December 2021 since the agreement was first secured in the company's PR14 business plan and Environment Agency's WINEP in 2014.

The proposals by Severn Trent Connect are similar to the operationally agreed standards for sites that discharge into Pevensey Levels and therefore Natural England sees no obvious reason why these proposals will not be implementable, but you may wish to confirm this with the Environment Agency.

Annex 2

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

Appendix H: Correspondence with Natural England Regarding the Air Quality Assessment (emails)

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Otterpool Air Quality - assessment of local, national and European sites
Date: 14 July 2021 15:10:00
Attachments: [image002.png](#)
[image003.jpg](#)

[REDACTED],

Hope you are well.

Have you had an opportunity to review the email below?

We are trying to confirm what we need to include in the HRA. The bit we are particularly keen to agree is:

We are looking to confirm that Natural England would consider it acceptable to defer to the findings of the HRAs completed on behalf of FHDC in support of the People and Policies Plan and the draft Core Strategy Review as we feel the issues have been explored adequately in these documents (collectively referred to as the Local Plan documents). Otterpool is included as an allocated site in FHDCs Local Plan documents and will be built out at a rate and volume that is in accordance with (but no greater than) the overall quanta assessed in the HRA.

Thanks,

[REDACTED].

From: [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>
Sent: 17 March 2021 14:48
To: [REDACTED] <[\[REDACTED\]@arcadis.com](mailto:[REDACTED]@arcadis.com)>
Subject: RE: Otterpool Air Quality - assessment of local, national and European sites

Hello [REDACTED], thanks for sending that over. I'll review the methodology in the next couple of weeks and get back to you.

Many thanks,

[REDACTED]

Lead Adviser | Sustainable Development | Sussex and Kent

Mobile: [REDACTED]

Working Pattern: Monday-Friday : 09:00-17:00

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

ne-email-signature



During the current coronavirus situation, Natural England staff are working remotely and from some offices to provide our services and support our customers and stakeholders. Although some offices and our Mail Hub are now open, please continue to send any documents by email or contact us by phone to let us know how we can help you. See the latest news on the coronavirus at <http://www.gov.uk/coronavirus> and Natural England's regularly updated operational update at <https://www.gov.uk/government/news/operational-update-covid-19>.

Wash hands. Cover face. Make space.

From: [REDACTED]@arcadis.com>
Sent: 17 March 2021 13:36
To: [REDACTED]@naturalengland.org.uk>
Subject: Otterpool Air Quality - assessment of local, national and European sites

Dear [REDACTED],

I am writing in relation to the proposed methodology which we are looking to adopt regarding the air quality assessment of ecological receptors regarding operational and construction phase impacts of the proposed Otterpool Park settlement (referred to as 'the Garden Settlement' in Folkestone and Hythe District Council's (FHDC) People and Policies Plan and Core Strategy Review documents). I understand you are the NE case officer for this project and I would be most grateful if you could review the methodology summary below and provide feedback on the proposed approach.

Ecological Assessment of national and local sites

We have scoped in assessment of the following locally and nationally designated sites:

Site Name	Location in relation to site	Assessed for construction dust impacts?	Provisionally included for local air quality impacts?
Hatch Park SSSI	3.6km to north west	No – outside of construction dust study area	Yes
Seabrook Stream SSSI	3.6km to east	No – outside of construction dust study area	Yes
Folkestone to Etchington SSSI/SAC	3.6km to north east	No – outside of construction dust study area	Yes
Lympne Escarpment SSSI	0.3km to the south	Yes	Yes
Gibbins Brook SSSI	0.6km to the north	Yes	Yes

Otterpool Quarry SSSI	Within application site boundary	No – site classified for geological features which are not sensitive to nitrogen or dust.	
Folks Wood Ancient Woodland	0.3km to the east	Yes	Yes – on request of ecologist
Harringe Brooks Wood Ancient Woodland	Within boundary	Yes	Yes – on request of ecologist

These will be assessed as per the IAQM's (2020) guidance; 'A guide to the assessment of air quality impacts on designated nature conservation sites'¹, to ascertain the impact of the project in isolation.

Habitats Regulation Assessment (European designations) -

The only site with a European designation that falls into our anticipated study area and would theoretically require assessment under the Habitats Directive is the Folkestone to Etchinghill Escarpment SAC. We are looking to confirm that Natural England would consider it acceptable to defer to the findings of the HRAs completed on behalf of FHDC in support of the People and Policies Plan and the draft Core Strategy Review as we feel the issues have been explored adequately in these documents (collectively referred to as the Local Plan documents). Otterpool is included as an allocated site in FHDCs Local Plan documents and will be built out at a rate and volume that is in accordance with (but no greater than) the overall quanta assessed in the HRA.

As discussed previously, we refer to the IAQM's ecological guidance which provides justification for this approach:

Paragraph 5.3.3 in Stage 1 'Scoping' states that " *For individual planning applications for conventional residential or mixed-use development where European sites are a consideration, the assessor should first investigate whether the air quality issues have already been fully explored for the Local Plan HRA. If this has been done, then it would be appropriate and in line with government guidance to defer to that over-arching Local Plan assessment. This should be a suitable approach for windfall development as well as actual allocations, as Local Plans all make an allowance for a specified quantum of windfall development in particular locations and this should be included in the strategic Local Plan air quality assessment and HRA.*"

Paragraph 5.3.4 states: " *Similarly, if a given local authority believes that Neighbourhood Plans will be coming forward in their authority boundary, they should consider including any sites allocated in those plans in their air quality modelling. This would also avoid problems for the planning application or Neighbourhood Plan that might otherwise result from the Wealden judgment. Deferring 'upwards' to the Local Plan also addresses the undesirable situation of having multiple traffic and air quality models for a single local authority area and the potential inconsistencies that can be introduced in such circumstances*"

The People and Policies Plan HRA² (July 2018), assessed the impact of a number of scenarios regarding various levels of housing growth over the People and Policies Plan period (to 2031) and the core strategy review period (to 2037). The scenario with the highest level of housing growth was the core strategy review scenario which considered a maximum build out of 8000 homes (and associated infrastructure such as employment, education, retail etc) up to 2037, with 6375 of these to be built as part of the Otterpool development³. The HRA concluded that this scenario would not result in any adverse effect on any European designated sites alone or in combination

with other plans/developments. The same conclusion was reached with the scenarios considering lower levels of housing growth across both periods.

In January 2020 FHDC published a draft Core Strategy Review⁴ which included a change to reduce the number of houses built over the core strategy review period to 7700 homes (with 5925 at Otterpool). As a result of these changes, a HRA addendum⁵ was completed accounting for this lower growth quantum. The HRA addendum concluded that the findings made in the original HRA's 8000 homes scenario are still valid, and that as the housing quantum is lower, no adverse impacts are to be expected at the European sites.


Footnotes

1. IAQM (2020) guidance on assessment of ecological sites:
<https://iaqm.co.uk/text/guidance/air-quality-impacts-on-nature-sites-2020.pdf>
2. HRA undertaken in support of the FHDC People and Policies Plan (July 2018)
<https://www.folkestone-hythe.gov.uk/downloads/file/1699/fhdc-habitat-regulations-assessment-reg-19-submission-version-2018-eb-02-60->
3. *The Otterpool development is included in the People and Policies Plan and FHDC's most recent housing estimates in the 2020 draft Core Strategy Review as Policy SS6 'Garden Settlement' (with the overall estimates for FHDC detailed in Policy SS2).*
4. Draft FHDC core strategy (Jan 2020) <https://www.folkestone-hythe.gov.uk/downloads/file/1241/eb-01-00-folkestone-hythe-core-strategy-review-submission-draft-2020>
5. HRA addendum in support of draft Core Strategy
[EB 02.20 FHDC Core Strategy Review Habitat Regulations Assessment Addendum \(November 2019\).pdf](#)

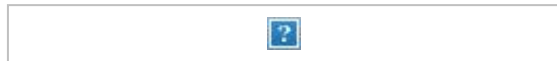
Please get in touch if you require any further information or wish to discuss further.

Many thanks



 | Principal Air Quality Consultant - Environment

Arcadis Consulting (UK) Ltd | Arcadis House, 34 York Way, London | N1 9AB | UK
www.arcadis.com



Be green, leave it on the screen.

Arcadis Consulting (UK) Limited is a private limited company registered in England & Wales (registered number 02212959). Registered Office at Arcadis House, 34 York Way, London, N1 9AB, UK. Part of the Arcadis Group of Companies along with other entities in the UK.

This email and any files transmitted with it are the property of Arcadis and its affiliates. All rights, including without limitation copyright, are reserved. This email contains information that may be confidential and may also be privileged. It is for the exclusive use of the intended recipient(s). If you are not an intended recipient, please note that any form of distribution, copying or use of this communication or the information in it is strictly prohibited and may be unlawful. If you have received this communication in error, please return it to the sender and then delete the email and destroy any copies of it. While reasonable precautions have been taken to ensure that no software or viruses are present in our emails, we cannot guarantee that this email or any attachment is virus free or has not been intercepted or changed. Any opinions or other information in this email that do not relate to the official business of Arcadis are neither given nor endorsed by it.

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.

**Appendix I: Natural England comments on the Arcadis approach to Stodmarsh SAC
SPA and Ramsar Site - Neutrality Proposals for Otterpool**



Dear Mr [REDACTED]

Discretionary Advice Service (Charged Advice)

Development proposal and location: Otterpool Park Development, Ashford Road Sellindge Kent

Thank you for your consultation on the above dated and received on Thursday 22nd April 2021.

This advice is being provided as part of Natural England's Discretionary Advice Service. Folkestone and Hythe District Council acting as a developer for Otterpool Park has asked Natural England to provide advice upon:

- Otterpool Park Development proposals specifically with respect to issues around nutrient neutrality

This advice is provided in accordance with the Quotation and Agreement dated 17th September 2020.

The following advice is based upon the information within:

- Flood Risk Assessment and Surface Water Drainage Strategy
- Water Cycle Study

In summary the following further information is required:

- Bespoke calculations to show the removal values of the wetlands can be achieved on site.
- Further clarification on the nutrient neutrality calculations, in order to clearly demonstrate how nutrient neutrality will be achieved at Otterpool.
- More detail on the design of the wetlands.

1. Use of Median Removal Values for Wetlands

In our previous response dated 2nd December 2020 (11529/325393) it was stated that using the median removal values for wetlands was acceptable at the outline stage, but at the detailed stage it must be demonstrated that these values will be achievable on site. Therefore, bespoke wetland specific calculations using estimations of hydraulic and nutrient loading are required, which demonstrate that the efficacy proposed can be achieved at Otterpool.

2. Wetland Design

From the current information provided on the design of the wetlands, it is unclear how they will remove the required nutrients.

- The calculations state that the required wetland area for phosphorus, using median values is 25.2ha for PCC (Scenario 1) and 24.2ha for PCC (Scenario 2). The total area of wetlands is currently 24.81ha and therefore for PCC (Scenario 1), either evidence needs to be provided to show the wetlands will have a higher efficacy rate than the median values, or the total wetland area needs to be bigger.

- In addition only W13 is proposed as being between the new Wastewater Treatment Works (WwTW) and the river, and therefore appears to be the only one which will intercept the discharge from the WwTW. It is our understanding that the other wetlands will mitigate water runoff from the catchment, rather than the phosphorus increase from the WwTW due to the population increase. As W13 is 11.8ha, and 8.86ha effective wetland, it is unclear how this will be sufficient to ensure nutrient neutrality. This feedback was given in the initial response to the design. The calculations need to take account of the location of the wetlands and the hydraulic loading as described in point 1 above.

Further calculations are therefore required on the total area of wetlands that will intercept the discharge from the WwTW and the efficacy of the wetlands.

3. Clarification on Nutrient Neutrality Calculations

Further clarification is required on the nutrient neutrality calculations to demonstrate how Otterpool will be nutrient neutral for phosphorus. If interceptor values are being used then they will need to intercept the nutrients they are offsetting. Separating the values for land use and wastewater and the calculations for the wetlands that intercept these is essential to fully demonstrate neutrality.

As stated in our previous response dated 6th October 2020 (ref:11529/325393), with respect to nutrients calculation we recommend that the following information is included within the appropriate assessment:

- All the information, values and assumptions made in the nutrient calculations
- Information and evidence to support assumptions used especially where these deviate from Natural England's methodological advice (e.g. the council evidence on occupancy rates and their long term stability used which is different to the national average occupancy NE suggest)
- Evidence to support any mitigation planned including source evidence or link if a website or copies of documents not readily or freely available.
- Evidence of types of mitigation (wetlands, proposals) including proposed locations to ensure the areas of mitigation are draining relevant areas of mitigation land so will function effectively.
- Any additional hydraulic loading or nutrient loading calculations undertaken for wetlands.
- Clarification of how long term management of any mitigation land in particular wetland and other types of SUDS will be secured (some can be expensive to manage in the long term and the competent authority should satisfy itself the funds for this are available for the lifetime of the development).
- Maps locations or identification of how any mitigation that is not within the developers ownership will be secured.
- Any information on winter maintenance programme or other information material to water quality assessment that may impact the efficacy of nutrient removal systems.

I hope the information provided in this letter has been useful, for clarification of any points in this letter, please contact [REDACTED] naturalengland.org.uk or [REDACTED]

Senior adviser to QA letter and check box below

The advice provided in this letter has been through Natural England's Quality Assurance process

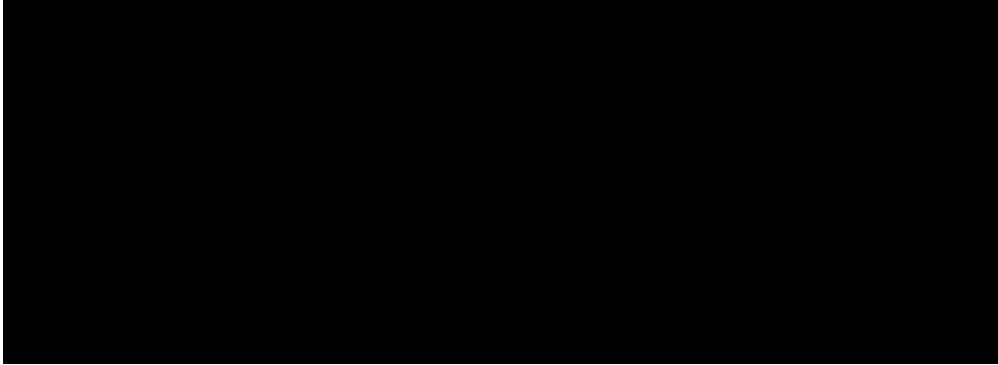
The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision

which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,



Sustainable Development – Sussex and Kent



Annex 1

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

Appendix J: Statement of Common Ground – Folkestone and Hythe District Council and Natural England

Statement of Common Ground

Folkestone & Hythe District Council and Natural England

1. Overview

- 1.1 This Statement of Common Ground (SCG) has been prepared by Folkestone & Hythe District Council (FHDC) together with Natural England (NE). It reflects the agreed position between the parties.
- 1.2 The purpose of this SCG is to document the cross-boundary matters being addressed and progress in cooperating to address them. It is the means by which the signatory authorities can demonstrate that their plans are based on effective and ongoing cooperation and that they have sought to produce strategies that as far as possible are based on agreements with other authorities.
- 1.3 Under section 33A of the Planning and Compulsory Purchase Act 2004 (amended by section 110 of the Localism Act 2011) and in accordance with the National Planning Policy Framework (NPPF) 2019 it is a requirement under the Duty to Cooperate for local planning authorities, county councils and other named bodies to engage constructively, actively and on an ongoing basis in the preparation of development plan documents and other local development documents. This is a test that local authorities need to satisfy at the Local Plan examination stage and is an additional requirement to the test of soundness.
- 1.4 The Duty to Cooperate applies to strategic planning issues of cross boundary significance. Local authorities all have common strategic issues and, as set out in the National Planning Practice Guidance (NPPG):

"local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination."
- 1.5 The statutory requirements of the Duty to Cooperate are not a choice but a legal obligation. Whilst the obligation is not a duty to agree, cooperation should produce effective and deliverable policies on strategic cross boundary matters in accordance with the government policy in the NPPF, and practice guidance in the NPPG.
- 1.6 FHDC went out to a very limited public consultation on a revision to the Regulation 19 Core Strategy in November/December 2019 to bring it 'in check' with the Government's published figures on housing requirement.

- 1.7 NE responded to the Regulation 19 Core Strategy Review – submission version dated 11th March 2019, and the response is set out in Appendix A. In summary, within NE's response it is contended that:

“... the CSR can be further improved particularly with regard to the garden settlement (Otterpool Park) policies (SS6-9), especially in relation to the Kent Downs Area of Outstanding Natural Beauty (AONB), as well as general policy for green infrastructure (GI) and biodiversity net gain in policy CSD4.”

- 1.8 This SCG deals solely with the issue of nutrient neutrality. Notwithstanding this, FHDC wishes to work with NE through the examination process to address NE's concerns, while also meeting wider national policy requirements.

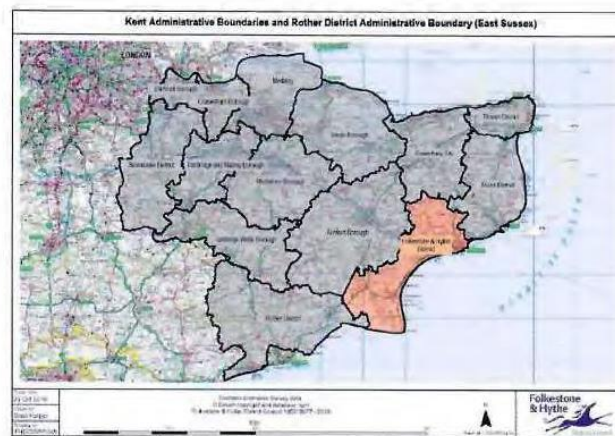
2.0 Strategic matters

- 2.1 The NPPF defines the topics considered to be strategic matters (para 20). Those strategic matters relevant to FHDC and the NE are explored under suitably-titled headings, and can be summarised as follows:

- Housing
- Nutrient Neutrality and the impact on Habitats Sites¹ (Stodmarsh)

- 2.2. The geographical relationship of FHDC in the context of Kent (upper tier authority) and neighbouring East Sussex is represented in Figure 2.1.

Figure 2.1. Geographical relationship between FHDC and Kent and East Sussex



¹ Sites covered by [Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) are referred to as 'habitats sites' in the [National Planning Policy Framework](#) and [Government guidance](#) on HRA.