

**NE16 - Nutrient neutrality water quality effects on the special protection areas (SPAs), special areas of conservation (SACs) and Ramsar sites of the Solent and the River Itchen**

- Support - 17
- Neither support of object - 11
- Object - 6

The changes to the supporting text and the Local Plan policies have not only been informed by the responses to the Regulation 18 consultation but they have also taken on board any additional feedback that has come out of discussions/meetings with statutory consultees and members in order to improve the clarity and understanding of the contents of the Local Plan.

<b>Comments in support of NE16 - nutrient neutrality water quality effects on the special protection areas (SPAs), special areas of conservation (SACs) and ramsar sites of the Solent and the River Itchen</b>		
<b>Respondent number</b>	<b>Comment</b>	<b>Officer comment</b>
ANON-KSAR-NKTH-6	Research shows that the negative affect of this the ecosystems involved is progressing unchecked and this needs reversing.	Comments Noted. <b>Recommended Response:</b> No Change
ANON-KSAR-NKRG-3	Our Chalkstreams are precious and unique to parts England and Northern France. Especially Hampshire. Everything must be done to preserve this unique aquatic environment for future generations. We must be mindful that whatever gets on the chalk downlands eventually ends up in the chalk aquifer and thus our chalkstreams. The chalkstream water may be clear but that does not mean it is clean.	Comments Noted. <b>Recommended Response:</b> No Change
ANON-KSAR-NKJY-D	As landowner, Hampshire County Council understand the need for nutrient neutrality and supports the references to off-setting and mitigation within the draft policy and supporting text outlining a flexible approach to ensuring nutrient neutrality, and so delivery of sustainable development (effective). The County Council would go further and	Comments Noted. The Council would welcome working with HCC on the feasibility of such an approach.

Hampshire County Council	request that the Local Plan includes land allocations for nitrate and phosphorus off site mitigation with a 'credit scheme' dedicated for this purpose which could contribute to the delivery of new development that is otherwise acceptable through the Plan period (be effective and flexible).	<b>Recommended Response:</b> No Change to policy but work with HCC/PfSH in regards to land allocations and a 'credit scheme'.
ANON-KSAR-N8Q5-W	In supporting this policy, we recommend strengthening it with a reference to Local Nature Recovery Strategies  We suggest adding to para iii) as follows:  "iii Development proposals for mitigation schemes such as tree planting or wetlands will be supported where they are located in appropriate areas in relation to the development they are to serve, make a positive contribution to the Local Nature Recovery Network, and where the nature of the mitigation would not have adverse impacts on the character, function and appearance of the area in which they are to be located."	Comments Noted. Wording has been added to the policy to cross refer to Local Nature Recovery Network.  <b>Recommended Response:</b> Add the words at the end of criteria iii in Policy NE16 <b>and make a positive contribution to the Local Nature Recovery Network,</b>
BHLF-KSAR-N8ZJ-U	Policy NE16 sets out how the Council will assess the impacts of proposed developments on nationally protected sites and that each development should ensure that nutrient neutrality is achieved through mitigation. This approach is supported and is sufficiently flexible to allow for any potential future flexible tariff proposed by National England through their ongoing discussions with the water companies to be considered as mitigation, however, mitigation through a financial contribution in accordance with a future tariff-style mechanism should not be excluded. This should be included in the policy or supporting text.	Comments Noted. This would only be considered if such a change in national policy occurs, but at present is not considered a solution.  <b>Recommended Response:</b> No Change

**Comments which neither support nor object to NE16 - nutrient neutrality water quality effects on the special protection areas (SPAs), special areas of conservation (SACs) and ramsar sites of the Solent and the River Itchen**

Respondent number	Comment	Officer comment
ANON-KSAR-NKEY-8	This policy appears to simply overlay a policy requirement upon an existing (well established and perfectly clear) legal requirement, the purpose of which is unclear.	<p>Comments Noted. As nutrients is such a key issue in the district it is considered that there is a need to have a specific policy on this in the Local Plan.</p> <p><b>Recommended Response:</b> No Change</p>
ANON-KSAR-NKJ1-5	Winchester College requests that this policy should acknowledge that the Habitats Regulations will cease to have effect at the end of 2023 and decisions on nutrient neutrality will be made based on the legislation and latest guidance in force at that time.	<p>Comments Noted. It is unclear whether this element will now be retained as part of the retained EU Law. Therefore any changes will be monitored and incorporated into the policy if and when these changes take place.</p> <p><b>Recommended Response:</b> No Change</p>
BHLF-KSAR-N8R7-Z Colden Common Parish Council	The proposals should consider the potential impacts of wastewater (nutrients) produced by the development upon the Solent SAC and River Itchen SAC and identify mitigation so as to avoid any adverse impact on these nationally protected sites either by incorporating measures within the site as part of the development or secured by alternative means if this is not feasible (Policy NE6);	<p>Comments Noted. This appears to be about a site specific development proposal. Any development proposal will need to be in conformity with this policy.</p> <p><b>Recommended Response:</b> No Change</p>
BHLF-KSAR-N8ZV-7	Policy NE16 Nutrient Neutrality Water quality effects on the SPA, SAC and Ramsar sites of the Solent and River Itchen COMMENT Winchester College requests that this policy should acknowledge that the Habitats Regulations will cease to have effect at the end of 2023 and decisions on nutrient neutrality will be made based on the legislation and latest guidance in force at that time.	<p>Comments Noted. It is unclear whether this element will now be retained as part of the retained EU Law. Therefore any changes will be monitored and incorporated into the policy if and when these changes take place.</p> <p><b>Recommended Response:</b> No Change</p>

<p>BHLF-KSAR-N8Z7-8 South Downs National Park Authority</p>	<p>(2) Conserving and Enhancing the Region’s Biodiversity (Including Green Infrastructure)  The varied landscapes of the National Park collectively contribute to the range of ecosystem services which the National Park provides. The condition of landscape features, and their management, is therefore essential to the continued function of ecosystem services and the benefits they provide. We hope that working with the SDNPA, the Winchester Local Plan goes further to identify and outline key projects to enhance green infrastructure and biodiversity networks that can link into the South Downs National Park (SDNP).</p>	<p>Comments Noted. The Council would welcome further dialogue with South Downs regarding these policies and to ensure a consistent approach to improving biodiversity.</p> <p><b>Recommended Response:</b> No Change but further dialogue with SDNPA on the subject.</p>
	<p>The Itchen Valley is internationally designated for its habitat valley and is highly regarded as a beautiful chalk river. The South Downs People And Nature Network (PANN), published in 2020, brings together a range of partner organisations, stakeholders, communities, and businesses to identify areas and opportunities, for natural capital investment in biodiversity and green infrastructure, for the benefits of both people and nature. More specifically, the PANN identifies the “Winchester &amp; Itchen” and “South Hampshire” areas – which both include areas of Winchester District inside and outside the SDNP - as Natural Capital Investment Areas (NCIAs). The PANN also includes; a case study about the Heritage Lottery Funded restoration of the water meadows and ditch systems at the Winnall Moors Nature Reserve; and the need to restore the health, vitality, and abundance of the landscape and nature of the “East Winchester Landscape”. The associated report for the latter was published in June 2021 and is available on the SDNPA’s website. It is requested that the NCIAs and East Winchester Landscape Area are shown on Map 9 and referenced in Policy NE4 and its supporting text. Further information on the above can be found on the SDNPA’s website here:  <a href="https://www.southdowns.gov.uk/national-park-authority/our-work/partnership-management/people-and-nature-network-pann/">https://www.southdowns.gov.uk/national-park-authority/our-work/partnership-management/people-and-nature-network-pann/</a></p>	<p>Comments Noted and additional information welcomed. However, there is no need to refer to this in the Local Plan as the Local Plan covers the period to 2040 and this document may well be updated.</p> <p><b>Recommended Response:</b> No Change.</p>

	<p>Notwithstanding the above, we would welcome further dialogue in relation to Policies NE4 (Green and Blue Infrastructure), NE5 (Biodiversity), NE16 (Nutrient Neutrality), and NE17 (Rivers, Watercourses and their Settings), in relation to biodiversity net gain (BNG), Habitat Regulation Assessment (HRA), and Nutrient Neutrality. This is to ensure that a consistent approach to improving biodiversity is being taken across the region as both local plans continue to develop and emerge.</p>	<p>Comments Noted. Whilst the Council would welcome further dialogue about the wording of the policies to ensure that there is a consistent approach no suggested changes have been put forward to Policy NE16.</p> <p><b>Recommended Response:</b> No change but discuss at the SoCG meetings.</p>
<p>BHLF- KSAR- N8ZE-P Portsmouth City Council</p>	<p>Nitrates working together The City Council is keen to work with WCC and other partners including the Water Companies and Natural England on delivering an appropriate response to the issue of nutrient neutrality in the Solent.</p>	<p>Comments Noted. WCC would welcome active engagement with PCC and other partners on this issue and suggests that this is undertaken through PfSH.</p> <p><b>Recommended Response:</b> No Change but further dialogue with PCC on the subject through PfSH.</p>
<p>BHLF- KSAR- N8ZG-R</p>	<p>We are pleased to see a dedicated policy for nutrient neutrality and the impacts of development on designated sites. We would strongly encourage the Council to state in its water quality policy that it will give a strong preference to nitrate mitigation schemes that will deliver wider environmental benefits, especially for biodiversity. For example, the Trust's Nitrate Reduction Programme is demonstrating a way of mitigating and reducing the impact of nitrates in the Solent from planned housing developments, through the creation of new nature reserves on formerly intensively managed farmland - creating new habitats for local wildlife and helping nature to recover. We would be pleased to discuss these in more detail with you.</p>	<p>Comments noted and support welcomed in relation to the Trust's Nitrate Reduction Programme. Please can these discussions be directed through the PfSH Strategic Environmental Planning team.</p> <p><b>Recommended Response:</b> No Change to policy but further dialogue encouraged through the PfSH Strategic Environmental Planning team.</p>
	<p>The current policy states, "Development proposals for mitigation schemes such as tree planting or wetlands will be supported where they are located in appropriate areas in relation to the development</p>	<p>Comments Noted. The district has both a nitrogen and phosphorus issue. With nitrogen developers can purchase credits</p>

	<p>they are to serve and the nature of the mitigation would not have adverse impacts on the character, function and appearance of the area in which they are to be located”. The current wording of this policy gives the impression that mitigation should happen near the development that it is to serve. However, nutrient mitigation should not be based on proximity to the development but whether it is in the right catchment to mitigate the impacts of nutrients into the designated sites. It is positive for the communities it serves if mitigation is also close to the development, but the core priority should be mitigating the impact of nutrient pollution on our waterways.</p>	<p>outside of the district. In the case of phosphorus, the mitigation needs to be upstream of the development. It considered that the current wording of criteria deals with this point that is not the same for all LPA’s.</p> <p><b>Recommended Response:</b> No Change.</p>
<p>BHLF- KSAR- N8BE-X Environment Agency <a href="#">Link here</a></p>	<p>Policy NE 16 – Nutrient Enrichment and Neutrality The legal requirement (under Habitats and Water Framework Directives) to mitigate nutrient impacts and loading from development need to be carefully considered and calculated as per Natural England’s guidance. Current pressures on appropriate and available land to include nutrient neutrality requirements on top of legal objectives in place to further reduce nutrient loading (specifically phosphorous and nitrogen) for water quality, is currently a significant challenge for all freshwater catchments draining into Marine European Designated Sites across the Solent. Nutrient limits on wastewater treatment works permits may need to be tightened if additional development is connected to ensure nutrient loads from the works do not increase and cause deterioration in the condition of these protected sites or jeopardise the achievement of planned improvements. There may be technical limitations to the level of treatment possible to ensure loads do not increase above current legislative requirements. We strongly recommend discussion with Southern Water on the siting and size of development proposed in relation to their wastewater treatment capacity.</p>	<p>Comments Noted. The Council would welcome further discussions with Southern Water in relation to wastewater treatment capacity.</p> <p><b>Recommended Response:</b> No Change to policy but further dialogue with the Southern Water on the subject as part of the SoCG.</p>
<p>BHLF- KSAR- N86F-K</p>	<p>Policy NE16 Nutrient Neutrality Water Quality Effects As you are aware, Winchester district falls within two ‘nutrient neutrality’ zones, including the Solent with regard to the eutrophication</p>	<p>Comments Noted and support welcomed for the policy.</p>

<p>Natural England <a href="#">Link here</a></p>	<p>effects of nitrogen, and the River Itchen SAC with regard to phosphorus. Natural England has previously advised your authority, as the Competent Authority under the Habitats Regulations, to carefully consider the nutrients impacts of any new plans and projects (including new development proposals) on habitats sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality.</p> <p>Natural England welcome this Policy that will require new development that propose a net increase in overnight accommodation to address in-combination effects on the Solent designated sites and the River Itchen SAC via eutrophication from nutrients in wastewater. The Plan's Housing provision (Strategic Policy H1) aims to deliver 15,620 net dwellings over the plan period. Policy NE16 puts a reliance on Habitat Regulations Assessment at project level to deliver mitigation. See further details on this aspect in our advice on the HRA further below in this letter.</p>	<p><b>Recommended Response:</b> No Change to policy but WCC will enter into a SoCG with Natural England on this issue.</p>
<p>BHLF- KSAR- N863-Z</p>	<p><u>Policy NE16 Nutrient Neutrality</u></p> <p>6.7 This Policy sets out the Council's approach to ensuring that the Water Quality Effects on the Special Protection Areas (SPA's), Special Areas of Conservation (SAC's) and RAMSAR Sites of the Solent and the River Itchen are mitigated.</p> <p>6.8 To support this Policy, the Council has published a Habitats Regulation Assessment (HRA) (September 2022). The HRA confirms that Nutrient Neutrality impacts of sites will be assessed at the planning application stage. However, Section 63 of the Conservation of Habitats Regulations advises that a Competent Authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which must make an appropriate assessment of the implications of the plan or project for that site in</p>	<p>Comments noted and support welcomed. The Council does have a number of Waste Water Treatment Plants that are owned by them and is looking to bring forward improvements/upgrades to them in order to be able to address nutrients. Allied to this the Council is working closely with PfSH on bringing forward schemes. A separate Topic Paper will be produced on nutrients drawing on the PfSH work.</p> <p><b>Recommended Response:</b> No Change</p>

	<p>view that the ability of sites proposed for allocation in the Plan to mitigate nutrient impacts should be assessed at the Plan Stage, not deferred to the planning application stage. As the Council is not providing its own mitigation solution, it will need to rely on third party solutions to achieve Nutrient Neutrality. This approach does not provide the necessary certainty that European Sites will be protected as is required legislation and case law. This is because there is no guarantee that there will be sufficient third part solutions available to mitigate the growth proposed throughout the plan, particularly as there are numerous other projects in other LPA's in the area areas that will be relying on the same pool of mitigation solutions. We understand that the PfSH has undertaken an audit of mitigation supply to understand whether there is sufficient supply to meet expected levels of development in the sub-region. It would be beneficial for the Council to publish this work by PfSH in order to demonstrate that the approach in Policy NE16 will be effective.</p>	
	<p>6.9 It also noted that the policy relies on residential development to mitigate the nutrient impact of new development. The rationale for this is to avoid double counting of the nutrients with other types of development such as commercial and retail. This is not considered a sound approach as places an unnecessary and disproportionate burden on residential development. A more equitable approach would be to require nutrient mitigation across all forms of development and across all sectors.</p>	<p>Comments Noted. This is currently the approach that has been adopted by Natural England and if the guidance on nutrient neutrality changes, the policy will be updated accordingly.</p> <p><b>Recommended Response:</b> No Change</p>

**Comments which object to NE16 - nutrient neutrality water quality effects on the special protection areas (SPAs), special areas of conservation (SACs) and ramsar sites of the Solent and the River Itchen**



Respondent number	Comment	Officer comment
ANON-KSAR-NK9A-4	<p>The huge impact from rural additions to nutrient loading of the Solent are overlooked.</p> <p>Package plants and septic tank systems put a huge N and P load into local ground, ditches and streams. This heavy sewage pollution contributes to organic loading throughout the river catchment.</p> <p>Rural development and the suitability of new private sewage systems, and whether these are fit for purpose due to the propensity for misuse, needs to be addressed urgently.</p>	<p>Comments Noted. The Council is well aware of the nutrient impact on the Solent and is working closely with PfSH and on its own Waste Water Treatment Plants to ensure that this important issue is addressed.</p> <p><b>Recommended Response:</b> No Change</p>
ANON-KSAR-NKZ5-S	<p>7.115 Amend. Last sentence to read: 'The inclusion of a policy has been supported by Natural England and is the approach to be followed.</p> <p>If preferred is used it suggests there might be alternatives?</p> <p>Clarity on the governance/regulating/monitoring mechanisms to ensure the allocating of land for nutrient mitigation is robust and not open to abuse.</p> <p>Importantly and ideally all developments should not have a pathway to pollute the environment in the face of the twin climate and nutrient crises.</p>	<p>Comments Noted. Officers from PfSH have been working with Natural England on identifying solutions. Natural England have not made any suggested changes to the wording of Policy NE16. By stating 'preferred approach' it allows more flexibility if a more suitable and effective approach becomes available.</p> <p><b>Recommended Response:</b> No Change</p>
ANON-KSAR-NKZX-V	<p>The issues arising from nutrient neutrality is essentially a matter arising from new residential development, as set out at paragraph 7.114 of the Local Plan. However, the policy wording under NE16(ii) seeks to apply this to all development and is therefore inconsistent.</p> <p>It is therefore recommended that the Policy NE16(ii) be amended to explicitly refer to residential development for the avoidance of doubt.</p>	<p>Comments Noted. LPAs acting as the competent authority should first consider whether an application is for a development type covered by nutrient neutrality. Where a screened-in development type may give rise to additional nutrients within an affected catchment, either because the development is within an affected</p>

		<p>catchment boundary, or it drains into an affected catchment, it will be necessary to undertake a habitats regulations assessment (HRA), as per Natural England's advice. In order to avoid any misunderstanding, the word residential has been removed from paragraph 7.114.</p> <p><b>Recommended Response:</b> the word residential has been replaced by <b>overnight</b> in paragraph 7.114.</p>
<p>ANON-KSAR-NKJV-A</p>	<p>The Government aims to address nutrient neutrality through the Levelling Up and Regeneration Bill (LURB), to require wastewater treatment works to be upgraded to the highest technically achievable limits. Policy wording and supporting text should include reference to the Levelling Up and Regeneration Bill (LURB Bill), which will supersede the requirement for individual schemes to demonstrate nutrient neutrality from 2030.</p> <p>Many of the larger brownfield sites which the Council is seeking to prioritise delivery of are affected by nutrient neutrality issues, including both nitrates and phosphates. Such sites are less likely to be able to easily achieve nutrient neutrality, particularly in light of the 2030 date for upgrading of wastewater treatment plants. Consideration should be therefore given to a more balanced approach to the location of development which allows greenfield sites which are less constrained by nutrient neutrality issues to come forward prior to 2030, for example at Land at Mill Lane, Wickham.</p>	<p>Comments Noted. It is unclear whether this element will now be retained as part of the retained EU Law. Therefore any changes will be monitored and incorporated into the policy if and when these changes take place. The Council in accordance with Government Guidance is trying to prioritise previously developed land. The development strategy is based on feedback from the Strategic Issues and Priorities consultation.</p> <p><b>Recommended Response:</b> No Change</p>

<p>ANON-KSAR-N81U-W</p>	<p>NE16 (Nutrient Neutrality) – The Development Strategy and Site Selection (2022) (paper) contains the statement, ‘This raises considerable uncertainty for the Local Plan and the timing and deliverability of future development in the affected area. The area affected by this issue is a significant part of the Plan area and contains many of the most sustainable settlements (and approximately 2/3 of the further development allocations envisaged for the emerging Plan). Therefore, the Council is currently following an approach which is consistent with national policy and is seeking to determine if the constraint of phosphates can be overcome before ruling options out’.</p> <p>In light of this statement, the current uncertainty around this matter, the Councils emerging policy position on nutrient neutrality as set out in Policy NE16, and the Council’s reliance on early housing delivery within the plan period, the Council should be planning for reserve housing sites to cover the eventuality that a realistic solution to the ongoing nutrient neutrality issue is not reached until later in the plan period and there will be an associated need to ‘catch up’ on housing delivery in the District.</p>	<p>Comments Noted. The Local Plan has already taken account of windfall sites. There is not a requirement for reserve sites.</p> <p><b>Recommended Response:</b> No Change</p>
<p>ANON-KSAR-N819-1</p>	<p>7.115 Amend. Last sentence to read: ‘The inclusion of a policy has been supported by Natural England and is the approach to be followed.’</p> <p>If the word ‘preferred’ is used it suggests there might be alternatives? What are they?</p> <p>This Policy needs more clarity on the governance/regulating/monitoring mechanisms to ensure the allocating of land for nutrient mitigation is robust and not open to abuse. Importantly and ideally all developments should not have a pathway to pollute the environment in the face of the twin climate and nutrient crises.</p>	<p>Comments Noted. Natural England have supported the policy. By stating ‘preferred approach’ allows more flexibility if a more suitable and effective approach becomes available.</p> <p><b>Recommended Response:</b> No Change</p>

	If a development is nutrient neutral at inception, how is it maintained to be nutrient neutral?	
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	Recommendations	Officer response
Comments from SA	Policy NE16 could include specific support for mitigation schemes that would help to address flood risk and promote biodiversity and habitat connectivity in the locality.	Policy NE16 now includes support for developments proposals for mitigation schemes that make a positive contribution to the Local Nature Recovery Network.
Comments from HRA		

### Supporting Text

7.110. The need for development to be 'nutrient neutral' (this term includes both nitrogen and phosphates) so as not to exacerbate the problem of nutrient enrichment in sensitive habitats is an important issue in the district and the wider South Hampshire area around the Solent. There is a need to plan for ways in which we can deliver the growth we need in our district in a way which is 'nutrient neutral'.

7.111. There is a need to strategically address the impact of nutrients from new development on the River Itchen SAC and Solent marine designated sites, which are currently showing levels of eutrophication with consequential effects on protected species and habitats.

7.112. The Local Plan may be able to help by allocating land for use in mitigation which could include planting woodland or creating wetland habitat in appropriate locations.

7.113. The council received new guidance from Natural England which will affect the way that the council has to assess new proposals across the whole district in terms of calculating the impact caused by the wastewater they produce. The Local Plan needs to reflect this guidance in its policies and strategic development proposals.

7.114. The council already needs to consider the impacts of nitrogen on the Solent SAC which covers more sites in the south of the district. The issues with phosphorus draining into the catchment for the River Itchen covers a significant part of the district including areas to the north and east of Winchester and Natural England advises that phosphorus and nitrogen are causing adverse

environmental effects on the quality of the river which is a Special Area for Conservation (SAC). This is a very significant change in guidance and will mean that the council will only be able to grant planning permission for new residential overnight development, which potentially affects this catchment area, where the phosphate as well as the nitrogen impact are neutral or can be appropriately addressed through offsetting.

7.115. Nutrient neutrality is mandatory and there is no other policy approach that could be recommended other than no policy and rely on the Environment Act and Natural England in the discharge of their statutory duties. The inclusion of a policy has been supported by Natural England and so is considered to be the preferred approach.

#### Amendments to policy

- i. Planning permission will only be granted where the integrity of nationally protected sites is not adversely affected by new development. When making planning decisions which may affect these sites the requirements of the Habitat Regulations will be met including the carrying out appropriate assessments.
- ii. When assessing applications for development the impacts of increased nutrients from these sites will be considered. Permission will be granted only where effects can either be excluded or, if that is not possible, mitigation by nutrient neutrality is achieved following the guidance provided by Natural England thereby avoiding any adverse impact upon the quality of the water environment of the sites.
- iii. Development proposals for mitigation schemes such as tree planting or wetlands will be supported where they are located in appropriate areas in relation to the development they are to serve, **make a positive contribution to the Local Nature Recovery Network**, and the nature of the mitigation would not have adverse impacts on the character, function and appearance of the area in which they are to be located.