



**West
Northamptonshire
Council**

Upper Nene Valley Gravel Pits Special Protection Area Supplementary Planning Document Addendum to the Upper Nene Valley Gravel Pits SPA SPD: Mitigation Strategy



May 2021

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Document Version Control

Author: Amanda Jacobs (Senior Planning Policy Officer)
 Type of document: Planning Policy Document
 Version Number: V0.1
 Document File Name: MSNA for Unit 1
 Issue date: XX
 Approval date and by who (CMT / committee): XX
 Document held by (name/section): Place and Growth Directorate
 For internal publication only or external also?: External
 Document stored on Council website or Intranet?: Yes
 Next review date: 2022

Change History

Issue	Date	Comments

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
e.g. Wendy Rousell, Development Management, Assets, Ecology	e.g. Natural England, Wildlife Trust

Distribution List

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners / Organisation(s)

Links to other documents

Document	Link
Upper Nene Valley Gravel Pits SPA Supplementary Planning Document	
West Northamptonshire Joint Core Strategy	
Submitted Northampton Local Plan Part 2	

Document	Link
Northamptonshire Biodiversity Supplementary Planning Document	

Additional Comments to note

Make any additional comments as might be relevant here

Contents

Section		Page
1	Purpose	
2	Background	
3	Regulations	
4	Implications and contribution to Access Management	
5	Process	
6	Payment mechanisms	
7	Governance	
8	Conclusions	
Appendix 1		
Appendix 2		
Appendix 3		
Appendix 4		
Appendix 5		
Appendix 6	West Northamptonshire Mitigation Strategy Needs Assessment (MSNA) for Northampton LPP2	

This addendum (to the Upper Nene Valley Gravel Pits Special Protection Area SPD) applies to the council area of West Northamptonshire. This authority has the potential for residential sites to be located within the 3km buffer zone of the SPA, which is detailed further below.

Purpose

1. Local Planning Authorities have a duty as competent authorities under the Conservation of Habitats and Species Regulations 2017 (as amended) (known as the Habitats Regulations) to ensure that planning application decisions comply with the Habitats Regulations.
2. SPAs are protected in UK law by the Habitats Regulations and development proposals must not give rise to adverse effects on the integrity of the SPA, either alone or in combination with other plans and project, and if they are likely to, measures must be secured to remove this impact, otherwise the Competent Authority is obliged to refuse permission.
3. The Upper Nene Valley Gravel Pits Special Protection Area (SPA) was designated in April 2011 under the regulations due to its number and type of bird species present. The West Northamptonshire Joint Core Strategy 2011 – 2029 (Local Plan Part 1) Policy BN4 sets out that new development will need to demonstrate through the development management process that there will be no significant adverse effects upon the integrity of the Upper Nene Valley Gravel Pits SPA and Ramsar Site. If Habitats Regulations are not met and impacts not mitigated, then development must not be permitted. A map of the Upper Nene Valley Gravel Pits SPA can be found at Appendix 1. Unit 1 of the Upper Nene Valley Gravel Pits SPA (Clifford Hills Gravel Pits) is situated within the boundary of West Northamptonshire.
4. As of the 1 April 2021 Daventry District, Northampton Borough and South Northamptonshire Councils constitute the larger unitary authority of West Northamptonshire. Daventry and South Northamptonshire have adopted their respective Local Plans Part 2. The Northampton Local Plan Part 2 (LPP2) has been submitted to and is going through the process of examination by the Secretary of State.
5. The Northampton LPP2 has been informed by a Habitats Regulations Assessment which states (at paragraph 5.79) that In line with the findings of the visitor access study above and the 3km consultation zone defined by the SPD for all applications involving a net gain in residential units, it is judged that all residential development within 3km of Upper Nene Valley Gravel Pits SPA and Ramsar site would be likely to contribute to an in-combination recreational disturbance effect on the European site. Appendix 2 shows the

Upper Nene Valley Gravel Pits SPA and the 3km recreation pressure catchment, with the proposed allocated sites contained within the LPP2.

6. The 'in-combination' impact of proposals involving a net increase of one or more dwellings within a 3km radius of the SPA are concluded to have an adverse effect on the SPA's integrity unless avoidance and mitigation measures are in place. This is through an increase in visitors that will in turn increase the level of disturbance to the wintering waterbirds, particularly through dog walking.
7. For residential developments which result in a net increase in the number of dwellings within 3km of the SPA it is proposed to avoid and mitigate likely adverse effects on the SPA by making a financial contribution towards Strategic Access Management and Monitoring (SAMM) and/or other suitable mitigation. This would reduce the adverse impact of people visiting the SPA through specific measures and monitoring.
8. This section of the SPD sets out the mitigation costs for residential developments that fall within the 3km catchment. For most development, the contribution to mitigation will remove the adverse impact on the integrity of the SPA. Alternatively applicants can undertake their own project level Appropriate Assessment and fulfil the mitigation that is required through the assessment.
9. Sites that already have planning permission will not be required to pay any additional mitigation sum, unless they are resubmitted for consideration. Due to its size the proposed allocation (LAA1098) The Green, Great Houghton is expected to provide its own Suitable Alternative Natural Greenspace (SANG) and is therefore not considered to fall in the remit of this mitigation strategy, however if suitable space is not provided within that development, this will need to be reassessed. Other large scale developments, that have the scope to deliver SANGs, are unlikely to be required to meet the standard contribution as a bespoke project level HRA will be required and the mitigation identified in that assessment will need to be delivered.

Background

10. Local Planning Authorities have a duty as competent authorities under the Conservation of Habitats and Species Regulations 2017 (as amended) (known as the Habitats Regulations) to ensure that planning application decisions comply with the Habitats Regulations.
11. An assessment of need was undertaken to understand the impacts of recreational use in Unit 1 of the SPA; this can be found in Appendix 6. This primarily used data collected by Footprint Ecology in their Visitor Access Study

of Nene Valley (2014)¹. This demonstrates that the number of dog walkers visiting the area is high and that further development will increase pressure at Unit 1.

12. The required mitigation includes access management such as screens and fencing as well as directing walkers to less sensitive areas, alongside wardening and monitoring to minimise or address the adverse effects of people visiting the SPA.
13. Tables 3 and 4 in Appendix 6² demonstrate that wardening and off-lead exercise areas are both necessary for successful mitigation of visitor impacts to the SPA. Both are very high-cost measures over the life of the LPP2. Including them now would render new development unviable and would cause it to pay for existing effects on the SPA's qualifying features. This Mitigation Strategy has instead included an appropriate but representative proportion of the total measures required. Strategic Access Management and Monitoring (SAMM) costs have been apportioned by distributing the costs evenly across the anticipated residential development within 3km of the SPA within the Proposed Submission Northampton LPP2 plan period. This cost has been assumed in the Viability Study that was produced to help inform the LPP2 and is considered to be viable.

Regulations

14. The Strategic Access Management and Monitoring (SAMM) contributions are a specific SPA mitigation measure. They are sought for the management of access to the SPA and can be secured through Section 106 obligations. This approach is consistent with the views of other local authorities across the country in dealing with mitigation requirements for other SPAs and has been accepted by inspectors at appeal.
15. The National Planning Practice Guidance [Paragraph: 020 Reference ID: 23b-020-20160519 of the national Planning Practice Guidance] also confirms that local planning authorities may seek planning contributions for sites of less than 10 dwellings to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of regulatory or EU Directive requirements. **This guidance no longer exists in PPG but we should be able to collect from sites of under 10 through S111.**
16. The SAMM contribution is a legal obligation to mitigate against effects on a European site. By following the process set out in this SPD it will be quicker and more efficient for applicants than the requirement to undertake a project

¹ Footprint Ecology: Visitor Access Study of the Upper Nene Valley Gravel Pits SPA - <https://www.footprint-ecology.co.uk/work/reports-and-publications>

² Appendix 6 is the West Northamptonshire Mitigation Strategy Needs Assessment and is a separate document

level Habitats Regulation Assessment (HRA) for any residential development applications, which may lead to higher mitigation costs.

17. Appendix 3 demonstrates compliance with the three legal tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010, Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 and Paragraph 56 of the National Planning Policy Framework 2019.
18. Where developments result in the need for specific new infrastructure in addition to the SAMM contribution to mitigate impacts on the SPA, contributions will be negotiated on a case by case basis in dialogue with Natural England and the Local Authority, and will need to meet the relevant regulations. This would include items such as Suitable Alternative Natural Greenspaces (SANGs). Such infrastructure would not be sought from sites of less than 10 dwellings.
19. The Conservation of Habitats and Species Regulations 2017 provides the legal framework of how on how an authority can consider whether any adverse effects on the integrity of a European site could be overcome by planning obligations under Section 106 of the Town and Country Planning Act 1990 (planning obligations). **Taken from 72 (1) (a)**

Implications and Contribution to Access Management

20. The contributions figure detailed below was arrived at through the needs assessment work that costed out the required works, mainly screening and fencing alongside the use of a warden to guide and educate dog walkers in the sensitive locations of the Nene Valley. Monitoring is an important part of access management to ensure that the schedule of works are completed in a timely manner, identify any significant changes in access which could require alterations to management works, and investigate how disturbance affects the birds to inform future management. These works are required over the lifetime of the Northampton Local Plan Part 2 to 2029.

Developments of 9 or fewer

21. Any new residential development within 3km of the Upper Nene Valley Gravel Pits SPA will have a recreational impact and therefore must be mitigated. The calculated contributions are for each new dwelling to contribute a set figure of £204.63. This will be index linked, with a base date of 2021. This will be reviewed periodically.
22. Making this contribution will remove the need for developments to undertake project level Appropriate Assessment and speed up the process of approval from Natural England. This would in turn, speed up the determination of these minor applications.

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

Developments of 10 or more

24. Where a development will create 10 or more net additional dwellings it is advised that early dialogue with Natural England should take place. Natural England will then advise the Local Planning Authority if mitigation may be dealt with through a fixed contribution of £204.63 per dwelling (indexed linked, with a base date of 2021) and/or bespoke mitigation. Further mitigation will be in exceptional circumstances and where Natural England advise. If a bespoke process is required then a project level Appropriate Assessment will be required.

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

Permitted Development Rights

Needs updating to reflect all PD changes.

26. The General Permitted Development Order (GPDO) allows for the change of use of some buildings and land to Class C3 (dwelling houses), with this development subject to prior approval process. New Permitted Development Rights were introduced in 31 August 2020 that significantly extend the scope of new development which can be carried out without permission. This includes allowing the demolition and rebuilding of "vacant and redundant" office and light industrial buildings into dwellings as well as the ability to extend upwards by up to two storeys on existing postwar-built homes, with rights to be extended to create new homes above terraces, offices and shops.

27. The Habitats Regulations also apply to such developments and the Council is obliged by the regulations to assume that there will be an in-combination significant effect on the SPA.

28. Any development for prior approval should also be accompanied by an application for the council to complete a Habitats Regulations Assessment of the proposed development (please note there will be a charge for this). The development will need to include a mitigation package to remove the

significant effect on the SPA which new residential development would otherwise result in.

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

Examples of different levels of contribution

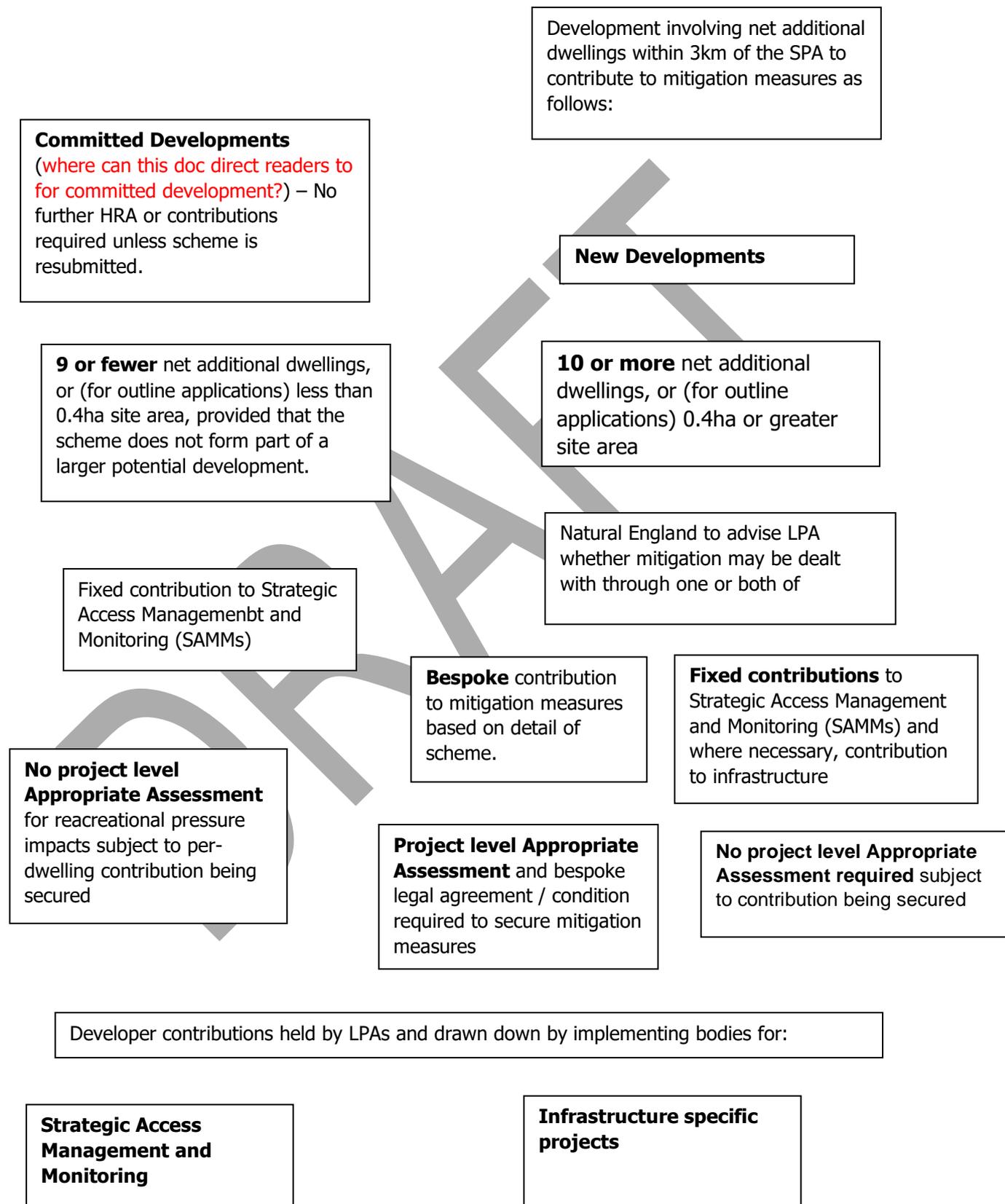
Development of 11 units within the 3km buffer – $11 \times £204.63 =$ contribution of £2,250.93 for SAMMs.

Development of 24 units within the 3km buffer - $24 \times £204.63 =$ contribution of £4,911.12 for SAMMs

Development of 400 units within the 3km buffer – $400 \times £204.63 =$ contribution of £81,852 for SAMMs.

Process

The following flow chart sets out how the process will work.



Payment mechanisms

30. If using a planning obligation, on commencement of development the contributions to SAMP will be required as per the legal agreement. It is important that the contribution towards SAMP is made on commencement to ensure the mitigation is in place ahead of any significant effect on the SPA. For dwellings of 9 or less and the s111 mechanism has been followed as in paragraph 26 a form should be completed with payment at the application stage.

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

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

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

Governance

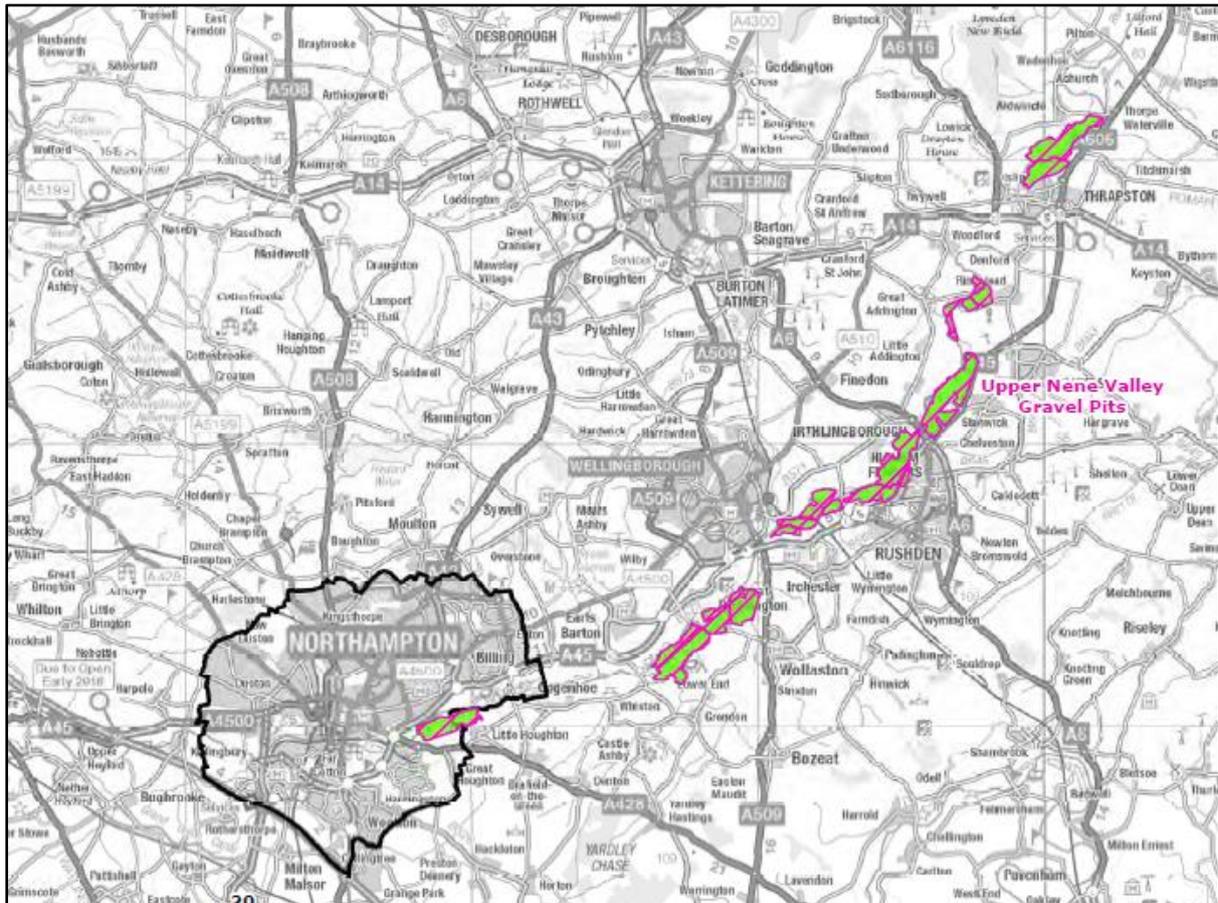
32. The Local Authority will hold the developer contributions and this will be paid to third party providers to undertake the physical work required or to undertake the wardening. One of the partners will be the local Wildlife Trust who also own or manage a number of sites along the Nene Valley.

Conclusion

33. The above contributions are necessary to enable the proposed development to satisfy policy, guidance and the Habitats Regulations. Failure to mitigate the impacts on the SPA will result in an approval of the application being unlawful and contrary to Policy 30 of the Proposed Northampton LPP2.

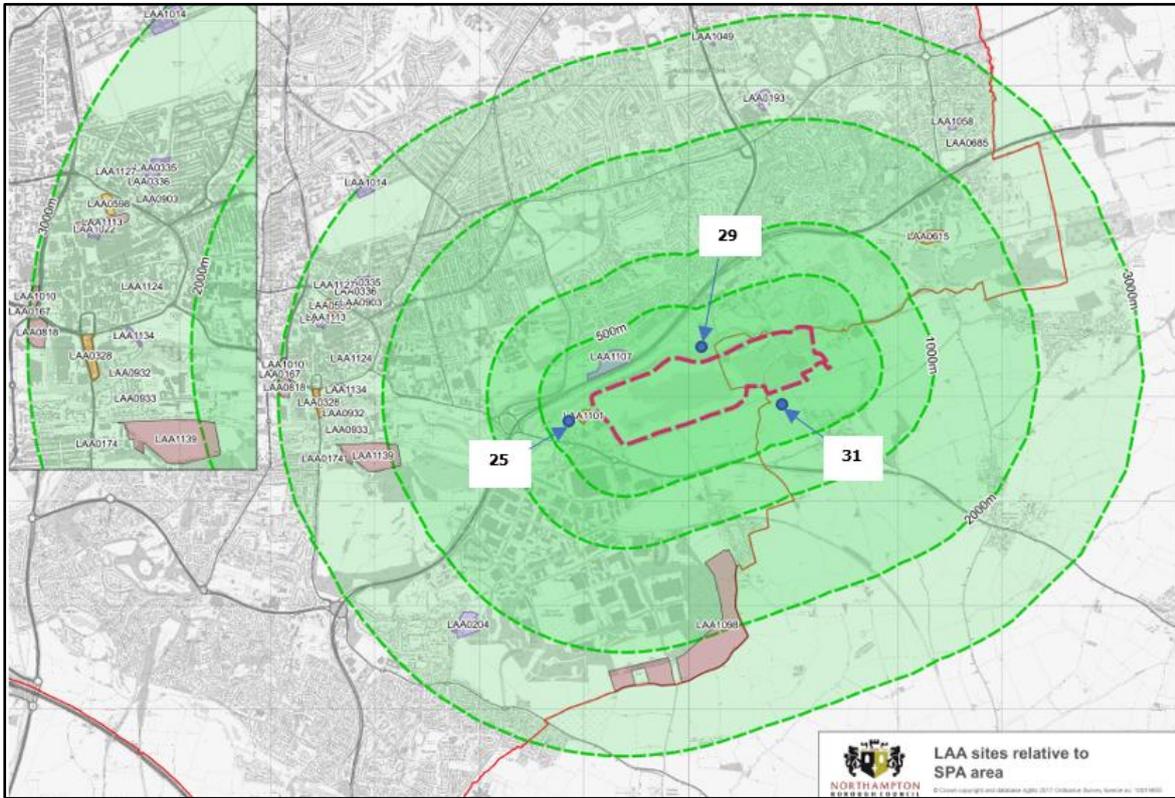
34. This approach to SPA mitigation has been fully endorsed by Natural England.

Appendix 1 – Map of Upper Nene Valley Gravel Pits Special Protection Area



Source: Northampton Local Plan Part 2 Habitats Regulations Assessment – June 2020 (LUC)

Appendix 2 – Proposed allocations within the Northampton LPP2 shown in 250m, 500m, 1km, 2km and 3km buffer zones with car park / survey locations / access to the SPA in blue



Source: WNC Mapping

Appendix 3 –

Compliance with the three legal tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010, Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 and Paragraph 56 of the National Planning Policy Framework 2019.

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

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

Local Planning Authorities have the duty as competent authorities under the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) to ensure that planning application decisions comply with the Habitats Regulations.

As identified within the Habitats Regulations Assessment produced to inform the production of the Council's Proposed Submission Local Plan Part 2 (LPP2), and detailed within policy 30 of the proposed LPP2, it states that all new residential development within 3km of the SPA will result in a significant effect on the SPA. The 'in-combination' impact of proposals involving a net increase of one or more dwellings within a 3km radius of the SPA are concluded to have an adverse effect on its integrity unless avoidance and mitigation measures are in place. This is through an increase in visitors that will in turn increase the level of disturbance to the wintering waterbirds.

2. Directly related to the development.

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

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

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

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

The measures put forward represent the lowest cost set of options available which will be both deliverable and effective in mitigating the anticipated increase in recreational pressure from new development. The costs are apportioned between all

development across the identified area and this will mitigate the impacts across the SPA. Wardening costs need to be spread across a wide area to achieve economies of scale and a manageable area to cover. They would not be able to warden one parcel, this would increase, significantly, the costs involved.

Wardening and off-lead exercise areas are both necessary for successful mitigation of visitor impacts to the SPA. Both are very high-cost measures: the cost of 1 FTE warden alone would be £370,300 over the life of the Northampton Local Plan Part 2. Including 1 FTE warden would therefore render new development unviable and would cause it to pay for existing effects on the SPA's qualifying features. The mitigation strategy must instead include an appropriate but representative proportion of the total wardening measures required, in this instance one 0.25FTE warden at £92,575.00 over the lifetime of the plan.

Strategic Access Management and Monitoring (SAMM) costs have then been apportioned by distributing the costs evenly across the anticipated development within 3km of the SPA within the plan period. This has been calculated as a cost of £204.63 for each new dwelling. This contribution is therefore a proportionate cost dependent on the scale of development proposed and it is therefore fairly and reasonably related in scale and kind to the development.

Appendix 4 –Planning Obligation Wording

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

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

*1.1 The Strategic Access Management and Monitoring contribution in the sum of [] pounds and [] pence (£) for use by the Council for providing strategic access management and monitoring arrangements in relation to the Upper Nene Valley Gravel Pits Special Protection Area to mitigate any adverse significant effect arising from the development. This is in accordance with the **Northampton Local Plan Part 2 Policy 30** and the Special Protection Area Supplementary Planning Document.*

Appendix 5 – S111 Template

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

Habitats Mitigation Contribution Agreement³ **DRAFT**

To the Planning Manager,
West Northamptonshire Council

Application Reference Number:

Address of Planning Application:

I am contributing a sum of £..... towards the cost of measures to mitigate the impact of the proposed residential development at the above address on the Nene Valley Special Protection Area (SPA)⁴ – known as the 'Strategic Access Management and Monitoring contribution'.

I hereby acknowledge and agree that:

- a) The Strategic Access Management and Monitoring contribution has been paid to Borough Council of Wellingborough/East Northamptonshire Council as a contribution towards mitigation of the effect of the proposed development on the Nene Valley SPA as set out in North Northamptonshire Joint Core Strategy (2016) Policy 4;
- b) No refund of this habitats mitigation contribution will be made unless the application does not receive approval or is later withdrawn.
- c) *In respect of any refund (including where an application is withdrawn) I further acknowledge that:*
 - *A request for a refund will be made to the Local Planning Authority in writing;*
 - *The total amount refunded will be the sum of the original habitats mitigation contribution payment less an administration fee of £50;*
 - *No interest will accrue to be refunded; and,*
 - *No refund will be made until the period for appeal has passed or an appeal has been dismissed or six months has elapsed since the date of withdrawal.*

Signature of applicant/agent:

Date:

³ A signed copy of this form and a direct payment by cheque must accompany the relevant application as a contribution towards mitigation of the effect of proposed development on the Nene Valley SPA.

⁴ This amount must be the sum of £292.12 for each dwelling to be developed.

Full name of applicant/agent:

West Northamptonshire Council

Signed:

West Northamptonshire Council Planning Manager

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

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Definitions:

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

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

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

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Appendix 6 – West Northamptonshire Mitigation Strategy Needs Assessment

<< SEPARATE DOCUMENT >>

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