

WEST NORTHAMPTONSHIRE COUNCIL

PLANNING POLICY COMMITTEE

16 MARCH 2022

**COUNCILLOR RESPONSIBLE FOR PLANNING, BUILT ENVIRONMENT AND
RURAL AFFAIRS – COUNCILLOR REBECCA BREESE**

Report Title	Upper Nene Valley Gravel Pits Special Protection Area Mitigation Strategy
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List of Appendices

Appendix A – Upper Nene Valley Gravel Pits Special Protection Area (“SPA”) Supplementary Planning Document (“SPD”) - Addendum to the Upper Nene Valley Gravel Pits SPA SPD: Mitigation Strategy: Summary of responses received and Council’s suggested Response and Action.

1. Purpose of Report

- 1.1. The purpose of this report is to ask members to consider the responses on the draft mitigation strategy (“MS”) for the West Northamptonshire Upper Nene Valley Gravel Pits (“UNVGP”) Special Protection Area (“SPA”) and, subject to the suggested actions set out in appendix A being made, endorse the adoption of the MS.

2. Executive Summary

- 2.1 Special protection areas (“SPAs”) are protected in UK law by the Conservation of Habitats and Species Regulations 2017 (known as the habitats regulations) and development proposals must not give rise to adverse effects on the integrity of SPAs. If they are likely to, measures must be secured to avoid or mitigate this impact, otherwise the competent authority is obliged to refuse permission in the absence of satisfying exacting derogation tests (see 5.2 below).
- 2.2 The UNVGP SPA was designated in 2011 by the habitats regulations due to its number and type of bird species present, including golden plover and lapwing¹.
- 2.3 The SPA is split into nine Units with Unit 1 (Clifford Hills Gravel Pits) situated within the boundary of West Northamptonshire. Units 2 to 9 are situated in North Northamptonshire where an MS is already in place (adopted in 2016) to protect units 2 to 9 from recreational impact resulting from housing growth.
- 2.4 This report summarises the process which has been followed to produce the MS for unit 1 of the UNVGP SPA and the responses to the public consultation. Appendix A contains suggested amendments to the MS ahead of its adoption.

3. Recommendations

- 3.1 It is recommended that the Planning Policy Committee:
- a) Notes the responses to the public consultation on the mitigation strategy;
 - b) Accepts the recommended modifications to the mitigation strategy set out in ‘suggested actions’ in appendix A;
 - c) Approves the adoption of the mitigation strategy, modified in accordance with recommendation (b) above, as an addendum to the UNVGP SPA supplementary planning document; and
 - d) Agrees that delegated authority be given to the Interim Head of Planning and Climate Change Policy to make further minor editorial changes to the mitigation strategy to address any factual and typographical errors and to reflect the fact that the document will be in its intended final form.

¹ Full details of bird species can be found here: <https://www.northampton.gov.uk/downloads/file/10814/20150801-spa-spd>

4. Reason for Recommendations

- 4.1 The MS has been produced so that West Northamptonshire Council can protect unit 1 of the SPA from adverse impact from recreational pressure resulting from proposed and windfall housing growth within 3km of unit 1 the SPA.
- 4.2 Protection of the SPA and its qualifying features will not only meet the requirements of the habitats regulations but also help protect the SPA now and in the future so that protected bird species can remain present, and it can be enjoyed by residents and visitors. Adoption of the MS would align with the council's green and clean, environment and wellbeing priority within its Corporate Plan.
- 4.3 Its adoption will allow it to be a material consideration in the determination of planning applications.

5. Report Background

Regulations

- 5.1 Local planning authorities have a duty as competent authorities under the habitats regulations to ensure that planning application decisions comply with those regulations.
- 5.2 Development proposals must not give rise to adverse effects on the integrity of the SPA, either alone or in combination with other plans and projects, and if they are likely to, measures must be secured to avoid or mitigate this impact, otherwise the competent authority is obliged to refuse permission in the absence of satisfying exacting derogation tests (the work cannot go ahead or the plan cannot be adopted unless it can pass 3 legal tests and be granted an exception, known as 'derogation'²).

Preparation of the draft UNVGP SPA Mitigation Strategy (for unit 1)

- 5.3 A draft MS was prepared for unit 1 of the SPA which sets out details of measures required to mitigate recreational pressure resulting from residential development allocated within the submitted Northampton Local Plan Part 2 ("LPP2") and any windfall development in West Northamptonshire. The cost of the mitigation measures over the South Northamptonshire and Northampton plan periods is £605,457.83. The MS outlines Strategic Access Management and Monitoring ("SAMM") contributions required to be paid per net additional dwelling within 3km of unit 1 the SPA. The fixed SAMM contribution to be made by each net additional dwelling is £395.34 which will pay for measures to ensure protection of the SPA from recreational pressures.
- 5.4 The mitigation measures to be delivered over the South Northamptonshire and Northampton plan periods to 2029 are:
 - **Suitable Alternative Natural Greenspace (SANG)** to be provided in association with The Green, Great Houghton, which is a proposed allocation in the Northampton LPP2

² <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

- **Interpretation panels and access management** to provide residents and visitors with information about the sensitivity of the SPA and of nearby alternative walking/dog walking routes. Strategic fencing is also expected to be placed at appropriate locations around unit 1
 - **Improvements to identified existing greenspaces** to encourage visitors with dogs to use these less-sensitive areas
 - **Wardens** to help mitigate visitor impacts on unit 1 of the SPA. Their role will be to help educate visitors on the importance of the SPA and the reasons why visitors and dogs must stay on-lead and to access paths. It is expected that wardens will also participate in year-round engagement activities alongside partners who are working to protect the SPA
- 5.5 The mitigation strategy also allows for ongoing monitoring of the measures to ensure they are suitable and to see if further measures are required. A full breakdown of the costs associated with the mitigation measures are contained within the mitigation strategy.
- 5.6 The draft MS was shared with statutory consultees ahead of the formal consultation period and a steering group was formed to identify the measures contained within the MS. The group consisted of statutory consultees, local landowners and bird specialists.

Summary of responses

- 5.7 The draft MS was subject to a public consultation from 13 December 2021 to 7 February 2022. Seven (7) responses were received which are detailed in appendix A.
- 5.8 Following the close of the consultation, responses were analysed, and modifications are now proposed to the MS prior to its adoption as an addendum to the UNVGP SPA supplementary planning document (SPD). The proposed modifications are contained within appendix A to this report.
- 5.9 Hackleton Parish Council noted that their boundary just about touches the 3km buffer zone and that they were supportive of the purpose and conclusion of the document.
- 5.10 Historic England noted that the mitigation strategy makes no reference to the historic environment but understood that it related only to mitigation against habitat loss in line with the habitats regulations. However, it recommended that when providing measures (as set out in in the MS) such as information panels, that they be informed by an understanding of the historic landscape in which the SPA sits. This would both enhance and enrich the visitor experience.
- 5.11 National Highways noted that Unit 1 of the SPA is situated next to the A45. They do not have any specific comment at this time, but flag that if construction traffic is generated due to implementing measures, the impact on the strategic road network may need to be assessed.
- 5.12 Chadwick Town Planning provided a response relating to the calculation of the SAMM fee. They noted that the fee was incorrect due to the monitoring / funding officer figure being based on a 0.5 full time equivalent role rather than a 0.25 full time equivalent role. They also required clarification on whether the monitoring/funding officer role would be resourced in whole or part by the local authority.

- 5.13 David Lock Associates (“DLA”) supported the MS but required clarification on the conclusions of the Habitats Regulations Assessment for the respective Northampton and South Northamptonshire LPP2s.
- 5.14 The DLA response also referenced the requirements of the (proposed to be amended) emerging Northampton LPP2’s proposed allocation at The Green, Great Houghton (LAA1098). They noted that the mitigation strategy acknowledges that a Suitable Alternative Natural Greenspace (SANG) will be provided as a part of this development, providing its own bespoke mitigation against recreational pressure resulting from this development on the SPA. As a result, The Green, Great Houghton would be exempt from paying a SAMM fee. However, should the SANG not come forward as a part of this development then a SAMM fee would be payable.
- 5.15 The Environment Agency’s response highlighted that unit 1 of the UNVGP SPA is a flood storage reservoir and that any works requiring fencing or similar would require a Flood Risk Activity Permit. Their response set out where to find more details and who to contact in relation to this.
- 5.16 Natural England (“NE”) provided a response related to the MS for unit 1 and to the joint work that is ongoing between West and North Northamptonshire Councils (not the subject of this report). Comments from NE required the MS to reference the mitigation hierarchy, make clear that it deals only with recreational pressure (and not other potential impacts on the SPA), provides clarity on when applicants need to liaise with NE on SAMM contributions and/or bespoke mitigation, and be consistent with the policies contained within the emerging Northampton LPP2.
- 5.17 Overall, respondents were supportive of the purpose of the mitigation strategy. However, the responses raised a number of points where the MS needed to be clarified and/or be strengthened so that guidance for applicants and decision makers was clearer. In response, suggested modifications to the draft MS are contained in appendix A to this report.

6. Issues and Choices

- 6.1 By adopting the UNVGP SPA MS as proposed to be modified, this will enable the council to carry out its function as competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended).
- 6.2 If the council decides not to adopt the MS (as proposed to be modified), the council would not be able to mitigate against the impacts of residential growth within 3km of unit 1 of the SPA. The effect of this would be that the council would have to refuse planning permission for residential development that would cause significant harm through adverse recreational impacts on the SPA.
- 6.3 It is a requirement of Natural England and the Habitats Regulations that development does not adversely impact the SPA and the MS needs to be in place before the adoption of the Northampton LPP2 to allow for development contained within it to be mitigated.

- 6.4 If the MS were not adopted, this will have direct implications for the adoption of the Northampton LPP2. The Inspector's post hearing note ([Exam 40](#)) sets out that it is 'necessary to have the adopted SPD in place prior to the MMs (main modifications) being finalised and consulted upon, as it is likely to have a bearing on the wording necessary to make the relevant parts of the plan legally compliant and sound'.
- 6.5 Additionally, any windfall development within West Northamptonshire, and within 3km of unit 1 of the SPA, would need to be refused if it cannot mitigate against recreational pressure.
- 6.6 As such it would be appropriate to agree to the proposed modifications to the MS and to adopt the MS as an addendum to the UNVGP SPA SPD for West Northamptonshire to allow for residential growth to be mitigated through SAMM contributions and/or bespoke measures.

7. Implications (including financial implications)

7.1 Resources and Financial

- The MS sets out a SAMM contribution to be paid per net additional dwelling that is created within 3km of unit 1 of the SPA. This contribution has been reached through identifying the costs of mitigation measures, including both revenue and capital costs. The measures set out in the draft MS will be funded by developers and will not be a burden on the public purse.
- The mechanism for payment of the SAMM contribution will be through either:
 - A planning obligation under Section 106 of the Town and Country Planning Act 1990; or
 - A contribution through Section 111 of the Local Government Act 1972
- There will be revenue costs associated with resourcing staff. This will need to be considered within any future staffing decisions so that the administering, collection and distribution of funds and the implementation of measures is taken account of. Currently it is envisaged that these measures would form part of a role(s). Assumed oncosts, travel and equipment costs have been included in calculations.
- There will be capital costs associated with the mitigation measures, including installation of interpretation panels, potential fencing and possible works to nearby green spaces. These would also incur capital costs of maintenance over time.
- The revenue and capital costs will be wholly funded through the SAMM contributions and therefore there will be no direct impact on the council's finances.

7.2 Legal

- The council has a specific duty, as competent authority, under the Conservation of Habitats and Species Regulations 2017 (as amended) to mitigate the impact of residential development to

avoid significant impact on the SPA. The compensatory measures included in the Mitigation Strategy would allow the council to protect unit 1 of the SPA to the end of the Northampton and South Northamptonshire LPP2 periods.

- The mitigation strategy will provide clear guidance to applicants ensuring the planning application process and decision making is transparent and open and complies with the local planning authority's duty as competent authority under the Conservation of Habitats and Species Regulations 2017.
- The adopted mitigation strategy SPD will be a material consideration in determining planning applications.
- Adoption of the mitigation strategy SPD across the West Northamptonshire area will ensure cohesive and robust decision making and support policies in the relevant local plans.

7.3 Risk

- Not endorsing the adoption of the mitigation strategy would prevent the ability to collect SAMM contributions to mitigate significant harm to the SPA as a result of recreational pressure from residential development. If no mitigation strategy is in place, residential proposals within 3km of unit 1 of the UNVGP SPA would need to be refused. This includes proposed allocations and/or windfall planning applications within 3km of unit 1 within the Northampton and South Northamptonshire areas of West Northamptonshire.
- The consequence of refusing planning applications could lead the council to be unable to meet some of its housing requirements. If the council cannot meet its housing targets contained within its local plans, then it would be harder to refuse more speculative planning applications.
- Furthermore, failure to adopt the mitigation strategy would result in the Northampton LPP2 being found unsound. This would bring further disadvantages such as being unable to adopt the updated policies contained within it on planning matters such as design, placemaking, carbon reduction, housing and employment allocations and the built and natural environment.

7.4 Consultation

- Public consultation on the draft mitigation strategy has taken place with statutory and other bodies including:
 - Natural England
 - The Bedfordshire, Cambridgeshire and Northamptonshire Wildlife Trust
 - A steering group consisting of local tenant farmers, parish councils and ornithological specialists.
 - General public
 - Developers
 - Local businesses and organisations

7.5 Consideration by Overview and Scrutiny

- Not applicable

7.6 Climate Impact

- If the Planning Policy Committee does not adopt the mitigation strategy for West Northamptonshire, then the UNVGP SPA is at risk of disturbance to protected birds from further recreational impact.
- Statutory bodies including Natural England and the Environment Agency as well as the Bedfordshire, Cambridgeshire and Northamptonshire Wildlife Trust have been involved in the production of the mitigation strategy.

7.7 Community Impact

- The measures contained within the mitigation strategy will impact visitors to Unit 1 of the SPA. The visitors are mainly expected to come from within 3km of Unit 1 of the SPA and will include dog walkers, walkers and other people who use the SPA recreationally. The measures will require the community to adhere to specific rules set out in terms of observing the Countryside Code and build behaviour patterns that help preserve the SPA for the reasons related to its designation, namely over wintering bird species.

7.8 Communications

- The document has been checked for accessibility.
- A press release will be prepared to coincide with the adoption of the mitigation strategy.

8. Background Papers

- 8.1 The North Northamptonshire Upper Nene Valley Gravel Pits Special Protection Area Supplementary Planning Document – Addendum to the SPA SPD: Mitigation Strategy
<http://www.nnjpu.org.uk/publications/docdetail.asp?docid=1584>
- 8.2 Visitor Access Study of the Upper Nene Valley SPA (Footprint Ecology, 2014) -
<https://www.footprint-ecology.co.uk/work/reports-and-publications>
- 8.3 Submitted Northampton Local Plan Part 2 -
<https://www.northampton.gov.uk/info/200205/planning-for-the-future/2553/northampton-local-plan-part-2-submission>