



**Swanton Morley Neighbourhood Plan**

**Habitat Regulation Assessment**

**December 2018**

- **Screening Report with the Appropriate Assessment**

# Habitat Regulation Assessment

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# 1. Introduction

1.1 This Habitat Regulations Assessment has been undertaken by officers from the Natural Environment Team at Norfolk County Council under the terms of the Service Level Agreement between Capita/ Breckland District Council and Norfolk County Council. The officers are full members of the Chartered Institute of Ecology and Environmental Management (CIEEM) and have the necessary experience, training and knowledge to complete this assessment.

1.2 This assessment report has been undertaken in order to support the Swanton Morley Neighbourhood Plan (SMNP) which has been produced by the Swanton Morley Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. The SMNP was subject to examination by independent planning inspector who issued their report in January 2018. The version of the SMNP being assessed in this current report is the post-examination version which will be subjected to a modification consultation.

1.3 The aim of this report is to assess, as far as practical, whether any likely significant effects (LSE) may occur in relation to the qualifying features of European Designated Sites within or relatively proximate to the approved Neighbourhood Plan area, which comprises the civil parish of Swanton Morley (Stage 1 of the HRA process).

1.4 Where LSE are recognised, an Appropriate Assessment (Stage 2 of the HRA process) is undertaken.

1.5 The Habitat Regulations require that consultation is undertaken with the Statutory Body, in this case Natural England. Natural England have responded to consultations at various stages of the process of developing the SMNP. A summary of response from Natural England is included in Table 1 (below) and the full response of 2<sup>nd</sup> November 2018 is included in Appendix 2.

1.6 The HRA process is iterative and should be used to amend and develop any project or plan in order to avoid, remove mitigate significant effects on the integrity of European designated sites. The SMNP has evolved in the light of Natural England's comments. A summary of changes to the SMNP as a result of NE's comments is included in Table 2 (below).

**Table 1: Summary of responses from Natural England consultation requests.**

HRA document at stages of the SMNP process	Natural England Comments (summary)	Date of NE comment
Reg.14 version – Report carried out by Breckland Council	<i>“...unlikely to be any significant environmental effects due to the implementation of the proposals in the Swanton Morley Neighbourhood Plan...”</i>	21.06.17
Reg.16 version – Report carried out by the Parish Council	<i>“...agrees with the conclusion of your HRA screening report for the Swanton Morley Neighbourhood Plan...”</i>	08.06.17
Reg.18 version – Report carried out by Breckland Council	<p><i>“Natural England do not agree with the conclusions of the HRA and advise that there is not enough information to rule out the likelihood of significant effects. We recommend the following information is provided:</i></p> <ul style="list-style-type: none"> <li><i>• Detailed consideration of potential water quality impacts that include proximity of proposed development areas to the River Wensum Special Area of Conservation and potential impacts to interest features</i></li> <li><i>• We note that the HRA does not consider the potential increase of recreational disturbance within the plan area. The visitor surveys at European protected sites across Norfolk report’ (2016) produced by Footprint Ecology identifies a predicted 14% increase in access by Norfolk residents to designated sites as a result of new housing during the current plan period. Proposed developments sites are within close proximity of the River Wensum SAC and it likely that residents of new housing will utilise the existing footpath that runs along the river. On this basis we recommend the consideration of increased recreational disturbance impacts to the interest features of the SAC”</i></li> </ul>	02.11.18
Email to Breckland Council as a response to a request why the opinion of Natural	<i>“We are still concerned about the potential effects of increased recreational disturbance and impacts to</i>	26 <sup>th</sup> November 2018

England changed	<p><i>water quality. We are not confident that Policy 2<sup>1</sup> (Flooding; surface water runoff and pollution) sufficiently prevents impacts of Policy 14 (Growth in the right places). In addition, the potential impacts of recreational disturbance as a result of new housing growth has not been considered within the Neighbourhood Plan Policy. Recreational disturbance and water quality impacts could be addressed with additional text under Policy 11 (Biodiversity) to prevent negative impacts to the River Wensum SAC. ‘The visitor surveys at European protected sites across Norfolk report’ (2016) produced by Footprint Ecology may be a useful document to refer to when considering recreational impacts.”</i></p>	
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**Table 2: Summary of changes to the SMNP as a result of Natural England Comments.**

	<b>NE’s position</b>	<b>Changes to SMNP</b>
Reg 14.	No LSE	None
Reg. 16.	No LSE	None
Reg. 18.	Potential for LSE in relation to water quality and impacts from recreation on the River Wensum SAC.	Additional inclusion in Policy 14 of a requirement for any new developments to produce a Constructional Environment Management Plan to ensure no adverse impacts on water quality during construction.

1.7 The June 2017 version of SMNP was subject to examination by an independent planning inspector who issues a report dated 19<sup>th</sup> January 2018. The relevant section relating to the Habitats Regulation assessment process is paragraph 4.5. This states (in full):

*“The Swanton Morley Neighbourhood Plan was further screened by Abzag Ltd acting for SMPC for Habitats Regulations Assessment (HRA), which was not triggered. Although 7 Natura 2000 sites were identified in proximity to Swanton Morley, only part of one site is in the Neighbourhood Area (The River Wensum Special Area of Conservation). Nevertheless, all the sites were considered, and it was concluded that there is likely to be no significant negative effects on the European Designated Sites.*

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<sup>1</sup> It appears NE used the wrong Policy numbers in their response. Policy 2 is Growth in the right places and Policy 14: Flooding, surface water run-off and pollution.

*Natural England agreed with the conclusion and from my independent assessment of this matter, I have no reason to disagree.”*

## **Legislative background**

1.8 Article 6(3) of the EU Habitats Directive states that:

*Any plan or project not directly connected with, or necessary to, the management of the [European] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.*

1.9 The purpose of the Habitat Regulations Assessment (HRA) is therefore to ensure the protection of European Designated Sites (Natura 2000) wherever practicable. European Designated Sites are designed to form an ecologically coherent network of designated spaces across Europe.

1.10 European Designated Sites, (Natura 2000) include **Special Protection Areas (SPAs)** and **Special Areas for Conservation (SAC)**. As a matter of policy the government also expects authorities to treat **Ramsar sites, candidate Special Areas of Conservation (cSAC)** and **proposed Special Protection Areas (pSPA)** as if they are European Designated Sites for the purpose of considering development proposals that may affect them.

1.11 The Neighbourhood Planning (General) Regulations 2012, state that submitted Plans need to be accompanied by a statement explaining how the proposed Plan meets the ‘basic conditions’ set out in Schedule 4B of the 1990 Town and Country Planning Act. Regulation 32 of the 2012 Regulations prescribes a further basic condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017), either alone or in combination with other plans or projects.

Definitions (taken from the DEFRA- Joint Nature Conservation Committee)

- **Special Protection Areas (SPAs)** are strictly protected sites classified in accordance with Article 4 of the EC Birds Directive, which came into force in April 1979. They are classified for rare and vulnerable birds and for regularly occurring migratory species.
- **Special Areas of Conservation (SACs)** are strictly protected sites designated under the EC Habitats Directive. Article 3 of the Habitats Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species. The listed habitat types and species are those considered to be most in need of conservation at a European level (excluding birds).
- **Ramsar sites** are wetlands of international importance designated under the Ramsar Convention.

## 2. Identification of Designations

2.1 The first step in producing this Screening Report involves the identification of European Designated Sites within the Neighbourhood Plan area itself or in close proximity to it. European Designation Sites were identified using open-source software provided by DEFRA (Magic). The relevant European Designated Sites identified are as follows:

- River Wensum Special Area of Conservation (SAC); site code UK0012647,
- (Part of) Norfolk Valley Fens SAC; site code UK0012892

2.2 In considering potential effects of this plan regard has been given to whether the implementation of the policies will ensure the conservation objectives for the European Sites are achieved and whether any significant effects are likely.

2.3 No other European Protected Sites have been considered in this assessment, including the Breckland Special Area of Conservation and the Breckland Special Protection Area (SPA), as the nearest component units of which are considered sufficiently distant that no likely significant effects are likely to occur from the policies of the SMNP, being more than 15km from the southern boundary of the parish.

2.4 The River Wensum SAC is mostly contiguous with the parish northern boundary, as shown on the map below (Figure 1). The River Wensum Site of Special Scientific Interest is congruent with the SAC through the Swanton Morley and is made up of a number of management units of which units 33, 34, 35, 36 and 51 are within the parish. The conservation condition of these units is current assessed by Natural England to be “unfavourable, recovering” but all with ‘high threat risk’<sup>2</sup>. A Site Improvement Plan for the River Wensum was produced by Natural England in 2014.<sup>2.5</sup> Two component units of the Norfolk Valley Fens SAC are around 4km from the southernmost part of the parish, namely Badley Moor SSSI, and Potter and Scarning Fen SSSI. The features for which the sites are designated, and their conservation objectives, are appended at Appendix 1.

### History of HRA in relation to Swanton Morley

2.5 The Breckland Local Plan allocated one site for 85 homes for Swanton Morley<sup>3</sup>. The HRA undertaken for the district-wide allocation sites concluded that there would be no likely significant effect on the River Wensum SAC<sup>4</sup>.

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<sup>2</sup> <https://designatedsites.naturalengland.org.uk/SiteSearch.aspx>.

<sup>3</sup> The housing target stated in the Local Plan for Swanton Morley is 180 dwellings. At the time of the revised plan 95 dwellings had been completed or committed to in the Parish, leaving a requirement of 85 additional dwellings to be developed by 2036.

<sup>4</sup> (Liley, D. & Hoskin, R. (2016). *Habitat Regulations Assessment of the Breckland Local Plan Part 1 - Preferred Site Options and Settlement Boundaries*; Footprint Ecology, unpublished report for Breckland Council; and Liley, D. & Hoskin, R.; 2017; *Habitat Regulations Assessment of the Breckland Local Plan Part 1 Publication Stage*. Footprint Ecology, unpublished report for Breckland Council)

2.6 The scale of growth proposed in the SMNP is greater than that allocated in the Breckland Local Plan. The approach in the SMNP, including the site allocated in the Local Plan, is to deliver 205 dwellings over the Plan period.

2.7 The fact that the proposed housing in the SMNP is more than twice that assessed in the settlement in the HRA for the Local Plan Allocation Sites is a relevant consideration in the HRA process of the SMNP.

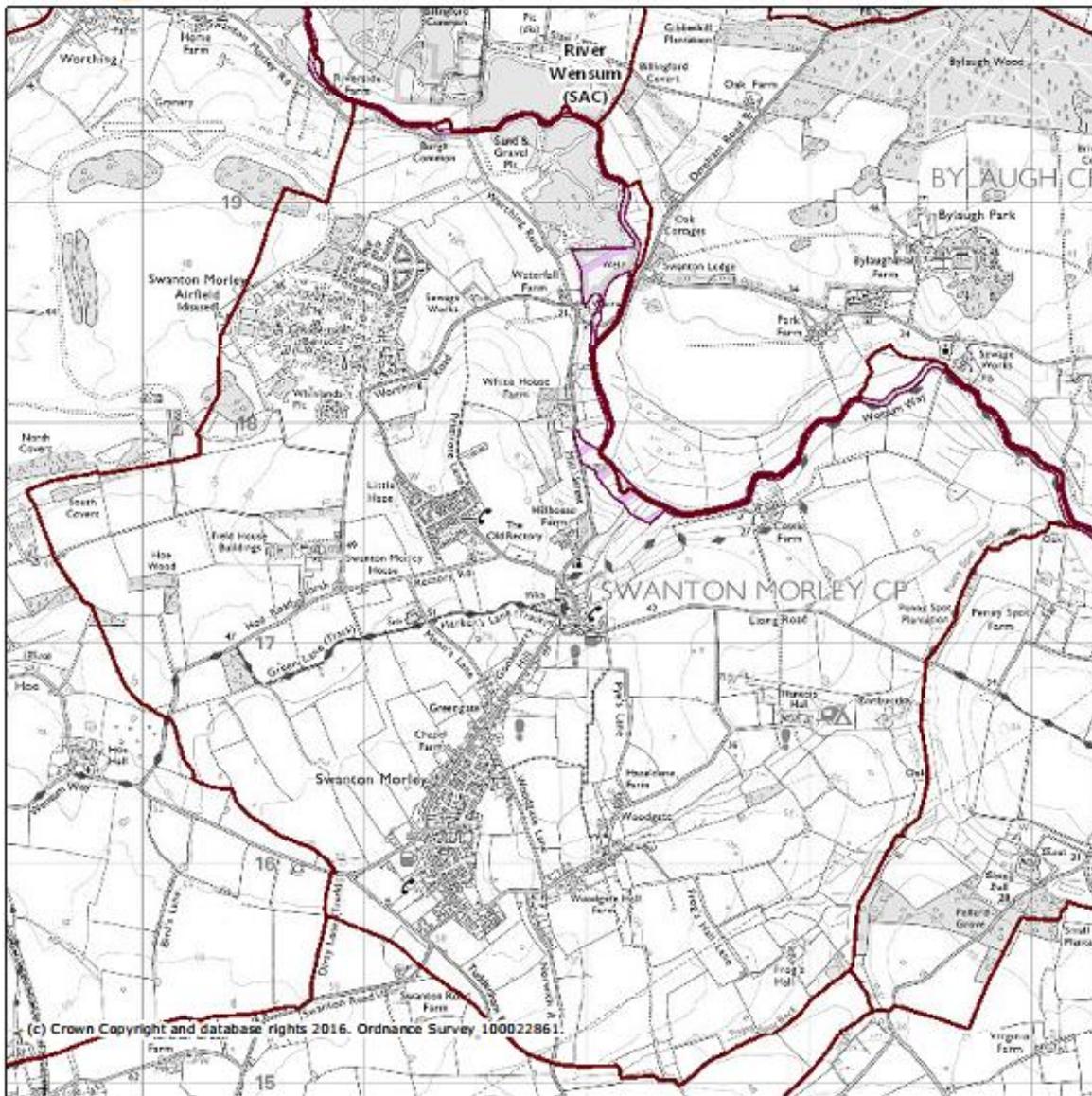
2.8 For clarity it is confirmed here that the Swanton Morley Neighbourhood Plan is not directly connected with, or necessary to, the conservation management of the European Sites.

2.9 The next step in the assessment is to undertake an appraisal as to whether the proposed policies could have a significant effect on the European Designated Sites. Specifically, the assessment considers potential effects that the policies may have on the 'qualifying features' of each European Designated Site. The 'qualifying features' for the identified European Designated Sites are provided at Appendix 1.

Figure 1: Swanton Morley Parish in relation to relevant European Designated Sites

**MAGiC**

**Swanton Morley Parish**



**Legend**

- Parishes (GB)
- Ramsar Sites (England)
- Special Areas of Conservation (England)
- Special Protection Areas (England)

Projection = OSGB36  
 xmin = 597300  
 ymin = 314200  
 xmax = 606400  
 ymax = 320600  
 Map produced by MAGiC on 6 June, 2016.  
 Copyright resides with the data suppliers and the map must not be reproduced without their permission. Some information in MAGiC is a snapshot of the information that is being maintained or continually updated by the originating organisation. Please refer to the metadata for details as information may be illustrative or representative rather than definitive at this stage.

### 3. Stage 1: Screening Assessment

3.1 Table 3 (below) provides an assessment of any likely significant effect of each Neighbourhood Plan policy on the European Designated Sites.

**Table 3: Assessment of any likely Significant Effects of SMNP policies**

**Key**

- No likely significant effect (NLSE) on the site’s qualifying features
- Likely significant effect (LSE) on the site’s qualifying features (triggers an Appropriate Assessment)
- Uncertain whether it is NLSE or LSE (triggers an Appropriate Assessment)

<b>THEME 1: GROWTH</b>		
<b>POLICY 1: Protecting the Identity of Swanton Morley</b>		
<p>Outside the defined settlement boundary development will not be supported unless it involves:</p> <ul style="list-style-type: none"> <li>i) Rural exception sites;</li> <li>ii) Dwellings to meet the essential need for a rural worker;</li> <li>iii) Development involving the re-use of redundant or disused buildings.</li> <li>iv) Farm diversification, and</li> <li>v) Rural tourism related development.</li> </ul> <p>The development of residential curtilages in the countryside will be resisted where it would lead to significant change to the landscape character.”</p>		
Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to ensure the majority of future development is within the existing parish centre and describes where exceptions to this will be supported.	The majority of growth will be directed by Policy 2. Policy 1 is considered unlikely to have an impact on the designated site. <b>NLSE</b>	The distance from the centre of the settlement to the designated sites is >4km. <b>NLSE</b>
<b>Policy 2: Growth in the Right Places</b>		
<p>The primary focus of new residential development in the Swanton Morley Neighbourhood Plan area will be within the three allocated housing sites identified on Map 5 as:</p> <ul style="list-style-type: none"> <li>1)LP(098)013;</li> <li>2)LP(098)014 and</li> <li>3)LP(098)016</li> </ul> <p>Planning applications for these three allocated residential sites will be supported where they comply with the other policies within the Swanton Morley Neighbourhood Plan and the requirements of other development plan policies.</p>		
Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to direct growth to three	The HRA for the Local	The HRA for the Local

<p>allocated sites up to around 205 new dwellings.</p>	<p>Plan identified no LSE from the proposed housing in the settlement<sup>5</sup>. However, the number of proposed dwellings in the SWNP is more than double that assessed in the HRA for the local plan.</p> <p><b>Water Quality:</b> A potential for pollution or runoff from new development could adversely impact the water quality of the SAC. But this policy must be considered with Policy 14: Flooding, which seeks to control flood risk and run-off. Note that additional wording in Policy 14 has been added in response to comments made by Natural England. Taken in combination with Policy 14, Policy 2 is unlikely to result in adverse impacts on the SAC from a water quality perspective.</p> <p><b>NLSE.</b></p> <p><b>Recreation:</b> Natural England have recently raised the issue of potential adverse impacts on</p>	<p>Plan identified no LSE from the proposed housing in the settlement<sup>6</sup>. However, the number of proposed dwellings in the SWNP is more than double that assessed in the HRA for the local plan.</p> <p><b>Water Quality:</b> The distance from the proposed allocations to the designated sites is &gt;4km and it is considered there would be any likely pathways leading to an adverse impact on the SAC in terms of water quality.</p> <p><b>NLSE</b></p>
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<sup>5</sup> (Liley, D. & Hoskin, R. (2016). *Habitat Regulations Assessment of the Breckland Local Plan Part 1 - Preferred Site Options and Settlement Boundaries*; Footprint Ecology, unpublished report for Breckland Council

<sup>6</sup> (Liley, D. & Hoskin, R. (2016). *Habitat Regulations Assessment of the Breckland Local Plan Part 1 - Preferred Site Options and Settlement Boundaries*; Footprint Ecology, unpublished report for Breckland Council

	<p>the River Wensum SAC from additional recreation pressure resulting from the new housing. Given the uncertainty over this issue, it is appropriate to consider this matter further.</p> <p><b>Potential LSE from increased recreation pressure. Appropriate Assessment (Stage 2) required</b></p>	
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**Policy 3: Enabling Growth on Sites LP(098)014 and LP(098)016**

Development on sites LP(098)014 and LP(098)016 is to be in conjunction with site LP(098)13, and:

- a. Site LP(098)014 will include provision within the site for around 40 park car spaces to serve the school with a safe road crossing point and local improvements of Manns Lane to be agreed with the Highways Authority;
- b. site LP(098)016 will be required to improve Hoe Road East to include provision for two-way traffic taking account of the requirements of the Cemetery on the north of the road to be agreed with the Highways Authority;
- c. the northern border of site LP(098)016 will be screened by hedging and landscaping and with any new dwellings positioned along this border being of a maximum height of 1.5 storeys;
- d. provision of a continuous vehicle, cycle and pedestrian access from Rectory Road to Manns Lane; and
- e. provision of a footpath and cycleway from Rectory Road to Manns Lane.

Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to provide details of what is required to deliver development in these proposed allocations.	The policy aims to provide details to deliver development in these proposed allocations. This policy in itself is unlikely to result in impacts on the SAC. <b>NLSE</b>	The distance from the proposed allocations to the designated sites is >4km and it is considered there would be any likely pathways leading to an adverse impact on the SAC. <b>NLSE</b>

**Policy 4: Housing for the Local Community (Local Lettings)**

In order to meet the housing needs of the parish, the plan seeks to ensure that eligible households with a local connection to the parish of Swanton Morley are given preference on first let in relation to up to 33% of new affordable housing for rent developed on the sites LP(098)014 and LP(098)016 being sites allocated by the neighbourhood plan over and above those already allocated by the local authority.

A local connection is defined by one or more of the following;

- Households containing one or more individuals who have resided within Swanton Morley parish for the last three years
- Households who need to move to Swanton Morley Parish to give or receive support from or to a close family or relatives who are residents of Swanton Morley
- Households where one or more member has been employed within the parish of Swanton Morley for three years
- Former residents of Swanton Morley parish who have lived in the parish for at least 3 years of the past 6 years.

If at the time of letting there are no eligible household with a local connection, and/or the pool of eligible applicants with a local connection has been exhausted, allocations will be made in accordance with the local housing authority's prevailing housing allocation policy and associated district-wide local connection criteria.

The final percentage and mix of housing types will be determined by the local authority based on housing need in the area and taking into account any other relevant matters such as viability, deliverability and prevailing local and national policy. Matters of eligibility and priority will be determined in accordance with the prevailing housing allocations policy of the local housing authority.

Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to enable the use of new houses by local people.	It is considered unlikely that the policy will affect the SAC. NLSE	It is considered unlikely that the policy will affect the SAC. NLSE

**Policy 5: Affordable Housing on Exception Sites**

Development of affordable housing on an exception site will be permitted where it satisfies the requirements of relevant policies in the adopted local development plan and the following additional requirements:

The allocation of dwellings should be to those in housing need and with a connection to the Parish of Swanton Morley in accordance with the following cascade criteria:

- Residents of Swanton Morley Parish for the previous three years;
- Households with a local family connection;
- Former residents of Swanton Morley Parish including those who have had to leave the Parish due to a lack of suitable affordable housing;
- People with an employment connection to the Parish;
- Residents of adjacent parishes;
- Residents of Breckland District.

Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to provide direction as to the construction of affordable homes on exemption sites.	The policy will not affect the SAC as it is considered there would be any likely pathways leading to	The policy will not affect the SAC as it is considered there would be any likely pathways leading to

	an adverse impact on the SAC. <b>NLSE</b>	an adverse impact on the SAC. <b>NLSE</b>
<b>Policy 6: Delivery of Planning Obligations</b>		
Where a planning obligation is required in relation to development proposals on land within the Neighbourhood Plan Area, the Applicant shall provide a supporting statement that identifies how their proposals take into account local community infrastructure requirements.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to inform the use of planning obligations to meet community needs.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>THEME 2: LANDSCAPE AND ENVIRONMENT</b>		
<b>Policy 7: Local Green Space</b>		
The Neighbourhood Plan designates the following three locations as Local Green Spaces (as shown on Map 8: Local Green Space) 1) Gray Drive; 2) Thompson Close; and 3) Middleton Avenue. Applications for development which would adversely affect the function and essential open character of designated Local Green Spaces will not be permitted unless very special circumstances can be demonstrated.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to designate three areas of Local Green Space.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>Policy 8: Protection of Existing Open Space</b>		
Proposals for development, which would result in the loss of an Area of Existing Open Space, as defined in Table 3 and Location Maps in Appendix 3, will not be permitted unless: a) An assessment has been undertaken which clearly shows the open space to be surplus to requirements; OR b) the loss resulting from the proposed development would be replaced by the equivalent provision in a suitable location; OR c) the development is for an alternative sports or recreation provision, the need for which clearly outweighs the loss of the existing open space.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to ensure existing green spaces are retained.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>

<b>Policy 9: Management of Open Space</b>		
[Examiner deleted policy]		
<b>Policy 10: Important Views</b>		
All development proposals having a significant visual impact on those parts of the River Wensum Valley and Castle Farm Valley Floor within the Parish boundary must maintain and protect important views from the following public places identified on Map 9: Primrose Hill; The Churchyard; The Bowling Green and Worthing Road.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to protect important views.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>Policy 11: Accessibility and Biodiversity</b>		
Where green infrastructure is provided as part of any new development it should aim to improve biodiversity and connections with existing open spaces in and around Swanton Morley. All new development should maximise opportunities to enhance the existing local green infrastructure and, where possible, create network links to encourage the use of existing footpath and cycleway links to the wider parish and countryside.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to improve access and biodiversity within the settlement.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>THEME 3: DESIGN</b>		
<b>Policy 12: Design of Development</b>		
New development, including infill development and residential extensions, should respect and, where possible, enhance the character of the village of Swanton Morley and be in accordance with all of the following criteria:		
<ol style="list-style-type: none"> <li>1) Respecting and protecting local heritage assets and their settings;</li> <li>2) Protecting natural assets, enhancing the natural environment and biodiversity</li> <li>3) Recognising and reinforcing the distinct local character in relation to height, scale, density, spacing, layout orientation, features and materials of buildings;</li> <li>4) Provide a mix of house types and tenures, with an emphasis on local needs; first time buyers, starter homes and good quality accommodation for elderly people;</li> <li>5) Designing housing proposals to reflect existing residential densities in the locality of the scheme;</li> <li>6) Design of roads and parking areas within any site should minimise the effects on pedestrians, in particular safeguarding children in areas where they walk or play, and avoid the opportunity for indiscriminate parking by residents and visitors and design in measures to avoid it;</li> <li>7) Incorporating adequate landscaping to mitigate the visual impact of the development and to ensure that proposals merge into the existing rural village context and respond to the wider</li> </ol>		

- countryside setting;
- 8) Ensuring boundary treatments reflect the distinct local character in relation to materials, layout, height and design. In areas where there is no boundary treatment and gardens are unenclosed, new development should seek to replicate this openness;
  - 9) Landscape proposals should form an integral part of the site's design, with particular trees and hedgerows retained unless their value is deemed low following surveys in accordance with established practice;
  - 10) Where sites contain or abut a watercourse or land drainage ditch, provision must be made for maintenance by ensuring appropriate access for clearing silt and controlling vegetation.
  - 11) Incorporation of appropriate methods of energy generation and conservation in all new builds;
  - 12) New residential development should provide sufficient private external amenity space appropriate to the size and type of dwelling, and refuse and recycling storage facilities;
  - 13) Where street lighting is provided it should meet the configuration and standard of the parish; and
  - 14) All planning applications for developments of 10 or more dwellings and all commercial development to undertake a sewage capacity assessment. Where a need for mitigation is identified within the foul sewerage network, any foul drainage solution to be implemented prior to the development being occupied.

Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to inform the design of new developments	It is considered unlikely that the policy will affect the SAC. NLSE	It is considered unlikely that the policy will affect the SAC. NLSE

**Policy 13: Parking Provision**

[Examiner deleted policy]

**Policy 14: Flooding**

Proposals for new development of more than 1 hectare within the Swanton Morley area should be accompanied by an appropriate flood risk assessment.

- Not increase the flood risk to the site or wider area from fluvial, surface water, groundwater, sewers or artificial sources following, if necessary, the installation of appropriate mitigation measures;
- Have a neutral or positive impact on surface water drainage; and

Proposals must demonstrate engagement with relevant agencies and seek to incorporate appropriate mitigation measures to manage flood risk and to reduce surface water run-off to the development and wider area such as:

- Inclusion of appropriate measures to address any identified risk of flooding (in the following order or priority: assess, avoid, manage and mitigate flood risk);
- Locate only compatible development in areas at risk of flooding, considering the proposed vulnerability of land use;
- Inclusion of appropriate allowances for climate change;
- Inclusion of a Sustainable Drainage System (SuDS) with an appropriate discharge location, subject to feasibility;
- Priority use of source control Sustainable Drainage Systems such as permeable surfaces, rainwater harvesting and storage or green roofs and walls. Other Sustainable Drainage Systems

components which convey or store surface water can also be considered;

- To mitigate against the creation of additional impermeable surfaces, attenuation of greenfield (or for redevelopment sites as close to greenfield as possible) surface water runoff rates and runoff volumes within the development site boundary;
- **During construction any proposed allocated sites a Construction Environmental Management Plan (CEMP) is required to be produced and agreed in writing by the LPA prior to commencement of any works (include ground clearance) and include specific measures to avoid issues relating to surface water management; [proposed new wording]** and
- Provide clear maintenance and management proposals of structures within the development, including Sustainable Drainage Systems elements, riparian ownership of ordinary watercourses or culverts, and their associated funding mechanisms.

Comments	Likely effect in identified sites	
	River Wensum SAC	Norfolk Valley Fens SAC
The policy aims to ensure that developments provide appropriate drainage practices to avoid adverse impacts on surface water and water courses.	<p>This policy, DPD, should ensure appropriate SuDS and other measures are put in place to minimise impacts on water management when the developments are operational and thus avoiding adverse impacts on the water quality of the local area. The requirements for CEMP will ensure that there will be no impacts on water quality entering the River Wensum from Construction.</p> <p>Summary: This Policy should ensure there is minimal potential for pollution or runoff from new developments adversely impacting the water quality of the SAC, both during construction (through the requirement for a</p>	<p>The distance from the proposed allocations to the designated sites is &gt;4km and it is considered there would be any likely pathways leading to an adverse impact on the SAC. In any case, this policy should protect water quality.</p> <p><b>NLSE</b></p>

	CEMP) and during operation (post-construction). <b>NLSE</b>	
<b>Policy 15: Housing Mix</b>		
New Developments of more than ten dwellings should (where supported by an appropriate evidence base as determined by the local authority) provide a mix of dwelling sizes, in both market and affordable, that fall broadly within the following specified mix.		
Mix:		
<ul style="list-style-type: none"> <li>• 1-bedroom dwellings: range 10% to 15% of all dwellings</li> <li>• 2-bedroom dwellings: range 25% to 30% of all dwellings</li> <li>• 3-bedroom dwellings: range 30% to 40% of all dwellings</li> <li>• 4-bedroom and larger dwellings: range 15% to 20% of all dwellings</li> </ul>		
Developments that wish to provide a higher percentage of 1 and 2 bedroom dwellings in lieu of larger (3 plus bedroom dwellings) will be welcomed.		
The final mix of housing types will be determined by the local authority based on appropriate up to date housing need evidence as determined by the local authority and taking into account other relevant matters such as viability, deliverability and prevailing local and national policy.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to direct the mix of housing types	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>THEME 4: LOCAL ECONOMY</b>		
<b>Policy 16: Broadband and Mobile Communications</b>		
Enhancement of mobile communications and implementation of new 'superfast broadband' infrastructure that serves the Parish will be supported.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to encourage improved broadband infrastructure.	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>	It is considered unlikely that the policy will affect the SAC. <b>NLSE</b>
<b>Policy 17: Employment and Local Shops</b>		
The Swanton Morley Neighbourhood Plan supports planning applications that seek the creation of employment opportunities in new small commercial and office units that are compatible with their immediate surroundings, which are appropriate both in scale and environmental impact and new local shops that enhances and increases the range and type of shop. Where they comply with the other policies within the Swanton Morley Neighbourhood Plan and the requirements of other development plan policies.		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy provides support to development of appropriate small-scale employment	It is considered that the policy will not	It is considered that the policy will not

opportunities.	affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>	affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>
<b>THEME 5: COMMUNITY FACILITIES:</b>		
<b>Policy 18: Additional Community Facilities</b>		
<p>Planning applications relating to the provision of additional community facilities, additional recreational space, play space and sports facilities will be supported where they comply with the requirements of other policies within the Swanton Morley Neighbourhood Plan and the requirements of other development plan policies.</p> <p>The Swanton Morley Neighbourhood Plan seeks to ensure that provision of additional local facilities meets the growing local community needs.</p>		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to ensure the provision of additional local facilities to meet the growing local community needs.	It is considered that the policy will not affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>	It is considered that the policy will not affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>
<b>THEME 6: TRANSPORT</b>		
<b>Policy 19: Traffic Impact</b>		
<p>New developments that generate a significant amount of traffic will be expected to assess the impact of traffic generated by the proposals and include appropriate and proportionate measures to mitigate any significant impacts on road safety, pedestrians, safe road crossings, cyclists, parking and congestion within Swanton Morley.</p>		
<b>Comments</b>	<b>Likely effect in identified sites</b>	
	<b>River Wensum SAC</b>	<b>Norfolk Valley Fens SAC</b>
The policy aims to minimise impacts from traffic generated by new development on road safety, pedestrians, safe road crossings, cyclists, parking and congestion.	It is considered that the policy will not affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>	It is considered that the policy will not affect the SAC as there are unlikely to be any pathways leading to an adverse impact on the SAC. <b>NLSE</b>

## Summary of Stage 1 Assessment (Screening):

3.2 Only in the case of a single policy in the SMNP is it considered that there is a potential for a LSE. This is **Policy 2: Growth in the Right Places** which aims to focus new residential development within the three allocated housing sites identified on Map 5 of the SMNP (LP013; 014 and 016). The total number of houses proposed is therefore more than double that assessed in the HRA undertaken for the Local Plan.

3.3 The only issue where a potential LSE was considered possible was the potential for an increase in recreational pressure. This was identified for the River Wensum SAC.

### Note on water quality issues:

3.4 Natural England previously raised an issue on the potential impacts on water quality of the River Wensum SAC arising from the SMNP. Policy CP 8: *Natural Resources* of the Breckland Council's Development Plan Document (DPD) recognises that new development could impact European Habitats which are 'water sensitive'. In the supporting text of Policy 8 it states:

*"There are a number of European Habitats in Breckland which are by virtue of their location at risk from pollution from increased flooding events which could be associated with new development upstream. These include a number of the Norfolk Valley Fens and the River Wensum Special Areas of Conservation (SACs). The Habitats Regulations Assessment of this DPD has concluded that the effect of pollution from flooding can be mitigated if new developments install infiltration and attenuation measures to dispose of surface water. The use of Sustainable Drainage Systems (SUDS) is recommended."*

3.5 Policy 14 of the SMNP will ensure that water quality issues are addressed when sites are operational by requiring additional detail to that required by the Breckland DPD, including the requirement for clear maintenance of SUDS features. The addition of the requirement for a CEMP into Policy 14, with specific reference to water quality, should ensure that there will be no adverse impacts on water quality during the construction phase.

3.6 As the requirement for a CEMP is included within policy 14 of the SMNP, it is an integral part of the plan, and not a mitigation measure. As such, in itself, it does not trigger the need for Appropriate Assessment. The policy will ensure that there will be no 'in-combination' effects with any other developments in the vicinity of the River Wensum.

## 4. Appropriate Assessment

4.1 The Stage 1 (screening for the need for an Appropriate Assessment) concluded that there is a potential for LSE to occur at European-designated sites in closest proximity to the parish from increased recreational pressure.

### River Wensum SAC: Ecology and Threats

4.2 The River Wensum SAC is contiguous with the SSSI of the same name, and is a chalk river covering 71 km of the from its source close to [South Raynham](#) downstream to [Hellesdon Mill](#), an area of 393.3 ha. For much of its length, the site comprises of the main of the river bed, the immediate banks, and in some locations, sections of the adjoining floodplain. The site was designated for its rich flora and invertebrate communities. The full Conservation Objectives for the site are included in Appendix 1.

4.3 Threats to the River Wensum site relate primarily to the physical nature of the river and activities that affect water quality. These have largely been identified as resulting from modifications to the river channel, inappropriate structures across the river such as weirs and issues relating to agricultural practices, including siltation, water pollution and water abstraction.

4.4 The River is a Demonstration Test Catchments (DTC) in a joint Defra, Environment Agency (EA) and Welsh Assembly Government initiative<sup>7</sup>. The overall objective of the project is to provide evidence to test the hypothesis that it is possible to cost effectively reduce the impact of agricultural diffuse water pollution on ecological function while maintaining food security through the implementation of multiple on-farm measures across whole river catchments using local expertise to solve local problems.

4.5 As the statutory body, Natural England have produced Site Improvement Plans (SIPs) for all SPAs and SACs under the Improvement Programme for England's Natura2000 Sites (IPENS). NE published a SIP for the River Wensum in October 2014.<sup>8</sup> The plan describes the priority issues for the site. In order (most significant first) these are:

- Physical modification
- Inappropriate weirs, dams and other structures
- Siltation
- Invasive species
- Water Pollution
- Water abstraction

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<sup>7</sup> <http://www.wensumalliance.org.uk/index.html>

<sup>8</sup> <http://publications.naturalengland.org.uk/publication/6720168281505792>

4.6 The SIP does not identify recreational pressure *per se* as a significant issue for the site.

#### **Recreational pressure in Norfolk European designated sites**

4.7 Within Norfolk there are a range of European Protected sites encompassing estuary, coast, heathland, wetland, grassland and woodland habitats and designated for a range of species. The sites include extensive areas such as the Broads, the North Norfolk Coast, the Wash and the Brecks. These areas are the most important sites for wildlife in the county but are also some of the primary locations where the human population, both residents and tourists, undertake their recreation. There is therefore often a tension between the nature conservation interests and those relating to public recreation.

4.8 Across Norfolk, it is recognised that new housing development cumulatively will lead to an increase in the number of people living near some of these European Protected sites and it is reasonable to assume that this may lead to increasing levels of recreational visitors to the sites. Given these issues, The Norfolk Planning authorities commissioned visitor surveys and the production of a report to provide the information they need to be able to work together to balance growth and the nature conservation issues, in particular ensuring compliance with the Habitat Regulations. This report (Panter *et al*, 2016),<sup>9</sup> is commonly referred to as the ‘Recreation Pressure Report’.

4.9 As discussed in the Recreation Pressure Report, recognised impacts arising from increased recreation can include disturbance to qualifying features such as breeding birds or wintering birds, or adverse impacts arising from trampling, eutrophication, or vandalism, littering or pollution.

4.10 The report, however, did not include any specific reference to the River Wensum SAC. No visitor surveys were undertaken at the European site. Sites for surveys were chosen in a workshop held in Norwich on 26<sup>th</sup> February 2015 attended by participants from a range of organisations<sup>10</sup>. The site was excluded from the surveys based on the qualifying features, their sensitivity to recreational impacts, existing low levels of recreation, and the fact that the SIP did not include recreation pressure as a “priority issue”.

#### **Potential impacts from recreation on the River Wensum SAC**

4.11 Potential impacts on the River Wensum could arise from land-based or water based recreational activities.

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<sup>9</sup> Panter, C., Liley, D.& Lowen, S.; (2016). Visitor surveys at European protected sites across Norfolk during 2015 and 2016. Unpublished report for Norfolk County Council. Footprint Ecology.

<sup>10</sup> Natural England, RSPB, National Trust, The Wash and North Norfolk Coast Europe and Marine Site Management Scheme, Norfolk Coast Partnership, Holkham Estate, Norfolk Wildlife Trust, Broads Authority, Forestry Commission, Norfolk County Council, Norfolk Biodiversity Partnership, South Norfolk Council, Breckland Council, Kings Lynn and West Norfolk Borough Council, Norwich City Council, North Norfolk District Council, Broadland District Council, Great Yarmouth Borough Council.

4.12 The qualifying features of the SAC are confined to features within the water body itself, namely

- H3260. Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation; Rivers with floating vegetation often dominated by water-crowfoot
- S1016. *Vertigo moulinsiana*; Desmoulin's whorl snail
- S1092. *Austropotamobius pallipes*; White-clawed (or Atlantic stream) crayfish
- S1096. *Lampetra planeri*; Brook lamprey
- S1163. *Cottus gobio*; Bullhead

**Water-based recreation:**

4.13 Theoretically there could be adverse impacts from water-based activities such as canoeing, for example, causing damage to banks from launching, and there is a potential for the transfer of non-native invasive species through the movement of water craft between catchments.

4.14 Water-based recreation activities are very limited on the stretch of the River Wensum that is designated, as most of the length of the banks are private and access to the water is highly restricted.

4.15 There are two Canoeing clubs on the River Wensum. The Dereham Canoe Group advertises paddling at the River Wensum in the parish of Swanton Morley itself, as one of a number of venues used by the club. Activities take place in summer from the privately-owned Castle Farm (off the Elsing Road). Access to the river is only permitted to club members during organised events.

4.16 The Eagle Canoe Club<sup>11</sup> is based within the Norwich city limits and its activities are some 25km downstream from the section of the Wensum in Swanton Morley Parish (and downstream of the SSSI and SAC designated stretch). The club advertises access to 6km of the River Wensum and has a brand-new club house and other modern facilities, and an extensive membership.

4.17 No publicly-accessible launching points have been identified within the parish. Given that access to the water for water-based recreation is highly limited, except to those in organised clubs, both of which have clear guidelines on measures to avoid the transfer of non-native species, and there are more attractive and accessible options downstream, it is considered that direct or indirect impacts from water-based recreation on the River Wensum SAC arising from the SMNP are negligible.

**Land-based recreation:**

4.18 Adverse impacts arising from land-based recreation, could occur on the banks of the river, or in the floodplain habitats that are within the designated area. Impacts on the ecology of the area may be caused by trampling of vegetation, erosion of the banks leading

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<sup>11</sup> <https://www.eaglecanoeclub.co.uk/>

to run-off and an increase in silt deposition, or disturbance to protected species. Problems associated with angling, such as discarded line or littering, or the transfer of non-native species, could also be an issue.

4.19 The River Wensum does not have continuous access along its banks. For large sections, the land adjacent to the river is private, and no public access is permitted. Within SM parish, mostly it is only the river which is designated as SSSI and SAC, with only two small additional areas within the floodplain included within the designation. The additional land comprises of the SSSI component units 33, 34, and 36 which are neutral grassland, and unit 35 which is mixed deciduous and yew woodland. Units 33 and 35 are very small and owned by the SMPC which permits low key public access, whilst the other units are privately owned with no public access.

4.20 There is no continuous riverside path along the River for a 3.7km stretch from the north-west parish boundary on the Swanton Morley Road right through to Castle Farm (off the Elsing Road). A permissive path which forms part of the long-distance route, the Wensum Way, a member of the Norfolk Trails network, runs adjacent to the River for 1.7kms from Castle Farm to the eastern-most part of the parish, where the routes heads south to link with Elsing Bridleway no. 5 on the Elsing Road.

4.21 The Wensum Way Trail is a promoted 20km route between Gressenhall and Lenwade, managed and maintained by the Norfolk Trails Team at Norfolk County Council. It uses Public Rights of Way (PRoW) and permissive paths and is a 'walking only' trail (except for some short sections where the route is on bridleways). The section adjacent to the River Wensum within the SM parish is a permissive route, allowing only for informal walking. There are no advertised public car parks in the vicinity of the trail in this location, nor are there any other facilities such as public toilets. Being a member of the Norfolk Trail family, the Wensum Way is a promoted route and receives priority in maintenance matters. No visitor count data is available for this section of the route, but Trails officers consider the path is in good condition and do not believe there are currently any problems associated with access<sup>12</sup>.

4.22 Within the parish there is private fishery based at flooded former gravel workings that also advertises angling on a private stretch of the River Wensum adjacent to the gravel pits. A local angling club also has rights to fish near Castle Farm and advertises day and season tickets<sup>13</sup>. The fishing in the area is therefore controlled. It is believed that public angling on the river is not permitted aside from short stretches at Fakenham Common, >10km upstream of Swanton Morley, and at Ringland Bridge, >10km downstream.

#### **Summary of current impacts from recreation on the River Wensum SAC:**

4.23 Current impacts from recreation can be summarised as follows:

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<sup>12</sup> Russel Wilson, Senior Trail Officer, *pers. com*

<sup>13</sup> <http://www.riverangler.co.uk/river-wensum/>

- Recreation is considered a low threat to the river Wensum SAC, relative to other matters, and is not specifically mentioned in the SIP for the site.
- Current impacts from recreation are considered low.
- Few water-based craft use the river, with very few launching points in the vicinity of the SMNP area. Canoeing is primarily by those in organised clubs that promote best practice and sensible precautions against causing impacts (e.g. transferring non-native invasive species).
- Public access to the river bank is limited within the parish and the section where access is permitted, a permissive route forming part of the Wensum Way, is short in length and limited to walking (not cycling). The path is well maintained.
- Little, if any, public (free) angling is available in the SMPC area or nearby, and angling that is permitted is controlled by local angling clubs in association with local landowners.
- Given the above, recreation associated with residents of the parish is currently very unlikely to be having an adverse impact on the River Wensum.

#### **Assessment of changes to recreational impacts resulting from new housing:**

4.24 An increase in housing in the parish is likely to result in an increase in people. Therefore, theoretically at least, there is a potential for increased recreational use associated with the River Wensum.

4.25 Currently, recreation associated with residents of the parish is very unlikely to be having an adverse impact on the River Wensum. Given that most water-based recreation and angling within the parish only occurs under dedicated clubs, new residents wanting to undertake these activities would need to join the clubs. The clubs control activities and operate to best practice, and any increase in the potential to adverse impacts arising from these activities are likely to be negligible.

4.26 There is only public access adjacent to the river for walking over a short section, and this is a permissive path forming part of the Wensum Way. The path is currently in good condition and there is no reason to consider that this route would suffer with an increase in use, either by future residents of the developments sites within the SMNP or by those from other future developments in the wider locality. As such there will be no direct or 'in-combination' effects on the River Wensum SAC arising from new development.

4.27 The conclusion of this assessment is that any increase in recreational activities are highly unlikely to result in any adverse impact affecting the Qualifying Features of the River Wensum SAC.

**4.28 The Appropriate Assessment concludes that there is a high degree of confidence that the SMNP will not result in any LSE on the designated sites within the parish.**

## 5. Summary

5.1 This Appropriate Assessment has been undertaken in compliance with the Habitat Regulations. It concludes that there will be no LSE resulting from the SMNP on the River Wensum SAC, or any other European designated site.

5.2 The development of the SMNP has been an iterative process, evolving hand-in-hand with the Habitat Regulation Assessment, and in consultation with the Statutory Body, Natural England.

5.3 A single policy in the SMNP was changed as a result of the HRA process; an additional clause has been inserted into Policy 14 to the effect that for the proposed allocated sites (LP(098)014, LP(098)016 and LP(098)13) a Construction Environmental Management Plan (CEMP) is required to be produced and agreed in writing by the LPA prior to commencement of any works (include ground clearance). Any such CEMP should include specific measures for surface water management. Therefore, no adverse impact on water quality has been identified, and there will be no LSE on the Qualifying Features of the River Wensum SAC arising from the SMNP, either directly from the development sites within the SMNP or 'in-combination' with other developments.

5.4 Potential impacts on the Qualifying Features of the River Wensum SAC from an increase in recreation resulting from the SMNP have been considered. Public access opportunities for recreation are currently low and this will not change as a result of the SMNP. Recreation at the River Wensum is largely organised by responsible clubs (for canoeing and angling), and this will continue following the making of the SMNP.

**5.5 The Appropriate Assessment concludes that there are likely to be no significant negative effects on the integrity of the European Designated Sites resulting from the Policies detailed within the SMNP.**

# Appendices

## Appendix 1: Details of relevant European Sites

European Site Conservation Objectives for River Wensum Special Area of Conservation.  
Site Code: UK0012647 (Natural England dated 27 November 2018 (Version 3)).

*With regard to the SAC and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;*

*Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;*

- *The extent and distribution of qualifying natural habitats and habitats of qualifying features*
- *The structure and function (including typical species) of qualifying natural habitats*
- *The structure and function of the habitats of qualifying features*
- *The supporting processes on which the qualifying natural habitats and the habitats of the qualifying species rely*
- *The population of each of the qualifying species, and,*
- *The distribution of the qualifying species within the site.*

*Qualifying Features:*

- H3260. Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation; Rivers with floating vegetation often dominated by water-crowfoot
- S1016. *Vertigo moulinsiana*; Desmoulin's whorl snail
- S1092. *Austropotamobius pallipes*; White-clawed (or Atlantic stream) crayfish
- S1096. *Lampetra planeri*; Brook lamprey
- S1163. *Cottus gobio*; Bullhead

## European Site Conservation Objectives for Norfolk Valley Fens.

Site Code: UK0012892 (Natural England dated 27 November 2018 (Version 3)).

*With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;*

*Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;*

- *The extent and distribution of qualifying natural habitats and habitats of qualifying features*
- *The structure and function (including typical species) of qualifying natural habitats*
- *The structure and function of the habitats of qualifying features*
- *The supporting processes on which the qualifying natural habitats and the habitats of the qualifying species rely*
- *The population of each of the qualifying species, and,*
- *The distribution of the qualifying species within the site.*

### *Qualifying Features:*

- H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath
- H4030. European dry heaths
- H6210. Semi-natural dry grasslands and scrubland facies: on calcareous substrates (*Festuco-Brometalia*); Dry grasslands and scrublands on chalk or limestone
- H6410. *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*); Purple moor-grass meadows
- H7210. Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae*; Calcium-rich fen dominated by great fen sedge (saw sedge)\*
- H7230. Alkaline fens; Calcium-rich springwater-fed fens
- H91E0. Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*); Alder woodland on floodplains\*
- S1014. *Vertigo angustior*; Narrow-mouthed whorl snail
- S1016. *Vertigo moulinsiana*; Desmoulin's whorl snail

## Appendix 2: Response from Natural England

Date: 02 November 2018  
Our ref: 261810 and 261827



Susan.Heinrich@breckland.gov.uk

**BY EMAIL ONLY**

Customer Services  
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T 0300 060 3900

Dear Ms Heinrich

### **Swanton Morley Neighbourhood Plan Strategic Environmental Assessment & Habitats Regulations Assessment Screening Report**

Thank you for your consultations on the above dated 16 October 2018 which were received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Swanton Morley Neighbourhood Plan area includes new development, with up to 205 dwellings which is greater a scale of growth than proposed in the Breckland Local Plan.

#### **Habitats Regulations Assessment (HRA)**

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. The HRA concludes no likely significant effect subject to the inclusion of an additional clause in Policy 14.

Natural England do not agree with the conclusions of the HRA and advise that there is not enough information to rule out the likelihood of significant effects. We recommend the following information is provided:

- Detailed consideration of potential water quality impacts that include proximity of proposed development areas to the River Wensum Special Area of Conservation and potential impacts to interest features
- We note that the HRA does not consider the potential increase of recreational disturbance within the plan area. *The visitor surveys at European protected sites across Norfolk report* (2016) produced by Footprint Ecology identifies a predicted 14% increase in access by Norfolk residents to designated sites as a result of new housing during the current plan period. Proposed developments sites are within close proximity of the River Wensum SAC and it likely that residents of new housing will utilise the existing footpath that runs along the river. On this basis we recommend the consideration of increased recreational disturbance impacts to the interest features of the SAC

#### **Neighbourhood Plan Legislation**

In accordance with Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, a neighbourhood plan cannot be made if the likelihood of significant effects on any European Site, either alone (or in combination with other plans and projects) cannot be ruled out. Therefore, measures may need to be incorporated into the neighbourhood plan to ensure that

any likely significant effects are avoided in order to secure compliance with the Regulations. A screening exercise should be undertaken if there is any doubt about the possible effects of the plan on European protected sites. This will be particularly important if a neighbourhood plan is to progress **before** a local plan has been adopted and/or the neighbourhood plan proposes development which has not been assessed and/or included in the Habitats Regulations Assessment for the local plan.

**People Over Wind**

Although an official position from Natural England has yet to be released, the following advice has been formulated through conversations with our legal and policy team.

Competent authorities undertaking HRAs should be aware of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of *People Over Wind and Sweetman vs Coillte Teoranta* (ref: C-323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, Natural England advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained. In light of the recent case law, any reliance on measures intended to avoid or reduce harmful effects at the likely significant stage is vulnerable to legal challenge. You may also want to seek your own legal advice on any implications of this recent ruling for your decisions.

**Strategic Environmental Assessment**

Natural England agree that Swanton Morley Neighbourhood Plan is unlikely to have wider and significant environmental effect. A Strategic Environmental Assessment is not necessary in this instance.

Yours sincerely

Victoria Wight  
Norfolk and Suffolk Team