

Comments on the Canterbury Draft Local Plan's Habitats Regulations Assessment

I have the following comments to make in relation to waterborne nutrients generated by the proposed development allocations, in particular Policy R15, and their effects on designated sites of international importance which are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), otherwise known as the 'Habitats Regulations'.

A Habitats Regulations Assessment has been completed for the Draft Local Plan (WSP 2022), and this identifies a risk to Stodmarsh SAC/SPA/Ramsar site from both Phosphorus (P) and Nitrogen (N) in wastewater. This risk is highly pertinent to Policy R15 (The Hill, Littlebourne), as wastewater arising in Littlebourne finds its way into Stodmarsh through two routes. Firstly, there is a suspected tidal backwater effect from water discharging downstream of Stodmarsh (Little Stour confluence), as noted in Canterbury City Council's '*Draft Nutrient Mitigation Strategy*' (Water Environment Ltd, 2022). Secondly, wastewater from Littlebourne that should go to the Newnham Treatment Works (on the Little Stour) is frequently tankered over to the Canterbury Treatment Works due to groundwater and capacity issues in Littlebourne and the Newnham Treatment Works. Information on this tankering into the Great Stour catchment has recently been provided under a Freedom of Information request to Southern Water. This tankering places significant quantities of Littlebourne's wastewater directly upstream of Stodmarsh.

To mitigate nutrient impacts from Policy R15 and other development allocations in the Draft Plan, Canterbury have been developing a strategic approach, based largely on the recent '*Draft Nutrient Mitigation Strategy*'. This draft strategy proposes several measures to mitigate nutrient impacts on Stodmarsh, most of which are incorporated in the Draft Local Plan. These include:

- Policies that require the provision of onsite wastewater treatment facilities with associated large sites, including for The Hill in Littlebourne: Policy R15.
- Policy C24 sets out provision for strategic wetland immediately upstream of the Stodmarsh wetland.
- Policy R26 sets out requirements for 77ha reservoir with country park facilities at Broad Oak.
- Policy DS6 requires that, for ten or more homes, the water systems should be designed to achieve consumption of 90 litres per person per day.
- Policy DS17 sets out requirements that new housing within the Stour Catchment, or where sewage from a development will be treated at a Wastewater Treatment Works that discharges into the River Stour or its tributaries will need to ensure that it will not have an adverse effect on the integrity of Stodmarsh SAC/SPA/Ramsar site. This includes provision for on-site treatment works (as per Policy R15) and for on-site SUDS that remove at least 50% of N and P from surface water runoff. It also commits the Council to work with Natural England and the Environment Agency to develop and implement a mitigation credits scheme to enable development to proceed while ensuring no adverse impact on the integrity of Stodmarsh SAC/SPA/Ramsar site.
- Policy DM16 requires that new development should not compromise Water Framework Directive objectives and will ensure that the water environment does not deteriorate.

One of the key measures to mitigate the level of nutrients generated by implementing the Draft Local Plan, as set out in the '*Draft Nutrient Mitigation Strategy*', is the necessary provision of a large area of strategic constructed wetlands. The Mitigation Strategy calculates that approximately 98ha of wetland will need to be constructed along the Great Stour river corridor to fully offset the residual nutrient increases up to 2045, after all other mitigation measures have been implemented. It goes on to say that, in order to establish 98ha of fully operational wetlands, approximately 160ha of total

land may be required to allow for the appropriate buffer zones and floodplain compensation areas on the site, as well as accommodate for any site constraints which may be present.

The Mitigation Strategy also notes that the NEGM recommends a 20% buffer is added to nutrient budget calculations, but that this 20% buffer has not been included in the calculations at this stage. So, land requirement for constructed wetlands could be even greater, if the precautionary principle is followed (as the Habitats Regulations demand).

Even if Government legislates to force water companies to upgrade all of their Treatment Works in nutrient-sensitive areas by 2030, the land requirement for constructed wetlands is estimated by the Mitigation Strategy to be nearly three-quarters of that described above.

The Mitigation Strategy concludes that: *“based on the current measures included in the framework, the area of wetland required to offset the budget and allow for the delivery of housing to 2045 is **considered challenging**.”* (my bold)

Turning to the Habitats Regulations Assessment (HRA) of the Draft Local Plan (WSP 2022), this core document also casts doubt on the ability of Canterbury Council to secure sufficient land for strategic mitigation in the form of constructed wetlands. The HRA notes that Policy C24 includes land safeguarded for wetland which is below the overall nutrient reduction requirement identified in the Draft Nutrient Management Strategy.

The HRA later says that it: *“...is also possible that some growth in this area will need to rely on strategic mitigation within the catchment for which ‘nutrient credits’ can be purchased, and **so it may be appropriate for the plan to demonstrate that this is achievable (particularly in relation to P, as offsetting this is through (for example) agricultural conversion is substantially more challenging than it is for N)**.”* Clearly this statement reveals that it has not yet been demonstrated that this measure is achievable. For WSP to say that *‘it may be appropriate...’* is understating the need to do so for the Appropriate Assessment under the Habitats Regulations.

The following paragraph of the HRA states that “further and additional assessment is required with regards to achieving nutrient neutrality for the Local Plan and its HRA”. And so, the authors are only able to draw a *‘provisional’* conclusion, leaving open the possibility of adverse effects on Stodmarsh SAC/SPA/Ramsar.

Taking these combined doubts and concerns expressed by the Council’s own expert consultants, it is clear that the Draft Local Plan cannot meet the requirements of the Habitats Regulations as too much uncertainty exists as to whether nutrient neutrality is achievable for the scale of development proposed. The Plan cannot simply defer such strategic matters of legal consequence to later stages of planning, as in its current form and with current knowledge the Plan is not legally deliverable and therefore cannot rightly be adopted.

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