

Northampton Borough Council

**Upper Nene Valley Gravel Pits
Special Protection Area
Supplementary Planning Document**

Schedule of Responses

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Introduction

This report sets out the schedule of responses and agreed actions arising from the consultation on the draft Nene Valley Gravel Pits Special Protection Area Supplementary Planning Document (SPD). Representations were invited on the consultation draft of the SPD for a period of 6 weeks between 9 February to 5.00pm on 23 March 2015 to comply with Regulations 12 and 13 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Consultation Statement

The Consultation Statement (2015) for this SPD is a separate document to be read in conjunction with this schedule. It also conforms to Regulations 12 and 13 of the Act. It sets out the details of the people consulted in assisting with the preparation of the document, how they were consulted, what key issues were raised and how they have been addressed in the SPD.

The purpose of the Consultation Statement was twofold:

- To comply with Regulations 12 and 13 of the Act. This includes the public consultation exercise undertaken between the 9th February and 23rd March 2015 and
- To demonstrate that a comprehensive consultation exercise has been undertaken in compliance with the respective Local Planning Authorities' Statements of Community Involvement (SCI)

Responses to the Consultation Draft SPD

12 organisations and individuals responded to the consultation draft of the SPD making a total of 42 separate comments. All responses were carefully considered and a few minor alterations were made to the SPD to improve precision and clarify specific points.

This document will continue by setting out the full schedule of representations alongside any actions agreed arising from these.

**Schedule of
Consultation Responses & Agreed Actions**

Upper Nene Valley Gravel Pits SPA SPD Comments Schedule

Organisation	Response	Order	Response	Steering group response
n/a	Comment	General	Document seems admirable, no further comment	Noted, support welcomed
Flore Parish Council	Comment	General	Flore Parish Council does not feel qualified enough to comment on this	Noted
Weedon Bec Parish Council	Comment	General	Weedon Bec Parish Council does not feel qualified to comment on this, and it is outside the parish area	Noted
South Northamptonshire District Council	Comment	General	Unfortunately the next available committee at SNC is not until April 11 th where it is intended to take a report on this and the other draft SPD. I note this is after the closing date for representations. I will try to get informal officer response by the 23 rd March.	Noted
North Northamptonshire Joint Planning Unit	Comment		Consider including in the SPD the recommendations of the Habitats Regulations Assessment of the Pre-submission North Northamptonshire Joint Core Strategy (JCS) prepared by URS. The recommendations are very specific and development/construction management oriented and more appropriately considered for inclusion in the SPD.	Noted. Discussions with NNJPU have resulted in agreed changes to the SPD.
North Northamptonshire Joint Planning Unit	Comment		JCS HRA recommendation #1: any large (≥ 100 dwellings) new residential development site within 3km of the SPA provides a site specific HRA.	Noted. In discussions with Natural England and NNJPU, the decision was made to leave the requirement for site-specific HRA to be determined on a case by case basis rather than set a threshold. The SPD advises applicants to consult NE at an early stage in virtually all cases, and applicants will be advised if a site-specific HRA is required.
North Northamptonshire Joint Planning Unit	Comment		JCS HRA recommendation #2: new housing development within 7.5km of the SPA should contribute financially to the delivery of strategic mitigation measures to ensure no adverse effects on the SPA, in accordance with the HRA golden plover report	Noted. This recommendation was withdrawn in the addendum to the HRA on the basis of recent evidence. No action required.

Organisation	Response	Order	Response	Steering group response
North Northamptonshire Joint Planning Unit	Comment		JCS HRA recommendation #4: a construction noise assessment should be undertaken for any non-strategic development sites that come forward that have potential to emit light and noise pollution upon the SPA	Noted. This is accounted for by the requirement for consultation with Natural England for all proposals within 50m of the SPA, where construction noise is likely to be a factor.
North Northamptonshire Joint Planning Unit	Comment		JCS HRA recommendation #5: any large proposed development site within 4km of the SPA located within suitable supporting habitat should be subject to a site specific wintering bird survey to determine if the land is used by designated bird features. If the proposed development site hosts an important population of birds for which the SPA is classified, this land should be retained, not be subject to increased disturbance, not be built on, and current agricultural practices be maintained.	Disagree. Evidence to support such a requirement is extremely limited. Further, local planning authorities have limited control over agricultural practices so enforcement would not be possible. Until more evidence is available such surveys and subsequent decision making will have to be done on a case by case basis.
Anglian Water	Comment	Table 2: consultation zones	The 10km consultation zone for all pipelines is inconsistent with the impact zones for Special Protection Areas (sic) shown on the MAGIC website as confirmed by Ross Holdgate at NE. It is therefore suggested that the 0-10km zone be amended to remove 'infrastructure including road, rail, pylons, pipelines (except routine maintenance)' and place it within a new consultation zone of 0-5km.	Agreed; change will be made accordingly
Oundle Town Council	Comment	General	Having read the document Oundle Town Council has no comment to make	Noted

Campaign for Dark Skies	Comment	General	The levels of light pollution in the Nene Valley are of great concern to us and there are many examples of bright, poorly focused floodlights shining straight into SSSIs particularly in the Higham and Irthlingborough area. Whilst we are encouraged to see a mention of light pollution in the document we are struggling to see what steps are to be taken in the emerging replacement document that will resolve the existing problem of light pollution (very easy to do) and minimise its effect in future developments. CFDS would like to see a supplementary planning policy on control of light pollution encompassing paragraph 125 of the NPPF and section 102 CNE Act 2006.	Disagree: the purpose of the SPD is to help applicants avoid likely significant effects on the SPA's qualifying features in accordance with the Habitats Regulations. There is currently no evidence that floodlights are causing an adverse impact on the site's bird populations. Therefore, while it is acknowledged that reducing light pollution is generally worthy of planning policy initiatives the SPA SPD is not an appropriate place for such measures in the absence of evidence that light pollution affects wintering waterfowl numbers.
RSPB	Comment	General	We warmly welcome and support the production of this guidance as a key step on the path to securing the favourable conservation status of the SPA.	Noted; support is welcomed.
RSPB	Comment	Table 3	In the last line of the table, insert 'the relevant Government Department' instead of 'The Planning Inspectorate', as national infrastructure projects originate here and the final ruling on whether or not they can proceed normally rests with the relevant Secretary of State	Agreed. Change will be made.
RSPB	Comment	Appropriate Assessment section	At the AA stage, the issue being addressed is whether there are any adverse effects on the integrity of the site, rather than whether there is a significant effect or not. (This comes at a point earlier in the HRA process – if there is a significant effect, an AA is required to show whether those effects are adverse or not).	Agreed. Change will be made.

			Therefore, to align the SPD exactly with the terms of the HRA process, we suggest that ‘adverse effect on site integrity’ be used instead of the words ‘significant adverse effect’ or ‘significant residual adverse effect’ in this section. We have spotted three occasions where this should be done under this sub-heading, in the 2 nd para	
RSPB	Comment	Appropriate Assessment section	<p>We think it would be helpful for the SPD to warn applicants and planning officers very clearly that very few projects are likely, legally, to be able to satisfy the tests listed here (especially the ‘no alternative solutions’ and IROPI tests). Something similar has been done at the end of the first paragraph under ‘Mitigating significant effects’, where the warning ‘such cases are rare’ appears.</p> <p>We suggest a sentence, not bullet pointed, following the bullet point, ‘approval is given by the Secretary of State’, as follows: <i>Applicants are advised that most plans and projects are very unlikely to be able to demonstrate that they meet all of these requirements’</i></p>	Agreed. Change will be made.
RSPB	Comment	Appropriate Assessment section	The text under ‘Recreational Disturbance’ needs to be placed in a box – a minor formatting issue	Agreed. It was an oversight that it wasn’t done in the draft document. The change will be made.
RSPB	Comment	Mitigating Significant Effects section	For the same reasons mentioned above, we recommend changing this sub-title to ‘Mitigating adverse effects on integrity’	Disagree. This section relates to the broader HRA process, not Appropriate Assessment specifically. If mitigation is built into the plan/project at screening stage, the measures can be considered then, before the integrity test applies.

RSPB	Comment	Mitigating Significant Effects section	<p>The European Court of Justice has ruled that providing new habitat inside an SPA or SAC cannot be counted as mitigation. This is because all habitats inside a European site must already be assumed to be making an important contribution to the ecological function of the site and therefore one cannot mitigate an adverse effect on the site by 'creating' further new habitat inside the site boundary. Habitat enhancement is possible, however, though even this must be carefully scrutinised (the enhancements to the SPA to be provided by Hanson at Earls Barton Quarry provide a relevant case in point).</p> <p>Under the circumstances, the first paragraph in this section could usefully be modified after the second sentence to read:</p> <p><i>'...is considered compensation, not mitigation. Likewise, following a European Court of Justice ruling, habitat creation inside the boundary of the SPA cannot be considered as mitigation. In rare circumstances, habitat enhancement inside the SPA may offer mitigation, but all such proposals must be discussed with Natural England at the earliest possible stage. Under the HRA process...'</i></p>	Agreed, change will be made and will include a specific reference to the case mentioned.
RSPB	Comment	Mitigating Significant Effects section	<p>Re final paragraph: in hindsight, we think the final line of this paragraph should not give the impression that mitigation can solve every problem, leading to permission being granted. The Competent Authority cannot simply go on asking for more mitigation until they think permission should be granted. We suggest altering the last sentence to read:</p>	Agreed. Change will be made.

			<i>Where an Appropriate Assessment shows that a plan or project – with mitigation – is still likely to have an adverse effect on site integrity, the Competent Authority may be obliged to refuse the application.</i>	
RSPB	Comment	Appendix 3, Option 1A	<p>For the same reasons as above, part 1 of the table of mitigation options needs to be amended somewhat to make it clear that habitat creation cannot be counted on as mitigation, inside <i>or</i> outside the SPA. On reflection, we think the simplest solution might be just to delete option 1a, change ‘1b’ to ‘1a’ accordingly, and reword the description of 1b (now 1a) as follows, using some elements of both 1a and 1b as currently written:</p> <p><i>Habitat management may help mitigate adverse effects if it can be shown that the management will result in real and significant habitat enhancements. Measures could (for example) include enhancing habitats in areas away from the recreation pressure (see also zoning). Habitat enhancement may create new roosting or feeding sites, or help increase the amount of natural food available. Equally, habitat management in areas subject to disturbance may help mitigate localised impacts.</i></p>	Agreed, change will be made
Natural England	Support	General	NE is strongly supportive of this document as it will provide a valuable reference for all parties involved in new development proposals in the area around the SPA.	Noted; support is welcomed.
Natural England	Comment	Table 2	Change consultation distance from 10km to 5km for the following category of development: infrastructure including road, rail, pylons, pipelines (except routine maintenance)	Agreed. Change will be made to reflect Impact Risk Zones established by Natural England.

APC Planning (on behalf of St Clair Investments)	Support	General	The SPD, which will assist in the determination of planning applications and ensure no significant effects on the SPA is a welcome addition to those local development documents in the county	Noted; support is welcomed.
APC Planning (on behalf of St Clair Investments)	Comment	General	There are concerns that the adoption of the SPD may have an adverse effect on the future development of our client's site (which potentially lies adjacent to, or within the SPA) by placing an additional planning policy burden on top of those which already exist.	Disagree. The SPD does not impose any additional policy on applicants. The SPD is designed to help planners and applicants understand when issues might arise and how to deal with them. If an applicant has a specific site and a specific proposal in mind and is unsure what implications the SPA might have for those plans, they should already be in consultation with Natural England.
APC Planning (on behalf of St Clair Investments)	Comment	Figure 1	Clarity should be provided on the specific extent of the SPA boundary. We would also ask that a higher resolution, legible plan of the SPA be published with the final SPD to ensure absolute clarity on the boundary of the SPA.	Disagree: Figure 1 is included for illustrative purposes only to indicate the geographical extent of the SPA. It is not possible in a document of this nature to include a map with the level of boundary detail necessary to inform planning applications. However text will be added with a link to the MAGIC website, where applicants can view the precise site boundaries and obtain the information needed to inform their application.
Bovis Homes	Comment	Appendix 3	Option 2a: it would be helpful if the document could clarify what 'sensitive sites' means, i.e. does it mean development that would result in a change in access into the designated SPA or does it also include areas outside the SPA boundary, such as supporting habitat?	Noted, text will be amended for clarity

Bovis Homes	Comment	Mitigating Significant Effects section	<p>4th paragraph: the requirement that mitigation measures be in place and created to a suitable quality before work commences is rather too prescriptive and we would consider that there could be situations where this is not actually necessary. The actual use of SPA supporting habitat by qualifying wintering birds, particularly lapwing and golden plover, is dependent on the land management, such as crop rotations. For example, a field that is planted with an appropriate crop in one year may not be suitable again until the return of that crop rotation several years later. Therefore, <u>temporary</u> loss or disturbance of 'supporting habitat' for wintering birds may not have a significant effect upon the SPA and consequently mitigation may not be required in advance of work commencing.</p>	<p>Partly disagree. A mitigation measure is bound up with the effect which it is intended to mitigate; it must therefore be implemented in time to avoid or remove the anticipated effect. With regard to surrounding land, access management measures are the only likely required mitigation measures, and these must be in place before the anticipated effect arises. We accept however that in some cases this may be before a development becomes operational, rather than before the development actually begins. Wording will be changed for clarity and precision.</p> <p>In the example cited relating to crop rotations, if the HRA shows that no significant effect is likely then no mitigation is necessary and the question of timing becomes irrelevant.</p>
Bovis Homes	Comment	Appendix 2	<p>Some clarification on the specification of survey effort for wintering and breeding birds is required. Does this apply only within the designated SPA or is this level of effort also required in areas outside the SPA boundary?</p>	<p>Noted. Species-specific surveys only are required outside the SPA boundary; these are addressed in the section 'Species-specific surveys outside the SPA' and will be agreed with the applicant in advance on a case-by-case basis.</p>
Bovis Homes	Comment	Appendix 2	<p>The section on species-specific surveys outside the SPA indicates that surveys are required to locate feeding birds but does not provide any guidance on the expected levels/timing.</p>	<p>Noted. As stated in the document the exact methodology will need to be agreed with the applicant in advance. Each survey will be addressed on a case-by-case basis.</p>
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	<p>We note the SPD does not contain any clearly defined policies or reasoned justification for the approach set out in accordance with Regulation 8(2) of the Town and Country Planning ((Local Planning) England) Regulations 2012</p>	<p>Disagree. There is no requirement for SPDs to include policies. However additional text will be added to the introduction for context.</p>

Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	In terms of the role and purpose of SPDs, the NPPF specifies at paragraph 153 that SPDs should only be where there is clear justification and where they can help an applicant make a successful application.	Disagree. Paragraph 153 of the NPPF states that SPDs 'should be used where they can help applicants make successful applications'. In outlining a standard procedure for integrating biodiversity into development applications the draft SPD provides certainty and consistency to both applicants and case officers.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	There appears to be little reasoning to warrant an SPD as distinct from clear and concise guidance to assist in understanding appropriate survey windows and the approach to consulting with Natural England.	Disagree. General guidance is not appropriate in this case. The draft SPD has been developed specifically for the Upper Nene Valley Gravel Pits Special Protection Area, using locally derived information and data.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	SPDs must help an applicant make a successful application.	Disagree. Paragraph 153 states clearly that SPDs 'can' (not 'must') help an applicant make a successful application. This is the intention behind this SPD.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	There is no certainty that the SPD will be adopted by each of the Local Planning Authorities within Northamptonshire.	Agreed. However in the absence of a draft SPD there would be certainty that none of the Local Planning Authorities would adopt the document. The lack of certainty is not a reason not to have an SPD, however all relevant Local Planning Authorities will be strongly encouraged to adopt the document.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	The SPDs state that they are 'in conformity' with both the North Northamptonshire Joint Core Strategy (2008) and the West Northamptonshire Joint Core Strategy (2014). However it is not clear [to] which policies within the document relate.	Agreed. While it is not a requirement to list relevant policies in the SPD they will be added to the text.

Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	The North Northamptonshire Joint Planning Unit will be submitting a new Joint Core Strategy for examination later this year. The core strategies will also be supplemented by Local Plans Part 2 prepared by the relevant Local Planning Authority. Such documents will take precedence over an SPD. Should the documents proceed as SPDs then any locally specific changes to policy or approach will need to be reflected in the text.	Agreed. However the SPD has been developed and is consistent with the draft North Northamptonshire Local Plan Part 1, with which the Local Plans Part 2 must also be consistent. No conflict is therefore expected. Further, as the SPD does not introduce new policy there is no policy with which future policies could conflict. The SPD consolidates best practice which is not expected to change.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	The consultation documentation is not available on Northamptonshire County Council's website (the body that prepared the SPDs).	Disagree. The notice sent to consultees – and the consultation website – clearly states that the SPD was prepared by Natural England and RSPB and that the consultation was hosted by the North Northamptonshire Joint Planning Unit. Northamptonshire County Council simply provided an email address for receiving representations.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	Town and Country Planning ((Local Planning England) Regulation 35(1) requires that consultation documentation be published on the Local Planning Authority's website. The publicity and availability of the documentation, solely on the North Northamptonshire Joint Planning Unit's website, is not considered appropriate particularly as the intended geographical coverage extends into West Northamptonshire. For example, we were unable to find any reference to the material from authorities in West Northamptonshire; therefore the SPD has not been properly consulted on in accordance with the regulations and cannot be adopted.	Partially Agree. It is regrettable that no response was made to repeated efforts to contact South Northamptonshire District Council regarding the consultation. Should South Northamptonshire Council wish to adopt the document it will therefore need to consult on the final document and possibly adopt a modified version. However, Northampton Borough Council conducted a consultation in accordance with their Statement of Community Involvement. The consultation was announced in the consultations section of the council website. Northampton Borough Council is therefore in a position to adopt the document, as are the North Northamptonshire Local Planning Authorities.

Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	We note that the document was prepared by Northamptonshire County Council. Whilst we support in principle the coordinating role, we believe that within the document there must be a clear statement of support from each of the relevant Local Planning Authorities who would be expected to adopt the document as the document falls outside those matters considered to be 'County Matters'.	Disagree. As stated above, Northamptonshire County Council simply provided an email address for receiving representations. The Local Planning Authorities – not including South Northamptonshire District Council as outlined above – have followed the procedures necessary for adoption.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	General	The information set out within the document as guidance is generally welcomed. In particular the explicit statement in respect of the length of time that surveys may take is helpful in timetabling any site promotion or potential applications within the consultation zones.	Noted; support is welcomed.
Bidwells (on behalf of Davidsons Developments Ltd)	Comment	Outline applications	We do have reservations in respect of the additional information required at an Outline Planning Application Stage. This requires a statement of the maximum number of units, proposed greenspace provision and design and function and existing and proposed links to the SPA. We would emphasise that this exceeds the usual levels of information that would normally be required and such information can alter as a result of ongoing negotiations during the application process.	Noted. Natural England has determined that recreational pressure is the greatest threat to the integrity of the Upper Nene Valley Gravel Pits SPA, and considers that even a single additional visit constitutes a <i>potential</i> significant effect on the site's qualifying features. The additional information is the minimum required to make an informed judgement on the likelihood of significant effects arising from a proposal. Without this information the local planning authority could not be sure there would be no likely significant effects and would likely have to refuse the application.