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Winchester District Local Plan

Winchester District Local Plan 2040

Nutrient Neutrality Topic Paper

July 2024

Winchester City Council

Nutrient Neutrality Topic Paper

Contents

1.0 Introduction

1.1 The National Planning Policy Framework (NPPF) states that strategic policies in development plan documents should make 'sufficient provision' for infrastructure for 'water supply' and 'waste water'.

1.2 A series of topic papers have been produced to accompany the Winchester District Proposed Submission Local Plan (Regulation 19). The background papers provide an understanding of the latest evidence, wider context and justifications for the proposed policy approach. The assessment of need for Housing, Gypsies and Travellers, Student Accommodation and Carbon Neutrality can be found in separate topic papers.

1.3 This Topic Paper sets out the key water quality issues, provides analysis of the demand and supply of nutrient mitigation in the plan and provides justification for Policy NE16 as set out in the Local Plan . Singificant progress has been made on nutrients in the past twelve months and the key outcomes to date are as follows:

- The Council have successfully completed the upgrades of two Council owned waste water treatment works (WWTWs) to package treatment plants (PTP's) to generate phosphorus and nitrogen credits. The upgrades have successfully generated 10.55Kgs/TP/Yr which is enough to meet the current backlog of planning applications and the demand for approximately 70 homes in the Local Plan supply.
- The Council have undertaken further work on six WWTW that are also within their ownership and are actively looking to roll out a programme of upgrading the works to package treatment plants in the next 3 months.
- The Levelling Up and Regeneration Act (LURA) was enacted in October 2023. The Act includes the provision for upgrading waste water treatment works to the best technically achievable limits (TAL). Therefore, any development in the Local Plan that will be occupied post 2030 can take account of TAL in the nutrient budget.
- The Partnership for South Hampshire (PfSH) Strategic Environmental Planning Team (SEPT) are in receipt of £9.6 million of funding from the Local Nutrient Mitigation Fund (LNMF). Further details of the funding are provided in Appendix 1.
- The Council are working proactively to deliver nutrient mitigation through the creation of a cross department working group that meet on a regular basis.
- The Council are proactively re-investing the revenue from the nutrient credits generated from the Council owned sewage treatment works in order to undertake further upgrades on a rolling basis.
- The Council have refreshed the webpages dedicated to nutrient neutrality to provide residents and developers with more user-friendly information. The pages also provide greater assistance in the information provided for developers in order to ensure development in the plan area is nutrient neutral.

1.4 This topic paper provides an analysis of the demand and supply of nutrient mitigation for development in the Winchester Local Plan. In addition to this topic paper a Statement of Common Ground has been drafted between Natural England and Winchester City Council addressing matters relating to water quality, including nutrient neutrality.

2.0 National Policy Requirements and Legislation

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

2.1 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (ref 13.2)[1] establishes a framework for a European-wide approach to action in relation to water policy. Its overarching aim is to ensure all inland and near shore watercourses and water bodies (including groundwater) are of 'Good' status or better, in terms of ecology, and also chemical, biological and physical parameters, by the year 2027. Therefore, any activities or developments that could cause detriment to a nearby water resource or prevent the future ability of a water resource to reach its potential status, must be mitigated to reduce the potential for harm and allow the aims of the Directive to be realised.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

2.2 The objective of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019[2] is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora. The Habitats Directive is legislation for the protection, management and exploitation of such habitats and species. The first non-statutory stage is a preliminary 'screening' to determine whether the plan or project is likely to have a significant effect on a protected site and the second stage is for an assessment to be undertaken to determine the impact of development proposals on the site's conservation objectives.

2.3 Regulation 63 is assessment of implications for European sites and European offshore marine sites. Which states before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which is likely to have a significant effect on a European site or a European offshore marine site must make an appropriate assessment of the implication of the plan or project for that site in view of that site's conservation objectives.

National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

2.4 Paragraph 180 (e) of the National Planning Policy Framework (NPPF) states that 'Development should, wherever possible' help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans'.

2.5 Paragraph 007 of the PPG[3] (Reference ID:34-007-20140306) states that 'Plan-making may need to consider the capacity of the environment to receive effluent from development in different parts of a strategic policy-making authority's area without preventing relevant statutory objectives being met'. The PPG also re-iterates that water quality is often best considered on a catchment basis with liaison with key stakeholders such as the Environment Agency and water companies.

[1] The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (legislation.gov.uk)
[2] The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (legislation.gov.uk)
[3] Water supply, wastewater and water quality - GOV.UK (www.gov.uk)

Current Legal Cases – Jurston Farm, Wellington

2.6 On the 30th June 2023, the High Court dismissed a challenge[4] by CG Fry to the operation of the Habitats Regulations Assessment. CG Fry was granted outline permission in December 2015 for development of up to 650 homes on Jurston Farm in Somerset. The construction of the first two phases have commenced (190 homes) with an application submitted for the discharge of conditions for the third phase. However, following the Dutch N Court ruling, Natural England issued advice to four Councils in October 2020, which raised concerns about phosphorus levels within the Somerset Levels and Moors Ramsar sites. As a consequence the Councils had to undertake Habitats Regulations Assessment (HRA) before making a decision on any new planning applications which may lead to an increase in phosphorus.

2.7 In order for phase three of the site to gain permission the Council required several conditions to be discharged before construction could take place. CG Fry subsequently appealed the decision on the basis that the Council refused to agree the conditions until a full HRA had been carried out for the entire Jurston Farm site, instead of the site area covered by phase three. The Planning Inspector dismissed the appeal and agreed with the Council's decision that appropriate assessment was required for any planning application including reserved matters approval and/or the discharge of conditions stage to ensure adverse effects on integrity of the site is ruled out and the in combination effects of the project are considered.

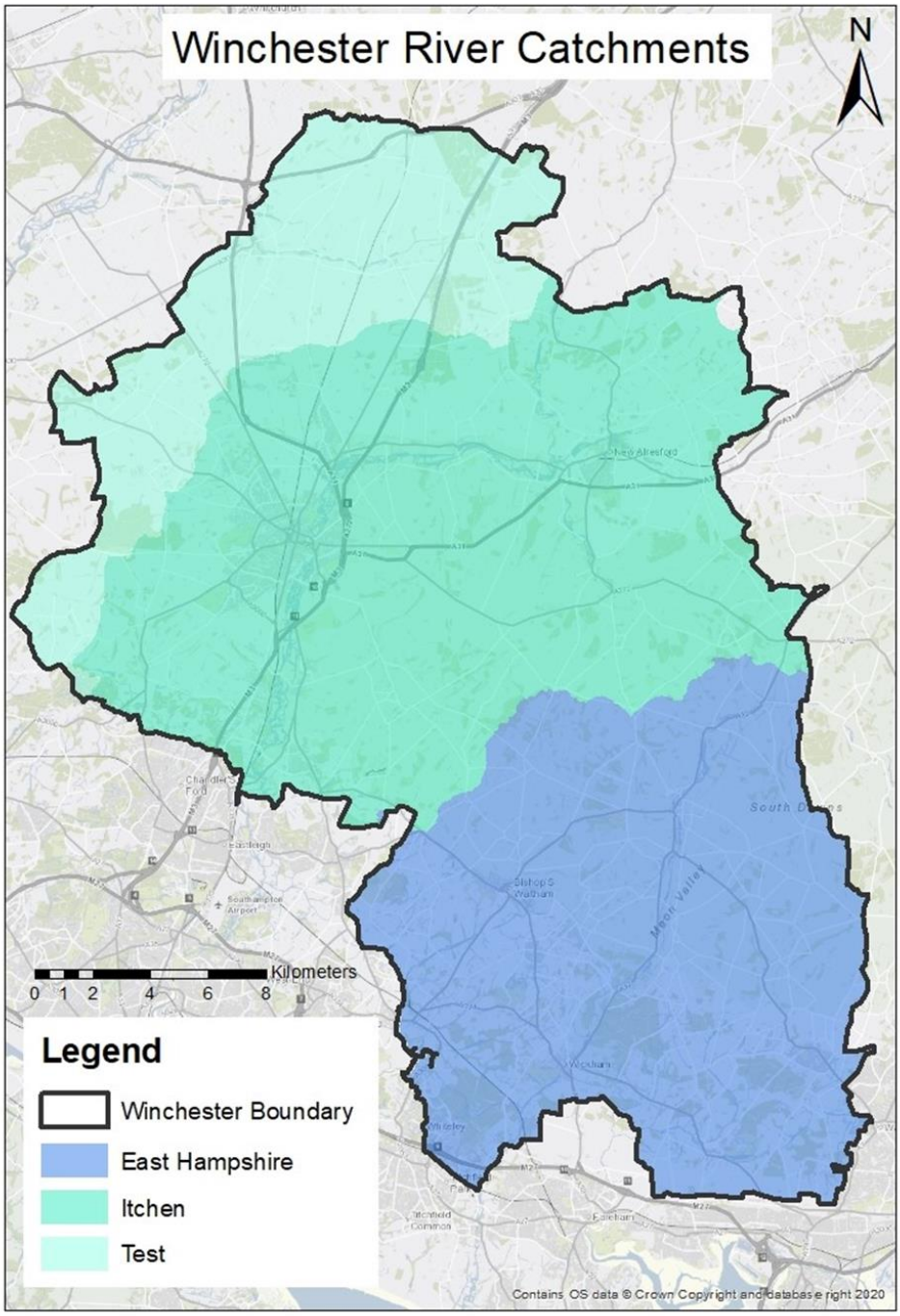
2.8 CG Fry appealed the decision on the 6th July 2023 but the High Court dismissed the challenge and upheld the Council's judgement as a consequence. CJ Fry decided to take the matter further and the case was held in the Court of Appeal on the 19th and 20th March 2024.

2.9 On the 28th June 2024 the Court of Appeal handed down a decision on the CJ Fry case Court of Appeal Judgment Template (nationalarchives.gov.uk) The Court of Appeal upheld the High Court's decision and dismissed the appeal. The Judgment confirmed that a planning authority determining an application may require an "appropriate assessment" to be undertaken at the discharge of conditions stage where, in discharging such condition, the authority is making an "implementing decision" which would authorise the effects of the whole development required to be subject to such assessment. When applying for discharge of conditions where outline permission and reserved matters have been granted before any nutrient neutrality requirements, then the Judgment confirms that you will need to factor in an "appropriate assessment" where required prior to the discharge of conditions. Equally, where a developer is considering taking on a site which is already subject to outline permission and reserved matters approval, then they may wish to factor in potential requirements for "appropriate assessment" in the timeline of the whole application as part of the due diligence process before acquiring the site.This Judgement, therefore, has important implications for the number of nutrients credits that have been calculated in this Topic Paper as it has now been confirmed by the Court of Appeal that sites that have already been granted outline planning permission also need nutrient credits.

[4] Heading 9 (landmarkchambers.co.uk)

3.0 Background to Nutrients in Winchester

3.1 The Winchester district falls within three riverine catchments in relation to nutrient neutrality. This constitutes the East Hampshire catchment and the Test and the Itchen catchment.



Source: Partnership for South Hampshire Strategic Environmental Planning Team

3.2 In November 2018 the European Court of Justice issued a ruling 'Dutch N' which introduced the concept of nutrient neutrality, i.e. the level of nutrients in the river or protected site is the same after a development as it was before. In 2019 Natural England issued guidance to 32 Local Planning Authorities, including Winchester City Council, adding nutrient neutrality in relation to total nitrogen as a requirement for overnight accommodation that impacts protected

sites in the Solent, i.e. that no additional nitrogen enters the protected site[5]. These nutrients are in the effluent from waste water treatment works (WWTWs). Any new overnight accommodation in the catchment of the WWTW will increase the amount of effluent they discharge and therefore the amount of nutrients entering the protected site. Winchester district is served by a range of waste water treatment works (WWTW's). Discharge permit levels for wastewater leaving WWTW's are set by the Environment Agency and these permits seek to limit the discharge of pollutants such as total nitrogen and total phosphorus. In addition, any onsite Package Treatment Plants (PTP's within the catchment areas could alo result in increased nutrient loading, and should therefore demonstrate nutrient neutrality.

3.3 The Partnership for South Hampshire (PfSH) started working on developing total nitrogen mitigation solutions[6] with the first scheme in the East Hampshire Catchment becoming available across the Solent in 2021.

3.4 In March 2022 Natural England issued additional guidance to a further 42 LPA's in respect to nutrient neutrality for habitat sites. The guidance introduced phosphorus neutrality in relation to the Itchen catchment as a requirement for overnight accommodation. This means that any new overnight accommodation in the River Itchen catchment area is required to mitigate the impacts of phosphorus as well as total nitrogen.

3.5 On 26th October 2023 the Levelling Up and Regeneration Act (LURA) received Royal Assent. The Act includes the requirement for upgrading the waste water treatment works (WWTW's) to technically achievable limits by 2030. For total nitrogen the TAL is 10mg/l and for phosphorus this is 0.25mg/l.

3.6 On the 19th of December 2023 Central Government wrote to Local Authorities stating that: To stop pollution at source, the Levelling-up and Regeneration Act 2023 creates a new duty on water companies to upgrade wastewater treatment works (WwTW) by 1 April 2030, in catchments of Habitats Sites identified by the Secretary of State as being in an unfavourable condition due to nutrient pollution. This duty will be in effect from 26 January 2024 and the government will publish designated catchments and specific wastewater treatment works to be upgraded. The Act also requires planning decision makers to consider these upgrades as certain for the purposes of an assessment under the Habitats Regulations.

3.7 The Secretary of State (SoS) gave notice that the River Itchen SAC and Solent Catchment were designated as catchment areas under the Water Industry Act 1991 as sensitive for phosphorus or nitrogen where a habitats site is an unfavourable condition by virtue of pollutions from nutrient in water on 25th January 2024[7]. The effect of this notice is that water companies now have a duty to meet the requirement of the LURA in paragraph 3.5 of this paper. An exemption process was completed by the Government on 24th May 2024[8] which confirmed the wastewater treatment works to be exempt from the upgrades specified in the LURA. The list confirmed that all WWtW's that affect the Winchester Plan area will be upgraded to met the nutrient pollution standards for nitrogen and phosphorus depending on the catchment within which they are located[9].

Habitats Regulations Assessment/Integrated Impact Assessment

3.7 The Regulation 18 Local Plan was supported by an Integrated Impact Assessment which included a Habitats Regulations Assessment. Further work is currently being undertaken by the Council to mitigate adverse effects on the internationally designated sites. Information will

[5] The Importance of the Solent - Partnership for South Hampshire (push.gov.uk)
[6] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)
[7] Notice of designation of sensitive catchment areas 2024 - GOV.UK (www.gov.uk)
[8] Housebuilding supported as government tackles water pollution at source - GOV.UK (www.gov.uk)
[9] Information about nutrient significant plants - GOV.UK (www.gov.uk)

be included in the updated IIA to support the Winchester District Proposed Submission Local Plan (Regulation 19).

WCC Nutrients Webpage and Relevant Nutrients Guidance Documents

3.8 WCC have a dedicated web page to nutrient neutrality[10]. The web page provides information to developers and residents with information in relation to nutrients and ensure nutrient neutrality at the earliest opportunity as planning applications are progressed. The website provides links to a number of documents by other stakeholders to understand nutrient neutrality.

[10] Nutrient Neutrality - Nitrates and Phosphates - Winchester City Council

4.0 Nutrient Demand in Winchester

4.1 It remains the case that permissions for new overnight developments would be unlawful unless it can be demonstrated that no significant impacts on Habitat sites will arise. Overnight development is defined by Natural England in their Advice on Achieving Nutrient Neutrality for New Development in the Solent Region guidance[11] as "development that would result in a net increase in population served by a wastewater system, including new homes, student accommodation, tourism attractions and tourist accommodation".

4.2 Site promotors will need to demonstrate how their developments proposals for overnight development will result in no further nitrogen or phosphorus entering the designated sites. This requires a nutrient budget to be created and then mitigation to be identified in order for the development to be considered nutrient neutral as shown in Figure 1 below. In order to understand the demand for nutrients in the Local Plan individual nutrient budgets have been calculated for all strategic sites, windfall and existing Local Plan Part 2 (LPP2) sites that include overnight development. In addition, a breakdown by each site allocation will be provided in the updated Habitats Regulation Assessment to support the Winchester District Proposed Submission Local Plan (Regulation 19).

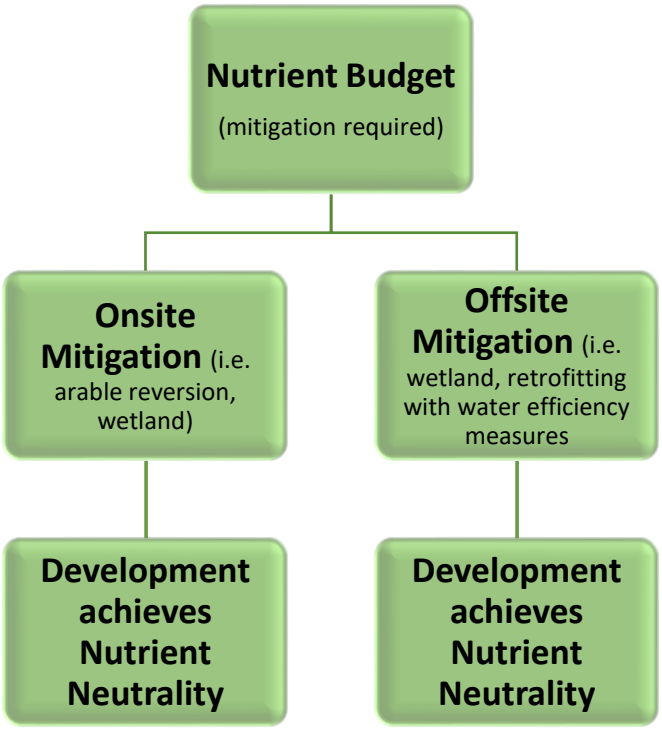


Figure 1. Process required by developer to achieve nutrient neutrality.

4.3 Individual nutrient budgets are calculated using Natural England's nutrient budget calculators for the Solent[12] and River Itchen SAC[13] which were recently updated in February 2024. The updates include pre and post 2030 figures to account for the TAL upgrades and the option to include on site SuDS as part of the nutrient calculation. Natural England published a guidance document[14] and methodology[15] to undertake the calculations.

[11] Advice on achieving nutrient nuetrality for new development in the Solent region (fareham.gov.uk)
[12] Solent: nutrient neutrality calculator - GOV.UK (www.gov.uk)
[13] River Itchen SAC: nutrient neutrality calculator - GOV.UK (www.gov.uk)
[14] Nutrient-Neutrality-a-summary-guide-March-2022.pdf (push.gov.uk)
[15] NECR459 Edition 1 Nutrient Neutrality Generic Methodology.pdf

4.4 There are four stages in the calculator which result in the net change in the total nitrogen and/or phosphorus load to the relevant catchment with the proposed development. These stages are as follows:

- Stage 1 – Calculate the nutrient loading from additional wastewater.
- Stage 2 – Calculate the nutrient loading from current land use(s).
- Stage 3 – Calculate the nutrient loading from future land use(s).
- Stage 4 – Provides the overall nutrient budget for Nitrogen and or/Phosphorus.

4.5 The nutrient demand assessment for Local Plan development applies each of the four stages of the calculator above for each catchment in the plan area The assessment is explained in more detail in paragraphs 4.8 and 4.9 of this paper.

4.6 The assessment of nutrient demand in the plan area includes the proposed technically achievable limits (TAL) as set out in the LURA for any development expected to be delivered post 2030 for WWTWs that do not already meet this technical standard. The TAL for nitrogen is 10mg/l and for phosphorus is 0.25mg/l. The demand calculations below treat the upgrades anticipated to take place after 1st January 2030 as certain, unless the WWTW's already employ similar levels of technicology to TAL.

4.7 The total amount of demand for nutrient mitigation required per catchment in the WCC plan area is set out below.

East Hampshire Catchment

4.8 Winchester development in the East Hampshire Catchment is served by WWTW's at Peel Common, Wickham, Bishops Waltham and Budds Farm. Peel Common and Budds Farm employ a level of technology that is similar to that of the technically achievable limits set out in the Levelling Up and Regeneration Act (LURA). As such these WWTW's will not be upgraded as part of the TAL requirements.

4.9 The nutrient mitigation demand for the East Hampshire catchment is calculated by understanding the amount of overnight development over the plan period, including all sites allocated in the Local Plan, reserved matters applications and windfall development. The capacity of the sites are then entered into the nutrient budget calculators as well as the date of site delivery, occupancy rate, daily water usage and the waste water treatment works that the site development would drain to derive the nutrient mitigation required from the waste water.

4.10 The second stage of the calculation is to calculate the pre-existing nutrient load from the current land use by entering in data from the site which includes soil types, rainfall catchment, nitrate vulnerable zone and the pre-development land cover type and area. This provides the amount of nutrients from the current land use. The third stage is to calculate the future nutrient load from land use on development. This requires entering data into the calculator on the proposed future land use. The majority of sites in the Winchester Local Plan are recorded as residential urban land where the Council do not have information from a masterplan provided by the site promoter. The completion of all of the steps above calculate the net change in nutrient loading from residential development and provides the amount of nutrient mitigation required for the site to be nutrient neutral. This process is the same for sites in the Test and Itchen for nitrogen and phosphorus.

4.11 The approach taken in calculating the nutrient budget adopta a precautionary approach in light of any uncertainty. For example, assuming future land uses for allocation sites with be 'residential urban' in the absence of a master plan, whereas in practice some of the larger sites may include areas of open urban land or greenspace).

4.12 The overall net change for total nitrogen mitigation over the WCC Local Plan period for the catchment equates to 1,939.93Kgs/TN/Yr.

Test and Itchen Catchment - Nitrogen

4.13 Winchester development that falls within the Test and Itchen Catchment is served by WWTW'S at Harestock, Morestead Road, New Alresford and Chickenhall. Apart from Chcikenhall (which falls within the Eastleigh borough) all other WWTW's fall within the Winchester district. Table 1 shows the current permit levels for waste water treatment works in the Itchen Catchment. The waste water treatment works will receive a further upgrade in 2030 to the TAL, apart from the phosphorus permit at Harestock which will achieve TAL in 2025.

Wastewater Treatment Works	*Nitrogen Permit Level (mg/L)*	*Current Phosphorus Permit Level (mg/L)*	*Post 2025 Phosphorus Permit Level (mg/L)*	*Post 2030 (TAL) Phosphorus Permit Limit (mg/L)*
Chickenhall	27	1	0.6	0.25
Harestock	27	1	0.25	0.25
Morestead Road	27	1	1	0.25
New Alresford	27	8	8	0.25

Table 1: Permit levels for wastewater treatment works in the Itchen catchment

4.14 Prior to 2030 the amount of nutrient mitigation required for WWTW's in the Itchen catchment will be at a higher permit level.

4.15 The demand for total nitrogen over the WCC Local Plan period for the catchment equates to 6,247.38Kgs/TN/Yr.

Itchen Catchment - Phosphorus

4.16 Due to the way in which development impacts phosphorus levels in the Itchen, and the need to deliver mitigation where the impact of mitigation is upstream of the proposed development, two assessments have been made in relation to the demand and supply of phosphorus in the Itchen.

4.17 WCC have recently entered into S33 agreement with the Eastleigh Borough Council (EBC) mitigation scheme. The agreement allows development in Winchester district draining to Chickenhall WWTW's to secure nitrogen and phosphorus mitigation from the EBC scheme. Therefore, an assessment has been made in relation to the supply and demand of nutrient mitigation for site allocations and windfall development draining to Chickenhall WWTWs. A separate assessment has been made for phosphorus mitigation that is required for the site allocations and windfall development draining to the Harestock, Morestead Road and New Alresford waste water treatments works in the Itchen catchment area.

Chickenhall

4.18 The data used to calculate the demand and supply of nutrient mitigation for development that drains to Chickenhall WWTW assumes the programme upgrade to the permit limit will take place by March 2025[16], and takes account of the tighter permit limit[17] in 2030 following the enactment of the LURA. The demand for total phosphorus over the WCC Local Plan period for Chickenhall WWTW's equates to 25.17Kgs/TP/Yr.

[16] Reduction from 1ml/l to 0.6ml/l
[17] Reduction from the planned 0.6ml/l to 0.25ml/l

Remaining WWTW's in the District

4.19 Winchester development in the Test and Itchen Catchment is also served by WWTW'S at Harestock, Morestead Road and New Alresford.

4.20 The demand for total phosphorus over the WCC Local Plan period for the remaining WWTW's in the Itchen catchment equates to 355.97Kgs/TP/Yr

5.0 Nutrient Mitigation Supply in Winchester

5.1 In order to understand the demand for nutrients in the Local Plan individual nutrient budgets have been calculated for all housing sites and windfall. If there is a nutrient surplus identified in the budget then mitigation is required to achieve nutrient neutrality.

5.2 In the plan area there are two potential routes to provide nutrient mitigation. Firstly, direct (on site) mitigation[18] provided by the applicant or site promoter as part of the development such as taking the land out of agricultural use and using the land for an alternative use, e.g. open space. Secondly the purchase of mitigation credits via off-site delivery such as the creation of wetlands. It is also possible that third party markets in nutrient credits will emerge but currently there is no such activity in the Solent area. Mitigation measures are secured for the duration over which the development is causing the effects, for the Winchester plan area this is 125 years.

East Hampshire Catchment

5.3 There are currently three nutrient mitigation schemes available in the East Hampshire Catchment as shown in Appendix 2. The table below provides the latest position in terms of the available schemes and the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester.

Mitigation schemes[19]	***Kgs/TN/Year that is available from the scheme***
Whitewool (wetlands)	253
Warnford Park (arable reversion)	3144
Knowle (interceptor wetlands)	811
Total	**4,208**

Table 2: Nitrogen Mitigation Schemes available to date for Winchester within the East Hampshire Catchment

5.4 As Table 1 demonstrates there are currently three strategic nutrient mitigation schemes in the East Hampshire catchment available for development in Winchester and the total capacity of the schemes equates to 4,208Kgs/TN/Yr as of March 2024.

5.5 Furthermore, the Partnership for South Hampshire Strategic Environmental Planning Team (PFSH SEPT) provide bi-yearly reports on the availability of nutrient mitigation in the East Hampshire Catchment. The report publicised at PfSH Joint Committee in September 2023 provided the latest update on the projected supply and demand of nutrient mitigation as shown on Figure 2 below.

[18] The development at Fawley Power Station uses a combination of onsite measures to offset nutrient demand - Report.pdf (newforest.gov.uk). This includes the creation of a new wetland, land use change, the removal of the existing sewage treatment works and the use of cover crops.
[19] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)

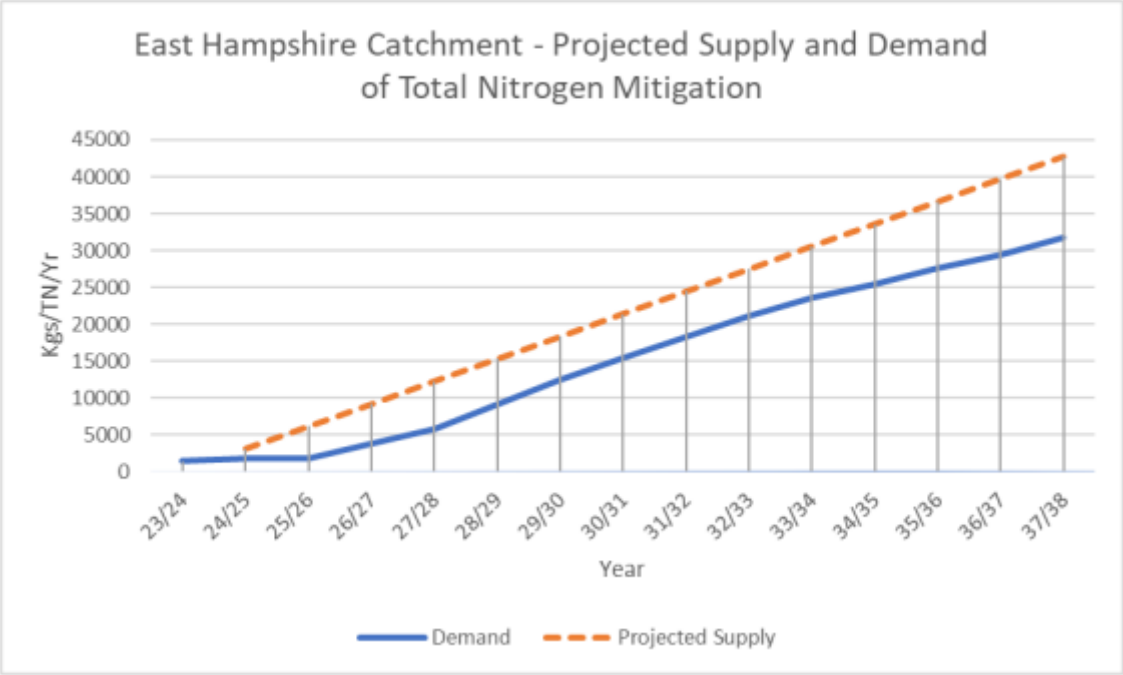


Figure 2: Project Supply and Demand of Total Nitrogen Mitigation in the East Hampshire Catchment (Source: PFSH SEPT)

5.6 The first nitrogen mitigation scheme in the East Hampshire catchment was established in 2020. Over the last four years a number of strategic mitigation schemes have come forward with an average delivery rate of 3,052Kgs/Tn/Yr. This highlights that strategically there is enough supply to continue to meet demand in the catchment, including the development in the Winchester plan area that falls within the East Hampshire catchment.

Test and Itchen Catchment - Nitrogen

5.7 The Council can confirm that there are five strategic nitrogen mitigation schemes available in the Test and Itchen catchment. The table below provides the latest position in terms of the available schemes and the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester.

Mitigation schemes[20]	***Kgs/TN/Year that is available from the scheme***
Eastleigh Borough Council (wetlands)	1,468.53
Roke Manor Farm/Awbridge Danes (arable reversion)	711
The Grange Estate, Abbotstone (arable reversion)	46
Hinton Ampner	650
Blackbarn Farm	239.34
Total	**3114.87**

Table 3: Nitrogen Mitigation Schemes available for Winchester to date within the Test and Itchen Catchments

5.8 Table 2 demonstrates that there is some strategic supply of nitrogen mitigation currently available in the Itchen.

5.9 The PfSH SEPT provide bi-yearly reports on the availability of nutrient mitigation in the Test and Itchen Catchment. The report publicised at PfSH Joint Committee in September 2023

[20] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)

provided the latest update on the projected supply and demand of nutrient mitigation as shown on Figure 3 below.

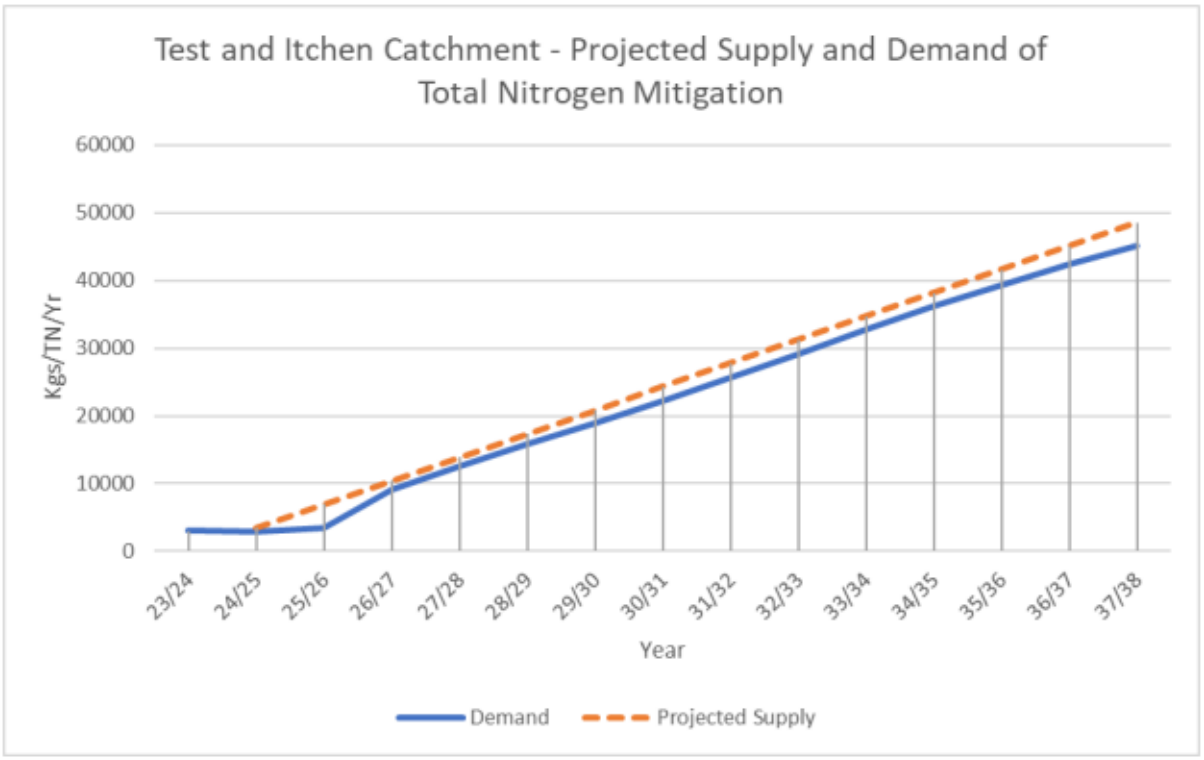


Figure 3: Project supply and demand of Total Nitrogen Mitigation in the Test and Itchen catchment

5.10 The first nitrogen mitigation scheme was established in 2021. Over the last three years a number of strategic mitigation schemes have been delivered in the Test and Itchen catchment with an average delivery rate of 3,470Kgs/TN/Yr. Figure 3 demonstrates that if mitigation continues to come forward at a similar rate than the strategic supply will continue to match demand.

5.11 The availability of supply from strategic mitigation schemes across each catchment is currently reported by the PfSH SEPT. The PFSH SEPT are currently in receipt of £9.6million of funding from the Government for nutrient mitigation for the Solent and River Itchen Catchment as outlined in Appendix 1. The SEPT are currently undertaking work to deploy the funding and deliver further nutrient mitigation schemes. The delivery of the schemes will be presented in future reports to PfSH Joint Committee in due course.

5.12 As part of the successful funding allocation from the Government Winchester District Council are in line to receive a portion of the funding to deliver upgrades to two Council owned projects. This includes upgrades to Council owned waste water treatment works to Package Treatment Plants.The Council have already undertaken the upgrading of waste water treatment works which has generated both Nitrogen and Phosphorus credits. The Nitrogen credits have been The intital two upgrades delivered 118.35Kgs/TN/Yr and 10.55Kgs/TP/Yr Further details are provided in paragraphs 5.10 and 5.11 of this paper.

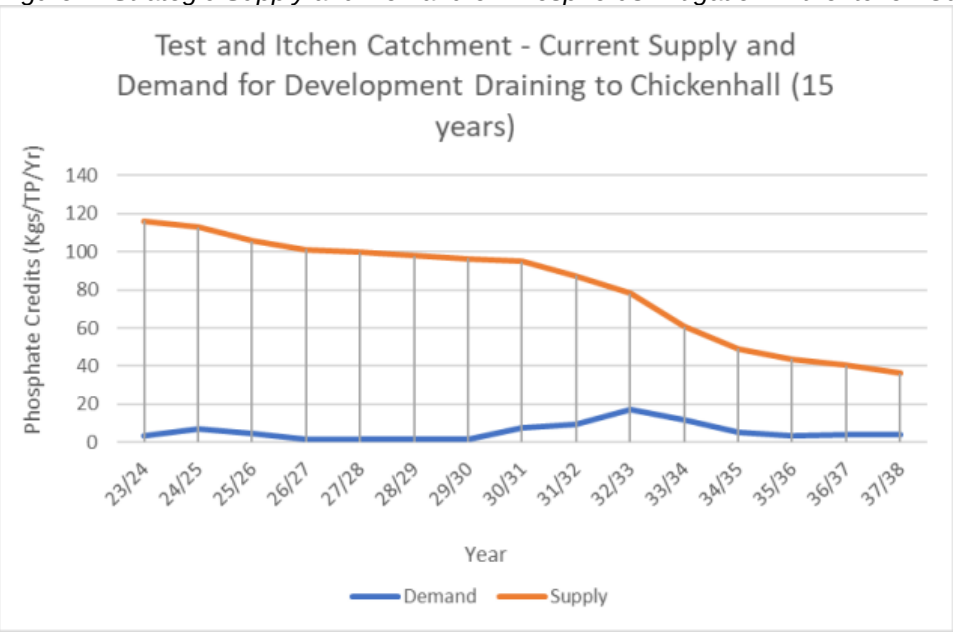
Test and Itchen Catchment - Phosphorus

Chickenhall WWTW's

5.13 Figure 1 provides an analysis of the strategic supply and demand of phosphorus mitigation to Chickenhall WWTW across a 15 year period. As highlighted in paragraph 4.11 of this paper

the Local Plan demand for phosphorus for development draining to Chickenhall equates to 25.17Kgs/TP/Yr.

Figure 1: Strategic Supply and Demand of Phosphorus Mitigation in the Itchen Catchment



Source: PfSH Nutrient Mitigation Update

5.14 There is currently 115.91Kgs/TN/Yr available from the Eastleigh Borough Council Mitigation Scheme. Figure 1 demonstrates that there is enough strategic mitigation up until 2037/38 for development draining to Chickenhall within the Winchester plan area. This will be sufficient to cover the nutrient demand for Local Plan development draining to Chickenhall as it is not anticipated that the delivery of sites will surpass 2034/35.

Remaining WWTW's in the District

5.15 The Council have completed a substantial amount of work on the delivery of two phosphorus mitigation solutions that can mitigate phosphorus and nitrogen in the River Itchen catchment. These solutions are set out below.

Council owned Sewage Treatment Works

5.16 The first solution is the upgrading of Council owned wastewater treatment works to package treatment plants to generate the reduction of phosphorus. Appendix 3 shows the location of all Council owned waste water treatment works. The reduction of phosphorus can then be used to mitigate the development draining to the remaining WWTW's (Harestock, Morestead Road and New Alresford) in the district. The Council have completed the upgrades for the first two waste water treatment works to provide phosphorus mitigation in the short term. The initial improvements generated 10.55Kgs/TP/Yr this is enough to unlock the current backlog of planning applications and meet the nutrient mitigation demand for the Local Plan allocations in the first year of the plan period.

5.17 The upgrading of the two pilot Council owned Sewage Treatment Works's to Package Treatment Plants have been endorsed by Natural England through the Discretionary Advice Service (DAS).

5.18 The Council is to receive £900,000 of the £9.6 million as set out in paragraph 5.12 of this paper to upgrade further Council owned Sewage Treatment Works. It is anticipated that these upgrades will generate further Nitrogen and Phosphorus credits. The next round of upgrades will be submitted to Natural England through the DAS process in the next couple of

months. Further information will be provided in due course in the Natural England and Winchester City Council Statement of Common Ground.

Water Efficiency Measures in Council Owned Housing Stock

5.19 The second solution is the retrofitting of Council owned housing stock with water efficiency measures. The reduction of water use has an associated effect on the amount of phosphorus entering the relevant WWTW's. This reduction in phosphorus and nitrogen can be used to mitigate new development. The PFSH SEPT commissioned Royal Haskoning to undertake a report on the amount of nutrient mitigation (both phosphorus and nitrogen) that could be generated by retrofitting of Council owned stock with water efficiency measures. The proposed water efficiency measures would have multiple benefits including bringing existing Council housing stock in line with the requirement of Policy CN4, meeting the plans aim for the district to be carbon neutral 2030.

5.20 The water efficiency measures have also been endorsed by Natural England through the DAS process. Further information will be provided in due course in the Natural England and Winchester City Council Statement of Common Ground. The Council are in the process of determining a delivery programme to set out the timetable of undertaking the retrofitting of water efficiency measures. Once the programme has been finalised further information can be provided in this paper in relation to the number of phosphorus and nitrogen credits that will be generated.

5.21 In addition, the the current mitigation schemes listed above the PfSH SEPT are also developing a pipeline of future nutrient mitigation projects including the consideration of a strategic level nutrient offset scheme.

Nutrient Credit Viability

5.22 The costs associated with developers needing to purchase nitrogen and phosphorus credits in the Itchen where this has been indicated in the nutrient budget has been reflected in the Local Plan Viability Assessment. The majority of allocated sites in the Plan in the Itchen catchment are expected to deliver post 2030 and therefore the amount of mitigation required will be reduced by the introduction of the technically achievable limit for waste water treatment works on 1st January 2030.

5.23 The Proposed Submission Plan (Regulation 19) Viability Assessment will reflect the policy costs associated with purchasing nitrogen and phosphorus credits for development delivered in the Itchen catchment pre and post 2030.

6.0 Conclusion

6.1 The Council consider that the approach undertaken in relation to the demand and supply of nutrient mitigation is in line with the guidance provide by Natural England and provides a reasonable estimate in relation to the borough's nutrient demand requirement. The main sources of data are the Plan Housing Trajectory, Natural England's Nutrient Budget Calculator and the data from the PfSH Strategic Environmental Planning Team in relation to strategic nutrient mitigation supply and demand.

6.2 The current demand for nutrient mitigation in the Winchester plan area is set out in Chapter 4 of this background paper and summarised below:

Riverine Catchment	Nitrogen Demand (kgs/TN/Yr)	Phosphorus Demand (kgs/TP/Yr)
East Hampshire	1,939.93	N/A
Test	6,247.38	N/A
Itchen		381.14

6.3 Chapter 5 provides an analysis of the supply of nutrient mitigation in each riverine catchment against the demand highlighted above and in Chapter 4. There is enough strategic supply in the East Hampshire catchment to meet the Winchester plan demand. Furthermore, projections of strategic supply and demand in the East Hampshire catchment demonstrated that supply had continued to meet strategic demand.

6.4 Chapter 5 also highlights that there is enough strategic supply from the Eastleigh Borough Council mitigation scheme to meet the phosphorus demand for development draining to Chickenhall. In terms of the Nitrogen mitigation in the Test and Itchen catchment there is currently enough strategic supply to meet 50% of the Local Plan demand. However, it is anticipated that the two Council owned projects will generate Nitrogen mitigation as part of the upgrades.

6.5 The Council will update this paper once further information is obtained in respect of the delivery timescales and the credits generated from both projects for Nitrogen and Phosphorus. Work is currently in progress to determine the supply of the Nitrogen and Phosphorus from the Sewage Treatment Work upgrades and the Water efficiency upgrades. Once this has been completed the supply of credits generated will be analysed against the demand for nutrient mitigation in the Itchen catchment.

6.6 Policy NE16 of the Proposed Submission Local Plan (Regulation 19) aims to meet the plan requirements by ensuring that all new overnight accommodation is nutrient neutral. The policy will ensure that any developments allocated in the plan or that comes forward as 'windfall' must have nutrient mitigation either on or off site before they are occupied and subsequently have an impact on any international designated site.

Appendix 1 – letter from Minister for Housing, Planning and Building Safety on Nutrient Neutrality, December 2023

Nutrient Neutrality and Local Nutrient Mitigation Fund update

Dear Council Leader

On 13 September 2023, the House of Lords voted against government proposals intended to unlock 100,000 homes between now and 2030, whilst protecting and improving the environment.

The government has carefully considered the case for reintroducing these measures through new primary legislation in the fourth session of this Parliament. While primary legislation will not be brought forward in this Parliament, the government remains committed to making rapid progress to unlock homes. We have published an update on GOV.UK setting out the range of measures that are being taken by the government.

I want to draw particular attention to the measures in the Levelling-up and Regeneration Act 2023 to reduce the mitigation burden on development and funding announced today through the Local Nutrient Mitigation Fund to significantly boost the supply of mitigation measures coming forward.

To stop pollution at source, the Levelling-up and Regeneration Act 2023 creates a new duty on water companies to upgrade wastewater treatment works (WwTW) by 1 April 2030, in catchments of Habitats Sites identified by the Secretary of State as being in an unfavourable condition due to nutrient pollution. This duty will be in effect from 26 January 2024 and the government will publish designated catchments and specific wastewater treatment works to be upgraded. The Act also requires planning decision-makers to consider these upgrades as certain for the purposes of an assessment under the Habitats Regulations. These upgrades will significantly reduce nutrient loads from WwTW in designated catchments, while also reducing the average costs of nutrient mitigation for developers. For new development connecting to WwTW subject to the upgrade duty, the reduction in costs is estimated to range between 37% to 95% for phosphorus and between 46% to 64% for nitrogen (depending on the catchment and subject to final analysis). This is alongside the continued delivery of the Natural England £30 million Nutrient Mitigation Scheme in line with the Environment Secretary's direction of 28 July 2022.

To boost the supply of mitigation, the Chancellor has announced as part of the Autumn Statement that the Local Nutrient Mitigation Fund will spend £110 million of taxpayer money over this year and next. This will enable local authorities to boost the supply of mitigation, by bringing forward innovative mitigation schemes and providing mitigation credits. The funding will be recycled locally until nutrient mitigation is no longer needed, at which point it will be used for measures to help restore the relevant Habitats Sites. This will

enable sustainable development, unlocking stalled housing delivery, whilst delivering secondary benefits like enhanced public access to nature and supporting our commitment to leave our environment in a better state than we found it.

Today, as part of the Local Nutrient Mitigation Fund (LNMF), I am pleased to announce that the department is:

- Making available the first tranche of up-to £57 million capital funding to eight successful bidders (Annex A),
- Providing a second round of Nutrient Support Funding with another £100k for 2023/24 the lead local authority for substantive catchments (those over 10,000 hectares in size, Annex B), and;
- Committing to opening the second round of the Local Nutrient Mitigation Fund in early 2024.

Departmental officials are writing to the lead local planning authorities (LPAs) on behalf of nutrient neutrality catchments who submitted bids for the first round of the LNMF informing them of the decisions. To support the capital funding, the department will also explore proportionate resource funding to support the delivery of the capital programmes, this will be additional to the Nutrient Support Funding. Additionally, officials will be writing to the relevant LPAs who previously received Nutrient Support Funding on providing another £100,000 of revenue funding for 2023/24 in the coming days.

As ever, the department will work closely with affected local authorities to ensure we continue to make progress to unblock development that is stalled as a result of nutrient neutrality. We will also consider further measures as necessary. Finally, I would like to thank you for all the work and the leadership that LPAs are showing on this challenging issue at a local level.

The House of Lords were absolutely wrong to make this decision, but we will continue to take all efforts ensure we unlock development, to allow people to have access to the homes that they need.

Yours ever,

[signed] **Lee Rowley MP**
Minister of State for Housing, Planning and Building Safety

Annex A: Table of successful Local Nutrient Mitigation Fund

Nutrient catchment	Lead local authority	Local Nutrient Mitigation Fund round one maximum
River Camel	Cornwall County Council	£2 m
Poole Harbour	Dorset Council	£4.63m
Solent and River Itchen	Fareham Council	£9.6 m
River Lugg (sub-catchment of the River Wye)	Herefordshire County Council	£1.76 m
Stodmarsh	Kent County Council	£9.8 m
Norfolk Broads	Broadland District Council	£9.6 m

Nutrient catchment	Lead local authority	Local Nutrient Mitigation Fund round one maximum
Somerset levels	Somerset County Council	£9.6 m
River Avon	Wiltshire Council	£9.8 m

Annex B: Table showing Nutrient Support Fund round 2 eligible catchments

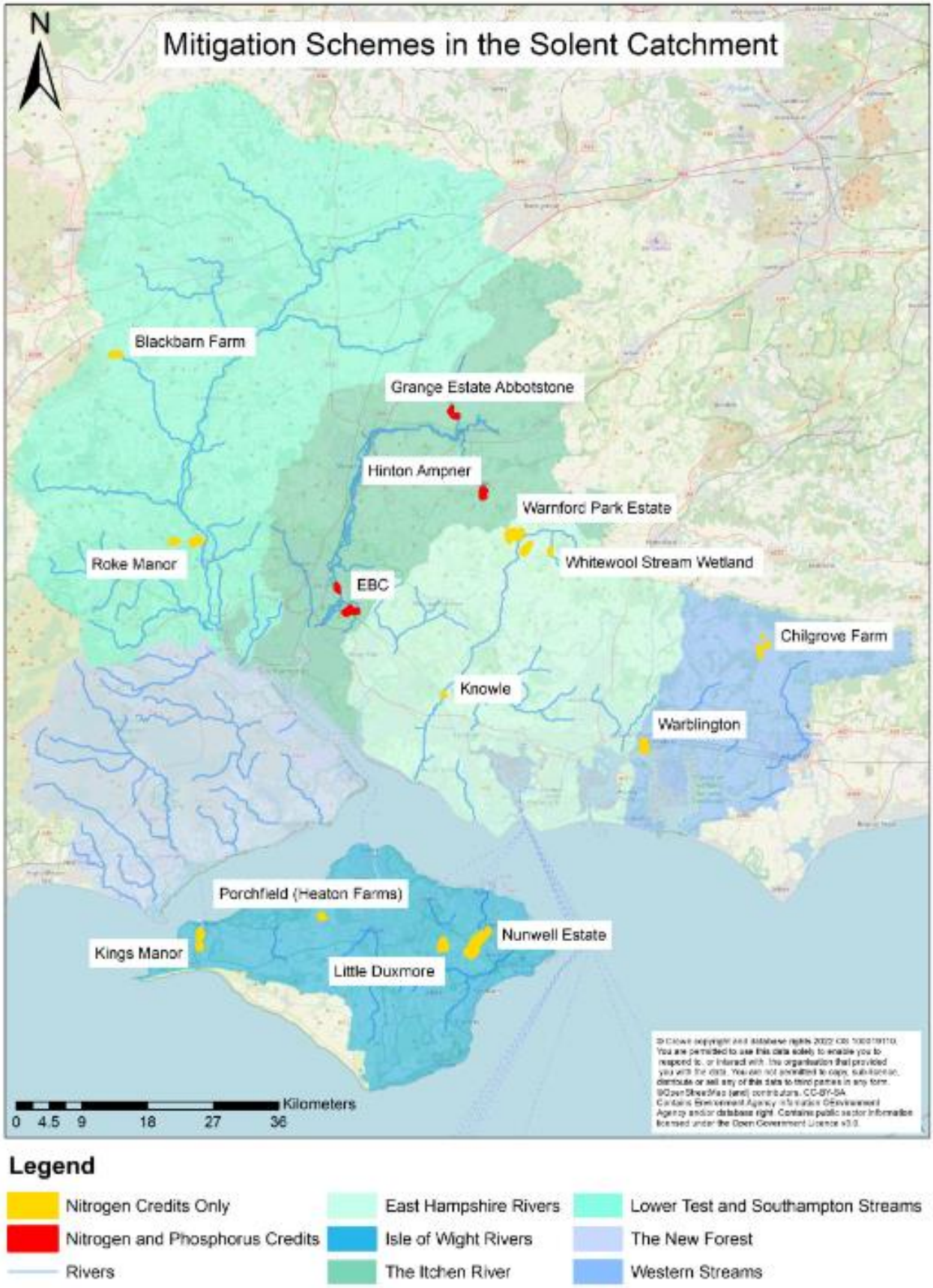
Nutrient catchment	Nutrient catchment area (thousand hectares)	Nutrient Support Fund
Solent	329	£100,000
River Eden	230	£100,000
Somerset Levels & Moors	209	£100,000

Nutrient catchment	Nutrient catchment area (thousand hectares)	Nutrient Support Fund
Teesmouth and Cleveland Coast	196	£100,000
The Broads	195	£100,000
River Avon	172	£100,000
Poole Harbour	82	£100,000
River Lugg	82	£100,000
River Wensum	57	£100,000
River Derwent & Bassenthwaite Lake	43	£100,000

Nutrient catchment	Nutrient catchment area (thousand hectares)	Nutrient Support Fund
River Itchen	42	£100,000
Stodmarsh	42	£100,000
River Axe	30	£100,000
River Camel	29	£100,000
River Clun	27	£100,000
River Lambourn	26	£100,000
Lindisfarne	25	£100,000
River Kent	22	£100,000

Nutrient catchment	Nutrient catchment area (thousand hectares)	Nutrient Support Fund
River Mease	18	£100,000
Peak District Dales	13	£100,000

Appendix 2 – Location of Nutrient Mitigation Schemes in the Solent



Appendix 3 - Location of Southern Water owned WWTW's and WCC owned WWTW's