

## 3. Legislation, Policy and Guidance

### 3.1 Planning

National, regional, sub regional and local planning policy provide guidance and the requirements for delivering sustainable development and therefore addresses, amongst other things, housing and employment growth and its distribution, water management (including improving water quality in line with WFD requirements), efficiency and protection, infrastructure provision and flood risk management. This section of the report outlines the relevant planning policy in which the issues of housing and employment growth, water management, infrastructure and flood risk are framed, and the current and emerging development plan for the Borough of King's Lynn and West Norfolk. A full review of the relevant planning policies can be found in Appendix B.

#### 3.1.1 National Policy

Government guidance is provided through a series of Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs), the most relevant of which are summarised below.

#### PPS1 - Delivering Sustainable Development and the supplement to PPS1: Planning and Climate Change

The key theme in government planning policy is the need to achieve sustainable development, which includes dealing with the effects of Climate Change. PPS1 'Delivering Sustainable Development' (2005) and the December 2006 supplement: 'Climate Change', 'Zero Carbon Development' and the 'Code for Sustainable Homes' have now been incorporated in a Planning and Climate Change Bill.

PPS1 requires regional planning bodies (RPBs) and local planning authorities (LPAs) to prepare development plans, which ensure that development is pursued in line with the principles for sustainable development, and promote outcomes in which environmental, economic and social objectives are achieved together over time. This should be achieved using a spatial planning approach.

Specifically, planning authorities should identify land suitable for meeting housing and other types of development taking into account the need to provide essential infrastructure and avoid flood risk. In addition, they should address the issue of climate change, the management of pollution and the minimisation of impacts from the management and use of resources based upon sound science. PPS1 advises that regional planning authorities and local authorities should promote amongst other things the sustainable use of water resources and the use of sustainable drainage systems in the management of runoff.

The PPS1 supplement advises local planning authorities that when deciding suitable locations for development, and for what type and intensity, they should take into account the capacity of existing and potential infrastructure including water supply, sewage and sewerage, to service the site or area in ways consistent with successfully



adapting to likely changes in the local climate. In addition, they could consider physical and environmental constraints such as sea level rises, flood risk and stability, and take a precautionary approach to increases in risk which may arise as a result of potential changes to the climate.

## PPS3 - Housing

PPS3 underpins the delivery of the Government's strategic housing policy objectives where the goal is to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live. Many of the future development in the Borough will be the provision of housing. The objectives are to deliver high quality housing, of appropriate mix, in sufficient quantity, at suitable locations by making efficient and effective use of land. Local Planning Authorities are advised they should make effective use of land by re-using land that has been previously developed; the national target is that at least 60% of new housing should be provided on previously developed land.

## PPS7 - Sustainable Development in Rural Areas

PPS7 applies to the rural areas, including country towns and villages and the wider countryside up to the fringes of larger urban areas. The Government's objectives for rural areas, as identified in PPS7, include seeking to raise the quality of life in rural areas, promoting more sustainable patterns of development and promoting the development of the English regions through improved economic performance.

PPS7 states that development should be focused in, or next to, existing towns and villages discouraging the use of 'greenfield' land.

With regards to the location of development, PPS7 states:

*“Away from larger urban areas, planning authorities should focus most new development in or near to local service centres where employment, housing (including affordable housing), services and other facilities can be provided close together. This should help to ensure these facilities are served by public transport and provide improved opportunities for access by walking and cycling. These centres (which might be a country town, a single large village or a group of villages) should be identified in the development plan as the preferred location for such development.”*

## PPS12 - Creating Strong, Safe and Prosperous Communities through Local Spatial Planning

PPS12 was published in June 2008. It outlines the nature of local spatial planning and the key components of local spatial plans and how they should be prepared. It should be taken into account by local planning authorities in preparing Local Development Frameworks (LDFs), which include development plan documents (DPDs) and other local development documents (LDDs).

With regard to infrastructure PPS12 states core strategies “*should be supported by evidence of what physical, social and green infrastructure is needed to enable the amount of development proposed for the area, taking account of*



*its type and distribution. This evidence should cover who will provide the infrastructure and when it will be provided. The core strategy should draw on and in parallel influence any strategies and investment plans of the local authority and other organisations.”*

The water cycle study will form part of the robust and credible evidence base, which will underpin policies within the emerging West Norfolk and King’s Lynn Core Strategy and other relevant LDDs.

## PPS25 - Development and Flood Risk

PPS25 sets out Government policy on development and flood risk. It aims to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. It also aims to ensure that new development does not increase the risk of flooding elsewhere. Where, in exceptional circumstances, new development is necessary in such areas then the aim is to make it safe without increasing flood risk elsewhere and, where possible, to reduce flood risk overall.

PPS25 stipulates that all planning applications for developments greater than 1 hectare must be accompanied by a Flood Risk Assessment detailing surface water management plans to demonstrate that runoff does not increase from the proposed development once it has been built and that runoff is not simply moved elsewhere.

This echoes comments from the Pitt review, which reiterates comments in PPS25. It makes it clear that developments within Flood Zone 2 and 3 should not be allowed to proceed unless there is clear proof that they are compatible developments for these zones, as this report is being used to inform this process it will act as an aid to the decision making process when advising on the suitability of developments in line with guidance within the Pitt Review.

### 3.1.2 Regional Planning Policy

#### East of England Regional Spatial Strategy

The Regional Spatial Strategy (RSS) for the East of England<sup>2</sup>, provides the planning and development strategy for the region to 2021. The RSS establishes the broad principles for sustainable development and growth in the region. It provides Local Planning Authorities with a framework to base their policies on.

Its objectives are to:

- i. reduce the region’s impact on, and exposure to, the effects of climate change;
- ii. address housing shortages in the region;

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<sup>2</sup> Published May 2008.



- iii. realise the economic potential of the region and its people;
- iv. improve the quality of life for the people of the region; and
- v. To improve and conserve the region's environment.

The RSS concentrates growth at key centres for development and change, which includes all of the region's main urban areas, and has potential to accommodate substantial development in sustainable ways to 2021 and beyond. It recognises the importance of a number of priority areas for regeneration, which include many of the key centres for development and change, whilst not overlooking pockets of deprivation in otherwise relatively buoyant town and rural areas.

It seeks to increase energy efficiency and carbon performance, improve water efficiency and recycling as percentage of waste with protection of the environment and avoiding adverse effect on sites of European or International importance for nature conservation.

The Regional Spatial Strategy is currently being reviewed, to provide a framework between 2021 and 2031. The revised RSS is due to be complete by end of 2010.

### 3.1.3 Local Planning Policy

#### Borough of King's Lynn and West Norfolk Adopted Local Plan

The Planning and Compulsory Purchase Act 2004, provides for the saving of policies in adopted or approved local, and structure development plans for a period of three years from the commencement date of the Act, which was 28 September 2004.

Policies in the adopted King's Lynn and West Norfolk Local Plan were to expire on 27 September 2007 unless the Secretary of State extended such policies beyond that date. The Secretary of State on the request of the Council saved a number of the policies of the Local Plan for a further three years or until superseded by new policies.

The Saved Policies provide the adopted planning policy framework and direct major new development to King's Lynn. Whilst limited development at Downham Market may be permitted, expansion of Hunstanton will be restrained. New development should be located in areas with adequate essential public infrastructure and the Council may require planning obligations to ensure development is supported with appropriately timed infrastructure.

#### Emerging Local Development Framework

Under the provisions of the Town and Country Planning Act 2004, the saved policies of the West Norfolk Local Plan will be replaced by an LDF - a portfolio comprising a number of Development Plan Documents, some of which form part of the statutory development plan along with the RSS.



The core strategy in conformity with the RSS sets out the general spatial vision for the Borough and the means to delivering the vision. The Core Strategy is currently at Regulation 25 Stage Preferred Options) and once adopted it will provide a planning framework for 15 years.

The Core Strategy proposes that housing will be broadly allocated as follows.

- King's Lynn - 7,100
- Downham Market - 3,000
- Hunstanton - 530
- Rural areas - 5,600 (of which 3,800 will be within the Key Service Centres and 500 in the Wisbech fringe)

The Core Strategy seeks to deliver the allocated housing in a deliverable and sustainable manner, which is appropriate for the Borough. Housing growth will be supported by infrastructure, and employment. The Core Strategy seeks the provision and management of sufficient supporting infrastructure such as SuDs to be delivered by developers where appropriate.

The Core Strategy is due to be adopted in Spring 2011.

## The Water Cycle Study

The Water Cycle Study is intended to inform the planning process and provide an evidence base for the production of the final Core Strategy and other LDDs and, thereby, assist in delivering objectives relating to water in a timely and structured manner when bringing forward development. In effect it provides the detail on how the Local Authority, and ultimately developers, will meet the strategic water requirements of the East of England Plan. The Borough of King's Lynn and West Norfolk will need to address the policies of the East of England Plan in its LDD and, where necessary, include appropriate policies within its documents. It is fundamental that the Core Strategy includes an appropriate policy base but there are options as to how this is best achieved.

## Other Relevant Studies

Other environmental studies commissioned to date to inform the planning process includes the following:

- Strategic Flood Risk Assessment - this provides detailed guidance on areas at risk from flooding in the District;
- Strategic Environmental Assessment (SEA) and Sustainability Appraisal Baseline Report - the SEA/sustainability appraisal is a continuous process to ensure that the policies and proposals of the Plan have regard to sustainability objectives;



- Strategic Housing Land Availability Assessment (SHLAA) - this assessment seeks to identify potential housing land across the Borough and therefore could identify more sites suitable for residential development above those already identified and considered as part of the water cycle study.

## 3.2 Water Company Planning

Water companies plan for investment in water infrastructure through the Asset Management Plan (AMP) process which runs in 5 year cycles. This process is regulated by the Office of Water Services (OFWAT), that reviews the plans and determines charges for water services. This process is carried out in conjunction with the Environment Agency that assesses environmental requirements for investment and the Drinking Water Inspectorate (DWI) that assesses the investment required to improve drinking water quality. The outcome is a Business Plan which is produced by each water company and outlines the requirements for investment over the following 5 year period(s) which is submitted to OFWAT.

The water companies are currently in the process of submitting their Business Plan for the period 2010 to 2015 (PRO9). Immediate requirements for investment in the Borough of King's Lynn and West Norfolk should therefore be identified in the current plans but longer term requirements related to planned development beyond this period may not be covered. Water companies are able to submit interim determinations within the 5 year planning cycle to seek additional funding for unforeseen requirements but most plans should be covered by the normal submission process. Water Cycle Strategy covers a longer planning period and can therefore inform longer term water company asset planning.

Water companies are also required to produce Water Resources Management Plans (WRMP) which report longer term planning related to the development of water resources over a period of 25 years. The Water Resource Management Plan identifies investment in water resources schemes to meet additional demand related to population growth and changes in per capita consumption of water. Anglian Water is currently in the process of completing their WRMP but this has not yet been published.

## 3.3 River Basin Management Planning

The Water Framework Directive (WFD) is European legislation that aims to consolidate existing environmental legislation. It came into force in December 2000, and was transposed into UK law in 2003. It introduces new environmental standards that will help to improve the ecological health of inland waters to achieve "good ecological status". This will be achieved by:

- Driving wiser, sustainable use of water as a natural resource;
- Creating better habitats for wildlife that lives in and around water, for example by improving the chemical quality of water;
- Progressively reducing or phasing out discharges, emissions and losses of priority substances and priority hazardous substances;



- Progressively reducing the pollution of groundwater; and
- Contributing to mitigating the effects of floods and droughts.

Implementation of WFD is carried out through a process of River Basin Management Planning which is coordinated by the Environment Agency in consultation with stakeholders. Plans are developed for each waterbody within a River Basin. Part of the philosophy behind the plans is to seek co-delivery of key actions, hence some of the actions required from the plans could be fulfilled through this WCS. The first draft River Basin Management Plans for England and Wales were published by the Environment Agency in December 2008 and are therefore available for review in this WCS.

### 3.4 Environmental Legislation and Regulations

Legislation, guidance and supporting evidence for water related issues, including water quality, flood risk management and urban drainage, have a significant impact on the water cycle and are often the cause of changes in water infrastructure, as much as development pressures. Any adaptations to the water cycle must be compliant with such legislation.

There is currently an unprecedented level of change in the legislation and guidance for water related issues. Some of these changes are driven by European directives; others are in response to national pressures, from the 2007 summer floods for instance. These changes are either currently being implemented, soon to be applied or likely to change in the next 5 to 10 years. Given that the timetable for the Water Framework Directive spans the next 18 years in three six-year cycles, the water companies expect to use the first period to carry out the majority of investigations to establish the necessary investment. This will provide an opportunity to assess the improvements delivered through other quality investments.

The primary pieces of legislation which set the context relating to the water cycle are summarised in Table 3.1 below.

**Table 3.1 Primary Water Related Legislation**

Legislation	Description
Water Framework Directive	<p>The Water Framework Directive sets out a requirement to achieve good ecological status in rivers, estuaries and coastal waters, together with good status of groundwater by at least 2027. It presents a unique opportunity for holistic environmental management for all users of the water environment.</p> <p>Standards for coastal and transitional (estuaries) waters brought in to meet the requirements of the Water Framework Directive require that thermal conditions, oxygen conditions, transparency and nutrients are considered. A cross body Technical Advisory Group (UKTAG) has recently published a set of environmental standards. Whilst there is no certainty that these standards will become statutory in the current form, they form the best current knowledge of how the standards may change. It is considered likely they will be finalised later this year. The environmental quality standards of key concern in transitional waters are temperature, suspended solids and nitrogen.</p>



Legislation	Description
Habitats Directive	<p>As people make increasing demands on the environment our wildlife habitats are coming under more and more pressure. The Habitats Directive recognises this and aims to protect the wild plants, animals and habitats that make up our diverse natural environment. The European Directives created a network of protected areas of national and international importance. These are called 'Natura 2000' sites and include Habitats Directive Special Areas of Conservation (SACs).</p> <p>The Habitats Directive has been transposed into English law as the Conservation (Natural Habitats &amp;c) Regulations 1994, now known as the Habitats Regulations.</p> <p>Existing and future water management has the potential to affect a number of these designations and the Environment Agency Review of Consents process has identified a series of amendments that will be required to existing abstraction licences and discharge consents if adverse effects on the European Sites are to be avoided.</p>
Shellfish Water Directive	<p>The Shellfish Waters Directive aims to protect shellfish populations and contributes to the high quality of shellfish products. It sets water quality standards in areas, mainly in estuaries, where shellfish grow and reproduce. The directive requires that certain substances are monitored in the shellfish waters. These substances can threaten the survival of shellfish, inhibit their growth or make them too expensive to treat before they can be used as a food source. In the UK, the directive is implemented by the Surface Waters (Shellfish) (Classification) Regulations 1997 and the Surface Waters (Shellfish) Directions 1997.</p> <p>The directive will be repealed in 2013 by the EC Water Framework Directive, which must provide at least the same level of protection to shellfish waters (which the WFD classifies as protected areas) as the Shellfish Waters Directive does.</p>
Bathing Waters Directive	<p>The Bathing Waters Directive sets out water quality standards to protect the environment at bathing waters throughout the bathing season. It requires popular bathing waters to be 'designated' and monitored for water quality, particularly for human waste from sewage treatment works. In England and Wales the bathing water season runs from mid-May to September. The directive is implemented through the Bathing Waters (Classifications) Regulations 2003.</p> <p>A revised Bathing Water Directive became law in the UK in March 2008. As well as stricter water quality standards, it contains a requirement to provide more detailed and standardised information about bathing waters across Europe.</p>
Urban Wastewater Treatment Directive	<p>The Urban Wastewater Treatment Directive (UWWTD) regulates the collection and treatment of wastewater from residential properties and industry. Under this Directive receiving waters can be designated as 'Sensitive' where additional levels of treatment are required at significant contributing discharges. These can either be direct discharges or those upstream of the designated reach / water body that serve a population equivalent in excess of 10,000. One type of sensitive area is the "Sensitive Area [Eutrophic]", where elevated nutrient concentrations, mainly nitrogen or phosphorus, present a risk to the ecological status of the receiving water. In these areas, larger sewage discharges must be treated to reduce nutrient loads.</p>

### 3.4.1 Habitats Directive Review of Consents

The output of Review of Consents is summarised in Appendix 21 documents for each SPA and SAC. These identify any abstraction licences and discharges that may have a harmful impact on the sites and, therefore, may need to be revoked or modified. The key findings on Review of Consents for the key sites in the Borough are summarised in Table 3.2.





**Table 3.2 Summary of the findings of Review of Consents for the SPAs and SACs within the Borough of King's Lynn and West Norfolk**

<b>Ouse Washes</b>
<p>With respect to water quality discharge consents, it is clear that phosphorus is the main issue for the Ouse Washes SAC and SPA, leading to eutrophication in the main watercourses and internal ditches and degradation of the wet grassland habitat. From all of the available evidence, phosphorus levels in both the SAC and the SPA are above the desired target level, in some cases by a considerable amount. The modelling work that has been undertaken has shown that the main contribution to the phosphorus load comes from consented point source discharges of sewage effluent in the Bedford Ouse catchment.</p> <p>Water resources consents do not adversely affect the integrity of the European site, with respect to SPA and SAC features, either alone or in combination.</p>
<b>The Wash</b>
<p>The Environment Agency concluded that for The Wash SPA, there is no adverse affect on the integrity of the site from its permissions (water quality and water resources).</p>
<b>The North Norfolk Coast</b>
<p>There may be freshwater flow impacts from abstractions around the outflows of the Rivers Hun, Glaven and Stiffkey and it cannot be shown that there is no adverse affect for 3 SAC habitats around these outflows. These habitats are 1) Mudflats and sandflats not covered by seawater all the time; 2) <i>Salicornia</i> and other annuals colonising mud and sand; and 3) Atlantic salt meadows (tidal reedbed habitat). These issues are currently being assessed further through the production of Site Option Plans.</p> <p>The water quality assessment shows that marine influences and meteorology are the governing influences at this site. This is in part due to the extent of the seaward boundaries of the site and the large tidal exchange / volumes involved, but also because of the relatively low river discharges which limits the influence of freshwater. The fact that there are relatively low discharge-related pressures and in particular no direct continuous discharges to the site is also significant. Taking this in to account, as well as analysis of Environmental Quality Standards, productivity models and ecological sensitivity information, the review concludes no adverse affect for all discharge consents.</p>
<b>The Norfolk Valley Fens and Roydon Common and Dersingham Bog cSAC</b>
<p>The Norfolk Valley Fens consist of several small wetland SSSIs which are mostly located in the western part of Breckland District although some are present with the Borough of King's Lynn and West Norfolk (Roydon Common - part of the Roydon Common and Dersingham Bog cSAC and East Walton and Adcock's Common). Abstractions have been identified as potentially affecting the integrity of some of the SSSIs including Roydon Common and East Walton and these are currently being assessed further through the development of Site Options Plans. No water quality issues have been identified at these sites that are relevant to this WCS.</p>

### 3.4.2 UK Biodiversity Action Plans (UK BAP)

UK BAP is the UK government's response to the Convention on Biological Diversity (1992). It describes the nation's biological resources and develops detailed action plans on the development of these resources. It identifies priority species and habitats which provide the focus of the action plans. UK BAP is promoted through a voluntary partnership scheme which includes several of the key stakeholders in the study area including the Borough Council, Internal Drainage Boards and Anglian Water.

Key habitats in the Borough of King's Lynn and West Norfolk that may be affected by water infrastructure include:

- Coastal floodplain and grazing marsh;



- Eutrophic standing waters;
- Lowland fens;
- Ponds;
- Reedbeds; and
- Chalk Rivers.

Aquatic BAP species of note in the study area include:

- Otters;
- Water vole; and
- Great crested newt.

These species and habitats should be protected and supported through the provision of water infrastructure by the partner organisations.

### 3.4.3 River Basin Management Plans (draft RBMP) in the Borough of King's Lynn and West Norfolk

Table 3.3 lists the Actions identified in the draft RBMP related to the Borough. Only actions that may affect the provision of water infrastructure are shown.

### 3.4.4 County Wildlife Sites

County Wildlife Sites are non statutory sites of local habitat importance. These sites should be considered in the context of water infrastructure, to ensure that habitats are protected and where possible enhanced. There are nearly 1300 County Wildlife Sites in Norfolk.



**Table 3.3** Actions identified in the draft River Basin Management Plan that may affect water infrastructure in the Borough of King's Lynn and West Norfolk

Pressure	Action	When	Where	Means of delivery	Lead Organisation	Driver
<b>Scenario A - What is already happening and what will happen</b>						
Nutrients Water	Improvement of polluting discharge (continuous) at Sculthorpe STW	2010	Anglian RBD	AMP4	Anglian Water Services Ltd	Habitats Directive (River Wensum)
Abstraction and other artificial flow pressures	Include strong water efficiency policies in Spatial Strategies and Local Development Plans / Frameworks, e.g. four specific 'water policies' (incl one on water efficiency) in draft East of England Plan (RSS14)	2008	Throughout area covered by East of England Plan	Spatial planning policies	Regional Assemblies, WAG, Local Authorities	WFD – basic measure (Art 11.3 e)
Organic pollutants	Investigations into continuous groundwater discharges at Harpley STW	2010	Anglian RBD	AMP4	Anglian Water Services Ltd	Groundwater Directive
<b>Scenario 'B' - Additional actions that will happen if this plan is approved</b>						
Abstraction and other artificial flow pressures	Investigation to determine impact of abstraction on the site	2010	East Walton and Adcock's Common	PR09	Water Company	Habitats Directive
Nutrients, Organic pollutants	SUBJECT TO APPROVAL IN 2009: Improvement of polluting discharge (continuous) at Castle Acre STW, Harpley STW, Henley STW and Sculthorpe STW	2010	Anglian RBD	PR09	Anglian Water Services Ltd	Groundwater Directive, SSSI
Priority Hazardous Substances, Priority Substances and Specific Pollutants, Nutrients	SUBJECT TO APPROVAL IN 2009: Investigations into intermittent groundwater discharges at Bircham Newton STW, Flitcham Abbey Road STW, Rougham (Norfolk) STW and West Acre River Road STW	2015	Anglian RBD	PR09	Anglian Water Services Ltd	Groundwater Directive
Abstraction and other artificial flow	Water Partnership Group' to address the delivery of water infrastructure to facilitate sustainable	2008	Eastern England	Eastern England	Water Partnership Group (GOEast,	WFD – basic measure (Art



Pressure	Action	When	Where	Means of delivery	Lead Organisation	Driver
pressures	growth across the East of England				Environment Agency, Water Companies, EEDA, EERA, Natural England)	11.3 e)
<b>Scenario C - Additional actions that could happen if we had more certainty</b>						
Organic pollutants	LOCALLY DERIVED MEASURE: Development of sewerage schemes for existing holiday parks.		Sewage discharges into Snettisham Slime Lagoon, The ash etc from coastal developments especially caravan parks and chalets)	Byelaws	Local Planning Authorities, Anglian Water, Natural England, Environment Agency	Reduction of pollution in coastal waters

