



## **Eden District Council Nutrient Neutrality Update**

### **Background**

In March 2022, Natural England issued Nutrient Neutrality Regulations to a number of local authorities, including Eden, Lake District National Park, Carlisle, South Lakeland, Copeland and Allerdale, in response to the issue of increasing nutrient load within the catchments of UK and European designated nature conservation sites.

In short, the regulations require new developments to not add any extra nutrients, in particular phosphorous, to these catchments as it is damaging to important habitats. If a development will increase nutrient levels, it must have a way of removing the same amount of nutrients either on site or from somewhere else in that catchment.

The types of development that have been highlighted as causing an issue are:

- Agricultural development which will result in an increase in stock numbers; or
- New overnight accommodation (including new dwellings, new camping, glamping or caravan pitches served by on-site toilet or washing facilities, or new hotel bedroom accommodation); or
- New tourism development which is likely to increase the number of day visitors to a premises.

Under the Habitat Regulations therefore these types of development cannot be given planning permission unless they can demonstrate, beyond scientific doubt, that they will be nutrient neutral.

### **What does this mean for Eden District Council?**

All planning applications for the above types of development within the Eden Catchment (which covers almost all of the Eden District Council planning authority area with the exception of the Alston area) are now required to be supported by a nutrient neutrality assessment and, where additional nutrients (phosphorus) are likely, proposals to mitigate the increase. This also requires a Habitats Regulations Assessment to be undertaken to confirm there will be no adverse impact on the designated sites.

As a result, a significant number of planning applications and reserved matters applications are currently on hold pending submission of nutrient neutrality assessments and mitigation, which need to be assessed and agreed by both Eden District Council, as the 'competent authority', and Natural England as the statutory body responsible for the regulations.

This briefing note has been prepared to update landowners, agents, businesses and individuals on how the nutrient neutrality issue is being addressed both within Eden District and the wider Cumbria area. It is an evolving situation, not least due to recent statements from the Government on potential plans to remove or reduce environmental regulation in order to speed up housing delivery and promote economic growth.

## **Planning Applications**

Eden District Council's planning team is continuing to process planning applications including those that require nutrient neutrality mitigation and supporting Habitats Regulations Assessments. We are working to resolve all the usual planning issues in parallel whilst nutrient neutrality matters are being addressed. This includes issues on applications that were already going through the determination process when the nutrient neutrality regulations came into force.

Some local authorities are progressing applications to the point of granting consent subject to nutrient neutrality being resolved; however, we have received legal advice against that and along with the majority of planning authorities affected in the country, we have to halt consideration of affected planning applications until a solution is put forward.

Developers, agents and individuals looking to submit planning applications that will be subject to nutrient neutrality requirements are reminded that they are responsible for showing how neutrality will be achieved, but recognising the difficulties we are trying to assist that process as far as we can. We are currently updating the planning application validation checklist, which will include requirements for nutrient neutrality assessments and mitigation plans. In the meantime, we encourage you to discuss with the council as early as possible in order to seek advice on what will be required to be submitted with planning applications. The council also now has an in-house officer dealing with nutrient neutrality who can provide general advice.

## **Cumbria Nutrient Neutrality Project**

The Cumbrian local planning authorities and those affected in Northumberland are working together to look for solutions to the nutrient neutrality issue, including identifying suitable sites that could be developed for larger scale mitigation schemes from which developers could purchase credits for nutrient offsets against new development.

A Joint Project Board has been established which also includes Natural England and Environment Agency representatives and regular working meetings are now taking place.

The Government is providing £100,000 to each affected catchment (£400,000 in total for Cumbria) which is being used to fund work to find solutions. A tender to develop a Mitigation Solutions Strategy has been published as part of this work. A Nutrient Neutrality Officer is also being recruited to work across the four catchment areas.

## **Natural England Strategic Mitigation**

Natural England is developing a national scheme to establish large scale mitigation schemes in each of the priority catchments (of which Eden is one) which will generate offset credits that can be purchased by developers for their development. This is being supported by a catchment model to identify areas that would be suitable for large integrated constructed wetlands which can deliver the highest nutrient offset as well as provide other environmental benefits, including biodiversity net gain. A call for sites is expected to be published by the end of the year. Natural England is working with local authorities at the local level too and providing ongoing advice to officers on planning applications and individual mitigation schemes.

## **Eden District Council Strategic Mitigation**

In parallel with the work of the Cumbria Project Board and Natural England, Eden District Council officers are engaging in discussions with landowners, developers and NGOs such as Eden Rivers Trust and Cumbria Wildlife Trust, to explore the potential or developing partnerships to deliver local mitigation schemes. The response so far been very positive and work will be ongoing over the next few months to identify and bring forward sites for which nutrient offset credits can be offered to developers.

## **Local Authority National Support Network**

Eden District Council, together with all local authorities across England who are affected by the nutrient neutrality regulations, are part of a network set up by the Planning Advisory Service (PAS) to facilitate knowledge sharing and information exchange. We are using this to learn from other local authorities who have already developed mitigation and credit schemes as we look to establish our own.