CASE STUDY - Achieving Sustainable Growth in Norfolk

1. Introduction

On 16 March 2022 Natural England wrote to 73 local planning authorities about the adverse condition of their rivers and waterways in the habitats in special areas of conservation. Stopping all new development in these catchments overnight.

Measurements of phosphorus and nitrogen at various locations had shown one or both nutrients had been found to be well above acceptable standards. As a result, any planning permission that had not been fully agreed required the developer (and Council as the determining authority) to be confident that the wastewater generated from the properties would not have a further adverse effect on the rivers. Natural England would also double check the details of any mitigation put forward and provide guidance as part of their role as a statutory planning consultee.

Later analysis would show that this constraint initially impacted on some 340 sites and 14,000 homes across Norfolk, but this figure grew over time.

The focus of the work was to identify a balance between enabling housing growth and protecting the environment.

Alongside the technical challenges there was also a lot of frustration, especially from politicians, developers and landowners about the delay on development and the impact on housing costs and supply.

2. Problem description

The two special areas of conservation (the River Wensum and The Broads) crossed five local authority areas whilst for two other local authorities in Norfolk there was minimal impact. There was little known initially about the types of solution that would be most effective in reducing nutrient levels or the evidence that would be required to meet Natural England's requirements.

To identify the scale of the issue the development sites that were impacted had to be identified and a consistent set of data collected across the five local authorities, this database then needed to be maintained throughout to assess progress. Whilst a small number of larger sites would be able to develop their own solutions, many homes were on sites of less than 50 homes.

Whilst the immediate problem was the development sites that were already in the planning system there were also sites in the planning pipeline affected, with local plans running to 2035.

The work was also set against an uncertain legislative context with legal challenges to the position Natural England had taken and government environmental and planning policy under review. This made it very challenging for landowners to invest in mitigation schemes, many of which would take a few years to reach their full potential, when the need for mitigation was still uncertain.

3. Approach

Projects needed to be identified that would reduce the current level of nutrients entering the waterways and therefore create headroom that the new development could consume. Noting the planning requirement for development was to be nutrient neutral and not to specifically improve river conditions.

There was already a good working relationship between the local authorities across Norfolk and several cross-region bodies in place. One of these groups was initially expanded to include Anglian Water and initial work undertaken to look at the sources of pollution.

The government made some revenue seed funding available for each catchment to assist with the challenge of addressing nutrient neutrality. This enabled specialist advisors (Royal Haskoning) to be commissioned to look at the scale of the problem and potential ways of reducing nutrient levels.

A lead local authority director was appointed, and further senior level support was brought into assist with the programme. Given not all the authorities were significantly affected, a new group led by the Director and comprising of the five local authorities, Anglian Water and Royal Haskoning was established.

At a National level the Planning Advisory Service had also convened a group of the affected authorities to look at sharing approaches and best practice and engage directly with Department for Levelling Up Housing and Communities (DLUHC) and Department for Environment, Food and Rural Affairs (Defra).

Regular updates were provided to all the local authorities and briefings held with members.

Following the initial work and given the scale of the challenge and desire to see progress quickly it was felt the issue could not be solved by the Councils alone. The overall ambition was therefore to develop a market for nutrient credits, a business case was prepared on the options and potential approach.

A report was then drafted and agreed in Winter 2022 in discussion with all the planning authorities. The recommendations were then taken through the various decision-making bodies.

The joint venture then needed to be established, shadow arrangements were put in place and then with support from Birketts LLP all the legal arrangements were made with the partners.

In Spring 2023 the government requested that applications be made by the affected areas for further funding to speed up the delivery of mitigation solutions. A proposal was prepared containing the detailed evidence base and a draft list of potential projects.

4. Solutions and Results

In Autumn 2022 Royal Haskoning produced a detailed report which covered the scale of the issue, over 14,000 homes were on hold and a further 20,000 would be impacted during the plan periods to 2035. Over twenty potential ways of reducing nutrient levels entering the waterways were analysed with seven assessed as having potential in Norfolk and sufficiently robust evidence bases. The three most viable being constructed wetlands, land use change, and septic tank conversion to modern package treatment plants.

Given the scale of the challenge a business case was then prepared on how a programme could be co-ordinated and delivered.

Between January and March 2023, the Councils formally considered a report outlining potential models of delivery and agreed to establish a joint venture with Anglian Water, with all making a financial contribution to get the business established. with the aim of the joint venture to provide up to 40% of the market need in the longer term. A dedicated website was developed and a general manager was also recruited.

Several opportunities to bring forward projects were also explored and one of these land-based projects enabled the whole process from project identification through to issuing credits to be progressed. There were a lot of lessons learnt and it took a year to complete.

Following the initial work in the Spring the government then provided opportunity for bids to be submitted for capital funding. A programme of projects was assembled with a capital bid of £13M made to government in May 2023 through Broadland District Council as the lead authority. A bid that would be successful with £9.6M awarded in December 2023 and a further programme of work.

5. Conclusion and Lessons Learnt

The support from the councils (and Broadland DC in particular as the accountable body) was essential as this programme was undertaken against a very fluid policy position nationally.

The establishment of a robust and reliable evidence base on the nutrient requirement and the projects that could deliver reductions was essential for the business case and in securing external investment.

Having a nominated director who could co-ordinate the programme and engage with local landowners and potential mitigation providers as well as central government was vital.

The scale of the nutrient neutrality challenge in Norfolk required a market led solution with the councils also having a stake in progressing this swiftly through the joint venture.

Success in this stage of the programme was based on an effective collaboration with members, the partners, securing specialist advisers early on and the support from development teams in each of the local authorities.

The approach to uncertainty and managing uncertainty was a key learning point, recognising that quite often in these sorts of situations nothing can be guaranteed.

Whilst some other parts of the country had been impacted by nutrient neutrality earlier the approach and progress in Norfolk was effective and therefore helpful in informing the national agenda and securing additional support.

6. References

Decision reports can be found on the Broadland District Council website. The Norfolk Environmental Credits website has been updated since this work, the structure is similar www.norfolkenvironmentalcredits.co.uk