



## NUTRIENT CREDIT CERTIFICATE

Start Date:	20/09/2023 -----
Reference number:	NM-D-TCC-1070 -----
Renewal number:	-----

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## DEFINITIONS and INTERPRETATION

Administration Fee	£182.50 plus VAT.
Competent Authority	As defined in Regulation 7 of the Habitats Regulations.
Developer	The party identified at Section 2.
Development	The development identified at Section 3.
Development Site	The land on which the Development is located and all of it.
European Site	Has the meaning given by Regulation 8 of the Habitats Regulations.
Exempt Sewage Disposal Works	Sewage disposal works that will not be subject to a statutory requirement to be Upgraded (and 'Exempt' shall be construed accordingly).
Expire	The termination of a <u>provisional</u> Nutrient Credit Certificate by effluxion of time pursuant to clauses 6.9 and 6.10 (and 'Expiry' shall be construed accordingly).
First Stage Payment	10% of the Total Nutrient Credit Fee, plus VAT, or [REDACTED] plus VAT, whichever is the greater.
Freedom of Information Regime	The Freedom of Information Act 2000, the Environmental Information Regulations 2004 and all associated laws, requirements and codes of practice.
Habitats Regulations	The Conservation of Habitats and Species Regulations 2017.
HRA	An assessment of the implications of a plan or project on a European Site, as required by Part 6 of the Habitats Regulations.
Interim Nutrient Credits	Nutrient Credits for the period between the Occupation Date and the Upgrade Date.
Interim Nutrient Credit Fee	Natural England's charges for Interim Nutrient Credits.
Long-term End Date	125 years from the Occupation Date.
Long-term Nutrient Credits (Exempt SDW Basis)	Nutrient Credits for the full period between the Occupation Date and the Long-term End Date.
Long-term Nutrient Credit Fee (Exempt SDW Basis)	Natural England's charges for Long-term Nutrient Credits (Exempt SDW Basis), plus VAT.

Long-term Nutrient Credits (Upgraded SDW Basis)	Nutrient Credits for the period between the Upgrade Date and the Long-term End Date.
Long-term Nutrient Credit Fee (Upgraded SDW Basis)	Natural England's charges for Long-term Nutrient Credits (Upgraded SDW Basis), plus VAT.
Material	<p>Any difference that in Natural England's reasonable opinion can or may affect the potential of the Development to have a significant effect on a European Site under the Habitats Regulations.</p> <p>If the Developer is or ought reasonably to be in doubt as to whether a matter is Material it must make enquiry of Natural England in Writing.</p>
Nitrogen, N	Compounds of nitrogen.
Nutrient	Nitrogen and Phosphorus.
Nutrient Credits	Credits relating to the removal of Nitrogen and/or Phosphorus inputs to a European Site secured by Natural England, and including Interim Nutrient Credits and Long-term Nutrient Credits.
Nutrient Credit Certificate	Includes both a <u>provisional</u> and a <u>final</u> Nutrient Credit Certificate and the Annex(s) thereto.
Occupation Date	The date on which the first dwelling on the Development is occupied.
Phosphorus, P	Compounds of phosphorus.
Planning Permission	Statutory permission granted by a Competent Authority for the Development, whether full, outline, reserved matters, discharge of conditions or other and whether or not in terms acceptable to the Developer, and including conditions and agreements associated therewith.
Relevant European Site	The European Site(s) that will receive input from the Relevant Sewage Disposal Works.
Relevant Sewage Disposal Works	The sewage disposal works identified in Section 3 that will serve the Development.
SDW	Sewage disposal works
Second Stage Payment	The balance of the Total Nutrient Credit Fee after payment of the First Stage Payment, adjusted to take account of any difference between the Development as proposed and the Development once granted Planning Permission, plus VAT.

Secretary of State	The Secretary of State for the Department of the Environment, Food and Rural Affairs.
Start Date	The date to be inserted by Natural England at the top of page 1 of a Nutrient Credit Certificate. A Nutrient Credit Certificate that does not stipulate its Start Date is invalid.
Total Nutrient Credit Fee	The total of Natural England's charges set out at Section 4, plus VAT.
Upgrade	A statutory obligation to apply more stringent nutrient pollution standards to the concentration of total nitrogen and total phosphorus in treated effluent discharged from sewage disposal works. (and 'Upgraded' shall be construed accordingly).
Upgrade Date	The date from which the Relevant Sewage Disposal Works shall be subject to a statutory requirement to Upgrade.
VAT	Value added tax chargeable in the UK.
Writing	Includes email, which must be addressed to <a href="mailto:nutrientmitigation@naturalengland.org.uk">mailto:nutrientmitigation@naturalengland.org.uk</a>

Headings and sub-headings are for ease of reference only and shall not be taken into account in the interpretation or construction of this document.

References to a statute or statutory provision shall include references to any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include subordinate legislation made under the relevant statute or statutory provision.

Words importing the singular include the plural and vice versa.

## SECTION 1: BACKGROUND and INFORMATION FOR COMPETENT AUTHORITIES

i) Natural England's Nutrient Credit Certificate is issued on the understanding that any Planning Permission for the Development will incorporate a valid condition preventing occupancy of the Development from starting until the Developer is able to demonstrate that it has purchased sufficient nutrient credits.

ii) A Nutrient Credit Certificate is provisional once signed by Natural England in Section 8. It becomes final once signed by Natural England in Section 9, confirming that the Developer has paid the Nutrient Credit Fee in full.

iii) A Nutrient Credit Certificate is produced on the basis of information provided by the Developer. When signed on behalf of the Developer at Section 7 it is confirmed by the Developer that all information provided is true, complete, up to date and not misleading and that the Developer is aware of offences that may be committed by the supply of false information.

iv) A provisional Nutrient Credit Certificate may be relied upon by a Competent Authority as confirmation that Natural England has reserved for the Developer the number of Nutrient Credits set out in Section 4.

v) A final Nutrient Credit Certificate may be relied upon by a Competent Authority as confirmation that the Developer has purchased the number of Nutrient Credits set out in Section 4 and that the mitigation measures represented by those Nutrient Credits will be monitored and maintained until the Long-term End Date or the Upgrade Date, as set out in Section 4.

vi) Natural England has not carried out a HRA of the Development. This will be the responsibility of the Competent Authority at the time when it considers whether to grant consent, permission, or other authorisation for the Development under the Habitats Regulations.

vii) The Developer must inform Natural England as soon as it knows that Planning Permission has been granted for the Development. Otherwise, a provisional Nutrient Credit Certificate will expire after 36 weeks from the Start Date. Nutrient Credit Certificates are not tradeable or bankable.

viii) If Planning Permission is refused the Developer can obtain repayment of the First Stage Payment on request to Natural England within 28 days of the date of refusal.

ix) Natural England would be grateful the Competent Authority could notify it when Planning Permission is granted or refused for the Development.

x) A Nutrient Credit Certificate, whether provisional or final, and including its Annex and its Notes, represents an agreement between Natural England and the Developer.

SECTION 2: THE DEVELOPER

To be completed by Natural England, relying on information provided by the Developer in the Application form.

The Developer	
If the Developer is a company:	
Name:	Livin Housing Limited
Trading name (if different):	
Registered number:	IP030568
Registered office:	Farrell House, Arlington Way, Spennymoor, DL16 6NL
Contact name, email and telephone number:	
	Clare Johnson, clare.johnson@livin.co.uk, 07738029969
If the Developer is an individual:	
Name:	
Trading name (if different):	
Home address:	
Trading address (if different):	
Contact name, email and telephone number:	
Consultant details:	Edwards Architecture, 07715244970, redwards@edwardsarchitecture.co.uk
The Developer's interest in the Development Site	<input type="checkbox"/> Freehold Other: Land Owner and Landlord for Affordable rent
The Developer will be/is the applicant for Planning Permission for the Development?	<input type="checkbox"/> Yes Other: Developer or Consultant needs to confirm

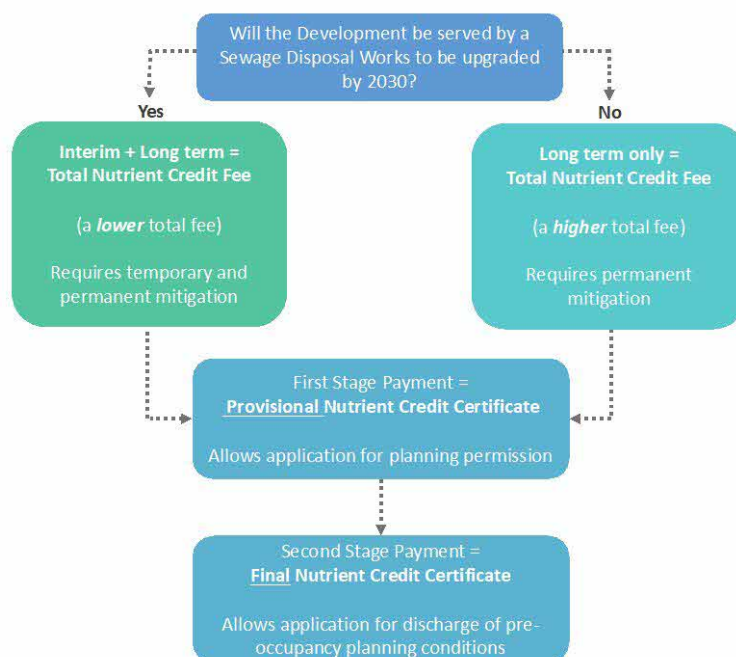
SECTION 3: THE DEVELOPMENT

To be completed by Natural England, relying on information provided by the Developer in the Application form.

Name:	<b>Garage site adjacent to 23 Pease Way</b>
Location (proposed red line boundary of applicant for Planning Permission)	<b>Garage site adjacent to 23 Pease Way Durham, Newton Aycliffe, DL5 5LY Grid Reference: NZ 27518 24785</b>
Local planning authority reference number	<b>N/A</b>
	<input type="checkbox"/> Application for Planning Permission not yet made
	Proposed date of application:
Number of dwellings:	<b>3</b>
Estimated Occupation Date:	<b>01/09/2024</b>
Identity of the Relevant Sewage Disposal Works:	<b>Aycliffe Works</b> Other:
Identity of the Relevant European Site:	<b>Teesmouth and Cleveland Coast SPA/RAMSAR</b>
How has the nutrient budget for the Development been calculated, and has the calculation been supplied to Natural England?	<input type="checkbox"/> Natural England's budget calculator version <input type="checkbox"/> Another calculator or calculation <input type="checkbox"/> Copy supplied?

## SECTION 4: NUTRIENT CREDITS REQUIRED BY THE DEVELOPMENT

The following diagram is for information only.



Note i) Natural England procures the supply, monitoring and maintenance of Interim Nutrient Credits to deliver mitigation between the Occupation Date and the Upgrade Date. Where delivery is via short-term land use change Interim Nutrient Credits will no longer exist after the Upgrade Date. Where delivery of Interim Nutrient Credits is via long-term land use change those Interim Nutrient Credits will vest in Natural England at the Upgrade Date without rights of refund.

Note ii) Natural England's nutrient budget calculator automatically incorporates a precautionary margin of 20%. If using any other nutrient budget calculator the Developer must ensure that a comparable precautionary margin is incorporated.



To be completed by Natural England, relying on information provided by the Developer in the Application form.

Part 1: Is the Relevant Sewage Disposal Works going to be Upgraded?		<input type="checkbox"/> Yes	<input type="checkbox"/> Not Known	<input type="checkbox"/> No
Part 2: If "Yes"	Nutrient load between the Occupation Date and the Upgrade Date requiring mitigation:			
(A) If "Yes", the Interim Nutrient Credit Fee is:	P =	kg, =	credits @£	per credit
	N =	kg, =	credits @£	per credit
	Total credits = £ plus VAT			
(B) If "Yes", the Long-term Nutrient Credit Fee (Upgraded SDW Basis) is:	Nutrient load between the Upgrade Date and the Long-term End Date requiring mitigation:			
	P =	kg, =	credits @£	per credit
	N =	kg, =	credits @£	per credit
	Total credits = £ plus VAT			
(C) If "Yes" the Total Nutrient Credit Fee (Upgraded SDW Basis) is:	The sum of the totals at (A) and (B), above:			
	£ _____ plus VAT			
Part 3: If "Not Known" or "No"	Nutrient load between the Occupation Date and the Long-term End Date requiring mitigation:			
If "Not Known" or "No": the Total Nutrient Credit Fee (Exempt SDW Basis) is:	P =	kg, =	credits @£	per credit
	N =	kg, = 3.97	credits @	per credit
	Total credits = plus VAT			
Note iii) if at the Start Date it has not been provided by legislation that the Relevant Sewage Disposal Works will be Upgraded the box marked "Not Known", above, must be ticked, and the total Nutrient Credit Fee shall be calculated on the precautionary assumption that it will be Exempt.				

Part 4: Prepayment

A VAT invoice for the First Stage Payment will be provided to the Developer before Natural England issues a provisional Nutrient Credit Certificate. It will be payable in full upon receipt. The provisional Nutrient Credit Certificate will be issued upon payment of this invoice.

The First Stage Payment will be repayable if (and only if) the Developer notifies Natural England in Writing within 28 days of its withdrawal of the application for Planning Permission for the Development, or of the Development being refused Planning Permission or granted Planning Permission on terms unsatisfactory to the Developer. See clause 6.15.

Part 5: Final payment

A VAT invoice for the Second Stage Payment will be provided to the Developer 8 weeks after the grant of Planning Permission for the Development, payable in full after 28 days from issue. The final Nutrient Credit Certificate will be issued upon payment of this invoice.

Note iv) Natural England reserves the right to require alternative payment terms of parties who have previously not settled its invoices according to Natural England's terms of payment.

## SECTION 5: NATURAL ENGLAND'S COMMITMENTS

- 5.1. In relation to a provisional Nutrient Credit Certificate and until its Expiry Natural England shall reserve sufficient Nutrient Credits for the Development.
- 5.2. In relation to a final certificate Natural England shall:
- 5.2.1. procure land use change sufficient, on a precautionary basis, to produce the Nutrient Credits;
  - 5.2.2. ensure that the mitigation effected by the generation of the Nutrient Credits is functional before the Date of Occupation (if necessary by use of short-term land use change);
  - 5.2.3. ensure that the mitigation effected by the generation of the Nutrient Credits remains functional for the duration appropriate to each class of Nutrient Credit, including by monitoring and maintaining mitigation function as necessary;
  - 5.2.4. ensure that each of the Nutrient Credits is uniquely identified and categorised according to:
    - a) its duration,
    - b) the land from which it is generated,
    - c) the land-use change involved,
    - d) the identity of the Developer, and
    - e) the identity of the Development.
  - 5.2.5. ensure that Nutrient Credits are not available for sale to or use by any other party or in relation to any other development.

## SECTION 6: FURTHER TERMS AND CONDITIONS

### Inaccuracies, changes, amendments

- 6.1. The Developer must inform Natural England in Writing if at any time it becomes aware of any Material inaccuracy in the description of the Development given in a Nutrient Credit Certificate.
- 6.2. The Developer must inform Natural England in Writing if at any time there is any Material change to the Development given in a Nutrient Credit Certificate, either as proposed, as consented, or as built, or if there is any Material change in any assumption(s) in the nutrient budget calculation for the Development.
- 6.3. The Developer may apply in Writing to Natural England for the amendment of a Nutrient Credit Certificate and/or recalculation of the Total Nutrient Credit Fee if the description of the Development given in a Nutrient Credit Certificate is subject to Material change (including but not limited to the grant of Planning Permission for a number of houses different to the number originally applied for) or if there is any Material Change in any assumption(s) in the nutrient budget calculation for the Development.
- 6.4. The Developer may apply in Writing to Natural England for the amendment of a Nutrient Credit Certificate if its interest in the Development Site changes or is about to change.
- 6.5. An application to Natural England for the amendment of a Nutrient Credit Certificate and/or recalculation of the Total Nutrient Credit Fee shall be accompanied by such information and documents as Natural England may reasonably require and shall be processed in a timescale to be determined by Natural England.
- 6.6. Natural England is entitled to treat applications for the amendment of a Nutrient Credit Certificate and/or recalculation of the Total Nutrient Credit Fee as a matter for its own discretion and gives no assurances or guarantees that it will agree to the amendment of a Nutrient Credit Certificate to increase the number of Nutrient Credits to be purchased by the Developer.
- 6.7. The effect of any amendments to a provisional Nutrient Credit Certificate that require the recalculation of the Total Nutrient Credit Fee shall be reconciled in the VAT Invoice for the Second Stage Payment and at the point of amendment of a provisional Nutrient Credit Certificate no refund shall be claimable against monies paid in settlement of the First Stage Nutrient Credit VAT Invoice.

### Expiry and renewal of provisional Nutrient Credit Certificate

- 6.8. The Developer must inform Natural England in Writing as soon as it becomes aware of the grant or refusal of Planning Permission.
- 6.9. A provisional Nutrient Credit Certificate will Expire after 36 weeks from the Start Date, if by that time the Developer has not informed Natural England in Writing of the grant of Planning Permission.
- 6.10. Upon Expiry of a provisional Nutrient Credit Certificate Natural England's obligation under clause 5.1 shall cease and all Nutrient Credits reserved for the Development shall cease to be so reserved.

- 6.11. Before the Expiry of a provisional Nutrient Credit Certificate the Developer may apply in Writing to Natural England for its renewal either in its existing form or amended and/or recalculated to reflect changes in circumstances.
- 6.12. An application to Natural England for the renewal of a provisional Nutrient Credit Certificate shall be accompanied by such information and documents as Natural England may reasonably require and shall be processed in a timescale to be determined by Natural England.
- 6.13. Natural England is entitled to treat applications for the renewal of a provisional Nutrient Credit Certificate as a matter for its own discretion having regard to the market for Nutrient Credits in the area of the Development and the needs of other developers and gives no assurances or guarantees that it will agree to the renewal of a Nutrient Credit Certificate or to renewal in the terms requested.
- 6.14. The Expiry date of a renewed provisional Nutrient Credit Certificate shall be determined by Natural England having regard to the circumstances of the case.

#### Repayment of First Stage Payment

- 6.15. The First Stage Payment and VAT thereon is repayable without interest and subject to the deduction of the Administration Fee if before the expiry of a provisional Nutrient Credit Certificate the Developer:
- 6.15.1. withdraws the application for Planning Permission for the Development; or
  - 6.15.2. the Development is refused Planning Permission or is granted Planning Permission on terms unsatisfactory to the Developer;
- and
- 6.15.3. the Developer makes a request in Writing for a repayment within 28 days of the occurrence of one of the above events.

#### Repayment in other circumstances

- 6.16. The Developer or a party authorised in Writing by the Developer may if it believes that an over-payment has been made apply in Writing to Natural England for a repayment and shall include a full explanation of the circumstances of its belief. The following shall also apply:
- 6.16.1. such an application shall be determined by Natural England in its absolute discretion; and
  - 6.16.2. Natural England shall not accept applications based on scientific justifications not readily available and accepted by it at the Start Date;
  - 6.16.3. there shall be no right of appeal; and
  - 6.16.4. interest shall not be payable; and
  - 6.16.5. where the application has been made by a party authorised by the Developer it shall be a condition of a repayment that the receiving party gives the same declarations as have been given at Section 7 of this Certificate and indemnifies Natural England against

claims for repayment from the Developer and undergoes such anti money-laundering checks as Natural England may see fit to apply.

#### Statutory functions

- 6.17. Nothing in a Nutrient Credit Certificate shall prejudice, conflict with or affect the exercise by Natural England of its statutory functions (including as statutory consultee), purpose, powers, rights, duties, responsibilities or obligations howsoever arising under law, nor shall it fetter the exercise of any discretion that Natural England may have.
- 6.18. A Nutrient Credit Certificate is not a licence permission or consent from Natural England that may be required under any other legislation.
- 6.19. Natural England excludes all warranties and representations in so far as the law permits. Specifically, but without limitation, the issue of this certificate is not a warranty or representation that if the Developer needs a further licence permission or consent in relation to the Development that such a licence permission or consent will subsequently be granted. Furthermore, the issue of this certificate is not a warranty or representation that Natural England is satisfied with other aspects of the Development that fall within Natural England's remit as statutory consultee in the land use planning process.

#### Termination

- 6.20. Natural England may terminate a Nutrient Credit Certificate on notice in Writing to the Developer if it reasonably concludes that that it has been issued on the basis of Material inaccuracy or that there has been a Material change to the Development that the Developer has not informed Natural England of. Before terminating a Nutrient Credit Certificate on this basis Natural England shall give the Developer reasonable notice in Writing of its intentions and the opportunity to make a written representation against termination in a timescale to be determined by Natural England.
- 6.21. Natural England may terminate a Nutrient Credit Certificate immediately on notice in Writing to the Developer where in Natural England's reasonable opinion compliance with its obligations under this certificate is likely to conflict with Natural England's statutory functions (including as statutory consultee), purpose, powers, rights, duties, responsibilities or obligations.

#### Data, information

- 6.22. Natural England's privacy policy is at <https://www.gov.uk/government/publications/natural-england-privacy-notices/nutrient-mitigation-scheme-privacy-notice>.
- 6.23. The Developer acknowledges that Natural England is subject to the requirements of the Freedom of Information Regime and that it does not guarantee confidentiality in relation to any matter relating to a Nutrient Credit Certificate. The Developer shall assist and co-operate with Natural England as necessary to comply with requests made under the Freedom of Information Regime. In responding to a request for information Natural England shall use its reasonable endeavours to consult with the Developer, but the Developer acknowledges and accepts that Natural England may disclose information without consultation or following consultation and having taken the Developer's views into account.
- 6.24. The Developer shall ensure that all information produced to Natural England in connection with a Nutrient Credit Certificate and the Development is retained for disclosure and shall provide all necessary assistance as reasonably required by Natural England to enable Natural England to

respond to a request for information in a timely fashion and shall permit Natural England to inspect such records as reasonably requested from time to time.

Other matters

- 6.25. A Nutrient Credit Certificate may not be relied upon by any person other than the Developer or in relation to any development other than the Development therein described.
- 6.26. A Nutrient Credit Certificate may not be sold, charged, transferred, traded, given or otherwise assigned by the Developer to any other person.
- 6.27. Insofar as is permissible in law Natural England accepts no liability for any consequence, whether direct or indirect, of the issue of a Nutrient Credit Certificate. Without prejudice to the generality of the foregoing, Natural England shall have no liability to the Developer arising as a result of the Expiry of a provisional Nutrient Credit Certificate.
- 6.28. No variation of a Nutrient Credit Certificate shall be valid unless in writing and signed by Natural England.
- 6.29. Nothing in a Nutrient Credit Certificate is intended to or shall be deemed to constitute a partnership or joint venture of any kind between Natural England and any other party.
- 6.30. Natural England and the Developer do not intend any term of this certificate to be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 6.31. A Nutrient Credit Certificate and any disputes arising out of it shall be governed by and construed in accordance with the laws of England.

## SECTION 7: DEVELOPER'S DECLARATIONS

This Declaration may only be signed by a person who is duly authorised by the Developer or, where the Developer is an individual person, by that person.

The Developer declares as follows:

- \* All the information in this Nutrient Credit Certificate is true, complete, up to date and not misleading;
- \* All of the terms and conditions contained in this Nutrient Credit Certificate are agreed and accepted.

Signed \_\_\_\_\_ dated \_\_\_\_\_.

Print name and position of signatory \_\_\_\_\_

Note: It is an offence to obtain or to attempt to obtain a pecuniary advantage by deception s. 16 (1) Theft Act 1968. It is an offence to dishonestly make a false representation with the intention of making a gain for oneself or another. S. 2 (1) Fraud Act 2006.



SECTION 8: PROVISIONAL CERTIFICATE

Signed \_\_\_\_\_ dated \_\_\_\_\_.

Print name and position of signatory \_\_\_\_\_

For and on behalf of Natural England, duly authorised.

Unless this provisional Nutrient Credit Certificate is renewed or becomes a final Nutrient Credit Certificate it will Expire on \_\_\_\_\_ (36 weeks from the Start Date).

See 6.8 – 6.12.

Once this section has been completed and signed on behalf of Natural England and until such time as this provisional Nutrient Credit Certificate may Expire Natural England confirms that the number of Nutrient Credits requested by the Developer for the Development have been reserved for future purchase by the Developer in connection only with the Development.

SECTION 9: FINAL CERTIFICATE AND NATURAL ENGLAND'S RECEIPT FOR THE TOTAL NUTRIENT CREDIT FEE

Once this section has been completed and signed on behalf of Natural England this Nutrient Credit Certificate will be final.

Signed \_\_\_\_\_ dated \_\_\_\_\_.

Print name and position of signatory \_\_\_\_\_

For and on behalf of Natural England, duly authorised.

By signing above, Natural England confirms that the Developer has purchased the Nutrient Credits set out in Section 4, that the mitigation measures represented by Interim Nutrient Credits will be maintained and monitored until the Upgrade Date, and that the remaining Nutrient Credits will be monitored and maintained until the Long-term End Date.

ANNEX 1 – PLAN OF THE DEVELOPMENT

NM-D-TCC-1070. Garage site adjacent to 23 Pease Way.

