

January 2026 – Version 4

Environment Agency (EA) Position Statement regarding water quality risks due to waste water capacity pressures related to the Colchester Waste Water Treatment Works (WWTW)

Context

- The Colchester WWTW is operated by Anglian Water Services Limited (AWS) and has a catchment that serves Colchester City urban area as well as parts of the surrounding Colchester City Council (CCC) and Tendring District Council (TDC) Local Planning Authorities (LPAs). The Colchester WWTW catchment serves a population equivalent (PE) of 141,703 as of 2024 (source: AWS' 2024 PE returns to EA data).
- Growth forecasts to 2035 (164,214) and 2050 (174,887) made within AWS' Drainage and Wastewater Management Plan¹ (DWMP) are now likely to be out of date due to revised Government housing targets.
- Under the Water Environment (Water Framework Directive) (England & Wales) Regulations 2017 (WFD), there is a requirement for water bodies not to deteriorate and to achieve 'good status' by 2027. Under Regulation 33, LPAs as 'public bodies' and the EA as a planning advisor must have regard to these requirements as they are part of river basin management plans (RBMPs).
- Permits at WWTWs are set with limits on the substances and volume of the effluent to protect the quality of the river. Any exceedance of the limits risks a deterioration in the river water quality and a risk of failing to meet water quality objectives.
- Under the National Planning Policy Framework (NPPF), there is a requirement for plans and planning decisions do not result in unacceptable levels of water pollution and 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 (para 187(e)).
- The Catchment Data Explorer dataset on gov.uk provides data on the status of water bodies.
- The Colchester WWTW discharges to the COLNE Water Body, which is part of the Essex Transitional and Coastal (TraC) Operational Catchment. The Catchment Data Explorer dataset which provides the status for this water body: [COLNE | Catchment Data Explorer | Catchment Data Explorer](#) shows that in Cycle 3 (2022 classification) of the Anglian RBMP the water body was classified as 'moderate' ecological status.

¹ <https://www.anglianwater.co.uk/corporate/strategies-and-plans/drainage-wastewater-management-plan/final-plan>

January 2026 – Version 4

- Monitoring data for the River Colne, including for the discharge from Colchester WWTW, and Ecology information is publicly available at [Water Data Explorer | Engage Environment Agency](#)
- This position statement is intended to be a live document that will be reviewed and updated as our understanding of the issues and solutions evolves.

Evidence of capacity issues at Colchester WWTW and risks to water quality and meeting statutory environmental objectives

River Basin Management Plan

- The Catchment Data Explorer dataset for the Colne Transitional and Coastal Water Body, [COLNE | Catchment Data Explorer | Catchment Data Explorer](#) shows:
 - The overall status of the water body is moderate.
 - The Physico-chemical quality element Dissolved Inorganic Nitrogen is failing to achieve 'good' status, with a status of 'moderate'.
 - The Reasons for Not Achieving Good (RNAG) status table states that investigations into Dissolved Inorganic Nitrogen are pending. We are aware of initial findings from these investigations which indicate point source Water Industry discharges are one of the reasons for the Dissolved Inorganic Nitrogen failure. The results of these investigations will be confirmed in the updated WFD publications expected by the end of quarter 4 (2025-2026).

Conservation Designations

- The Colchester WWTW discharges into the designated 'Marine Conservation Zone – Blackwater, Crouch, Roach and Colne Estuaries'.
- It discharges upstream of the Colne Estuary Special Protection Area, and Essex Estuaries Special Area of Conservation.

Bathing and Shellfish Waters

- The Colchester WWTW discharges into the Colne Estuary upstream of the Brightlingsea designated bathing water. This bathing water is currently excellent status based on the last 4 years of data.
- The 'Colne Shellfish Water Area' Environmental Protection Designation is located approximately 3.5km downstream of the Colchester WWTW Discharge Outlet. This

January 2026 – Version 4

designation is recorded as failing since 2008, and is noted within AWS' DWMP Level 3 Summary for Stakeholder concerns.

- The EA has conducted additional bacterial sampling of the Estuary to better understand the sources of contamination. All the evidence identifies WWTWs, especially Colchester WWTW, as having by far the greatest impact.
- The Colchester WWTW is equipped with UV treatment to reduce bacteria levels in the effluent and protect / improve the bathing and shellfish waters.

Environmental Permit Compliance

- The verified 2024 annual compliance data for Dry Weather Flow (DWF) shows that Colchester WWTW is currently operating in exceedance of its environmental permit for discharge volume. This has been the case for the previous two years (2023 and 2024). This measured DWF is known as the Q80. If the measured Q80 flow exceeds the permitted DWF, there is a risk of deterioration in river status.
- The DWF data shows that the WWTW has also now exceeded the Q90 limit for measured discharge volume for 2 out of the previous 5 years. The Q90 is a trigger used by us for enforcement. If the measured Q90 exceeds the permitted DWF there is an even greater risk of deterioration in river status. AWS must comply with their DWF permit limit. We expect them to apply for an increase in DWF (which will trigger a revision of associated numerical limits) where their permit limit is being exceeded or will be exceeded including because of growth within the WWTW catchment.
- Increases in flow volumes over the permitted limit increases the risk that the UV treatment will not work sufficiently to continue to protect the bathing water.
- Effluent flows increasing above the consented flow, mean there will be an increased risk of failing to meet water quality objectives, such as those required for WFD and the Estuary conservation designations.
- We were informed in 2024 by AWS that there was an issue with the flow meter monitoring location at the works, and consequently the data is currently unreliable for assessing available headroom capacity for any additional growth. AWS have indicated that there are difficulties in obtaining the correctly certified replacement meter, and so there remains an uncertain timeframe for resolution. We have been informed by AWS that once a new flow meter is in place, it will still require a full year's worth of DWF annual monitoring data to be submitted for validation, which we would agree with. This means there may be a delay before we are able to

January 2026 – Version 4

confirm our understanding of capacity at Colchester WWTW. We will work with AWS to understand timescales for this and if any review can be fast tracked.

- We will be conducting a review of Event Duration Monitoring (EDM) data and any pollution incident evidence. This position statement will be updated to reflect latest data and information as it becomes available and is verified.

Water Company Investment Plans

- Improvements are needed at the Colchester WWTW firstly to install a new flow meter in the correct location on site. Following a year's worth of annual DWF data monitoring, post-installation, an assessment of permit compliance and available capacity will be needed. AWS will then need to consider requirements for future investment and any potential application for increased DWF permit limits to align waste water capacity with future growth delivery and the achievement of environmental objectives within the catchment.
- Colchester WWTW is currently not identified within AWS' DWMP for any medium or long-term plans. We understand that Colchester WWTW was not identified within AWS' Asset Management Plan period (AMP8, 2025-2030) business plan for investment. Ofwat published their Final Determination (FD) on 19 December 2024, and following the 18 February 2025 deadline to decide whether to accept or challenge it, AWS have announced their board [decision](#) requesting Ofwat to refer its PR24 FD to the Competition and Markets Authority (CMA). We are awaiting the outcome of the CMA review, to understand AWS' plans to identify any additional funding options for WWTWs.
- There are AMP8 Water Industry National Environment Programme (WINEP) drivers, which includes a scheme to reduce storm overflow spills at the WWTW to improve and protect the shellfish water, which is currently failing. This scheme is not linked to growth going to the works; it is specifically needed for shellfish water requirements. Increases in flows over permitted limits may mean this obligation is harder to meet.

To what extent is the EA obliged to provide bespoke assessment information and modelling to prove the impact of development on the water environment?

- Advice we provide in response to planning consultations must be justifiable, evidence based and drawn from our expertise. However, advice does not need to be based on bespoke evidence or investigation to be justifiable. This approach is common practice in development management applications.
- To go beyond this and require the EA to carry out independent, bespoke technical analysis for each application on which its views have been sought is likely to impose an unsustainable burden on us. It would be contrary to two key principles

January 2026 – Version 4

of environmental protection, specifically the polluter pays principle and the precautionary principle. These principles are enshrined in the United Nations' Rio Declaration on Environment (1992) ("the Rio Declaration").

- These principles were also included in Article 191 of the Treaty on the Functioning of the European Union and have, accordingly, influenced the development of EU law and jurisprudence relating to the environment, much of which is now assimilated law, pursuant to the European Union Withdrawal Act 2018 and the Retained EU Law (Revocation and Reform) Act 2023. Indeed, both are specifically referred to in recital 11 to the WFD. Both principles are also specifically listed as "Environmental Principles" in the "Environmental Principles Policy Statement", published pursuant to ss.17-18 of the Environment Act 2021.
- The Rio Declaration broadly defines these principles as follows:
 - a) The precautionary principle provides that where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
 - b) The polluter pays principle means that, where possible, the costs of pollution should be borne by those causing it, rather than the person who suffers the effects of the resulting environmental damage, or the wider community.
- In this context, it is sufficient for the EA to have a reasonable (and therefore evidence based) doubt about the possibility of irreversible environmental damage arising from development for it to justifiably object to it. It is for the developer to demonstrate that such doubt is unfounded based on the best available scientific evidence. That the burden of doing this should fall on the developer (rather than the taxpayer) is entirely consistent with the polluter pays principle.

We will cooperate with developers and CCC in their efforts to assess and mitigate risks to the water environment, in order to ensure that development can take place where possible. In the next steps section, we set out advice on how developers and CCC can approach this.

Considerations for decision making on applications

- Until a reliable understanding of capacity at the Colchester WWTW is established and works to increase the capacity are identified and delivered, all development requiring new connections to mains sewer will increase the flow volumes to the Colchester WWTW and increase waste water discharges, including increased pollutant loads to the water body. It is important that LPA(s) account for the risk this will pose for each development in their decision making. Paragraph 201 of the NPPF does not state that emissions or pollution arising from a use of land are not material considerations in the determination of planning applications. They often

January 2026 – Version 4

will be. The weight that can be given to them will be affected by the extent to which the emissions or pollution can (and will) be controlled by other regulatory regimes. This is supported by *Hopkins Developments Ltd v First Secretary of State* [2007] Env LR 14, George Bartlett QC.

- New developments connecting to the Colchester WWTW that increase discharges to the WWTW cumulatively, with planned growth, will have a greater impact. The cumulative impact of developments in applications combined with planned growth should be assessed using information provided by developers as part of their Environmental Impact Assessment (EIA). ‘Planned growth’ should be defined as the amount of growth planned for in the local plan and known from other applications (that constitute windfall development).
- While the EA is not a statutory consultee for EIA ‘Screening’, the information in this position statement can be used to consider if developments, falling under [Schedule 2](#) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, should be screened in and assessed under the EIA process due to the likely effects of the development cumulatively with wider development on the water environment, as a relevant consideration under [Schedule 3](#) of the regulations.
- NPPF para 187(e) requires that planning decisions should prevent new development from contributing to unacceptable levels of water pollution. Planning Practice Guidance for Water supply, wastewater and water quality states that:
 - Water quality could be a significant planning concern when a proposal would indirectly affect water bodies through a lack of adequate infrastructure to deal with waste water.
 - Where water quality has the potential to be a significant planning concern an applicant should be able to explain how the proposed development would affect a relevant water body in a RBMP or designated sites of importance for biodiversity, and how they propose to mitigate the impacts.
 - Where it is likely that a proposal would have a significant adverse impact on water quality then a more detailed assessment will be required. The assessment should form part of the environmental statement, if one is required because of a likely significant effect on water.
 - Detailed assessment should include:

January 2026 – Version 4

- How the proposed development will affect measures in the RBMP to achieve good status in water bodies to ensure local authorities discharge their duty to have regard to RBMPs when exercising their duties, including making planning decisions.
 - How it is intended the development will comply with other relevant regulatory requirements relating to the water environment (such as those relating to bathing waters, shellfish waters, freshwater fish, drinking water, internationally and nationally designated sites of importance for biodiversity) bearing in mind compliance will be secured through the EA's permitting responsibilities.
- If there are concerns arising from a planning application about the capacity of waste water infrastructure, applicants can be asked to provide information about how the proposed development will be drained and waste water dealt with. Applications for developments relying on anything other than connection to a public WWTW will need to be supported by sufficient information to understand the potential implications for the water environment.
 - When drawing up waste water treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public WWTW (those provided and operated by the Water and Sewerage Companies (WaSCs)). This will need to be done in consultation with the WaSC of the area.
 - The timescales for works to be carried out by the WaSC do not always fit with development needs. In such cases, LPAs will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to the public sewage system have been carried out.
- While national planning policy does not explicitly require assessment of cumulative risks to the water environment when determining applications, it does not rule this out. Where there is evidence that new (non-EIA) development could contribute to unacceptable levels of water pollution from waste water discharges when combined with discharges from with planned growth, it may be appropriate for a detailed assessment to be undertaken and to consider if mitigation, such as aligning occupation of development until adequate waste water capacity is provided, would be proportionate.

January 2026 – Version 4

Considerations for plan making

- Cumulative impact assessment is required as part of the plan making process to ensure that there is sufficient waste water capacity for all future developments in the plan. It will also be required for the Strategic Environmental Assessment of the plan. This cumulative assessment can be undertaken as part of a Water Cycle Study (WCS) prepared as part of the local plan evidence base.
- NPPF para 20(b) states that strategic policies in local plans should make sufficient provision for waste water and para 187(e) requires that planning policies should prevent new development from contributing to unacceptable levels of water pollution.
- Planning Practice Guidance for Water supply, wastewater and water quality states that plan-making may need to consider:
 - The sufficiency and capacity of waste water infrastructure.
 - The phasing new development so that water and waste water infrastructure will be in place when and where needed. The impact on designated sites of importance for biodiversity should be considered to ensure the required infrastructure is in place before any environmental effects occur.
 - 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 CCC Local Plan is in 2 Sections, with Section 1 providing a shared strategic policy context and addressing cross boundary matters for North Essex together with Braintree and Tendring Councils. This was Adopted by CCC on 2 February 2021.

Section 2 of the CCC Local Plan 2017-2033 provides the policy framework, site allocations and development management policies for the City up to 2033. This was Adopted by CCC on 4 July 2022.

- We understand CCC are currently in the process of updating their Local Plan, and the public consultation on the Regulation 18 stage is ongoing at the time of writing this statement. We understand that CCC were planning to undertake a joint WCS with TDC, however, based on the latest Local Plan consultation, we understand CCC have progressed their WCS independently and an update to the TDC Local Plan is pending next steps.

January 2026 – Version 4

- A detailed WCS will highlight the issue regarding WWTWs in the area and guide the LPAs as to what they will need to do to address the issues through the respective local plans.

Environment Agency advice

- This position statement will be the basis for EA advice for applications we are consulted on that will result in new connections to the Colchester WWTW and for growth proposed in the Emerging Local Plans.

Advice on planning applications

- Given that national planning policy does not require assessment of cumulative risks to the water environment when determining applications, for developments that do not require EIA, it is unlikely that the impact of increased discharges from individual developments will be significant enough, in each instance, to contribute an unacceptable level of water pollution (as per NPPF para 187(e)). LPAs should be satisfied this is the case for each development.
- Where there is evidence that non-EIA development could contribute to unacceptable levels of water pollution from waste water discharges when combined with discharges from with planned growth, it may be appropriate for a more comprehensive assessment of the capacity of the WWTW and the receiving environment to be undertaken and to consider if mitigation, such as aligning occupation of development until adequate waste water capacity is provided, would be proportionate. For smaller WWTWs that serves a small area, discharges from a single development are more likely to present a significant risk compared to large WWTWs that serve a large area. But other factors are relevant too, such as the capacity at the WWTWs, the capacity of the receiving water environment (i.e. if it is failing or likely to fail to meet statutory environmental objectives) and timescales to increase capacity at the WWTWs.
- This comprehensive assessment is best led by the LPA and the WaSC and working with the EA to understand overall capacity and risk to the environment so the LPA can make consistent decisions, as outlined in the next steps section of this position statement. The EA will only be consulted on a minority of these developments, so it is important the LPA has this understanding so they can make consistent decisions on developments whether or not the EA is consulted.
- For developments requiring EIA (and for the local plan), there is a very strong case for assessment of the cumulative risks from planned growth be considered. It is our view, based on the evidence in this position statement, that the cumulative impact of increased discharges, arising from new, planned growth, could contribute to an unacceptable level of water pollution. We advise the cumulative impact of developments in applications combined with planned

January 2026 – Version 4

growth should be assessed using information provided by developers as part of their EIA. This should include assessment of the capacity of the WWTW and the receiving environment to be undertaken, accounting for statutory environmental objectives.

- Risk to the environment from the development combined with wider planned growth could be mitigated by using a condition to delay occupation of the development until it can be evidenced that the anticipated additional net increase in waste water generated by the development is capable of being accommodated by the Colchester WWTW to protect water quality and support the achievement of water quality objectives.

Local plan

- We strongly advise that an updated WCS is prepared as part of the Emerging Local Plan evidence base that assesses waste water capacity to support growth and achievement of statutory environmental objectives. This should assess capacity at the Colchester WWTW to accommodate growth coming forward in applications and the next Local Plan. Should this identify risk that environmental objectives will not be met, until works to increase the capacity are identified and delivered at Colchester WWTW, an updated WCS should consider if some development could connect to other WWTWs, such as Thorrington, to ensure sustainable growth is promoted and the water environment is not impacted. Where this is not possible you should liaise with AWS to understand when improvement works will be undertaken at Colchester WWTW and plan growth that connects to it accordingly.
- We have recently reviewed the Colchester WCS – October 2025, as part of the Local Plan Regulation 18 public consultation. We note that the WCS presents a methodology for assessing capacity at the Colchester WWTW.
- We have previously cautioned against the approach taken to assess the long-term capacity at Colchester WWTW as part of the WCS. The current assessment only uses 2 years of data and does not appear to take into account permitted dwellings built out since 2022. We understand from discussions with AWS that they have undertaken an informal sensitivity analysis and based on this they consider that capacity is not available at Colchester WWTW. We have not reviewed AWS' assessment, however, on this basis we recommend a more detailed assessment is undertaken alongside further engagement with AWS and the EA. AWS will be able to advise the most accurate method to calculate capacity given the problems with current flow data. Justification for the approach taken must be set out in the WCS.

January 2026 – Version 4

Next steps

- It is important that the cumulative impact of planned growth on risk to water quality due to increased discharges to the Colchester WWTW are understood. This will enable CCC and TDC to properly account for them in their Emerging Local Plans and for developers and the LPAs to account for them when preparing and determining developments that require EIA.
- Consideration must be given to an update to the existing Colchester WCS to take account of the existing capacity challenges. Further assessment to address uncertainties linked to the flow meter issue and to understand latest DWF data and growth trajectories will help support a more robust understanding of the capacity for growth.
- Improvements are needed at the Colchester WWTW firstly to install a new flow meter in the correct location on site. Following a year's worth of annual DWF data monitoring, post-installation, an assessment of permit compliance and available capacity will be needed. AWS will then need to consider requirements for future investment and any potential application for increased DWF permit limits to align waste water capacity with future growth delivery and the achievement of environmental objectives within the catchment.