

**NFNPA 303/19**

## **NEW FOREST NATIONAL PARK AUTHORITY**

### **PLANNING COMMITTEE – 17 SEPTEMBER 2019**

#### **NUTRIENT NEUTRALITY AND NEW DEVELOPMENT – UPDATE**

**Report by:** Steve Avery, Executive Director Strategy & Planning

#### **Summary:**

This report provides an update on the need for new development to achieve ‘nutrient neutrality’ in order to avoid potential adverse impacts on the internationally protected sites of the Solent. The report summarises the main issues that have been raised recently by Natural England with local planning authorities across the Solent coast; before setting out details of the package of measures which will form the basis for mitigation. The report also recommends that the Authority works with the Partnership for South Hampshire and other partners to develop a comprehensive, long-term mitigation strategy for the Solent.

#### **Recommendation:**

**Members approve the overall approach to identifying mitigation measures as set out in this report; and endorse the principle of working with the Partnership for South Hampshire to develop a comprehensive, long-term mitigation strategy for the Solent.**

#### **1. Introduction**

- 1.1 This report outlines the main issues surrounding nitrates in the protected Solent habitats; the recent advice from Natural England on the matter; and the range of potential measures available to form an interim mitigation solution.
- 1.2 Under the Conservation of Habitats and Species Regulations (2017, as amended), the Authority is a ‘competent authority’ and must therefore undertake an ‘appropriate assessment’ of any planning decisions that are likely to have a significant effect on a European site. In the context of the Solent this includes the Solent & Southampton Water Special Protection Area and the Solent Maritime Special Area of Conservation.
- 1.3 This legal requirement to consider the impacts of planned new development shaped our recently adopted Local Plan 2016 – 2036 and informs our planning casework, whereby relevant applications go through an appropriate assessment to consider potential impacts. These include the direct loss of habitats, an increase in recreational disturbance and water pollution. The Authority must also consider the likelihood of a significant effect occurring in combination with other relevant plans and projects.
- 1.4 The Local Plan 2016 – 2036 makes provision for 800 additional dwellings over the Plan-period. Of this quantum of planned housing provision, 63 dwellings have already been completed within the first three years of the Plan period (2016 – 2019); and a further 114 have extant consents<sup>1</sup>. Consequently, the issue of nutrient neutrality is relevant to the circa 625 additional dwellings due to be delivered over the remaining Plan-period. Larger development sites have been required to achieve nutrient neutrality since early 2018 and the latest advice from Natural England extends this to smaller sites.

<sup>1</sup> Figures as at end of March 2019

## 2. The Solent's protected sites and Natural England's advice

- 2.1 Work undertaken on behalf of the Partnership for South Hampshire assessed the effects of planned future development from across the Solent sub-region on water quality. This work highlighted there are currently high levels of nitrogen input into the Solent which has the potential to affect the range of designated Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).
- 2.2 In the context of the Authority's planning role, new development increases the resident population and this creates additional wastewater, which is then treated at Wastewater Treatment Works and discharged into the Solent. The percentage of nitrates coming from new development varies depending on the location in the Solent, but overall it makes up a very small percentage in comparison to the main source of run-off from agriculture. However, there is still a potential impact that must be addressed.
- 2.3 Based on the existing condition of the Solent – allied to recent international case law – Natural England's recent advice to competent authorities is that any new development comprising new residential development, gypsy and traveller accommodation, hotels and other tourist accommodation should achieve 'nutrient neutrality' in order to not have any likely significant effects on the Solent's protected sites.
- 2.4 Natural England and National Park Authority officers met in late July to discuss this matter and Natural England have produced guidance on how to calculate nitrogen budgets for new developments. An exercise has been carried out by officers using this methodology for the remaining planned development in the National Park as provided for within the adopted Local Plan 2016 – 2036. Using a precautionary approach and assuming a permit concentration limit for total nitrogen at the Wastewater Treatment Works of 27mg/l, the 625 additional dwellings planned for the National Park would generate a total nitrogen discharge of circa 1,370 kg per annum.
- 2.5 Natural England has advised that larger developments may achieve nutrient neutrality by providing sufficient areas of on-site open space. This may be achievable for some of the Local Plan 2016 – 2036 housing allocations, such as the Fawley redevelopment (where over 30 hectares of greenspace provision is required as part of the comprehensive redevelopment of the site in conjunction with the draft New Forest District Local Plan); and land to the south of Church Lane, Sway, where the provision of 1 hectare of new greenspace could provide multi-functional benefits. For smaller sites and brownfield development achieving nutrient neutrality is likely to require off-site mitigation.

## 3. Proposed approach to mitigation

- 3.1 It is necessary to find a solution that allows the Authority to meet its obligations in terms of delivering the newly adopted Local Plan 2016 – 2036 and also as a competent authority under the Habitats Regulations. The Authority has a number of 'live' planning applications for new dwellings and overnight accommodation that are currently caught by this issue. Given the complexity of the matter it is likely that a package of measures will be required, including local measures to complement the sub-regional work being undertaken. These mitigation measures could include a mix of the following:
  - (i) *Wetland creation*
- 3.2 Research has demonstrated that filter wetlands are an effective way of stripping nitrogen. It is therefore recommended that the Authority works with neighbouring planning authorities, water companies and landowners to explore the option of creating

wetland areas adjacent to Wastewater Treatment Works to reduce the level of nitrogen entering the Solent. The existing treatment works at Slowhill Copse and Ashlett Creek for example, lie adjacent to major housing site allocations within the draft New Forest District Local Plan and initial meetings have taken place with the landowners. Developer contributions could be secured for the creation and maintenance of such sites.

*(ii) Water efficiency measures*

- 3.3 The existing Wastewater Treatment Works operate within a permissible amount of nitrogen per litre of water. Consequently, reducing the number of litres discharged from the works will reduce the amount of nitrogen going into the Solent. Policy DP8 in the Authority's Local Plan 2016 – 2036 requires higher levels of water efficiency in new developments and this will make a contribution towards reducing nitrogen discharges.

*(iii) Sustainable Drainage Systems (SUDs)*

- 3.4 Run-off from built development makes a contribution towards nitrate loads. On sites where Sustainable Drainage Systems are appropriate there may be scope to trap nitrates on site. This may be feasible for the larger development sites within the National Park and could provide multi-functional benefits in terms of reduced nitrates in run-off, delivering biodiversity enhancements and addressing site-specific flooding issues. The Government's NPPF (2019) states that major developments should incorporate Sustainable Drainage Systems (paragraph 165) and this may be an option for some of the adopted Local Plan 2016 – 2036 housing site allocations.

*(iv) Improvements to Wastewater Treatment Works*

- 3.5 As outlined above, there is a need for the Authority and partners to work together to understand the measures available at Wastewater Treatment Works to maximise the amount of nitrogen that is stripped out of wastewater. The issue affects the parts of the National Park which are serviced by the Southern Water Wastewater Treatment Works at Pennington, Ashlett Creek and Snowhill Copse, Marchwood. The treatment works at Pennington, for example, currently serves over 50,000 people in the New Forest and discharges into the Solent Maritime SAC and the Solent & Southampton Water SPA by way of Pennington outfall. The works were upgraded for enhanced nitrate stripping within the last decade as part of measures to reduce nutrient discharge into the Solent. In principle developer contribution could be sought to fund additional measures at the existing Wastewater Treatment Works to further reduce discharges.

*(v) Catchment Sensitive Farming advice*

- 3.6 Catchment Sensitive Farming (CSF) is a partnership between DEFRA, the Environment Agency and Natural England that aims to work with farmers and other partners to improve water and air quality. CSF offers free training, advice and support for grant applications and can play a role in altering the management of agricultural land through nutrient management. Agricultural run-off makes by far the largest contribution to the issue of nitrates in the Solent and CSF has been adopted elsewhere as part of a package of mitigation measures. The New Forest Land Advice Service (NFLAS) - supported by the National Park Authority and the Verderers of the New Forest - provides independent land management advice across the New Forest and Avon Valley and has well established links with local landowners. NFLAS already provides advice on Nitrate Vulnerable Zones (which cover large parts of the National Park) and there is potential for this service to be extended with support from developer contributions.

(vi) *Working with the Partnership for South Hampshire*

3.7 The need for nitrate neutrality in new development is an issue affecting local planning authorities across the Solent. A number of planning authorities (e.g. Fareham, Havant, New Forest District) have recently published position statements setting out their interim approach to nitrogen mitigation. At the full Authority meeting on 29 August 2019 members agreed to accept the invitation to become a member of the Partnership for South Hampshire (PfSH) and it is important that the Authority engages with the Partnership in working towards a definitive solution to the issue.

**4. Agreeing a solution with Natural England and practical implementation**

- 4.1 Natural England has advised neighbouring authorities that a combination of mitigation measures is likely to be required to provide a solution. Given the need for site-specific matters to be considered (as some measures will be better suited to certain sites than others), mitigation measures identified for a particular application will need to be assessed as part of the appropriate assessment for a particular application.
- 4.2 In terms of implementation, the Authority has prepared a 'Nitrate Mitigation Checklist' to be completed as part of the planning application validation process. This will then be considered by planning officers when undertaking the appropriate assessment of planning applications that would result in a net increase in dwellings or provide additional overnight accommodation. The checklist sets out how an avoidance and mitigation package will be provided to remove any significant effect on a European site.
- 4.3 Where the Authority issues planning permission a 'Grampian' style condition will be attached which would prevent occupation of the dwellings until the Authority is satisfied that sufficient mitigation has been secured to be able to conclude that there would be no adviser effect on the European sites. A similar approach has been adopted by neighbouring planning authorities, including New Forest District Council.
- 4.4 For developments that will be relying on the package of mitigation measures identified by the Authority, a financial contribution will be required and this will be secured by a legal agreement. There are also likely to be circumstances where new development can provide sufficient mitigation on-site to demonstrate nutrient neutrality and the Grampian condition would therefore not apply. This is likely to be the case for larger sites within the National Park, where for example significant new greenspace can be provided and/or Sustainable Drainage Systems can be incorporated as part of the infrastructure to serve the development. The proposers of the former Fawley Power Station redevelopment, for example, have been aware of the requirement for nutrient neutrality for some time and are factoring this into their redevelopment proposals.

**5. Conclusions**

- 5.1 The issue of nutrient neutrality is affecting planning authorities across the Solent. Several authorities have now identified a package of measures to support the delivery of required housing on sites where on-site avoidance and mitigation measures are not possible. The approaches taken by these planning authorities have been supported by Natural England and it is recommended the Authority follows a similar path.
- 5.2 Further work is required by the Authority, neighbouring planning authorities and other partners to confirm the package of mitigation measures required and how these will be

costed and delivered. This will include meeting with relevant landowners and the matter will be raised with applicants as part of our pre-application advice service. We will also be raising further awareness of this issue with planning agents when we host our annual meeting with them in early October 2019.

**Recommendation:**

**Members approve the overall approach to identifying mitigation measures as set out in this report; and endorse the principle of working with the Partnership for South Hampshire to develop a comprehensive, long-term mitigation strategy for the Solent.**

**Contact:** Steve Avery, Executive Director Strategy & Planning

**Papers:** **NFNPA 303/19** – cover paper

**Equality Impact Assessment:** No impacts have been identified.