

**PC 406/22**

## **NEW FOREST NATIONAL PARK AUTHORITY**

### **PLANNING COMMITTEE MEETING – 22 OCTOBER 2022**

#### **PHOSPHATE NEUTRALITY IN THE RIVER AVON CATCHMENT – UPDATE**

**Report by:** David Illsley, Policy Manager

#### **1. Introduction**

- 1.1 In December 2021 the Planning Committee considered a report on '*Nitrate Neutrality in new development*' (PC 381-21), which endorsed the principle of the Authority working with neighbouring planning authorities and partners on nutrient mitigation schemes. This is to enable planned development to be delivered, while protecting the integrity of internationally designated sites. Members also agreed to delegate authority to the Executive Director to take all action as necessary to put in place the legal framework to secure schemes allowing the off-site purchase of nutrient mitigation credits to support development, including the negotiation and execution of legal agreements.
- 1.2 Since report PC 381-21 was endorsed by members, overarching legal agreements have been completed between the National Park Authority and several neighbouring planning authorities in the Solent catchment to provide nitrate mitigation options for new development in the area of the National Park within the Solent catchment. Work is also progressing to bring forward a further nitrate mitigation project close to the National Park boundary that would provide an additional mitigation option.
- 1.3 The focus of report PC 381-21 was primarily on meeting the legal requirements for nitrate neutral development in the Solent catchment. This large catchment covers the east and south of the National Park - an area that includes all of the 'defined villages' and the housing site allocations set out in our adopted Local Plan (2019). The National Park Authority is also a member of the Partnership for South Hampshire's (PfSH) 'Water Quality Working Group' and will continue to work with neighbouring planning authorities and other partners across the Solent catchment to deliver nitrate mitigation solutions.
- 1.4 The western part of the National Park falls within the catchment of the River Avon (see Annex 1). The Avon is covered by a range of national (SSSI) and international (River Avon Special Area of Conservation and the Avon Valley Special Protection Area) nature conservation designations and is also detrimentally affected by nutrient enrichment. This report updates members on the current situation in the Avon catchment; and seeks endorsement to work with neighbouring authorities and landowners on phosphate mitigation schemes to protect the integrity of the designated sites in the Avon.

#### **2. Water quality issues affecting the River Avon and Natural England's advice**

- 2.1 The River Avon supports a wealth of plants, invertebrates and other aquatic life and is internationally protected for both the flora and fauna found there. The Avon rises in Wiltshire and its tributaries converge at Salisbury, before flowing south into a broad floodplain south of Ringwood and to the coast at Christchurch.

- 2.2 Mirroring their position on the Solent catchment, Natural England has advised all local planning authorities in the Avon catchment (Wiltshire Council, Test Valley Borough Council, New Forest District Council, New Forest National Park Authority, Dorset Council and BCP Council) that there is a 'likely significant effect' on the River Avon's internationally designated sites due to the increase in wastewater from all net new housing and any other development providing overnight accommodation which would discharge into the River Avon. This covers development brought forward through the full planning application route, reserved matters applications and also new development delivered through national permitted development rights or temporary uses.
- 2.3 In March 2022 Natural England published updated guidance on the issue of phosphates from new development affecting the protected River Avon habitats; and how to undertake a phosphate budget calculation. Natural England guidance stated,
- "...elevated levels of nutrients can cause eutrophication, leading to algal blooms which disrupt normal ecosystem function and cause major changes in the aquatic community. These algal blooms can result in reduced levels of oxygen within the water, which in turn can lead to the death of many aquatic organisms including invertebrates and fish."*
- 2.4 Alongside Natural England's updated March 2022 advice and Avon phosphate budget calculator, the Government has provided funding for each affected catchment in England to support the delivery of mitigation measures. For the River Avon, Wiltshire Council are the 'lead authority' and are working with Natural England, the Environment Agency, Wessex Water and other affected planning authorities (including the National Park Authority) on potential mitigation measures. In the case of the Avon catchment, potential mitigation measures include constructed wetlands, riparian buffer strips adjacent to water courses, land use change to less intensive uses, or retrofitting Sustainable Urban Drainage systems to reduce run-off. All of these are being explored in the Avon catchment by planning authorities, water companies and landowners.

### **3. Impact on development in the New Forest National Park**

- 3.1 The majority of land in the National Park is located within the Solent catchment. The western area of the National Park within the Avon catchment is generally more sparsely populated, with less planned development. It includes a number of holidays parks and campsites, the villages and hamlets of the Western Escarpment, and the village of Burley is served by the Ringwood treatment works (within the Avon catchment).
- 3.2 Under the spatial framework in our adopted Local Plan (2019) the scale of planned development in this area of the National Park is limited. Since the phosphates issue first arose there have been less than 10 net new dwellings consented within the Avon catchment area of the New Forest National Park, alongside some small-scale visitor accommodation. The consented dwellings include rural exception site development and tied dwellings (e.g. commoners' dwellings). Under the legal tests of the Habitats Regulations 'in combination' impacts must be considered and development cannot proceed to occupation until it has demonstrated it is phosphate-neutral.

### **4. Mitigation options**

- 4.1 Central Government funding has been awarded to each of the 27 affected 'nutrient catchments' in England – including the Avon. The principal aim of the funding is to identify solutions to deliver planned housing in accordance with Natural England's nutrient neutrality advice. The Authority is working with the other planning authorities in the Avon catchment (and other stakeholders) to identify mitigation projects.

- 4.2 The typically small-scale of new development within the Avon catchment area of the National Park can limit the opportunities for on-site mitigation. Options such as wetland creation, land use change, or Sustainable Urban Drainage systems generally lend themselves to larger developments, rather than individual new dwellings or visitor accommodation uses seen in the National Park. However, there are options that applicants should look to deliver on-site for small-scale developments. For example, this could include the upgrade of the existing on-site package treatment plant (PTP) to a more efficient model that strips a greater concentration of nutrients.

*Purchase of off-site mitigation credits – agreement in principle*

- 4.3 Natural England's guidance recognises that off-site credits have an important role to play in delivering nutrient-neutral development in affected catchments. Through the work of Wiltshire Council, New Forest District Council, Natural England and other partners (including landowners) several phosphate mitigation projects are now coming forward within the Avon catchment. These include wetland creation schemes and the cessation of using uses that add to the nutrient load in the catchment.
- 4.4 These mitigation projects provide nutrient 'credits' to assist in the delivery of planned housing and other overnight accommodation, which has stalled due to the nutrient neutrality issue. The projects also have the potential to contribute to wider Government and planning policy objectives, including carbon sequestration, nature recovery, flood alleviation and biodiversity net gain. Although the scale of new development within the National Park area of the Avon catchment is small in comparison to neighbouring areas of Wiltshire and New Forest district, the legal need to address the issue remains.
- 4.5 This report therefore recommends that members endorse the principle of the Authority working with neighbouring planning authorities and landowners to enable the off-site purchase of phosphate credits to ensure new development within the Avon catchment is phosphate neutral. Such an approach has already been adopted by the National Park Authority (and other planning authorities) across the Solent catchment and would enable the delivery of phosphate mitigation and new housing in a manner than is consistent with Natural England's advice. This would include the preparation of an overarching legal agreement between the Authority, the relevant landowner and local planning authority to secure the phosphate mitigation for the required time period; and guarantee that the appropriate monitoring and enforcement provisions are in place to ensure land use change is delivered and future uses are fully implemented.

*Other measures to address nutrient enrichment outside the planning process*

- 4.6 In addition to these measures that focus on the impact of new development (which makes up a small proportion of the nutrient load), the Government is also taking other steps to improve the condition of the affected designated sites. These include:
- Compliance with regulations protecting the environment from agricultural pollution.
  - Encouraging farmers to go above and beyond to reduce, prevent and reverse pollution via three new Environmental Land Management schemes.
  - Proposing legally binding targets under the Environment Act for reduced nutrient loads from both agriculture and wastewater.
  - Proposed amendments to the Levelling Up & Regeneration Bill to require water companies in affected catchments (including the Solent and River Avon) to upgrade their wastewater treatment works to the 'Technical Achievable Limit' by 2030.

## 5. Conclusions

- 5.1 The requirement for ‘phosphate neutrality’ in new housing and other forms of overnight accommodation in the River Avon catchment plays an important key role in protecting the integrity of the Avon’s internationally designated sites. Although the scale of planned new development in the area of the Avon catchment within the National Park is small, the ‘in-combination’ and precautionary tests set out in the Habitats Regulations mean the issue must still be addressed to ensure legal compliance.
- 5.2 Natural England’s updated advice and phosphate budget calculator (March 2022) are available on the Authority’s website and have been shared with applicants within the catchment. Alongside measures that can be delivered on-site (including improved water efficiency, upgrades to existing wastewater treatment equipment or small-scale land use change), it is recognised that larger-scale, off-site mitigation projects will play an important role in delivering phosphate neutral development in the catchment.
- 5.3 This report therefore recommends that members endorse the principle of the Authority working with neighbouring planning authorities and landowners to agree the legal framework to enable the off-site purchase of phosphate credits within the Avon catchment to support planned new development within the National Park.

### Recommendations:

#### That:

- (i) **The current situation in the area of the New Forest National Park that falls within the River Avon catchment (see Annex 1) be noted;**
- (ii) **Members endorse the principle of working with neighbouring planning authorities and partners on phosphate mitigation schemes as set out in the report; and**
- (iii) **Authority be delegated to the Executive Director take all action as necessary to put in place the legal framework to secure schemes allowing the off-site purchase of phosphate mitigation credits to support development, including the negotiation and execution of legal agreements as necessary.**

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**Papers:** **PC 406/22** – cover paper  
**Annex 1** – River Avon catchment map

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