



## **Report to the Partnership for South Hampshire Joint Committee**

Date: **31 July 2019**

Report of: **David Bibby, Principal Planning Officer (Strategy),  
Test Valley Borough Council  
-on behalf of PfSH Water Quality Working Group (WQWG)**

Subject: **PFSH NUTRIENT NEUTRALITY UPDATE**

### **SUMMARY**

This report outlines the work which Partnership for South Hampshire (PfSH) is undertaking with partners to address the issues of achieving nutrient neutrality from development across the region. This follows from advice from Natural England that there is a likely significant effect on the Solent's European designation sites due in part from to the increase in wastewater from new housing and overnight accommodation. The aim is to achieve a PfSH wide strategic approach to mitigation in order to achieve nutrient neutral development and deliver the planned housing compliant with the Habitats Regulations.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. This must be addressed as required by the Habitats Regulations. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring the development does not add to existing nutrient burdens.

Officers from PfSH local authorities through the WQWG (and in liaison with the PfSH Planning Officers' Group), have been working with colleagues from Natural England, the Environment Agency and Southern Water to investigate the potential mitigation options.

## RECOMMENDATION

It is recommended that the Joint Committee:

- a) NOTES the responsibilities conferred on PfSH authorities under the Habitats Regulations, particularly in the light of recent case law, and NOTES the implication of the nutrient issue on development in the PfSH region.
- b) AUTHORISE continuing work to undertake a desktop review of existing information and evidence to clarify the scale and scope of the issue as it affects development, and to explore potential options for strategic avoidance and mitigation solutions
- c) Continues to ENSURE through the Chairman of PfSH to the Ministry of Housing, Communities and Local Government (MHCLG) and the Department for Environment, Food and Rural Affairs (DEFRA), relevant government agencies (including Natural England) and other bodies to provide an efficient, central solution to the need to ensure nutrient neutral development takes place.
- d) SEEK a meeting with Government (MHCLG and DEFRA) to achieve a 'one public estate' approach to delivery of strategic mitigation in the PfSH area, and FACILITATE the identification of land for strategic mitigation across the PfSH area amongst all public organisations with an allocation mechanism that supports the PfSH Spatial Strategy for development
- e) SEEK to meet with OFWAT and the Environment Agency to discuss the Southern Water licensing and permit regime following their 'under reporting' of discharges and to explore new and reduced nitrate permit limits as part of their future business plan and licensing regime
- f) AUTHORISE the development of a long term water quality and mitigation plan, to achieve nutrient neutral development
- g) AUTHORISE the investigation of potential sources of funding to support the provision of short and long term mitigation options
- h) REQUIRES a further report to be brought to the October meeting of the Joint Committee to provide an update of progress of recommendations 2-8 in developing potential mitigation options and preparing a PfSH wide strategic approach to mitigation.

## INTRODUCTION

1. The South Hampshire Integrated Water Management Study (IWMS) was considered by the Joint Committee at meetings in March and June 2018. At that time it was recognised that there remained uncertainties over the potential need for mitigation of the impact of development after 2020 on water quality, water resources and in order to satisfy the Conservation of Habitats and Species Regulations (2017, as amended) (hereafter referred to as the Habitats Regulations)<sup>1</sup>. This included the known potential need to achieve nutrient neutral development in the future.
2. However, a subsequent Court of Justice of the European Union (CJEU) judgement, generally known as the Dutch Case<sup>2</sup>, and consequent revisions to Natural England's (NE) advice on planning applications, now means that achieving nutrient neutral development has become an immediate and critical issue.
3. How to achieve nutrient neutral development and the science behind it is a complex issue where the position is evolving and there remains a significant degree of uncertainty over how best it is addressed. The way the waterbodies within the Solent interact are unique, adding to the complexity. Given the sensitivity of the Solent to water quality and the fact that this is recent case law means that there is effectively no best practice to refer back to and learn from. This report therefore sets out an update on officers' best knowledge and understanding of the position as it stands at present. In informing this position it should also be noted that there is a reliance on the technical expertise and experience of statutory bodies and water quality specialists.
4. Following the IWMS it was agreed that a WQWG be established comprising all PFSH local authorities, together with Natural England, the Environment Agency, Southern Water and Portsmouth Water to take forward the IWMS Action Plan. In line with the joint Position Statement, it was agreed to set out the commitment to collective joint action and inform its remit and work. The WQWG, in liaison with the PFSH Planning Officers' Group has been working on potential options on how to address the issue. This is challenging because of its complexity, and is not something that can be resolved quickly. Work is being led by local authorities in the eastern Solent, working with NE, with a view to this forming the basis of a future PFSH-wide approach. This report is written on behalf of the WQWG and the PFSH Planning Officers' Group.

## BACKGROUND

5. Excessive nutrients (principally nitrogen and phosphates) in the Solent's European Sites is causing eutrophication, leading to an increase in algae growth. This has an adverse impact on the habitats and species within the European nature conservation designation sites<sup>3</sup> in and around the Solent, to

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<sup>1</sup> Available at [www.legislation.gov.uk/ukxi/2017/1012/contents/made](http://www.legislation.gov.uk/ukxi/2017/1012/contents/made)

<sup>2</sup> Full reference is *Coöperatieve Mobilisatie voor het Milieu UA and College van gedeputeerde staten van Noord-Brabant* (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>.

<sup>3</sup> This would comprise as a minimum, the Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar, Portsmouth Harbour SPA and Ramsar, Solent and Southampton Water SPA and

which the Habitat Regulations apply. The impact on the condition of the sites due to this issue is relevant in the context of their conservation objectives and achieving favourable conservation status.

6. Excess nutrients come from a number of sources including agriculture (faeces and fertiliser), and waste water from development and other background sources. The largest source, potentially 70-80%, comes from agriculture. It can take decades for nitrogen in the upper reaches of river catchments to reach the sea. However, as the Habitats Regulations apply to planning decisions, a new focus has been placed on the impact of new residential development (and any new overnight accommodation such as hotels and student accommodation) in order to avoid exacerbating an existing issue-notwithstanding that the impact on this is relatively minor overall. Achieving nutrient neutral development will not address an existing problem, but in order to satisfy the Habitats Regulations it needs to be established that planning decisions will not make it worse. Any increase is deemed significant however small (due to the in-combination impact), therefore small sites cannot be screened out despite NE's initial assertion last year, that nutrient neutrality would only be sought on sites of 50 units or more.
7. The Habitats Regulations are the UK's transposition of European Union Directive 92/43/EEC on the 'Conservation of natural habitats and of wild fauna and flora' (the Habitats Directive). There are significant responsibilities conferred on Local Planning Authorities (LPAs) as a 'competent authority' under the Habitats Regulations. Chiefly, it requires LPAs to only approve plans or projects (such as planning applications or a local plan) if there is no adverse effect on the integrity of the site. The first stage is to establish if there are likely significant effects. If there is, then an Appropriate Assessment is undertaken to examine the likely significant effects and mitigation measures and will ultimately determine if there is an adverse effect on the integrity of the site. If this is the case, the local planning authority can only approve plans or projects if the derogation tests<sup>4</sup> have been met, i.e. a project could be approved if there was a likely significant effect, provided there was mitigation and no adverse effect on the integrity of the site.
8. An established principle under law is that Appropriate Assessments must use the 'precautionary principle'. An Appropriate Assessment must enable the local planning authority to apply the regulation 63(5) 'integrity test' on a 'precautionary basis'. Authorisation may only be given if the competent authority has made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. Conversely, that means where doubt remains as to the absence of an adverse effect on the integrity of the site linked to the plan or project being considered, the competent authority would have to refuse authorisation. It is also necessary to consider not only the impact of a single plan or project in isolation but where there is any likelihood of a significant effect in combination with other plans

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Ramsar, Isle of Wight Lagoons SPA and Ramsar, Solent Maritime Special Area of Conservation (SAC) and the Solent and Dorset Coast Potential Special Protection Area (pSAC).

<sup>4</sup> The Habitats Directive provides a derogation under article 6(4) which allows such plans or projects to be approved provided three tests are met: a) there are no feasible alternative solutions which are less damaging, b) there are "imperative reasons of overriding public interest" (IROPI) to proceed, c) compensatory measures are secured to ensure that the overall coherence of the network of European sites is maintained

and projects as well, beyond individual local authority administrative boundaries.

9. It is also important to note that this is a legal requirement as oppose to a material planning condition. It must be shown that there would not be a likely significant effect in order to lawfully grant planning permission or approve a local plan. If a local planning authority chose to disregard its obligations or not fulfil under the Habitats Regulations or did not discharge them correctly, there would be a risk of judicial review of the decision made.
10. The need for Habitats Regulation Assessment has existed since 2004 when the original regulations came into force. In the context of the Solent, the Joint Committee will be familiar with the need for mitigation for the impact on bird species from an increase in recreation. That new development leads to an increase in recreation pressure at the coast and that this has an impact on the birds which use the coastal mud flats to feed and roost has been recognised in recent years as a 'likely significant effect'). As a result, mitigation is required from all new development which is then used to fund the Bird Aware Partnership. This has become an established part of the development process at the Solent. The issue of nutrient impact has now similarly arisen.

#### Recent Case Law

11. There have been a number of recent CJEU decisions regarding the assessment of elements of a proposal aimed towards mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. One decision relates to the Dutch cases<sup>2</sup> which are concerned with a national approach to tackling nitrogen disposition in the Netherlands, and covers the concept of 'project' and 'appropriate assessment' and the future beneficial effects of conservation measures. This decision has implications for areas where designated sites are exceeding environmental benchmarks or capacity and there are future pressures on the designated sites from new development.

#### Natural England's Position

14. Natural England has advised that there is a likely significant effect on the Solent's European sites due to the increase in wastewater from new housing. They have also advised that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would also be likely to cause a significant effect. There is uncertainty as to whether the increase in wastewater from new housing in the Solent's catchment will have an adverse effect on the Solent's European sites.
15. Their advice is that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. They recommend that any new proposals which include overnight accommodation have inevitable waste water implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by regulation 63 of the Habitats Regulations.

16. They recommend that the waste water issue is examined within the Appropriate Assessment process and that the existing nutrient and conservation status of the receiving waters be taken into account. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens.

#### Natural England Draft Methodology

17. Natural England has prepared an advice note<sup>5</sup> (**Appendix 1**) which includes draft methodology providing a detailed calculation of the nitrogen load derived from new residential development. This has been revised in the light of ongoing consultation and emerging best practice and knowledge, but remains draft. It takes account of nitrogen stripping to decrease the discharge at Waste Water Treatment Works (WwTW) where a nitrogen permit limit is in place. Whilst the methodology provides practical guidance for greenfield sites, on smaller sites and brownfield sites achieving nitrogen neutrality on site is difficult to achieve and will generally necessitate other measures in order to offset the nitrogen off-site, elsewhere within the catchment. This predominately affects urban areas, especially the two cities, and potentially undermines the 'cities first' focus of the PfSH Spatial Position Statement. Investigation and discussion of options for potential mitigation measures to achieve nutrient neutrality is ongoing as discussed in detail later in this report.

#### Southern Water

18. As part of discussions to find potential solutions for this issue the WQWG now includes both Southern Water and Portsmouth Water. Southern Water is of particular relevance to the nutrient issue given that it is the only waste water treatment company serving the PfSH area. It is regulated by a permit system consented by the Environment Agency which limits the amounts of nitrates and phosphates which can enter the natural water system. The permitted levels of nitrogen vary significantly between WwTW. Many, including those which discharge into the rivers flowing into the Solent, do not have a nitrogen permit limit. Therefore, there are already permitted levels of nitrates entering the Solent which have already been consented by the EA. Consequently, an understanding of how Southern Water can significantly reduced future permitted levels using the best available technology is going to be a critical issue that needs to be considered, together with a review of the permit levels by the EA.
19. In June 2019, OFWAT (the water services regulation authority) published its report entitled '*Notice of Ofwat's proposal to impose a financial penalty on Southern Water Services*'. It identifies that Southern Water have been responsible for widespread waste water failures over the period between 2010 and 2017, which has led to significant unpermitted and premature spills of wastewater from its treatment works for thousands of hours. These matters are of significant concern to PfSH particularly as there has been '*widespread and deliberate measures*' taken by the company including senior management to misreport data about the performance of its WwTW. As a result of these actions OFWAT has proposed a financial penalty on Southern Water of £126

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<sup>55</sup> This is available on the Havant Borough Council website [www.havant.gov.uk/nitrogen](http://www.havant.gov.uk/nitrogen)

million, of which £123 million of this will be a customer rebate spread over the next five years, with the remaining £3 million being the actual fine.

20. OFWAT invited representations from interested parties to comment on its report including the financial penalty by 19 July 2019. Given the severity of the breaches raised by the report and the significance of the nutrient issue faced by the PfSH authorities it has been considered necessary to register our substantial concerns regarding the scale and widespread nature of Southern Water's actions.
21. The letter together with a more detailed submission highlights a number of issues that PFSH has identified to OFWAT which needs further consideration. These matters concern: a) the need for further information about the scale of the incidences; and b) the balance between the proposed fine and customer rebate, such that the financial penalty should be in the form of a fine to use for remediation measures in the area(s) where harm has been caused.
22. The letter states that PfSH is prepared to discuss further with OFWAT the issues faced in the Solent area and potential ways in which an Environmental Remediation Fund would operate.
23. It is considered necessary for PfSH to make this robust representation on this matter which could assist in finding a practical solution for the nutrients issue. It is acknowledged that Southern Water have started to improve its practices and consequently PFSH would welcome a constructive and positive relationship with Southern Water to implement appropriate measures to enable development to proceed and protect the quality of our environment.

#### Role of Government

24. Representations have been made to government, as the issues raised go beyond the direct scope of local authority responsibilities and raise much wider matters. PfSH authorities, including Havant and East Hampshire, have written to relevant ministers in MHCLG and DEFRA to ensure that the issue has the attention of government. There is a centrally based solution which could potentially be explored, such as a review of the consents for WwTW. However, this could only take place through government. It is understood that such reviews have taken place in the past due to the Habitats Regulations. However, it should be noted that any review, or any changes to WwTWs, would need to comply with the statutory regulation of those facilities through OFWAT and the Environment Agency and will take time to resolve.
25. The regulation of the water industry and permitted levels of nitrogen discharge are matters for government and its agencies. Similarly the regulation of agriculture which is the largest source of nitrogen inputs is also a matter for government. Any long term solutions to achieve both nutrient neutral development, and to address the existing impacts on European sites from too much nutrients entering that water, will likely require much wider and more significant action than can be undertaken by local authorities through the planning system.
26. Natural England remains in active contact with MHCLG and DEFRA. MHCLG understands the situation and are very interested in the methodology and

advice. They intend to facilitate a cross-government conversation about the wider nutrient issues arising from existing housing and agriculture. Natural England will keep local planning authorities informed about major updates.

## **IMPLICATIONS FOR HOUSING DELIVERY**

27. The current position of not issuing planning permission is likely to have a significant potential impact on current and future housing delivery. The advice from Natural England applies to all sites which don't have planning permission. This has implications for meeting local housing needs and on being able to maintain a five-year housing supply going forward and meeting government targets for delivery in the future. This also has a consequent impact on the future health and resilience of the construction industry, particularly for small and medium sized enterprise (SME) developers.
28. For example, Fareham Borough Council has 52 undetermined planning applications (excluding Welborne) for new residential development under formal consideration. In total these applications propose 3,185 dwellings. An HRA/AA must be carried out on all of them. Twelve of the planning applications, comprising 922 dwellings, have a resolution to grant planning permission from the Council's Planning Committee, pre-dating Natural England's current advice. Similarly, Gosport Borough Council have planning applications for approximately 100 dwellings which are not currently progressing. This is approximately 60% of their annual Local Plan housing requirement. For Portsmouth City Council, planning applications for 1,652 dwellings are awaiting a decision.

## **ACHIEVING NUTRIENT NEUTRALITY**

29. The objectives of the work which the WQWG has been undertaking, building upon the work of Natural England and local authorities in the eastern Solent is to identify short and medium/long term mitigation measure in order to enable residential development to be permitted. This will necessitate all partner organisations to be committed including Natural England, the Environment Agency and Southern Water, together with other public bodies with landholdings.
30. Some development can achieve neutrality though the change in land use from agriculture which emits nutrients into the environment. However, for development on non-agricultural (particularly brownfield land), it is generally not possible to provide mitigation as part of the proposed development. As a result, off-site specific or strategic solutions will be required.

## **SHORT TERM POTENTIAL MITIGATION OPTIONS**

31. The Habitats Regulations require mitigation to be in place on the ground prior to the occupation of development. In order to address the issue of achieving nutrient neutral development where this cannot be achieved on-site, alternative off-site mitigation measures to secure this elsewhere within the catchment are being investigated. There are a number of potential short-term mitigation options currently under consideration. These are intended to enable development to take place straight away once they are in place.

32. Given the gravity of the situation and the issue, some local authorities are exploring local short-term solutions. However, it is considered that a long-term strategic solution is the most appropriate way to achieve nutrient neutral development across the Solent.

#### Creation of new offsetting nature conservation or recreation sites

33. The creation of wetlands, SANG, woodlands, nature reserves and other Green Infrastructure (GI) from agricultural land, leading to a change in land use to a lower level of nitrogen input within the same catchment and securing this in perpetuity. There could be a potential increase in the provision of GI secured from development than would otherwise be the case. Such provision would have wider environmental and recreation benefits for the community and wildlife and offsetting for nitrogen can be an indirect consequent of new provision for these primary benefits. Woodland planting would also have carbon capture and climate change benefits. It is also possible for mitigation schemes to have multiple benefits. For example, a Brent Goose and Wader refuge, without any added nitrogen (e.g. spraying), could mitigate Brent Goose and Wader habitat loss and water quality, and SANG provided for New Forest recreational mitigation could also mitigate for Solent nutrients.
34. Where there is a change in use from existing agricultural land, priority in land acquisition would be given to land in the lower Agricultural Land Classification (ALC) grades, in order that the best and most versatile (BMV) agricultural land is kept in production. This would also be less expensive to acquire.
35. To explore this option would include working with Hampshire County Council and other public bodies through the 'One Public Estate' partnership to identify potential public landholding which could be used to provide mitigation sites. Working with Government through this model to release public land appropriate for mitigation to be identified and released could provide for strategic mitigation across the PfSH area. In the absence of Government intervention, PfSH would work with all public bodies to identify land for strategic mitigation. Other options might include working with partners through the Local Nature Partnership, Eastern Solent Coastal Partnership and Solent Waders and Brent Goose strategy.
36. However, there remains a potential risk of a lag period of residual nitrate leaching from converted agricultural land, expected to be c.30 years (and the potential for challenge on this) as a risk for this mitigation option. These residual nitrates from historic agricultural use will need to be addressed by the wider conservation and preventative measures that are necessary to achieve favourable conservation status of the designated sites.

#### Taking land proposed for development out of agricultural production earlier

37. Taking agricultural land out of production some time prior to development commencing would remove agricultural nitrogen at an earlier stage. This is an interim time limited option to give additional headroom, before the nitrogen associated with development occurs.
38. Whilst this is potentially an appropriate mitigation strategy, it is questionable as to whether this meets the 'test' of being in place prior to the development. This

is on the basis that it will potentially take a number of years for nitrate discharge from previous agricultural land to cease entering the water cycle. By changing agricultural land, it is possible to prevent future nitrogen outputs from the land.

#### Catchment sensitive farming

39. Another option is paying farmers to reduce nitrogen use or release, though the government's agri-environment schemes, or working with water companies. A post of 'Catchment sensitive farming (CSF) officer' could be created, together with a capital fund. However, this is currently done by voluntary arrangement with farmers and not secured in perpetuity. As such, the level of certainty of delivery is low. Cover crops can also be planted in fallow years, in order to avoid nitrogen leaching. This is a measure which water companies already support. However, this is also only an interim time-limited option to give some additional capacity.
40. Wider CSF work to address previous and future agricultural inputs is on-going, but this is more general than that needed for nutrient neutrality. It is important to ensure that measures to reduce inputs from agriculture should not affect the outcome of the conservation and preventative measures that are necessary to reduce these inputs so that favourable conservation status for the Solent European sites is achieved.

#### Water efficiency

41. Retrofitting existing housing stock with upgraded water efficiency measures from their fixtures and fittings, potentially focusing on local authorities' own housing stock, is an option. NE's methodology for determining the nitrogen load of proposed development is calculated from the proposed scale of water use; therefore, theoretically, if less water is sent to WwTWs for processing, less treated wastewater can be released under their respective permitting concentration limits for nitrogen (measured in milligrams per litre) where these apply. The water savings from retrofitting existing properties can be used to provide mitigation capacity for new development. New development will also be required to have a higher level water efficiency (of no more than 110 litres per person per day) as secured by planning condition. Together these measures should ensure that there is no overall net increase in the output of an area to its WwTW(s).
42. Water efficiency measures could help to enable housing delivery in the short term where it is reasonably considered that such measures can be secured in perpetuity, and if funding sources/mechanisms can be identified and secured.

#### Waste Water Treatment Works (WwTW) Permit Limits

43. The Environment Agency should be requested to commence review of the permits of WwTW earlier and undertake robust AA on the permits. It is understood that this is currently planned for 2024. It would however take time for the any new permit limits to be implemented and for works to secure them to be undertaken. It would be a first stage of assessing whether WwTW nutrient discharges could be reduced.

## **MEDIUM/LONG TERM POTENTIAL MITIGATION OPTIONS**

44. There are also a number of potential medium and long-term mitigation options currently under consideration. These include major works and wider land use changes.

### New Wetlands

45. These could be created in order to reduce nitrogen release and would be of particular benefit downstream of WwTW to treat discharge flows to reduce nitrogen post treatment. Inception wetlands can also remove nitrogen on drainage pathways from farmland higher up in the catchment. This has the potential to also offer significant social benefits in terms of green infrastructure (GI), for example the de-culverting of watercourses to create open areas with recreation opportunities. Similarly, the routes of watercourses could be altered to de-canalise them in order to reduce runoff and increased wetland areas associated with streams and rivers. However, this is a longer-term project given the level of preparatory work that would be required.

### Sustainable Drainage Systems (SuDS)

46. SuDS can be used to create wetland environments that would act as a nitrogen sink and can effectively remove a large amount of nutrients from surface water. These need to be designed appropriately to ensure their effectiveness. For example, the proposed vegetation would need to be continuously wet and so swales and ponds would be suitable whereas deep ditch solutions are not likely to be. Stormwater wetlands could be created by amending SuDS to include greater nitrogen removal from development sites. The identification of sites would need to be closely linked to the location of new development.

### Waste Water Treatment Works (WwTW)

47. Continue to work with Southern Water, the Environment Agency and OFWAT on whether permit level limits for nitrogen could be introduced on those WwTW which do not currently have such a permit and therefore where no nitrogen stripping is taking place. Consideration could also be given to further reducing the permit limit for nitrogen at WwTW, where there is a current limit already in place. The potential required land-take implications would also need to be understood. This option is linked to Southern Water's future Business Plan (regulated through OFWAT) and future review of WwTW permit limits (regulated through the Environment Agency). This would follow on from the short-term option of an early review of existing permit limits.
48. With regard to funding, a tariff style approach on new development to fund mitigation solutions could be considered. The Solent LEP are also investigating whether they may be able to fund mitigation measures to enable development to take place.

## CONCLUSION

49. NE have advised that there is a likely significant effect on the Solent's European sites due to nitrogen levels and this could be exacerbated by the increase in wastewater from new housing and overnight accommodation. Their advice is that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The implication of having a significant effect on the designated sites must be addressed as required by the Habitats Regulations. They recommend that the wastewater issue is examined within appropriate assessments and that the existing nutrient and conservation status of the receiving waters be taken into account. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring the development does not add to existing nutrient burdens.
50. Officers from PFSH local authorities through the WQWG (and in liaison with the PFSH Planning Officers' Group), working with colleagues from Natural England, the Environment Agency and Southern Water will continue to undertake further work to investigate the potential mitigation options for both the short term and medium/long term. The aim is to achieve a PFSH wide strategic approach to mitigation in order to achieve nutrient neutral development and deliver the planned housing compliant with the Habitats Regulations.
51. A further report providing an update on progress in developing potential mitigation options and preparing a PFSH wide strategic approach to mitigation will be presented to the next meeting on the PFSH Joint Committee on 15 October 2019.

## RECOMMENDATION

It is recommended that the Joint Committee:

- a) NOTES the responsibilities conferred on PFSH authorities under the Habitats Regulations, particularly in the light of recent case law, and NOTES the implication of the nutrient issue on development in the PFSH region.
- b) AUTHORISE continuing to undertake a desktop review of existing information and evidence to clarify the scale and scope of the issue as it affect development and to explore potential options for strategic avoidance and mitigation solutions
- c) Continues to ENSURE through the Chairman of PFSH to the Ministry of Housing, Communities and Local Government (MHCLG) and the Department for Environment, Food and Rural Affairs (DEFRA), relevant Government agencies (including Natural England) and other bodies to provide an efficient, central solution to the need to ensure nutrient neutral development takes place.
- d) SEEK a meeting with Government (MHCLG and DEFRA) to achieve a 'one public estate' approach to delivery of strategic mitigation in the PFSH area and FACILITATE the identification of land for strategic mitigation across the PFSH

area amongst all public organisations with an allocation mechanism that supports the PfSH Spatial Strategy for development

- e) SEEK to meet with OFWAT and the Environment Agency to discuss the Southern Water licensing and permit regime following their 'under reporting' of discharges and to explore new and reduced nitrate permit limits as part of their future business plan and licensing regime
- f) AUTHORISE the development of a long term water quality and mitigation plan, to achieve nutrient neutral development
- g) AUTHORISE the investigation of potential sources of funding to support the provision of short and long term mitigation options
- h) REQUIRES a further report to be brought to the October meeting of the Joint Committee to provide an update of progress of recommendations 2-8 in developing potential mitigation options and preparing a PfSH wide strategic approach to mitigation

**Appendices: -**      **Appendix 1:** Advice on achieving nutrient neutrality for new development in the Solent region, for local planning authorities, Natural England, June 2019

**Background Papers:**

Item 10: South Hampshire Integrated Water Management Study, 5 June 2018 Joint Committee

Item 10: South Hampshire Integrated Water Management Study, 28 March 2018 Joint Committee

**Reference Papers:**

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