



## Partnership for South Hampshire

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The Rt. Hon Theresa Villiers MP  
Secretary of State  
Department for Environment, Food and Rural Affairs (DEFRA)  
2 Marsham Street  
LONDON SW1P 4DF

By email and post  
1 November 2019

Dear Secretary of State,

### **Use of 'developer contributions' (s106/CIL funding) to fund nutrient nitrate mitigation measures to facilitate new housing development across the Partnership for South Hampshire.**

I write as Chair of the Overview and Scrutiny Committee of the Partnership for South Hampshire (PfSH). You will be aware that following a European Court of Justice ruling, a requirement has been placed upon local authorities to issue consent only for new housing development that can demonstrate that it will not cause an increase in nutrient discharge. This requirement is of particular relevance to PfSH local authorities given the areas of environmental significance around the Solent.

I am writing to express our concern that, in order to fund the necessary mitigation measures needed to offset much needed new housing development across the sub-region, s106 developer contributions may be diverted from their intended use (to secure, among other things, affordable housing and providing infrastructure for new development). It is not right that local authorities may be presented with a situation in which they have no choice but to access these funds for nutrient mitigations - which we believe would be unnecessarily inappropriate, nor in principle or spirit of their intended use.

Implementation of the nutrient neutrality requirement is currently preventing, and in some cases completely halting, local planning authorities around the Solent from granting permission for new housing development. This is because of a risk of challenge (on the back of advice and guidance issued by Natural England) to the granting of planning permissions that are not considered compliant with Habitats Regulations. The burden of developing solutions to reduce nutrient discharge is a shared one. It should *not* necessitate recourse to funds set aside to implement the social and infrastructure requirements that facilitate appropriate housing growth.

Collectively, and as individual local authorities, PfSH members are working closely with Natural England, the Environment Agency, Ministry of Housing, Communities and Local Government (MHCLG) officials, and others, to develop both short-term and medium/long-term solutions.


PfSH has advised MHCLG of the scale of the issue, and where it has been possible, outlined the measures that individual local authorities have implemented to address the challenges in the short-term. I understand that MHCLG has initiated cross-government discussions with your department, Natural England and the Environment Agency with a view to developing a wider long-term strategy. We await the outcome of those discussions.

In August, PfSH responded to Ofwat's consultation '*Notice of a Proposal to Impose a Penalty on Southern Water*'. It advocated an environmental remediation fund be set up with the proceeds of the fine, which could be used to facilitate significant and tangible benefits for local communities and sustainable growth. We were disappointed to learn from Ofwat that this proposal was not included in its decision about how to apportion the proceeds.

In the meantime, PfSH is exploring other available sources of funding for mitigation measures to address the nutrient neutrality requirement on behalf of its members. In particular, an intention to submit a bid to the Solent Local Enterprise Partnership's Prosperity Fund. In the event of a successful bid, we are uncertain whether any award will sufficiently cover the cost of the necessary.

I urge you to consider how your department can support PfSH local authorities to implement mitigations that offset the impact of housing development growth on levels nutrient discharge. I look forward to your reply.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Glass', with a large, sweeping flourish extending to the left.

Councillor Allan Glass  
Chairman, Partnership for South Hampshire Overview and Scrutiny Committee