



Report to the Partnership for South Hampshire Overview and Scrutiny Committee

Date: 04 February 2020

Report of: David Bibby, Chairman PfSH Water Quality Working Group

Subject: PFSH NUTRIENT NEUTRALITY UPDATE

SUMMARY

This report provides a brief summary of the report to Joint Committee that gives an update on progress towards the development of a strategy to address the issues presented following the requirement that all new housing development across the PfSH sub-region be nutrient neutral.

RECOMMENDATION

It is RECOMMENDED that the Overview & Scrutiny Committee NOTES the contents of the report and consider any comments to be passed to the Joint Committee for consideration.

BACKGROUND AND SUMMARY

1. There is evidence of high levels nitrogen and phosphorus in the Solent water environment, including evidence of eutrophication at some internationally designated sites. This must be addressed as required by the Habitats Regulations. The achievement of nutrient neutrality, if scientifically and practically achievable, is a means of ensuring that development does not add to existing nutrient burdens.
2. This report to Joint Committee will provide a further update on more recent progress made on the work that PfSH is undertaking with partners to address the issue of achieving nutrient neutrality from development across the sub-region. This report follows the previous update considered by the Joint Committee on 14 October 2019 and highlights further actions since then. In light of the advice from Natural England, the aim continues to be to develop a PfSH wide strategic approach to mitigation in order to achieve nutrient neutral development - and deliver the planned housing development compliant with the Habitats Regulations.
3. PfSH officers have continued to work closely with colleagues from Natural England, the Environment Agency, Southern Water and other partners to investigate the potential mitigation options and determine a robust way forward to address the issue. Positive progress continues to be made in a number of areas, including at national level, and in identifying potential mitigation options which have merit. However, we are still not yet in a position to enable a long-term PfSH wide strategic approach to be put in place. Best endeavours and a high level of intense engagement to seek to achieve this continues and is ongoing.
4. Since the last meeting of Joint Committee 14 October, the following activity has taken place:
 - An undertaking by the Environment Agency to consider reviewing nutrient level permits issued to water companies operating in the region - which impacts on the level of nutrient discharged.
 - The submission of a bid for funding from the Solent LEP Prosperity fund, for the implementation of nutrient mitigation measures across the region, on 29 November. On 23 January the LEP advised that it was unable to progress the bid as currently drafted stating '*This bid has been The LEP Board very much welcomed your application and considered this alongside an independent and expert assessment of your project, within the context of the Solent Prosperity Fund criteria. There were a good number of applications to this competitive fund, and, in relation to your application, there were a number of areas that were identified within the assessment that would need to be addressed before the LEP would be able to re-consider the project for invitation to co-develop a Full Business Case.*'
 - Further lobbying of government ministers to raise and maintain awareness of the issue.
 - Greater engagement with central government officials and internal central cross-government discussion around the support it can offer.
 - PfSH has commissioned an update to the Integrated Water Management Study 2018 to determine the accuracy of the assumptions used to determine the potential levels of nutrient discharge.

Table 1 below sets out the current scale of how many houses (units) are currently backlogged due to the issue.

Local Authority	Developments (units) significantly or principally backlogged because of the nutrients issue	Developments solely backlogged because of the nutrients issue (units).
Southampton	0	0
Eastleigh	0	0
Winchester	181	409
Portsmouth	1270	667
Gosport	160	80
Havant	409	242
Fareham *	916	916
East Hampshire **	0	0
Test Valley ***	1038	0
New Forest (inc NFNPA)	0 (less than 100)	0 (less than 100)
Totals	3974	2314

* At present, Fareham Borough Council has in excess of 50 undetermined planning applications (excluding Welborne) for new residential development under formal consideration. In total these applications propose over 3,000 dwellings. An Appropriate Assessment will need to be carried out on all applications that the Council decide to permit which could result in an amendment to the total number of dwellings proposed.

** A small number of current applications have experienced minor delays, under 100 homes within East Hampshire District Council.

*** Figures representative of the whole area of Test Valley borough (including the area outside of its PfSH boundary).

Table 2 below provides an appraisal of what short-term strategies individual PfSH local authorities have in place to manage the issue.

Local Authority	Mitigations measures
East Hampshire	A mitigation strategy was approved on 30 July and has been operational since then. Paragraphs 28-35 of East Hampshire District Council's Position Statement on Nutrient Neutral Development
Eastleigh	<p>The Council has convened a project team to investigate medium term solutions within the Borough and is working with the Partnership for South Hampshire on strategic longer term solutions.</p> <p>The main new sites will be West of Horton Heath, and the Strategic Growth Option that the Council is planning for in its Local Plan - a mixed use community with at least 5,300 dwellings. These would be served by the Chickenhall waste water treatment works (WwTW) - which is a fluvial WwTW and which, based on the Environment Agency's (EA) current approach has no nitrate permit limits. If the EA were to change its approach this would very significantly reduce the scale of other mitigation required.</p> <p>The range of measures are likely to include, or could include acquisition of agricultural land as part of a wider green infrastructure strategy; woodland planting; reed beds/wetlands adjacent to WwTW; working with EA / Southern Water to seek upgrades to WwTW; potentially working with affordable housing providers to secure water efficiencies across the existing housing stock.</p> <p>The Council already applies conditions to all, not just affordable, developments to secure water efficiency of 105 litres / person / day which is more stringent than the 110 litres recommended by Natural England.</p>
Fareham	While the Council is working with consultants, the Environment Agency and Southern Water to understand the regulatory processes and assessments of the wastewater permitting regime, we are also considering potential mitigation solutions

	<p>in the event that the difference of opinion between Defra agencies still exists.</p> <p>The solutions are not easy to find and in many cases, additional complications mean that a measure that may seem practical initially falls away upon closer investigation.</p> <p>Natural England has provided a list of potential mitigation measures but many of these are not feasible in Fareham. Nonetheless, we are working to develop a package of measures that could include a change in the management of existing agricultural land in the Borough, wetland creation, water efficiency measures, improvements to existing wastewater treatment works, a bolt-on to the Regional Habitat Creation Scheme and Catchment Sensitive Farming Advisors.</p>
Gosport	<p>Gosport Borough Council has been looking into a water efficiency programme which could create a limited amount of capacity in the short term.</p> <p>It is keen to link up with the PfSH-wide water efficiency programme, if approved by Natural England.</p> <p>In addition, the Council is working with PfSH/HIWWT on a long-term land change strategy.</p>
Havant	<p>We are currently looking to prepare a mitigation scheme. Possible mitigation options can be found in the Council's Position Statement.</p>
New Forest	<p>NFDC and NFNPA are preparing a Nutrient Management Strategy supported by consultants EPR. EPR outputs to include scoping and costing of a range of options to minimise nutrient load at source and to offset any additional load that cannot be avoided, and to provide recommendations on the most effective and practicable options for inclusion in a mitigation programme. This would be funded by developer contributions, at a rate the consultants will advise on.</p> <p>The strategy will seek to mitigate the full local plans impact if possible, or as a minimum to provide 5-years headroom whilst strategic solutions are identified at national and/or PfSH level.</p>
New Forest National Park	<p>As above</p>
Portsmouth	<p>Securing water efficiency improvements in perpetuity to allow wastewater 'headroom' for new development; a no net change approach.</p> <p>This includes both offsetting against vacant PCC assets and progressively upgrading the water efficiency of the Council's own housing stock.</p> <p>New development would also be required to have higher water efficiency standards as secured by condition. This is a short- term solution (potentially 3-4 years?).</p> <p>A comprehensive, longer-term strategic solution is still required, in combination with action by government agencies to address the main sources of water pollution.</p>
Southampton	<p>A review of which has just recommenced. The city intends to deliver major urban development / regeneration and as such development will not be taking land out of agricultural use and so in that sense the nitrate effects will be greater.</p> <p>However, two of the three WwTW in the city already have nitrate permit limits. It is understood from general discussion that these may already be at 'best available technology'. The Council is keen to discuss with EA and Southern Water a review of consents, particularly as technology improves, and in relation to the third WwTW.</p> <p>The Council owns considerable housing stock and there is the potential to apply additional water efficiency measures. This would also have a social inclusion effect as Southampton is a water-metered area.</p> <p>Beyond these, measures are likely to focus on working strategically with PfSH, neighbouring authorities and public landowners outside of the city to acquire land to take out of agricultural use, plant woodland, deliver wetlands, and implement sensitive farming measures.</p>
Test Valley	<p>Investigation of SANG land, land in Council ownership and of how 'land based' off site mitigation options could be successfully implemented in accordance with the requirements of both the habitats regulations and be secured legally alongside a planning permission.</p>

Winchester	<p>The Council proposes to develop an avoidance and mitigation package to assist applicants. This will include reviewing the scope for additional water use reduction measures in Council housing stock. The Council will also work with partners to identify opportunities for the Council to secure agricultural land de-commissioning.</p> <p>In addition owners of agricultural land may propose to take out of productive use farm land which can then be off-set as a nitrate credit. Such an arrangement would be, subject to a legal agreement between the relevant parties (developer and agricultural land owner) and the Council, in relation to development schemes which are subject of an application for planning permission and need to achieve nitrate neutrality. This provides another way for a developer to demonstrate that a scheme can meet the nitrate neutral requirement</p> <p>On-site and off-site measures which could aid in achieving nitrate neutrality include:</p> <ol style="list-style-type: none"> 1. Achieving water efficiency standards of at least 105 cubic litres of water per day. Policy CP11 of the Winchester District Local Plan Part 1 requires development to achieve the equivalent of the former Code for Sustainable Homes level 4 for water 2. On-site open space appropriately managed in a low nitrogen manner; 3. Create new wetland environments in SUDS systems that act as nitrogen sink and remove nitrogen from surface water; 4. Exploring a strategy with Hampshire Wildlife Trust. 5. Any other off-site mitigation measure that leads to a permanent net reduction in nitrates.
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JOINT COMMITTEE RECOMMENDATION

Overview and Scrutiny Members are asked to note that the recommendations being made to the Joint Committee will be to:

- a) NOTE the representations made to MHCLG requesting that the period for the end of the transitional arrangements for the Housing Delivery Test (as specified in the National Planning Policy Framework) should be extended beyond 2020, so that completions in 2022/23 can be counted;
- b) NOTE that PfSH has made representations to MHCLG to support a request from members for financial support from government under New Burdens Funding, towards the additional costs and workload to local authorities in dealing with the consequences of the nutrient neutrality issue;
- c) NOTE that PfSH will continue to work closely with MHCLG and DEFRA to find both short and medium/long term solutions and to SEEK support to assist us in achieving these;
- d) CONTINUE investigation of potential medium/long term mitigation solutions to provide a strategic PfSH wide approach, including with wider local authority partners beyond PfSH members;
- e) CONTINUE to seek potential options for funding to support potential mitigation measures;
- f) ENDORSE PfSH's investigation into the options for a potential dedicated officer resource for PfSH to work on the nutrient neutrality issue and wider Habitats Regulations and internationally designated sites matters, to reflect the specialist nature and volume workload associated with addressing the issues; and

- g) AGREE that PfSH should organise a joint briefing for local MPs whose constituencies are affected by the issue, with a request that they lobby government for support on the development of the mitigation strategy.

Reference Papers: None

Enquiries:

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