

Executive Committee

25 April 2017

Nitrogen Reduction in Poole Harbour Supplementary Planning Document

For Decision

Portfolio Holder

Cllr I Gardner - Planning

Senior Leadership Team Contact:

S Hill, Strategic Director

Report Author:

O Rendle – Environmental Assessment Officer

Statutory Authority

The Council are the competent authority under the Conservation of Habitats and Species Regulations (2010) which transposes into U.K law Directive 2009/147/EC on the conservation of wild birds, and this supplementary planning document has been prepared in accordance with the Planning and Compulsory Purchase Act (2004).

Purpose of Report

- 1 To adopt the Nitrogen Reduction in Poole Harbour Supplementary Planning Document (SPD).

Recommendations

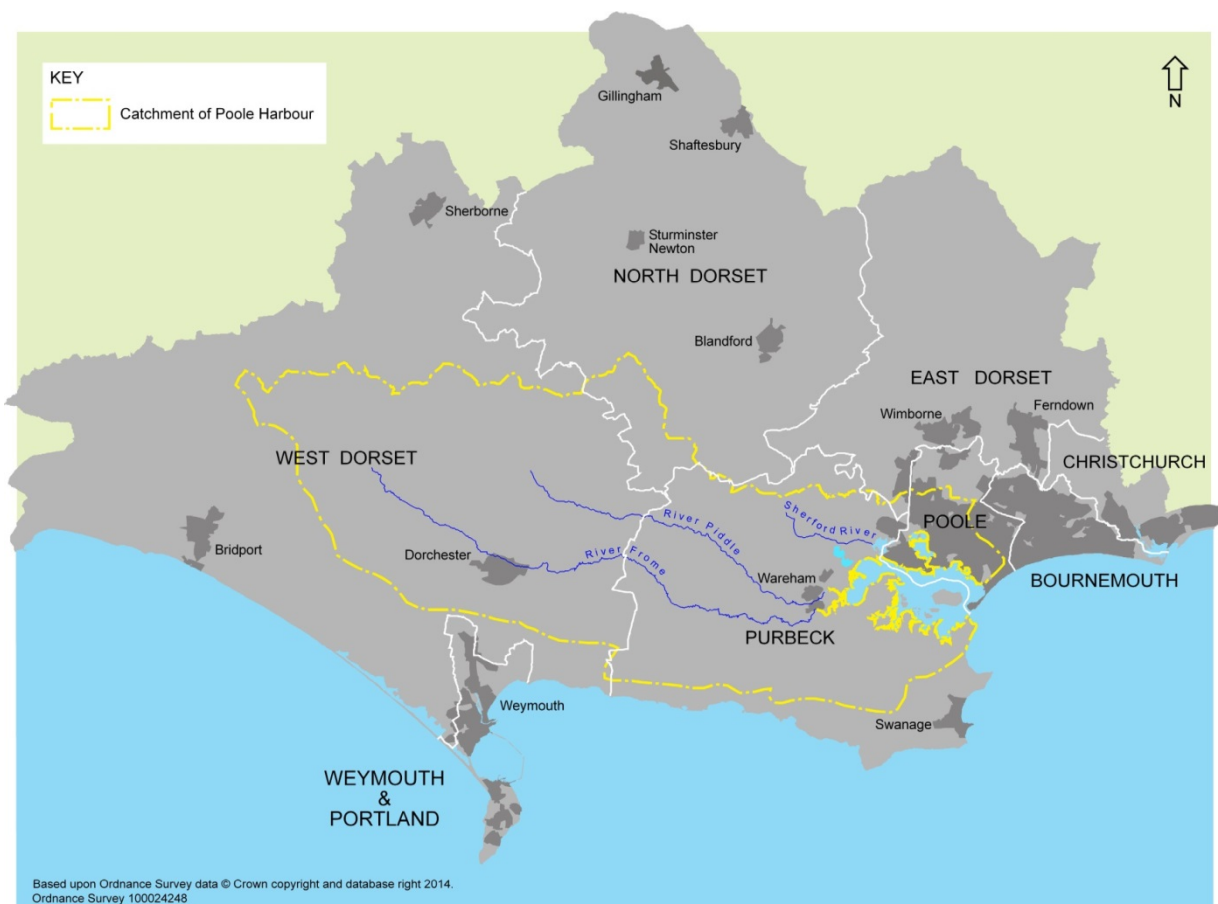
- 2 That the Executive Committee:
 - a) adopts the Nitrogen Reduction in Poole Harbour SPD as set out in Appendix 2; and
 - b) agrees to delegate further minor changes to the SPD to the Corporate Manager – Planning (Community and Policy Development) in consultation with the Portfolio Holder.

Reason for Decision

- 3 The SPD provides a means of mitigating the impacts of development upon the Poole Harbour European wildlife designation. This ensures that compliance with European wildlife legislation is achieved, permitting the Council to grant planning consent or allocate land for development within the Poole Harbour catchment.

Background and Reason Decision Needed

4. Poole Harbour is a natural harbour that is designated a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site for its nature conservation importance.
5. Scientific evidence suggests that high concentrations of nitrogen in the harbour are encouraging the growth of wide spread algal mats through the process of eutrophication. These mats restrict the availability of invertebrates, which provide food to wading birds, and affect other important features and processes within the harbour. The extent of the algal mats has increased since the 1960s, expanding from Holes Bay to become widespread across the harbour.
6. The majority (~85%) of nitrogen entering Poole Harbour from land sources is generated by agriculture within the Poole Harbour catchment, which occupies an area of 820km² and comprise the rivers and streams which drain into Poole Harbour, as shown in the map below. However, a proportion (~15%) of the nitrogen entering Poole Harbour is from human sewage discharged within the Poole Harbour catchment, since the Sewage Treatment Works remove only part of the nitrogen from human waste.



7. The Environment Agency and Natural England have published a nutrient management plan (NMP), entitled the 'Strategy for Managing Nitrogen in the Poole Harbour Catchment to 2035' (June 2013). The NMP provides the most comprehensive and up to date scientific knowledge and understanding of the complex underlying processes causing the eutrophication. It also recommends that the local planning authorities that

share the Poole Harbour catchment, which includes West Dorset, prepare an implementation plan to ensure that future residential development is 'nitrogen neutral', which means that it does not result in a net increase in nitrogen entering the Poole Harbour European site.

8. To conform with the Habitats Directive (92/43/EEC), local authorities planning for a growth in population may only allocate land for development or grant planning consent for development that has either avoided harm to European protected sites or mitigated the impact to ensure that there is no significant adverse effect.
9. Avoiding harm is not possible in this instance, as allocating land for development or granting planning consent will cause an increase in population which will lead to more nitrogen entering Poole Harbour. Therefore, the only option is to provide mitigation so that new development is nitrogen neutral, ensuring that the Council are legally permitted to grant planning consent or allocate land for development within the Poole Harbour Catchment.
10. The Council's development plan documents will provide this mitigation. Policy ENV 2 of the adopted West Dorset, Weymouth and Portland Local Plan ('Local Plan') requires new development within the Poole Harbour catchment in West Dorset to be nitrogen neutral. The purpose of the Nitrogen Reduction in Poole Harbour SPD is to provide details of how the nitrogen neutrality in new development will be achieved.
11. In preparing the SPD, West Dorset District Council has worked closely with the other local authorities in the catchment, namely North Dorset District Council, Purbeck District Council and Poole Borough Council, with support from the Environment Agency and Natural England.
12. Following approval by the Executive Committee on 14 April 2015, the four local authorities consulted jointly on a draft of the SPD between 9th October and 20th December 2015, with the consultation coordinated by The Borough of Poole. The consultation attracted 26 comments (see Appendix 1) and officers used the feedback to make the following key amendments to the draft SPD:
 - Apply an occupancy rate of 2.42 people per house and 1.65 people per flat;
 - Rather than predicting future growth and the proportionate mitigation required in advance, the level of growth and progress in delivering mitigation will be reported through a regularly updated Implementation and Monitoring Report; and
 - To provide more flexibility and choice of mitigation methods in future, the more general option of removing nitrogen through 'alternative technologies' was introduced rather than listing possible current technologies, reducing the number of mitigation options from nine to three.
13. West Dorset District Council will collect the money required for mitigation mostly through the Community Infrastructure Levy (CIL), which is a tax on

development for infrastructure improvements. The money required for the mitigation will be top-sliced from the CIL 'pot'.

14. Where a development is exempt from CIL, for example strategic sites and tourism development, Section 106 agreements are used to collect the money required for mitigation. Under section 106, where the applicant is unable to provide mitigation, the applicant will have to pay a financial contribution. The SPD sets out how the developer can calculate what mitigation is necessary to ensure the development is nitrogen neutral.
15. The Councils within the Poole Harbour Catchment will be responsible for using the money collected for securing suitable mitigation. The Implementation and Monitoring Report will set out the amount of development which has occurred and identify appropriate mitigation projects in consultation with organisations and landowners in the Poole Harbour Catchment Initiative.
16. The agricultural sector has also prepared a plan for reducing nitrogen, dealing with nitrogen leaching from farming rather than additional nitrogen inputs from development. There may be potential to work jointly with landowners to provide wider benefits upon, for example, biodiversity, water management and green infrastructure.
17. The SPD was recommended for adoption by the Overview and Scrutiny Committee on 28th March 2017.
18. In addition, Overview and Scrutiny Committee recommended that delegated authority be given to the Corporate Manager of Planning (Community and Policy Development) to make further minor changes in consultation with the Portfolio Holder. This delegated power will enable any minor changes to the DPD suggested by members of the local authorities within the Poole Harbour Catchment to be made without the need to seek approval from the Executive Committee.
19. The SPD has been adopted by Poole Borough Council and Purbeck District Council, and is yet to be considered for adoption by the committees of North Dorset District Council.

Implications

Corporate Plan

20. The SPD would contribute towards achieving the following priorities of the Corporate Plan:
 - 'Increase the number of new homes built within the district', since the SPD would enable the development of new housing within the Poole Harbour catchment; and
 - 'Safeguard and provide opportunities to enjoy the natural and built environment now and in the future', as the SPD would prevent harm to the natural environment of Poole Harbour from new development. Furthermore, the mitigation schemes may in future provide greater opportunities to enjoy the natural environment.

Financial

21. Failure to provide adequate mitigation against the impacts of new development upon the Poole Harbour European site would prevent new housing from coming forward within the section of West Dorset within the Poole Harbour Catchment. This would reduce the Council's New Homes Bonus receipt.
22. The money to pay for mitigation projects would be provided by financial contributions by developers through the Community Infrastructure Levy or Section 106. This money will be top-sliced from CIL receipts, restricting the money available for other infrastructure projects.

Environmental

23. Poole Harbour is a large natural harbour of great ecological importance, comprising extensive tidal mud flats and saltmarshes together with reedbeds, freshwater marshes and wet grasslands.
24. Poole Harbour qualifies as a Special Protection Area under EC Directive 79/409 on the Conservation of Wild Birds ('Birds Directive') since it supports large assemblage of waterbirds and significant populations of the following bird species:
 - Common shelduck (*Tadorna tadorna*);
 - Pied avocet (*Recurvirostra avosetta*);
 - Black-tailed godwit (*Limosa limosa islandica*);
 - Mediterranean gull (*Larus melanocephalus*); and
 - Common tern (*Sterna hirundo*).
25. In addition, the site is used by populations of rare, vulnerable and threatened bird species listed in Annex 1 of the Birds Directive, and nationally important bird species.
26. In addition to the European ornithological interest, Poole Harbour is designated as a wetland of international importance under the Ramsar Convention, a Site of Special Scientific Interest, and in some areas a National Nature Reserve.
27. The purpose of the SPD is to prevent new development from causing harm upon this site.

Consultation and Engagement

28. A public consultation on a draft SPD was conducted jointly by the four authorities in the Poole Harbour catchment and coordinated by The Borough of Poole.
29. The consultation took place between 9th October and 20th December 2015 and attracted 26 comments. These comments (set out in Appendix 1) were taken into consideration whilst finalising the SPD.

Appendices

Appendix 1 – Consultation Summary

Appendix 2 – Nitrogen Reduction in Poole Harbour SPD

Background Papers

West Dorset, Weymouth & Portland Local Plan

Strategy for Managing Nitrogen in the Poole Harbour Catchment to 2035

Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

Report Author: Oliver Rendle

Telephone: 01305 251010 (Extention 2557)

Email: orendle@dorset.gov.uk