

# Cabinet

**10 September 2024**

## **Nitrogen Reduction in Poole Harbour SPD withdrawal**

### **For Decision**

**Cabinet Member and Portfolio:**

Cllr. S Bartlett, Planning and Emergency Planning

**Local Councillor(s):**

All

**Executive Director:**

Jan Britton, Executive Lead for Place

Report Author: Terry Sneller  
Job Title: Strategic Planning Manager  
Tel: 01305 838224  
Email: [terry.sneller@dorsetcouncil.gov.uk](mailto:terry.sneller@dorsetcouncil.gov.uk)

**Report Status:** Public (the exemption paragraph is N/A)

**Brief Summary:**

The Nitrogen Reduction in Poole Harbour Supplementary Planning Document (SPD) has been used for a number of years as a mechanism for offsetting the nutrient loading on Poole Harbour arising from new residential developments within the catchment. The need to reduce nutrient loading is in response to the unfavourable status of the Harbour and the build-up of algal mats that result from the high nutrient levels. Dorset Council has worked with BCP Council to deliver mitigation to fulfil the requirements of the Habitats Regulations.

In March 2022, Natural England updated their advice on the need for Nutrient Neutrality in the Poole Harbour catchment (and other catchments nationally). This updated advice altered the approach to calculating nutrient loading from development and therefore necessitates a review of the approach in the SPD. It is considered that an alternative approach, enabling developers to either source their own mitigation or work with Dorset Council, offers more flexibility to the Council and to developers.

This report seeks to formally withdraw the Nitrogen Reduction in Poole Harbour SPD so that it is no longer a material consideration in planning decisions enabling more options for nutrient mitigation to be secured for developments.

**Recommendation:**

That Cabinet withdraw the Nitrogen Reduction in Poole Harbour SPD.

**Reason for Recommendation:**

Since Natural England updated their advice on nutrient neutrality in March 2022, the Nitrogen Reduction in Poole Harbour SPD is no longer considered to offer a robust mechanism for delivering nitrogen mitigation in the Poole Harbour catchment. The SPD therefore needs to be formally withdrawn to enable an alternative approach to delivering nitrogen mitigation within the Poole Harbour catchment.

**1. Report**

- 1.1 Nutrient loading in Poole Harbour is having a significant effect on the condition of the protected Harbour and the species that live in and migrate to it. The main sources of nutrient loading in the Harbour are from agricultural practices and wastewater from homes and businesses.
- 1.2 Local Planning Authorities are required under the Habitats Regulations<sup>1</sup>, to consider whether any proposal is likely to have a significant effect on a designated habitats site such as Poole Harbour. This includes consideration of the nutrient loading that may result from that development proposal. Nutrient neutrality is an approach used to offset the increase in wastewater from new developments so that the condition of the Harbour is not made worse as a result of the development that takes place.
- 1.3 The Councils within the catchment have been operating an approach to mitigate the nitrogen loading from development since 2007. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document (SPD) calculates the nitrogen loading from a new dwelling using various assumptions and averages for the catchment as a whole. This is then used to calculate an area of agricultural land that is needed to offset the additional nitrogen loading through a reduction in intensity of use of this land.

---

<sup>1</sup> Regulation 63 of the Habitats Regulations

- 1.4 Where a development is likely to increase nutrient loading in Poole Harbour, the Habitats Regulations require mitigation to be put in place to address this impact. Each of the adopted local plans that cover the Poole Harbour catchment (where the SPD applies) has a policy that requires development to achieve nutrient neutrality.
- 1.5 The SPD adds additional detail to the adopted Local Plan policies to aid developers in understanding the approach that the Council has taken in addressing any increase in nutrient loading in the catchment. The approach in the SPD is given weight in decision making but the policies in the adopted local plans provide the basis for these decisions.
- 1.6 The delivery of mitigation is funded through the standard Community Infrastructure Levy (CIL) contributions that are paid by developments across Dorset<sup>2</sup>. These funds are used by Dorset Council to deliver the necessary mitigation projects on the ground. There are however some developments that do not pay CIL and therefore do not contribute towards the mitigation costs making this approach inequitable.
- 1.7 Although the SPD has proven to be adequate in enabling development to take place and for mitigation to be delivered in the Harbour catchment, it is no longer considered fit for purpose. The methodology for calculating nutrient loading does not accord with the latest scientific understanding of nutrient loading. The use of CIL inhibits the delivery of mitigation as CIL is paid upon commencement of development leaving little time for mitigation to be delivered at the point that the nutrient loading from the development starts (i.e. upon occupation). The costs associated with mitigation are significant and this reduces the available CIL funds for other community infrastructure.
- 1.8 There is a need to adequately monitor the delivery of mitigation against the rate of development. The approach of using pooled CIL funds to deliver mitigation does not provide a direct link from the development to the mitigation. This creates complexities and inaccuracies for the provision of mitigation for developments and therefore for meeting the requirements under the Habitats Regulations. In addition, the use of CIL funds does not enable the spend of the Local Nutrient Mitigation Fund awarded to Dorset

---

<sup>2</sup> With the exception of the former North Dorset District Council area where a CIL charge has not been implemented. In this area, a s106 agreement is used to secure a contribution towards the provision of mitigation.

Council as the cost of mitigation cannot be fully recouped as required by the terms of the fund.

- 1.9 At the national level, Natural England were provided with a fund to deliver nutrient mitigation in affected catchments. In the Poole Harbour catchment Natural England have secured Lyscombe Farm which delivers a significant reduction in nutrient loading through the change from an intensively managed dairy farm to less intensive uses. The land will be managed for nature conservation and environmental restoration using nature restoration techniques including the grazing of animals. This will create a new wildlife rich, high nature value habitat, and enhance the existing areas of SSSI and priority habitats found on the farm. The credits arising from the Lyscombe Farm mitigation project were released for sale to developers on 31 July.
- 1.10 In the period since 31 July, limited weight has been given to the SPD in planning decisions. For all new development proposals that are likely to increase nitrogen loading within the Poole Harbour catchment, the onus for the provision of mitigation has been shifted to the developer. There are multiple ways that this mitigation can be secured including:
- (a) Delivery of sufficient nitrogen mitigation on site as part of the open space within the development. This can also assist with the delivery of Biodiversity Net Gain.
  - (b) Delivery of mitigation off-site but on land under the control of a developer.
  - (c) Provision of new waste water treatment works (WWTW) to be managed by a NAV water company<sup>3</sup> (only likely to be suitable for a larger development site).
  - (d) The purchase of nutrient credits from Dorset Council.
  - (e) The purchase of nutrient credits from a certified third-party mitigation provider such as Natural England's Lyscombe Farm mitigation project.
- 1.11 Mitigation will then be secured in perpetuity through the use of legal agreements and conditions. The legal basis for the need for nutrient mitigation will remain with the Habitats Regulations. Where nutrient credits

---

<sup>3</sup> [New Appointments and Variations \(NAVs\) - Ofwat](#)

are to be purchased from Dorset Council, contributions will be secured from developers through section 106 legal agreements.

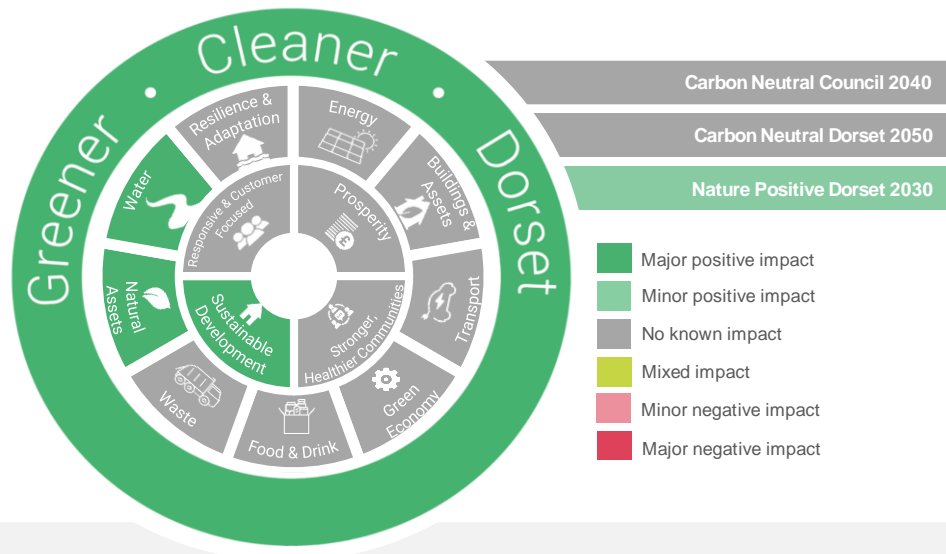
- 1.12 Guidance on the new arrangements for addressing nitrogen neutrality in the Poole Harbour catchment, will be provided on the Council's website. There may be opportunities for prioritising a proportion of the credits delivered by Dorset Council to certain types of development. If it is considered appropriate to prioritise certain types of development, the detail of the prioritisation will be brought back to Cabinet for approval.

## 2. **Financial Implications**

- 2.1 The SPD placed an obligation on Dorset Council to fund the delivery of nutrient mitigation for developments that were granted planning consent. This was paid for out of the Community Infrastructure Levy (CIL) however the costs of doing so have increased. This depletes the CIL funds available to deliver other types of infrastructure to support development.
- 2.2 Dorset Council has received a grant of £4.63m from Government to deliver nutrient mitigation in the Poole Harbour catchment. The arrangements for the use of this fund include the recycling of funds to deliver further mitigation to enable development to take place. The use of the SPD and CIL does not enable this recycling of funds, in part as the use of CIL does not reflect the true cost of delivering mitigation.
- 2.3 The new approach will be based on the sale of mitigation credits where the true cost of mitigation is reflected in the price of these mitigation credits. Developers will be required to pay for these credits using contributions secured through section 106 legal agreements.

## 3. **Natural Environment, Climate & Ecology Implications**

- 3.1 The Nitrogen Reduction in Poole Harbour SPD detailed the mechanism for securing nitrogen mitigation for development within the Harbour catchment. The reason for providing mitigation is to improve the ecological status of the Harbour with the onus being on Dorset Council to deliver the mitigation. Withdrawing the SPD will open up new opportunities for mitigation to be provided with the onus on developers to source mitigation for their development. The overall aim will continue to be to improve the ecological status of the Harbour.



Quantitative Impact on CEE targets (if known)		
	Unit	Number of units (+/-)
2030 - Natural asset extent & condition	Ha	Unknown
2040 - Operational Emissions	CO <sub>2</sub> (tonnes)	Unknown
2050 - County Emissions	CO <sub>2</sub> (tonnes)	Unknown

#### 4. Well-being and Health Implications

4.1 There are no health and well-being implications.

#### 5. Other Implications

5.1 The approach of mitigating nutrient loading arising from residential developments in the Harbour catchment not only helps to improve the ecological status of the Harbour but also aids in delivering much need housing. Opening up new opportunities for mitigation provision will help in the delivery of both of these aims.

#### 6. Risk Assessment

6.1 Given recent legal judgements and updated understanding of nutrient deposition, the approach set out in the SPD runs the risk of not being compliant with the Habitats Regulations.

6.2 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: high  
Residual Risk: low

7. **Equalities Impact Assessment**

- 7.1 The SPD contains a mechanism for delivering mitigation within the Poole Harbour catchment. As such, the withdrawal of the SPD is unlikely to have any equalities issues.

8. **Appendices**

Nitrogen Reduction in Poole Harbour Supplementary Planning Document  
[Nitrogen Reduction in Poole Harbour - Dorset Council](#)

9. **Background Papers**

None

10. **Report Sign Off**

- 10.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s)