

**Planning**

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Susan Heywood and Gareth  
Wildgoose  
Inspectors  
The Planning Inspectorate  
**By e-mail only**

**Date:** 19 January 2023  
**Ref:** Purbeck Local Plan  
**Officer:** Mike Garrity  
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✉ [planningpolicy@dorsetcouncil.gov.uk](mailto:planningpolicy@dorsetcouncil.gov.uk)

Dear Ms Heywood and Mr Wildgoose,

**The Purbeck Local Plan**

We are writing following your letter of 16 December 2022, and the update which the council has provided on the joint position statement (7 December 2022) with Natural England which relates to nutrient pollution in Poole Harbour.

In this letter we provide our responses where we can to the actions/questions raised in the letter of 16 December and give an indication on the timescale for responding to the remaining actions/questions.

Query 1

The Inspectors asked us to respond to their concerns around the preferred option (Option 3 presented in the joint position statement) which states:

‘The use of a pre-commencement condition to prevent development beginning of any new qualifying development until the necessary wastewater treatment works upgrade is required through legislation’

Their queries related to:

- a) the terms of the restrictive condition proposed as part of Option 3;
- b) mitigating the impacts of nutrient pollution from qualifying development pending upgrades to wastewater treatment works that will be required by the Levelling Up and Regeneration Bill;
- c) whether our approach to this issue would meet the requirements of habitats regulations (and more specifically the appropriate assessment required by these regulations); and
- d) further explanation in respect to Option 2 (specifically the link between funding for affordable homes and habitat site mitigation).

### *Council's response:*

The council has suggested that the restrictive condition<sup>1</sup> should restrict qualifying development from commencing prior to enactment of the Levelling Up and Regeneration Bill because a condition drafted in this manner can be effectively and efficiently monitored and enforced against when compared to a condition restricting occupation of completed dwellings. We are also concerned that enforcing against a condition which restricted people from occupying completed homes, potentially leaving homes unoccupied until the phosphorus neutrality issue was resolved, could give rise to issues which might damage the Council's reputation.

Government's written ministerial statement (issued 20 July 2022) on this issue outlines its proposals to introduce regulation to improve the performance of wastewater treatment works and support a national mitigation scheme. It indicates that the upgrade of wastewater treatment works should be considered when undertaking assessments required by The Conservation of Habitats and Species Regulations 2017. We had also been advised by Natural England that once the requirement for upgrade of wastewater treatment works is secured in legislation – and therefore has certainty about delivery - the need for phosphorus neutrality will no longer apply. Their position on this matter reflected the characteristics of Poole Harbour and the relationship between phosphorus and nitrogen in the marine environment. Our addendum to earlier Habitats Regulation Assessment of the local plan will include the detailed assessments in accordance with the regulations.

Natural England have reflected on the precise wording of the tabled amendment to the Levelling up and Regeneration Bill (amendment NC77) and are of the view that the necessary reductions in phosphorus within the Harbour catchment would not be sufficient to remove the need for phosphorus neutrality. Only if additional wastewater treatment works were upgraded (to a threshold of 1,000 population equivalents) would the phosphorus target be reached, and the Harbour brought back into a more favourable condition.

We have written to the Secretary of State in response to the wording of amendment NC77 to highlight the importance of a lower threshold for the Poole Harbour catchment. Subject to the Secretary of States response we will review and update the joint position statement prepared with Natural England.

In the context of this, we are not intending to focus resources on delivering strategic phosphorus mitigation projects in the short term. Both the council and Natural England will however offer guidance and support to individual applicants who want to develop site specific mitigation projects for their proposals with a view to enabling development to take place.

In accordance with the second option (described below) phosphorus mitigation contributions would be secured through a S106 agreement with each development. The additional cost, above that for nitrogen mitigation, would be secured in lieu of part of the quantum of affordable housing to be provided and this contribution would be payable up front. However, should the phosphorus mitigation not be necessary, the wording of the S106 agreement would allow Dorset Council to use the contribution secured towards affordable housing provision either on-site or off-site.

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<sup>1</sup> The draft condition states that: 'The development shall not commence until the enactment of the Levelling Up and Regeneration Bill or any subsequent legislation requires upgrades to qualifying wastewater treatment works so that they achieve the highest technically achievable limit for phosphorus reductions.'

### Query 2

The Inspectors' query relates to Options 1 and 2 in the joint position statement. Both these options are summarised as:

'Option 1: Additional chemical dosing over a short period of time to remove additional phosphorus from wastewater treatment works discharge

Option 2: Logging all additional qualifying consents issued by Dorset Council within the Poole Harbour catchment and securing a payment towards the delivery of phosphorus mitigation'

The Inspectors' have asked us to provide confirmation that Options 1 and 2 in the joint position statement could still be pursued as part of package of mitigation measures.

#### *Council's response*

If the threshold for the upgrade of wastewater treatment works within the Poole Harbour catchment is lowered to 1,000 population equivalents, the need for phosphorus neutrality will be removed. Whilst we are not intending to actively pursue either Options 1 or 2 in the short term, we would not rule out either option in the medium or long term should the need arise.

### Query 3

The Inspectors' have asked us to respond with details of when/how the existing Nitrogen Reduction in Poole Harbour Supplementary Planning Document (April 2017) will be updated.

#### *Council's response*

The Nitrogen Reduction in Poole Harbour Supplementary Document (April 2017) was jointly prepared and implemented by Dorset Council and Bournemouth, Christchurch, and Poole Council. The councils have been discussing the implications of the updated guidance on nutrient pollution which Natural England issued on 16 March 2022 as part of the refresh of this supplementary planning document. Although a timetable for the completion of this work cannot be provided at this point in time, the work has commenced and will be completed as soon as practicable.

### Query 4

The Inspectors have asked to provide confirmation that the joint position statement was prepared in association with Natural England.

#### *Council's response*

We can confirm that the joint position statement was prepared in conjunction with Natural England and that they agreed with its drafting. When we consider whether the statement needs to be reviewed/updated following our engagement with the Secretary of State, we will also consider introducing a section in the joint statement which allows both parties to add their signatures to confirm their support.

Query 5

The Inspectors have asked to confirm when we will provide drafts of the addendums to Habitats Regulation Assessment and Sustainability Appraisal.

*Council's response*

We will update the Inspectors on our programming for preparing the draft addendums following any response from the Secretary of State and review/updates to the joint position statement.

Yours sincerely,

Mike Garrity  
Head of Planning