

Independent Examination of the Purbeck Local Plan (2018-2034)

Inspectors' further response to nutrient pollution in Poole Harbour

Further to our previous letter dated 16 December 2022, we thank the Council for the submission of an interim response dated 19 January 2023 to the actions/questions raised therein. Accordingly, we look forward to the Council update on timescales for preparing necessary addendums to the Habitats Regulation Assessment, Sustainability Appraisal and to the Position Statement (November 2022), taking account of your awaited response from the Secretary of State in terms of nutrient pollution in Poole Harbour. Nonetheless, we consider that it would assist you now to understand our current position with respect to the influence of the nutrient pollution situation on the soundness of the Purbeck Local Plan (the Plan).

The Plan and the approach to nutrient neutrality

The role and function of the Plan has somewhat evolved during the course of its examination, taking into account that the preparation of the Dorset Local Plan continues to progress separately. In that context, it is evident that the importance of getting the Plan in place at the earliest opportunity is to support the Government's objective to significantly boost the supply of homes by bringing land forward for development where it is needed in Purbeck. This is particularly important in the short term in advance of anticipated timescales for adoption of the Dorset Local Plan. We are also mindful that the Plan does not look beyond 2034 and therefore, the benefits of its adoption at the earliest opportunity would be to provide greater certainty of development opportunities in the next few years before the Dorset Local Plan is in place.

We understand that communication is ongoing between the Council, Natural England and the Secretary of State in terms of the implications of the Levelling Up and Regeneration Bill (LURB), the threshold for updates to wastewater treatment works and amendments tabled thereto. We note that the Council and Natural England are seeking the reduction of the 2000 population threshold for upgrading of wastewater treatment works to 1000 population equivalent. However, there remains uncertainty regarding the outcome of the Council's approach to the Secretary of State and the timing of any response.

As matters currently stand therefore, it is necessary that the Plan and any associated Council approach to decision-making incorporates sufficient flexibility to enable housing proposals to explore site specific mitigation projects relative to nutrient pollution in Poole Harbour where feasible and

that restrictions upon commencement of planning permissions should be avoided where possible.

We note the Council's response in terms of the reasons for a pre-commencement condition rather than linking it to occupation. However, the ongoing uncertainty relating to the LURB and whether it would ensure the necessary reductions in phosphorus within the Harbour catchment, when taken with the role and function of the Plan and the Plan period to 2034, only reaffirms our concerns regarding the Council preferred option of using a pre-commencement condition for any new qualifying development in isolation.

Potential solutions to this issue could be for the Council to consider all of the following:

- Whether any potential pre-commencement condition should incorporate wording which would allow development to come forward in advance of enactment of the LURB on the basis of any site specific mitigation which may be agreed with the Council and Natural England;
- That the Council consider taking legal advice, if it has not already done so, regarding the validity and enforcement of such a condition;
- That Options 1 and 2 (set out in the Council's Position Statement November 2022) remain part of the package of options referred to in the Plan in order to ensure that the use of conditions in isolation would not undermine the ability of the Plan to contribute to the Government's objective of significantly boosting the supply of homes in the Plan period.

The use of planning obligations to address nutrient neutrality

The Framework indicates that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. In that context, we are finding it difficult to understand how a contribution reasonably intended to provide phosphorus mitigation has any relationship to affordable housing need - except in circumstances where viability considerations may have necessitated a reduction in the proportion of affordable housing to be delivered.

If this is indeed the Council's concern, it seems to us at this stage that the Plan would need to provide certainty that if viability considerations were to result in a reduction in the level of affordable housing contribution sought at decision making stage, that it could be clawed back should any contributions to nutrient neutrality no longer be required at a later date. This would likely require main modifications to Policies H3, H11 and/or I1 of the Plan and the relevant supporting text as submitted (including further changes to MMs previously proposed), and the Council should also ensure consequential changes are made to other parts of the Plan if necessary for consistency.

Nitrogen reduction in Poole Harbour

The Framework is clear that Supplementary Planning Documents (SPDs) add further detail to the policies in the development plan but are not part of it. In that context, although we note the Council intention to work on revising the existing Nitrogen Reduction in Poole Harbour SPD (April 2017), such an approach does not remove the requirement for the Plan to ensure a sound approach to nitrogen reduction in Poole Harbour.

We note that the Council Technical Paper (2 September 2022, paragraphs 19 & 20) confirmed that Natural England considered that the existing SPD could be relied upon until it is reviewed. However, the Position Statement (November 2022, footnote at page 2) states that the SPD needs to be updated to reflect the methodology within the March 2022 advice from Natural England. We request that the Council explain the apparent discrepancies in these two statements and would welcome confirmation that Natural England are satisfied that the existing SPD can be relied upon in the interim period before it is updated.

We also note that the Position Statement has now been superseded on the Examination website. It would be helpful if that Position Statement were to be updated and reissued once the Council's approach is clearer. In addition, we note that the Council will consider whether to introduce a section allowing both the Council and Natural England to confirm their support to the statement. We would agree that this would seem to be a suitable way to confirm that the final approach is endorsed by Natural England.

Actions requested

Please provide an update on Council progress on the outstanding tasks relating to the requests, queries and comments in our 16 December 2022 letter and any response to the specific matters raised in this letter, by not later than **Friday 3 March 2023**. In summary these are as follows:

- A response to the suggested solutions in the 3 bullet points above.
- A response which clarifies the Council approach to viability considerations and affordable housing contributions, including any proposed modifications to the Plan to provide necessary certainty of any claw back mechanism to be applied to nutrient neutrality contributions.
- Clarification regarding the existing / updated SPD and Natural England's views on this as set out above.
- Confirmation that the Position Statement will be updated to reflect the Council's approach.
- An update on when we may receive drafts of the addendums to Habitats Regulation Assessment and Sustainability Appraisal.

We will continue to reflect upon whether additional main modifications may be required to reflect the Council's final approach to the matter of nutrient neutrality and will await further details of the intended approach that may assist us in reaching this conclusion.

If there are any procedural or other questions arising from this correspondence, the Council should contact us via the Programme Officer. We are not inviting, and do not envisage accepting, any comments or additional evidence from other examination participants at this stage.

Susan Heywood and Gareth Wildgoose

INSPECTORS

16 February 2023