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Winchester District Local Plan

# Winchester District Local Plan 2040

# Nutrient Neutrality Topic Paper

**November 2024**

Winchester City Council

# Nutrient Neutrality Topic Paper

## Contents

## 1.0 Introduction

1.1 The National Planning Policy Framework (NPPF) states that strategic policies in development plan documents should make 'sufficient provision' for infrastructure for 'water supply' and 'waste water'.

1.2 A series of topic papers have been produced to accompany the Winchester District Proposed Submission Local Plan (Regulation 19). The background papers provide an understanding of the latest evidence, wider context and justifications for the proposed policy approach.

1.3 This Topic Paper supersedes the Nutrients Topic Paper that was published in August 2024. It has been updated with the latest information and progress that has been made on nutrients and it sets out the key water quality issues, provides analysis of the demand and supply of nutrient mitigation in the plan and provides justification for Policy NE16 as set out in the Local Plan. Significant progress has been made on nutrients in the past twelve months and the key outcomes to date are as follows:

- The Council have successfully completed the upgrades of two Council owned waste water treatment works (WWTWs) to package treatment plants (PTP's) to generate phosphorus and nitrogen credits. The upgrades have successfully generated 10.55Kgs/TP/Yr which is enough to meet the current backlog of planning applications and the demand for approximately 70 homes in the Local Plan supply.
- The Council have received endorsement from Natural England on the upgrading of ten WWTW to PTP's and are actively looking to roll out a programme of upgrading the works to package treatment plants in the next 3 months. The Council are in the process of undertaking work on a further five WWTW's in the Itchen catchment, as set out in paragraph 5.14 of this paper.
- The Levelling Up and Regeneration Act (LURA) was enacted in October 2023. The Act includes the provision for upgrading waste water treatment works to the best technically achievable limits (TAL). Therefore, any development in the Local Plan that will be occupied post 2030 can take account of TAL in the nutrient budget.
- The Partnership for South Hampshire (PfSH) Strategic Environmental Planning Team (SEPT) are in receipt of £9.6 million of funding for round one of the bidding process from the Local Nutrient Mitigation Fund (LNMF) and have agreed the Capital Programme for the deployment of funding. Further details of the funding are provided in Appendix 1 of this report and the PfSH Joint Committee Report on the 23rd July 2024[1].
- Round two of the LNMF bids have been announced during the Autumn 2024 Budget. The PFSH SEPT are in receipt of a further £6.93 million for the delivery of nutrient mitigation schemes. Further details are provided in Appendix 5 of this report.
- The Council are in the process of entering into an Inter Authority Agreement (IAA) with PfSH to ensure the Council has a share of strategic mitigation credits across all riverine catchments.
- The Council are working proactively to deliver nutrient mitigation through the creation of a cross department working group that meet on a regular basis.
- PfSH are proactively re-investing the revenue from the nutrient credits generated from the Council owned sewage treatment works in order to undertake further upgrades on a rolling basis.
- The Council are proactively supporting third party PTP upgrades that have are currently emerging. A heads of term and monitoring fee have been formalised to

[1] (Public Pack)Agenda Document for Partnership for South Hampshire (PfSH) Joint Committee, 23/07/2024 17:00 (push.gov.uk)

ensure the monitoring arrangements for any third party schemes coming forward are in place.

- The Council are in receipt of a Position Statement in relation to nutrient neutrality from the site promotors of Sir John Moore Barracks (Policy W2). Appendix 6 of this report provides further details of the assumptions used to calculate the nutrient mitigation for the site in order for the development to be nutrient neutral.
- The Council have refreshed the webpages dedicated to nutrient neutrality to provide residents and developers with more user-friendly information. The pages also provide greater assistance in the information provided for developers in order to ensure development in the plan area is nutrient neutral.

1.4 This updated topic paper provides an analysis of the demand and supply of nutrient mitigation for development in the Winchester Local Plan. In addition to this topic paper a Statement of Common Ground has been agreed between Natural England and Winchester City Council addressing matters relating to water quality, including nutrient neutrality.

## 2.0 National Policy Requirements and Legislation

### The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

2.1 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (ref 13.2)[2] establishes a framework for a European-wide approach to action in relation to water policy. Its overarching aim is to ensure all inland and near shore watercourses and water bodies (including groundwater) are of 'Good' status or better, in terms of ecology, and also chemical, biological and physical parameters, by the year 2027. Therefore, any activities or developments that could cause detriment to a nearby water resource or prevent the future ability of a water resource to reach its potential status, must be mitigated to reduce the potential for harm and allow the aims of the Directive to be realised.

### The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

2.2 The objective of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019[3] is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora. The Habitats Directive is legislation for the protection, management and exploitation of such habitats and species. The first non-statutory stage is a preliminary 'screening' to determine whether the plan or project is likely to have a significant effect on a protected site and the second stage is for an assessment to be undertaken to determine the impact of development proposals on the site's conservation objectives.

2.3 Regulation 63 is assessment of implications for European sites and European offshore marine sites. Which states before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which is likely to have a significant effect on a European site or a European offshore marine site must make an appropriate assessment of the implication of the plan or project for that site in view of that site's conservation objectives.

### National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

2.4 Paragraph 180 (e) of the National Planning Policy Framework (NPPF) states that 'Development should, wherever possible' help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans'.

2.5 Paragraph 007 of the PPG[4] (Reference ID:34-007-20140306) states that 'Plan-making may need to consider the capacity of the environment to receive effluent from development in different parts of a strategic policy-making authority's area without preventing relevant statutory objectives being met'. The PPG also re-iterates that water quality is often best considered on a catchment basis with liaison with key stakeholders such as the Environment Agency, Natural England and water companies.

### Current Legal Cases – Jurston Farm, Wellington

[2] The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (legislation.gov.uk)
[3] The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (legislation.gov.uk)
[4] Water supply, wastewater and water quality - GOV.UK (www.gov.uk)

2.6 On the 30th June 2023, the High Court dismissed a challenge[5] by CG Fry to the operation of the Habitats Regulations Assessment. CG Fry was granted outline permission in December 2015 for development of up to 650 homes on Jurston Farm in Somerset. The construction of the first two phases have commenced (190 homes) with an application submitted for the discharge of conditions for the third phase. However, following the Dutch N Court ruling, Natural England issued advice to four Councils in October 2020, which raised concerns about phosphorus levels within the Somerset Levels and Moors Ramsar sites. As a consequence, the Councils had to undertake Habitats Regulations Assessment (HRA) before making a decision on any new planning applications which may lead to an increase in phosphorus.

2.7 In order for phase three of the site to gain permission the Council required several conditions to be discharged before construction could take place. CG Fry subsequently appealed the decision on the basis that the Council refused to agree the conditions until a full HRA had been carried out for the entire Jurston Farm site, instead of the site area covered by phase three. The Planning Inspector dismissed the appeal and agreed with the Council's decision that appropriate assessment was required for any planning application including reserved matters approval and/or the discharge of conditions stage to ensure adverse effects on integrity of the site is ruled out and the in-combination effects of the project are considered.

2.8 CG Fry appealed the decision on the 6th July 2023 but the High Court dismissed the challenge and upheld the Council's judgement as a consequence. CJ Fry decided to take the matter further and the case was held in the Court of Appeal on the 19th and 20th March 2024.

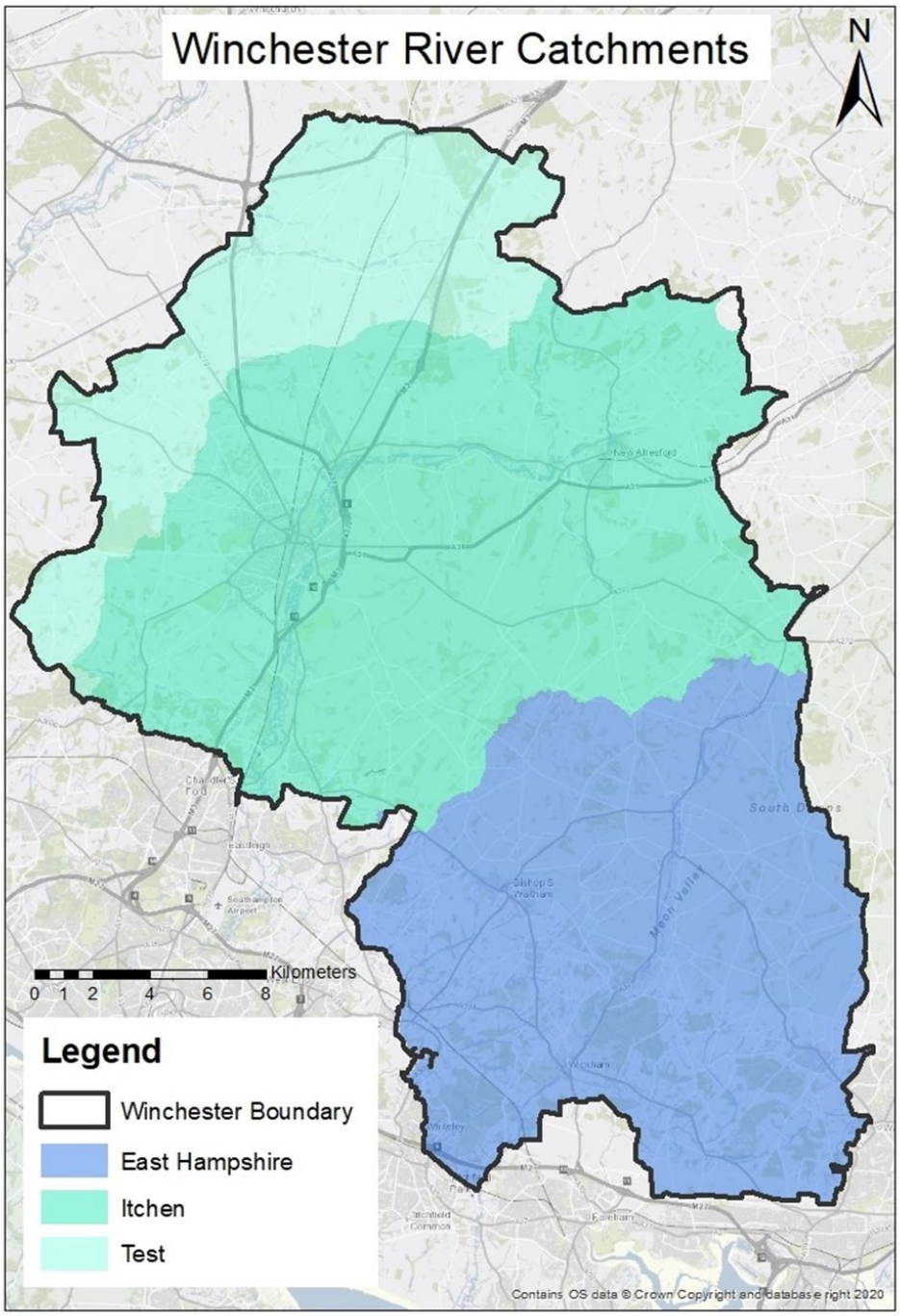
2.9 On the 28th June 2024 the Court of Appeal handed down a decision on the CJ Fry case Court of Appeal Judgment Template (nationalarchives.gov.uk) The Court of Appeal upheld the High Court's decision and dismissed the appeal. The Judgment confirmed that a planning authority determining an application may require an "appropriate assessment" to be undertaken at the discharge of conditions stage where, in discharging such condition, the authority is making an "implementing decision" which would authorise the effects of the whole development required to be subject to such assessment. When applying for discharge of conditions where outline permission and reserved matters have been granted before any nutrient neutrality requirements, then the Judgment confirms that you will need to factor in an "appropriate assessment" where required prior to the discharge of conditions. Equally, where a developer is considering taking on a site which is already subject to outline permission and reserved matters approval, then they may wish to factor in potential requirements for "appropriate assessment" in the timeline of the whole application as part of the due diligence process before acquiring the site. This Judgement, therefore, has important implications for the number of nutrients credits that have been calculated in this Topic Paper as it has now been confirmed by the Court of Appeal that sites that have already been granted outline planning permission also need nutrient credits.

2.10 Following the decision CJ Fry filed an application to the Supreme Court seeking permission to appeal the Court Order made by the Court of Appeal on the 28th June 2024 and of the notices of objection filed by respondents. On the 1st November the Supreme Court granted permission to appeal in the test litigation whether Appropriate Assessment under the Habitats Regulations, in the context of nutrient neutrality, can be required as the discharge of conditions stage in relation to development which already has planning permission. A date for the hearing has yet to be determined.

## 3.0 Background to Nutrients in Winchester

[5] Heading 9 (landmarkchambers.co.uk)

3.1 The Winchester district falls within three riverine catchments in relation to nutrient neutrality. This constitutes the East Hampshire catchment and the Test and the Itchen catchment.




*Source: Partnership for South Hampshire Strategic Environmental Planning Team*

3.2 In November 2018 the European Court of Justice issued a ruling 'Dutch N' which introduced the concept of nutrient neutrality, i.e. the level of nutrients in the river or protected site is the same after a development as it was before. In 2019 Natural England issued guidance to 32 Local Planning Authorities, including Winchester City Council, adding nutrient neutrality in relation to total nitrogen as a requirement for overnight accommodation that impacts protected sites in the Solent, i.e. that no

additional nitrogen enters the protected site[6]. These nutrients are in the effluent from waste water treatment works (WWTWs). Any new overnight accommodation in the catchment of the WWTW will increase the amount of effluent they discharge and therefore the amount of nutrients entering the protected site. Winchester district is served by a range of waste water treatment works (WWTW's). Discharge permit levels for wastewater leaving WWTW's are set by the Environment Agency and these permits seek to limit the discharge of pollutants such as total nitrogen and total phosphorus. In addition, any onsite Package Treatment Plants (PTP's within the catchment areas could also result in increased nutrient loading and should therefore demonstrate nutrient neutrality.

3.3 The Partnership for South Hampshire (PfSH) started working on developing total nitrogen mitigation solutions[7] with the first scheme in the East Hampshire Catchment becoming available across the Solent in 2021.

3.4 In March 2022 Natural England issued additional guidance to a further 42 LPA's in respect to nutrient neutrality for habitat sites. The guidance introduced phosphorus neutrality in relation to the Itchen catchment as a requirement for overnight accommodation. This means that any new overnight accommodation in the River Itchen catchment area is required to mitigate the impacts of phosphorus as well as total nitrogen.

3.5 On 26th October 2023 the Levelling Up and Regeneration Act (LURA) received Royal Assent. The Act includes the requirement for upgrading the waste water treatment works (WWTW's) to technically achievable limits by 2030. For total nitrogen the TAL is 10mg/l and for phosphorus this is 0.25mg/l.

3.6 On the 19th of December 2023 Central Government wrote to Local Authorities stating that: To stop pollution at source, the Levelling-up and Regeneration Act 2023 creates a new duty on water companies to upgrade wastewater treatment works (WwTW) by 1 April 2030, in catchments of Habitats Sites identified by the Secretary of State as being in an unfavourable condition due to nutrient pollution. This duty will be in effect from 26 January 2024 and the government will publish designated catchments and specific wastewater treatment works to be upgraded. The Act also requires planning decision makers to consider these upgrades as certain for the purposes of an assessment under the Habitats Regulations.

3.7 The Secretary of State (SoS) gave notice that the River Itchen SAC and Solent Catchment were designated as catchment areas under the Water Industry Act 1991 as sensitive for phosphorus or nitrogen where a habitats site is an unfavourable condition by virtue of pollutions from nutrient in water on 25th January 2024[8]. The effect of this notice is that water companies now have a duty to meet the requirement of the LURA in paragraph 3.5 of this paper. An exemption process was completed by the Government on 24th May 2024[9] which confirmed the wastewater treatment works to be exempt from the upgrades specified in the LURA. The list confirmed that all WWtW's that affect the Winchester Plan area will be upgraded to met the nutrient pollution standards for nitrogen and phosphorus depending on the catchment within which they are located[10].

## Habitats Regulations Assessment/Integrated Impact Assessment

[6] The Importance of the Solent - Partnership for South Hampshire (push.gov.uk)
[7] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)
[8] Notice of designation of sensitive catchment areas 2024 - GOV.UK (www.gov.uk)
[9] Housebuilding supported as government tackles water pollution at source - GOV.UK (www.gov.uk)
[10] Information about nutrient significant plants - GOV.UK (www.gov.uk)

3.8 The Submission Local Plan is supported by an Integrated Impact Assessment and a Habitats Regulations Assessment. The HRA addendum includes further information on an updated nutrient budget.

### WCC Nutrients Webpage and Relevant Nutrients Guidance Documents

3.9 WCC have a dedicated web page to nutrient neutrality[11]. The web page provides information to developers and residents with information in relation to nutrients and ensure nutrient neutrality at the earliest opportunity as planning applications are progressed. The website provides links to a number of documents by other stakeholders to understand nutrient neutrality.

[11] Nutrient Neutrality - Nitrates and Phosphates - Winchester City Council

## 4.0 Nutrient Demand in Winchester

4.1 It remains the case that permissions for new overnight developments would be unlawful unless it can be demonstrated that no significant impacts on Habitat sites will arise. Overnight development is defined by Natural England in their Advice on Achieving Nutrient Neutrality for New Development in the Solent Region guidance[12] as "development that would result in a net increase in population served by a wastewater system, including new homes, student accommodation, tourism attractions and tourist accommodation".

4.2 Site promotors will need to demonstrate how their developments proposals for overnight development will result in no further nitrogen or phosphorus entering the designated sites. This requires a nutrient budget to be created and then mitigation to be identified in order for the development to be considered nutrient neutral as shown in Figure 1 below. In order to understand the demand for nutrients in the Local Plan individual nutrient budgets have been calculated for all strategic sites, windfall and existing Local Plan Part 2 (LPP2) sites that include overnight development. In addition, a breakdown by each site allocation will be provided in the updated Habitats Regulation Assessment to support the Winchester District Proposed Submission Local Plan (Regulation 19).

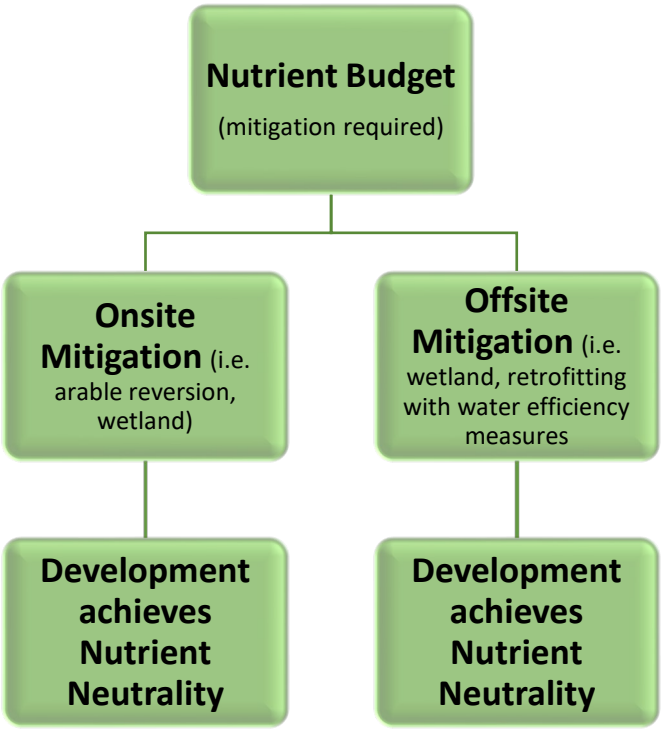



*Figure 1. Process required by developer to achieve nutrient neutrality.*

4.3 It is important to note that the nutrient mitigation demand from the Local Plan contained within this Topic Paper is based on the proposed housing trajectory with a baseline of the 1st April 2024. Any new greenfield allocations in the housing trajectory are phased from 2030. As set out in the Housing Topic Paper, if the Local Plan did not have this greenfield phasing policy then the nutrient mitigation demand for sites allocated in the Local Plan would be significantly higher and would need to be recalculated.

[12] Advice on achieving nutrient neutrality for new development in the Solent region (fareham.gov.uk)

4.4 Individual nutrient budgets are calculated using Natural England's nutrient budget calculators for the Solent[13] and River Itchen SAC[14] which were recently updated in February 2024. The updates include pre and post 2030 figures to account for the TAL upgrades and the option to include on site SuDS as part of the nutrient calculation. Natural England published a guidance document[15] and methodology[16] to undertake the calculations.

4.5 There are four stages in the calculator which result in the net change in the total nitrogen and/or phosphorus load to the relevant catchment with the proposed development. These stages are as follows:

- Stage 1 – Calculate the nutrient loading from additional wastewater.
- Stage 2 – Calculate the nutrient loading from current land use(s).
- Stage 3 – Calculate the nutrient loading from future land use(s).
- Stage 4 – Provides the overall nutrient budget for Nitrogen and or/Phosphorus.

4.6 The nutrient demand assessment for Local Plan development applies each of the four stages of the calculator above for each catchment in the plan area The assessment is explained in more detail in paragraphs 4.8 and 4.9 of this paper.

4.7 The assessment of nutrient demand in the plan area includes the proposed technically achievable limits (TAL) as set out in the LURA for any development expected to be delivered post 2030 for WWTWs that do not already meet this technical standard. The TAL for nitrogen is 10mg/l and for phosphorus is 0.25mg/l. The demand calculations below treat the upgrades anticipated to take place after 1st January 2030 as certain, unless the WWTW's already employ similar levels of technology to TAL.

4.8 The total amount of demand for nutrient mitigation required per catchment in the WCC plan area is set out below.

### East Hampshire Catchment

4.9 Winchester development in the East Hampshire Catchment is served by WWTW's at Peel Common, Wickham, Bishops Waltham and Budds Farm. Peel Common and Budds Farm employ a level of technology that is similar to that of the technically achievable limits set out in the Levelling Up and Regeneration Act (LURA). As such these WWTW's will not be upgraded as part of the TAL requirements.

4.10 The nutrient mitigation demand for the East Hampshire catchment is calculated by understanding the amount of overnight development over the plan period, including all sites allocated in the Local Plan, reserved matters applications and windfall development. The capacity of the sites are then entered into the nutrient budget calculators as well as the date of site delivery, occupancy rate, daily water usage and the waste water treatment works that the site development would drain to derive the nutrient mitigation required from the waste water.

4.11 The second stage of the calculation is to calculate the pre-existing nutrient load from the current land use by entering in data from the site which includes soil types, rainfall catchment, nitrate vulnerable zone and the pre-development land cover type and area. This provides the amount of nutrients from the current land use. The third stage is to calculate the future nutrient load from land use on development. This requires entering data into the calculator on the proposed future land use. The majority of sites in the

[13] Solent: nutrient neutrality calculator - GOV.UK (www.gov.uk)
[14] River Itchen SAC: nutrient neutrality calculator - GOV.UK (www.gov.uk)
[15] Nutrient-Neutrality-a-summary-guide-March-2022.pdf (push.gov.uk)
[16] NECR459 Edition 1 Nutrient Neutrality Generic Methodology.pdf

Winchester Local Plan are recorded as residential urban land where the Council do not have information from a masterplan provided by the site promoter. The completion of all of the steps above calculate the net change in nutrient loading from residential development and provides the amount of nutrient mitigation required for the site to be nutrient neutral. This process is the same for sites in the Test and Itchen for nitrogen and phosphorus.

4.12 The approach taken in calculating the nutrient budget adopt a precautionary approach in light of any uncertainty. For example, assuming future land uses for allocation sites with be 'residential urban' in the absence of a master plan, whereas in practice some of the larger sites may include areas of open urban land or greenspace).

4.13 The overall net change for total nitrogen mitigation over the WCC Local Plan period for the catchment equates to 2,073.15Kgs/TN/Yr.

### Test and Itchen Catchment - Nitrogen

4.14 Winchester development that falls within the Test and Itchen Catchment is served by WWTW'S at Harestock, Morestead Road, New Alresford and Chickenhall. Apart from Chickenhall (which falls within the Eastleigh borough) all other WWTW's fall within the Winchester district. Table 1 shows the current permit levels for waste water treatment works in the Itchen Catchment. The waste water treatment works will receive a further upgrade in 2030 to the TAL, apart from the phosphorus permit at Harestock which will achieve TAL in 2025.

| *Wastewater Treatment Works* | *Nitrogen Permit Level (mg/L)* | *Current Phosphorus Permit Level (mg/L)* | *Post 2025 Phosphorus Permit Level (mg/L)* | *Post 2030 (TAL) Phosphorus Permit Limit (mg/L)* |
|---|---|---|---|---|
| Chickenhall | 27 | 1 | 0.6 | 0.25 |
| Harestock | 27 | 1 | 0.25 | 0.25 |
| Morestead Road | 27 | 1 | 1 | 0.25 |
| New Alresford | 27 | 8 | 8 | 0.25 |

*Table 1: Permit levels for wastewater treatment works in the Itchen catchment*

4.15 Prior to 2030 the amount of nutrient mitigation required for WWTW's in the Itchen catchment will be at a higher permit level.

4.16 The demand for total nitrogen over the WCC Local Plan period for the catchment equates to 8,936.51/TN/Yr.

### Itchen Catchment - Phosphorus

4.17 Due to the way in which development impacts phosphorus levels in the Itchen, and the need to deliver mitigation where the impact of mitigation is upstream of the proposed development, two assessments have been made in relation to the demand and supply of phosphorus in the Itchen.

4.18 WCC have entered into S33 agreement with the Eastleigh Borough Council (EBC) mitigation scheme. The agreement allows development in Winchester district draining to Chickenhall WWTW's to secure nitrogen and phosphorus mitigation from the EBC scheme. Therefore, an assessment has been made in relation to the supply and demand of nutrient mitigation for site allocations and windfall development draining to Chickenhall WWTWs. A separate assessment has been made for phosphorus mitigation that is required for the site allocations and windfall development draining to

the Harestock, Morestead Road and New Alresford waste water treatments works in the Itchen catchment area.

*Chickenhall*

4.19 The data used to calculate the demand and supply of nutrient mitigation for development that drains to Chickenhall WWTW assumes the programme upgrade to the permit limit will take place by March 2025[17], and takes account of the tighter permit limit[18] in 2030 following the enactment of the LURA. The demand for total phosphorus over the WCC Local Plan period for Chickenhall WWTW's equates to 25.17Kgs/TP/Yr.

*Remaining WWTW's in the District*

4.20 Winchester development in the Test and Itchen Catchment is also served by WWTW'S at Harestock, Morestead Road and New Alresford.

4.21 The demand for total phosphorus over the WCC Local Plan period for the remaining WWTW's in the Itchen catchment equates to 368.45Kgs/TP/Yr

4.22 It should be noted that the above demand figures do not take account of any on site mitigation that have been put forward by site promotors. There are some allocations within the Plan where site promotors are proactively seeking to provide on-site mitigation and/or have provided their own nutrient budget calculations. As highlighted in Appendix 6 of this report the site promotors of the Plan's largest allocation at Sir John Moore Barracks, in Winchester (Policy W2) have provided a Position Statement on nutrient neutrality. The statement provides the assumptions made in calculating the nutrient mitigation required for the development and seeks to Submit a DAS to Natural England in early 2025.

[17] Reduction from 1mg/l to 0.6mg/l
[18] Reduction from the planned 0.6mg/l to 0.25mg/l

## 5.0 Nutrient Mitigation Supply in Winchester

5.1 In order to understand the demand for nutrients in the Local Plan individual nutrient budgets have been calculated for all housing sites and windfall. If there is a nutrient surplus identified in the budget then mitigation is required to achieve nutrient neutrality.

5.2 In the plan area there are two potential routes to provide nutrient mitigation. Firstly, direct (on site) mitigation[19] provided by the applicant or site promoter as part of the development such as taking the land out of agricultural use and using the land for an alternative use, e.g. open space. Secondly the purchase of mitigation credits via off-site delivery such as the creation of wetlands. It is also possible that third party markets in nutrient credits will emerge but currently there is no such activity in the Solent area. Mitigation measures are secured for the duration over which the development is causing the effects, for the Winchester plan area this is 125 years.

### East Hampshire Catchment

5.3 There are currently three nutrient mitigation schemes available in the East Hampshire Catchment as shown in Appendix 2. The table below provides the latest position in terms of the available schemes and the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester.

| ***Mitigation schemes[20]*** | ***Kgs/TN/Year that is available from the scheme*** |
|---|---|
| Whitewool (wetlands) | 253 |
| Warnford Park (arable reversion) | 3144 |
| Knowle (interceptor wetlands) | 811 |
| Shalfleet | 1,700 |
| **Total** | **5,908** |

*Table 2: Nitrogen Mitigation Schemes available to date for Winchester within the East Hampshire Catchment*

5.4 As Table 1 demonstrates there are currently three strategic nutrient mitigation schemes in the East Hampshire catchment available for development in Winchester and the total capacity of the schemes equates to 5,908 Kgs/TN/Yr as of March 2024.

5.5 Furthermore, the Partnership for South Hampshire Strategic Environmental Planning Team (PFSH SEPT) provide bi-yearly reports on the availability of nutrient mitigation in the East Hampshire Catchment. The report publicised at PfSH Joint Committee in September 2023 provided the latest update on the projected supply and demand of nutrient mitigation as shown on Figure 2 below.

[19] The development at Fawley Power Station uses a combination of onsite measures to offset nutrient demand - Report.pdf (newforest.gov.uk). This includes the creation of a new wetland, land use change, the removal of the existing sewage treatment works and the use of cover crops.
[20] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)

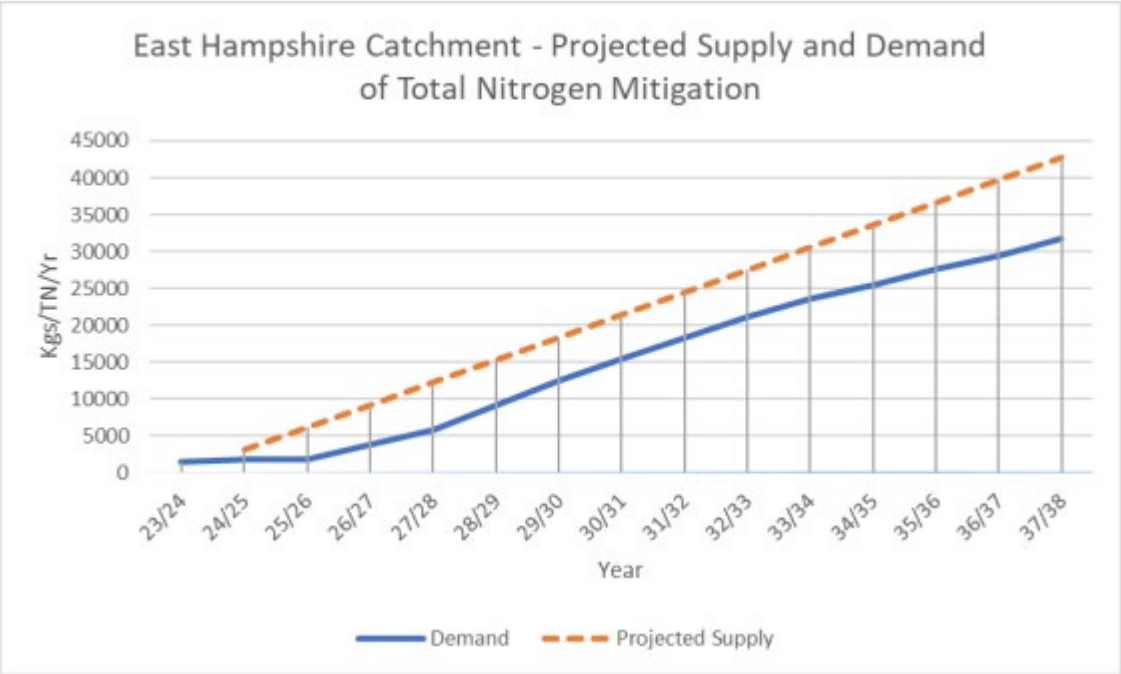



*Figure 2: Project Supply and Demand of Total Nitrogen Mitigation in the East Hampshire Catchment (Source: PFSH SEPT April 2024)*

5.6 The first nitrogen mitigation scheme in the East Hampshire catchment was established in 2020. Over the last four years a number of strategic mitigation schemes have come forward with an average delivery rate of 3,052Kgs/Tn/Yr. This highlights that strategically there is enough supply to continue to meet demand in the catchment, including the development in the Winchester plan area that falls within the East Hampshire catchment. Furthermore, Fareham Borough Council have purchased agricultural land within Stubbington to undertake long term cessation of agricultural activities. Natural England have endorsed the scheme through the DAS process and confirmed the quantum of mitigation. The PfSH SEPT have confirmed that credits will be sold from the scheme to relevant authorities in the East Hampshire catchment towards the end of October 2024 and there is the potential for further Council owned waste water treatment work upgrades.[21]

### Test and Itchen Catchment - Nitrogen

5.7 The Council can confirm that there are six strategic nitrogen mitigation schemes available in the Test and Itchen catchment. The table below provides the latest position in terms of the available schemes and the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester.

| ***Mitigation schemes[22]*** | ***Kgs/TN/Year that is available from the scheme*** |
|---|---|
| Eastleigh Borough Council (wetlands) | 1,468.53 |
| Roke Manor Farm/Awbridge Danes (arable reversion) | 711 |
| The Grange Estate, Abbotstone (arable reversion) | 33.59 |
| Hinton Ampner | 650 |
| Blackbarn Farm | 239.34 |

[21] (Public Pack)Agenda Document for Partnership for South Hampshire (PfSH) Joint Committee, 30/09/2024 18:00 (push.gov.uk)
[22] Potential Nutrient Mitigation Schemes - Partnership for South Hampshire (push.gov.uk)

| | |
|---|---|
| Winchester City Council owned WWTW's | 1571 |
| **Total** | **4673.46** |

*Table 3: Nitrogen Mitigation Schemes available for Winchester to date within the Test and Itchen Catchments*

5.8 Table 2 demonstrates that there is some strategic supply of nitrogen mitigation currently available in the Itchen.

5.9 The PfSH SEPT provide bi-yearly reports on the availability of nutrient mitigation in the Test and Itchen Catchment. The report publicised at PfSH Joint Committee in September 2023 provided the latest update on the projected supply and demand of nutrient mitigation as shown on Figure 3 below.

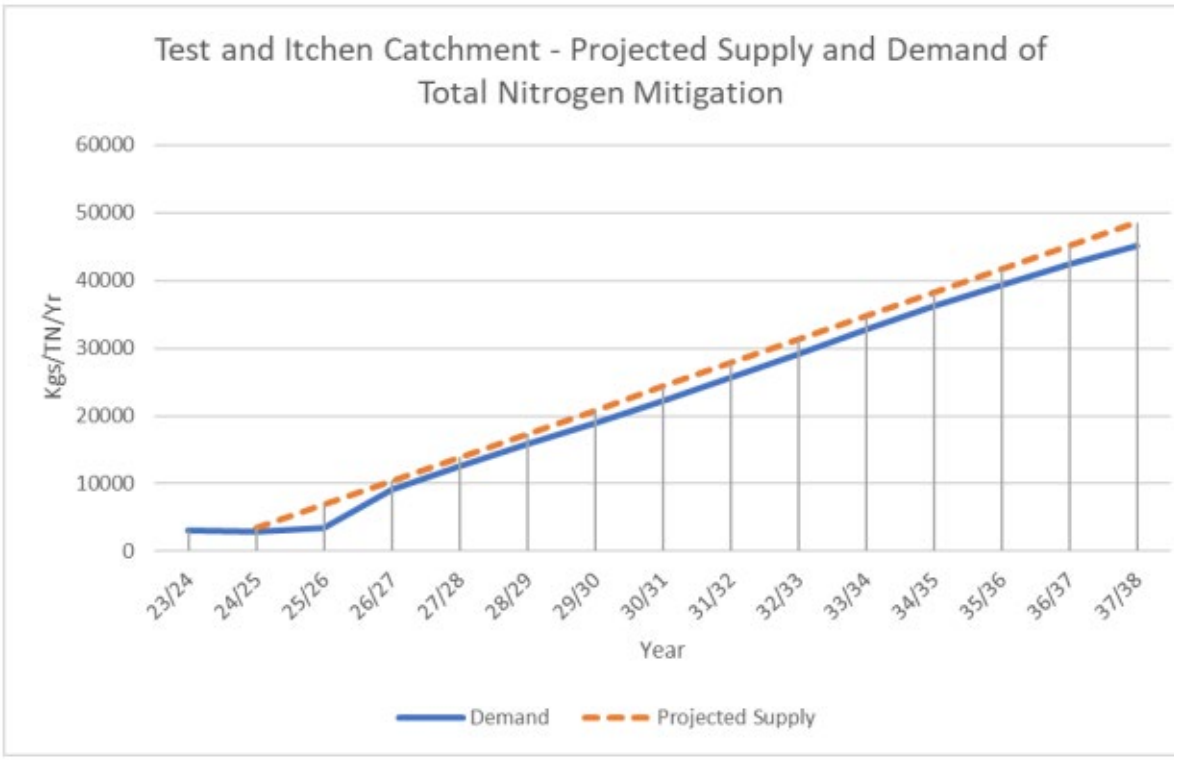



*Figure 3: Project supply and demand of Total Nitrogen Mitigation in the Test and Itchen catchment (Source: PFSH SEPT April 2024)*

5.10 The first nitrogen mitigation scheme was established in 2021. Over the last three years a number of strategic mitigation schemes have been delivered in the Test and Itchen catchment with an average delivery rate of 3,470Kgs/TN/Yr. Figure 3 demonstrates that if mitigation continues to come forward at a similar rate than the strategic supply will continue to match demand.

5.11 The availability of supply from strategic mitigation schemes across each catchment is currently reported by the PfSH SEPT. The PFSH SEPT are currently in receipt of £9.6million of funding from the Government for nutrient mitigation for the Solent and River Itchen Catchment as outlined in Appendix 1. The SEPT are currently undertaking work to deploy the funding and deliver further nutrient mitigation schemes. The proposed capital programme of nutrient mitigation schemes as outlined in the 23rd July 20024 PfSH Joint Committee Report is as follows:

| Proposed Capital Programme | | | |
|---|---|---|---|
| **Projects** | **Scope** | **Total LNMF Budget Allocation** | **Catchment(s)** |
| Water Efficiency (Council Led) | Design water efficiency measures for council owned housing stock and social tenanted property for the purposes of nutrient reduction. Commission local authorities to implement new measures and collate data for reporting mitigation of water resource savings and lower water bills to residents without the need to access the private market. | £540,000 | East Hampshire, Test and Itchen, New Forest Rivers |
| Water Efficiency (Registered Providers) | Design water efficiency measures for affordable stock managed by registered housing providers for the purposes of nutrient reduction. Commission registered housing providers to implement new measures and collate data for reporting mitigation of water resource savings and lower water bills to residents without the need to access the private market. | £360,000 | East Hampshire, Test and Itchen, Arun (Western Streams) |
| Upgrades to Council Owned Sewerage Infrastructure | The identification of authority owned Sewerage Treatment Works (PtP and septic tank) which are suitable for upgrades to enable reductions in Nitrogen and Phosphorus into waterways and improves discharge point to Controlled Waters. Lead design planning and obtain Authority agreement to proceed with upgrade and manage oversight of the upgrade. | £900,000 | Test and Itchen, Itchen (P) |
| Wetland Delivery | Using collated evidence on the deliverability of different wetlands to proposed several schemes where land is in control of an LPA. Proposed full feasibility on projects and obtain agreement on most suitable option(s). Setup mechanism to implement delivery of preferred option. | £1,200,000 | Test and Itchen |
| Reduction of Intensive Agriculture | Strategy predicated on all sites providing, in addition to nutrient mitigation, additional benefits such as public access, BNG, and national and local policy objectives. Where possible sites should also aim to deliver further benefits, such as providing mitigation for recreational disturbance and assisting in water resource management. Initial projects should be focused on the Test and Itchen and East Hampshire catchments | £6,560,000 | All |
| Institutional Framework | Develop a long-term delivery vehicle, that address state aid and public v's private classification issues, to manage and provide a local authority led nutrient credit offer by creating and maintaining mitigation schemes. | £40,000 | All |
| | **TOTAL** | **£9,600,000** | |

*Table 4: PfSH Proposed Capital Programme for Nutrient Mitigation Schemes*

5.12 The programme has been set out to enable growth as set out in authorities Local Plan's to continue. Updates on the progression of the deployment of the funds to relevant catchment authorities and the progress of the projects will be reported to future PfSH Joint Committee meetings. The Council have now formally accepted the PfSH funding at a meeting of Cabinet on the 11th September 2024 (see Appendix 5) and are able to enter into agreements in order to implement the Council's WWtW project. The Council's Cabinet agreed on the 16th July 2024 (see Appendix 4) the conditions for utilising and disposing of the credits generated from the upgrades.

5.13 As part of the successful funding allocation from the Government Winchester District Council are in line to receive a portion of the funding to deliver upgrades to Council owned projects. This includes upgrades to Council owned wastewater treatment works to Package Treatment Plants.

5.14 The Council have already undertaken the upgrading of waste water treatment works which has generated both Nitrogen and Phosphorus credits. The initial two upgrades delivered 118.35Kgs/TN/Yr and 10.55Kgs/TP/Yr further details are provided in paragraphs 5.10 and 5.11 of this paper. The Council have received endorsement from Natural England through the DAS process that the ten Sewage Treatment Plants to be upgraded to Package Treatment Plants are suitable for mitigating nitrogen. The upgrading of the ten WWTW'S is anticipated to generate approximately 1571 Kgs/TN/Yr. In addition, the Council have commissioned feasibility work to assess the potential of a further five WWTW's in the Itchen catchment to be upgraded to PTP's in order to generate both Nitrogen and Phosphorus credits.

5.15 The total amount of Nitrogen to be generated through Strategic mitigation schemes amounts to 4673.46Kgs/TN/Yr.

*Emerging Nitrogen Mitigation Schemes*

5.16 A report from the PfSH SEPT was published at PfSH Joint Committee on the 30th September 2024 outlining a number of project updates following a successful bid to the Local Nutrient Mitigation Fund (LNMF). This includes work on the Eastleigh Borough Council wetlands where further work is progressing to determine the amount of nutrient mitigation that can be generated on site. A condition of the grant funding for the schemes listed in Table 4 is to re-circulate revenue made from the sale of nutrient credits. Therefore, any revenue made will be focused towards further emerging nutrient schemes in the Test and Itchen.

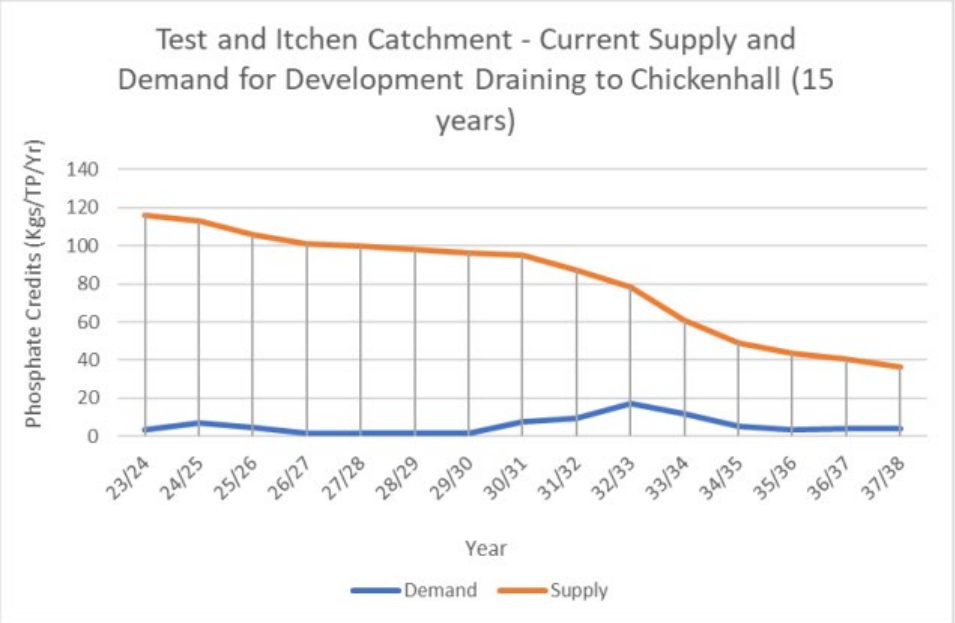
5.17 Furthermore, the PfSH SEPT have received news of a successful bid to DEFRA for the receipt of £6.73 million to progress further nutrient mitigation schemes covering the Solent and Itchen catchments. Further details of the projects of the nutrient mitigation projects will be provided to PfSH Joint Committee in due course.

## Test and Itchen Catchment - Phosphorus

### *Chickenhall WWTW's*

5.18 Figure 1 provides an analysis of the strategic supply and demand of phosphorus mitigation to Chickenhall WWTW across a 15 year period. As highlighted in paragraph 4.11 of this paper the Local Plan demand for phosphorus for development draining to Chickenhall equates to 25.17Kgs/TP/Yr.

*Figure 1: Strategic Supply and Demand of Phosphorus Mitigation in the Itchen Catchment*




Source: PfSH Nutrient Mitigation Update

5.19 There is currently 115.91Kgs/TN/Yr available from the Eastleigh Borough Council Mitigation Scheme. Figure 1 demonstrates that there is enough strategic mitigation up until 2037/38 for development draining to Chickenhall within the Winchester plan area. This will be sufficient to cover the nutrient demand for Local Plan development draining to Chickenhall as it is not anticipated that the delivery of sites will surpass 2034/35.

### *Remaining WWTW's in the District*

5.20 The Council have completed a substantial amount of work on the delivery of two phosphorus mitigation solutions that can mitigate phosphorus and nitrogen in the River Itchen catchment. These solutions are set out below.

*Council owned Sewage Treatment Works*

5.21 The first solution is the upgrading of Council owned wastewater treatment works to package treatment plants to generate the reduction of phosphorus. Appendix 3 shows the location of all Council owned waste water treatment works. The reduction of phosphorus can then be used to mitigate the development draining to the remaining WWTW's (Harestock, Morestead Road and New Alresford) in the district. The Council have completed the upgrades for the first two waste water treatment works to provide phosphorus mitigation in the short term. The initial improvements generated 10.55Kgs/TP/Yr this is enough to unlock the current backlog of planning applications and meet the nutrient mitigation demand for the Local Plan allocations in the first year of the plan period.

5.22 The upgrading of the two pilot Council owned Sewage Treatment Works's to Package Treatment Plants have been endorsed by Natural England through the Discretionary Advice Service (DAS).

5.23 The Council are in line to receive £900,000 of the £9.6 million as set out in paragraph 5.12 of this paper to upgrade further Council owned Sewage Treatment Works. The Council have received endorsement from Natural England through the DAS process for a further ten Council owned Wastewater Treatment Works to be upgraded to PTP's. The upgrades will generate approximately 189Kgs/TP/Yr.

| **Council Owned WWtW** | **Kgs/TN/Yr** | **Kgs/TP/Yr** |
|---|---|---|
| Beech Grove, Owslebury | 476 | 54 |
| The Pastures, Cheriton | 162 | 20 |
| Couch Green, Martyr Worthy | 150 | 17 |
| Baring Close, Itchen Abbas | 102 | 13 |
| Itchen View, Itchen Stoke | 77 | 10 |
| North Drive, Littleton | 83 | 11 |
| Hobbs Close, Bishops Sutton | 231 | 29 |
| Kiln Lane, Old Alresford | 120 | 15 |
| The Brook, Old Alresford | 136 | 16 |
| Woodlark Cottages, Bighton | 34 | 4 |
| **TOTAL** | **1571** | **189** |

Table 5: Nutrient mitigate credits generated from the WWtW upgrades.

*Water Efficiency Measures in Council Owned Housing Stock*

5.24 The second solution is the retrofitting of Council owned housing stock with water efficiency measures. The reduction of water use has an associated effect on the amount of phosphorus entering the relevant WWTW's. This reduction in phosphorus and nitrogen can be used to mitigate new development. The PFSH SEPT commissioned Royal Haskoning to undertake a report on the amount of nutrient mitigation (both phosphorus and nitrogen) that could be generated by retrofitting of Council owned stock with water efficiency measures. The proposed water efficiency measures would have multiple

benefits including bringing existing Council housing stock in line with the requirement of Policy CN4, meeting the plans aim for the district to be carbon neutral 2030.

5.25 The water efficiency measures have also been endorsed by Natural England through the DAS process. Further information will be provided in due course in the Natural England and Winchester City Council Statement of Common Ground. The programme of the water efficiency measures has commenced with the SEPT recording details of the upgrades undertaken. The mitigation generated from the water efficiency measures will be used for the development of new Council built affordable homes. Therefore, the mitigation generated for the upgrading of the Council owned WWtW's can channelled towards the Local Plan demand.

5.26 The total amount of Phosphorus to date to be generated through Strategic mitigation schemes amounts to 199.55Kgs/TP/Yr Furthermore, as highlighted in paragraph 5.15 of this paper the Council are currently commissioning feasibility work to upgrade a further five WWtW's in the Itchen catchment to PTP's to generate further phosphorus credits.

### Nutrient Credit Viability

5.27 The costs associated with developers needing to purchase nitrogen and phosphorus credits in the Itchen where this has been indicated in the nutrient budget has been reflected in the Local Plan Viability Assessment. The majority of allocated sites in the Plan in the Itchen catchment are expected to deliver post 2030 and therefore the amount of mitigation required will be reduced by the introduction of the technically achievable limit for waste water treatment works on 1st January 2030.

5.28 The Proposed Submission Plan (Regulation 19) Viability Assessment reflects the policy costs associated with purchasing nitrogen and phosphorus credits for development delivered in the Itchen catchment pre and post 2030.

## 6.0 Conclusion

6.1 The Council consider that the approach undertaken in relation to the demand and supply of nutrient mitigation is in line with the guidance provided by Natural England and provides a reasonable estimate in relation to the Local Plan's nutrient demand requirement. The main sources of data are the Plan Housing Trajectory, Natural England's Nutrient Budget Calculator and the data from the PfSH Strategic Environmental Planning Team in relation to strategic nutrient mitigation supply and demand.

6.2 The current demand for nutrient mitigation in the Winchester plan area is set out in Chapter 4 of this background paper and summarised below:

| Riverine Catchment | Nitrogen Demand (kgs/TN/Yr) | Phosphorus Demand (kgs/TP/Yr) |
|---|---|---|
| East Hampshire | 2073.15 | N/A |
| Test | 8,936.51 | N/A |
| Itchen | | 393.62 |

6.3 Chapter 5 provides an analysis of the supply of nutrient mitigation in each riverine catchment against the demand highlighted above and in Chapter 4. There is enough strategic supply in the East Hampshire catchment to meet the Winchester plan demand. Furthermore, projections of strategic supply and demand in the East Hampshire catchment demonstrated that supply had continued to meet strategic demand.

6.4 Chapter 5 also highlights that there is enough strategic supply from the Eastleigh Borough Council mitigation scheme to meet the phosphorus demand for development draining to Chickenhall. In terms of the Nitrogen mitigation in the Test and Itchen catchment there is currently enough strategic supply to meet approximately 52% of the Local Plan demand. However, the Council is also aware that there are further nitrogen credits available from the Eastleigh Borough Council nutrient mitigation scheme that will meet the strategic demand, including that of the Winchester Local Plan.

6.5 The upgrading of the Council owned WWtW's to PTP's will generate 199.55Kgs/TP/Yr. The phosphorus credits will unlock approximately 50% of the Plan's demand that drain to the remaining WWtW's in the district. The Council are currently in the process of undertaking further work on an additional five Council owned WWTW's to understand the nutrient mitigation that can be generated from these sites as well as being in a position to support third party PTP providers. A DAS has been submitted to Natural England for the additional WWtW's to understand the nitrogen and phosphorus credits that can be generated from the upgrades.

6.6 In addition, PfSH are progressing a number of strategic mitigation projects in all three riverine catchments which are reported to PfSH Joint Committee on a quarterly basis as highlighted in Chapter 5 of this report. The Government have also recently announced the successful bid made by the PfSH SEPT for Round 2 of the LNMF. PfSH will be providing further details on the deployment of the fund in relation to additional nutrient mitigation projects in the coming months.

6.7 Policy NE16 of the Proposed Submission Local Plan (Regulation 19) aims to meet the plan requirements by ensuring that all new overnight accommodation is nutrient neutral. The policy will ensure that any developments allocated in the plan or that comes forward as 'windfall' must have nutrient mitigation either on or off site before they are occupied and subsequently have an impact on any international designated site.

6.8 The Council can conclude that there is adequate provision of nutrient mitigation for at least the first five years of the Local Plan. There are ongoing and proactive discussions with site promotors wishing to bring forward on site nutrient mitigation solutions such as the site promotors for Policy W2. The Council have worked closely with internal departments to delivery Council owned nutrient mitigation schemes as well as with the PfSH SEPT to understand the delivery of third part mitigation schemes. As highlighted in Chapter 5 of this report there are a number of current nutrient mitigation scheme with credits available for nitrogen as well as emerging schemes.

**Appendix 1 – letter from Minister for Housing, Planning and Building Safety on Nutrient Neutrality, December 2023**

# Nutrient Neutrality and Local Nutrient Mitigation Fund update

Dear Council Leader

On 13 September 2023, the House of Lords voted against government proposals intended to unlock 100,000 homes between now and 2030, whilst protecting and improving the environment.

The government has carefully considered the case for reintroducing these measures through new primary legislation in the fourth session of this Parliament. While primary legislation will not be brought forward in this Parliament, the government remains committed to making rapid progress to unlock homes. We have published an update on GOV.UK setting out the range of measures that are being taken by the government.

I want to draw particular attention to the measures in the Levelling-up and Regeneration Act 2023 to reduce the mitigation burden on development and funding announced today through the Local Nutrient Mitigation Fund to significantly boost the supply of mitigation measures coming forward.

To stop pollution at source, the Levelling-up and Regeneration Act 2023 creates a new duty on water companies to upgrade wastewater treatment works (WwTW) by 1 April 2030, in catchments of Habitats Sites identified by the Secretary of State as being in an unfavourable condition due to nutrient pollution. This duty will be in effect from 26 January 2024 and the government will publish designated catchments and specific wastewater treatment works to be upgraded. The Act also requires planning decision-makers to consider these upgrades as certain for the purposes of an assessment under the Habitats Regulations. These upgrades will significantly reduce nutrient loads from WwTW in designated catchments, while also reducing the average costs of nutrient mitigation for developers. For new development connecting to WwTW subject to the upgrade duty, the reduction in costs is estimated to range between 37% to 95% for phosphorus and between 46% to 64% for nitrogen (depending on the catchment and subject to final analysis). This is alongside the continued delivery of the Natural England £30 million Nutrient Mitigation Scheme in line with the Environment Secretary's direction of 28 July 2022.

To boost the supply of mitigation, the Chancellor has announced as part of the Autumn Statement that the Local Nutrient Mitigation Fund will spend £110 million of taxpayer money over this year and next. This will enable local authorities to boost the supply of mitigation, by bringing forward innovative mitigation schemes and providing mitigation credits. The funding will be recycled locally until nutrient mitigation is no longer needed, at which point it will be used for measures to help restore the relevant Habitats Sites. This will enable sustainable development, unlocking stalled housing delivery, whilst delivering secondary benefits like enhanced public access to nature and supporting our commitment to leave our environment in a better state than we found it.

Today, as part of the Local Nutrient Mitigation Fund (LNMF), I am pleased to announce that the department is:

- Making available the first tranche of up-to £57 million capital funding to eight successful bidders (Annex A),
- Providing a second round of Nutrient Support Funding with another £100k for 2023/24 the lead local authority for substantive catchments (those over 10,000 hectares in size, Annex B), and;
- Committing to opening the second round of the Local Nutrient Mitigation Fund in early 2024.

Departmental officials are writing to the lead local planning authorities (LPAs) on behalf of nutrient neutrality catchments who submitted bids for the first round of the LNMF informing them of the decisions. To support the capital funding, the department will also explore proportionate resource funding to support the delivery of the capital programmes, this will be additional to the Nutrient Support Funding. Additionally, officials will be writing to the relevant LPAs who previously received Nutrient Support Funding on providing another £100,000 of revenue funding for 2023/24 in the coming days.

As ever, the department will work closely with affected local authorities to ensure we continue to make progress to unblock development that is stalled as a result of nutrient neutrality. We will also consider further measures as necessary. Finally, I would like to thank you for all the work and the leadership that LPAs are showing on this challenging issue at a local level.

The House of Lords were absolutely wrong to make this decision, but we will continue to take all efforts ensure we unlock development, to allow people to have access to the homes that they need.

Yours ever,

[signed] **Lee Rowley MP**
Minister of State for Housing, Planning and Building Safety

# Annex A: Table of successful Local Nutrient Mitigation Fund

| Nutrient catchment | Lead local authority | Local Nutrient Mitigation Fund round one maximum |
|---|---|---|
| River Camel | Cornwall County Council | £2 m |
| Poole Harbour | Dorset Council | £4.63m |
| Solent and River Itchen | Fareham Council | £9.6 m |
| River Lugg (sub-catchment of the River Wye) | Herefordshire County Council | £1.76 m |
| Stodmarsh | Kent County Council | £9.8 m |
| Norfolk Broads | Broadland District Council | £9.6 m |
| Somerset levels | Somerset County Council | £9.6 m |

| Nutrient catchment | Lead local authority | Local Nutrient Mitigation Fund round one maximum |
|---|---|---|
| River Avon | Wiltshire Council | £9.8 m |

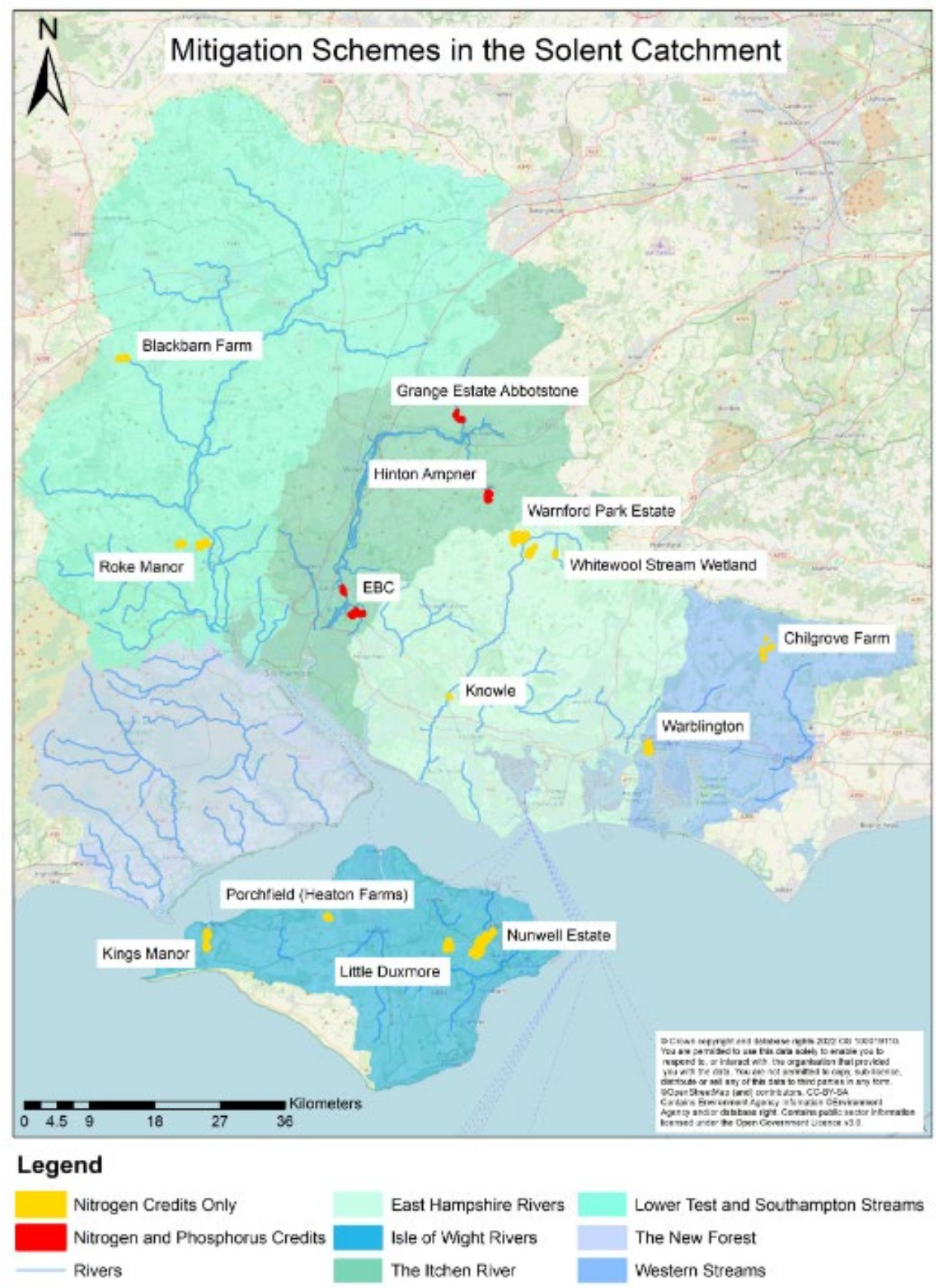
## Annex B: Table showing Nutrient Support Fund round 2 eligible catchments

| Nutrient catchment | Nutrient catchment area (thousand hectares) | Nutrient Support Fund |
|---|---|---|
| Solent | 329 | £100,000 |
| River Eden | 230 | £100,000 |
| Somerset Levels & Moors | 209 | £100,000 |
| Teesmouth and Cleveland Coast | 196 | £100,000 |

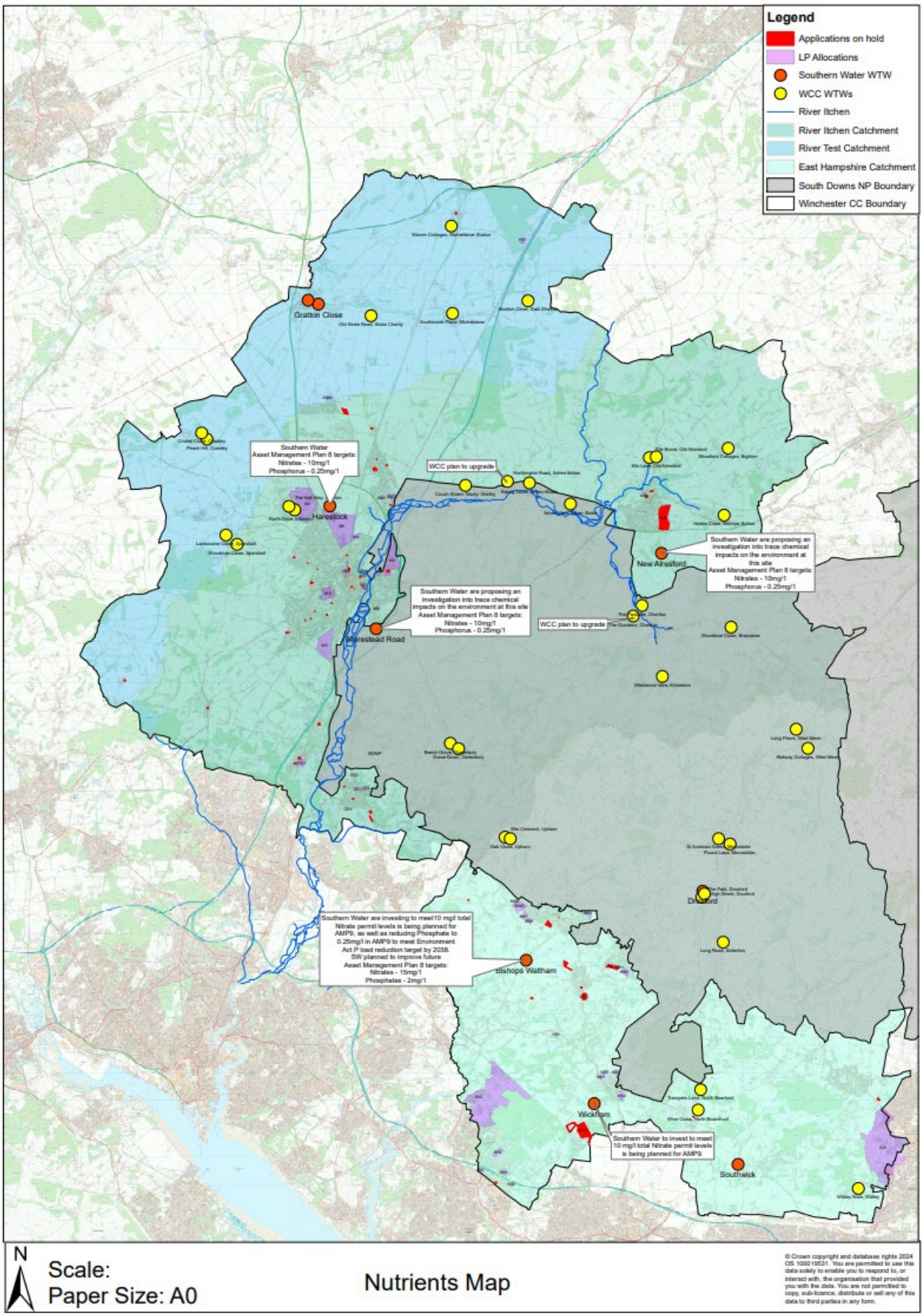
| Nutrient catchment | Nutrient catchment area (thousand hectares) | Nutrient Support Fund |
|---|---|---|
| The Broads | 195 | £100,000 |
| River Avon | 172 | £100,000 |
| Poole Harbour | 82 | £100,000 |
| River Lugg | 82 | £100,000 |
| River Wensum | 57 | £100,000 |
| River Derwent & Bassenthwaite Lake | 43 | £100,000 |
| River Itchen | 42 | £100,000 |
| Stodmarsh | 42 | £100,000 |

| Nutrient catchment | Nutrient catchment area (thousand hectares) | Nutrient Support Fund |
|---|---|---|
| River Axe | 30 | £100,000 |
| River Camel | 29 | £100,000 |
| River Clun | 27 | £100,000 |
| River Lambourn | 26 | £100,000 |
| Lindisfarne | 25 | £100,000 |
| River Kent | 22 | £100,000 |
| River Mease | 18 | £100,000 |
| Peak District Dales | 13 | £100,000 |

## Appendix 2 – Location of Nutrient Mitigation Schemes in the Solent



## Appendix 3 - Location of Southern Water owned WWTW's and WCC owned WWTW's




## Appendix 4 – WCC Cabinet Report: Housing Revenue Account Nutrient Mitigation Proposal

CAB3470
CABINET

REPORT TITLE: HOUSING REVENUE ACCOUNT NUTRIENT MITIGATION PROPOSAL

16 JULY 2024

REPORT OF CABINET MEMBER:

Cllr Chris Westwood, Cabinet Member for Housing

Contact Officer: Simon Maggs Tel No: 01962 848 368 Email smaggs@winchester.gov.uk

WARD(S): ALL

## PURPOSE

In 2019, Natural England issued advice to Winchester City Council that requires all new overnight development (e.g. houses, hotels, care homes) to mitigate for any increase in nutrient pollution arising from development that may harm internationally protected sites (such as the Solent Special Protect Area). Further advice was issued in March 2022 requiring the further mitigation of Phosphorus for new overnight accommodation within the catchment of the River Itchen.

The impact of this has been several new housing schemes are held in abeyance, including council house development schemes.

The council's strategy to enable nutrient mitigation solutions includes generating nutrient credits by upgrading some of its own waste-water treatment works (WwTW)) using Housing Revenue Account (HRA) funding which is the subject of this report.

The strategy also involves working alongside the Partnership for South Hampshire (PfSH) to access the Local Nutrient Mitigation Fund. In addition, the council is supporting third-party mitigation schemes and water efficiency measures in its own stock. These initiatives complement and build upon those outlined in this paper to address the demand for nutrient credits in the district. Further details on the PfSH initiative and other initiatives will be presented to a future Cabinet meeting.

In 2023 the council upgraded two of its own WwTWs (Phase I) one of which has already generated both phosphate and nitrate credits, which have been earmarked to facilitate its own development of council housing under construction and the future pipeline. The approach proposed in this report builds on this success.

The purpose of this report is to seek approval, subject to individual business cases, to upgrade a further 4 of WCC's own WwTWs) (Phase II) in order to generate nutrient credits, approval of a budget envelope and approval of a strategy for use of those credits, including disposal of credits to the external market. Specific Phase II WwTWs will be selected once detailed scientific analysis has been carried out and detailed discussions have been held with Natural England. It is anticipated that some of the WwTWs will be in the area of South Downs National Park which has implications for how the mitigation scheme is set up. Decisions to proceed with each scheme will be subject to the approval of individual business cases.

The upgrades will be funded through the HRA and disposal proceeds will be reinvested into the HRA.

RECOMMENDATIONS:

That Cabinet agrees

1. A capital budget of £400,000 to upgrade 4 waste-water treatment works (WwTW) to be funded from HRA reserves.

2. Works to individual WwTW works to be delivered subject to the Council's Chief Finance Officer and Strategic Director agreeing the business case and granting authority to spend the budget under Financial Procedure Rule 7.4; and, if credits are to be sold in the market, suitable agreements being secured.

3. Delegate to the Strategic Director, S151 Officer and Director – Legal the authority to utilise and/or dispose of (in accordance with market conditions at the time of sale) credits generated from historic and new upgrades in accordance with the following strategy:
   a) To support the delivery of council housing commissioned by the council.
   b) To support the delivery of housing where an element of that housing is to be council housing and the approach helps to unlock delivery via credit disposal.
   c) To dispose of credits to support other council led and enabled activities.
   d) Disposal of credits to the open market.

4. Delegate to the Strategic Director and Director - Legal authority to agree required monitoring and enforcement mechanisms for such arrangements and to enter into legal agreements to facilitate delivery.

5. Delegate the procurement of any works or services to the Strategic Director and that the Strategic Director be authorised to award contracts and enter into all necessary legal agreements with the preferred bidder(s).

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

The upgrade of WwTWs ensures that water quality discharged from the facilities is improved and operates more efficiently. Associated water efficiency measures may result in reduced water usage.

1.2 Homes for All

Proposals will ensure that council can continue to implement its own new council homes programme to deliver new affordable housing.

The creation of additional nutrient credits will support the delivery of other affordable and market housing across the district.

1.1 Vibrant Local Economy

Proposals allow for development to be achieved, resulting in construction employment and supporting the local economy.

Providing affordable homes for local people helps provide a source of locally based workers and supports local spend.

1.2 Living Well

A council motion was passed on 6 July 2022 to protect our local rivers and waterways by taking account of the cumulative impact of pollution including sewage discharge. Investment for the upgrade of WwTWs with improved and more efficient equipment results in water quality improvements, including in rivers, reducing the amount of pollution from sewage discharge.

There are strong links between high quality housing and health and wellbeing outcomes. Proposals support the provision of high-quality affordable housing.

1.3 Your Services, Your Voice

Proposals will support the delivery of affordable housing, which has been identified as an important community priority.

2 FINANCIAL IMPLICATIONS

2.1 In addition to providing the necessary credits for the council's own schemes, initial high-level estimates indicate that there is potential for a significant surplus to be generated from the sale of surplus credits subject to the risks detailed in section 10 of this report.

2.2 The income generated from surplus credits will defray the cost of the capital investment and any income in excess of that will be recycled into the HRA.

2.3 Individual decisions to upgrade WwTWs will be subject to a satisfactory business case agreed by Strategic Director Services and Chief Financial Officer. Business cases will include consideration of the quantity of credits that can be generated, the benefits of those credits (e.g. utility to the council or income from disposal) and of any monitoring or maintenance cost implications.

## 3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The procurement of feasibility works and of each upgrade will comply with the council's and legal procurement requirements.

3.2 The proposals are principally intended to upgrade the WwTWs and to generate credits to support the delivery of council led initiatives. Disposal of surplus credits will be incidental to that primary purpose with powers to do so granted by the General Power of Competence under section 1 of the Localism Act 2011. Commissioning of any external supplier to manage credit disposals and any monitoring or other requirements will comply with the council's and legal procurement requirements.

3.3 In order to set up a scheme to generate credits, whether for use for new council housing schemes or for sale to third party developers, a legal mechanism is required to ensure that mitigation sites are monitored and maintained in perpetuity (125 years) and, where applicable, to ensure that enforcement action can be taken if they are not being maintained correctly. This usually involves the owner of the mitigation scheme, entering into an agreement under s106 of the Town and Country Planning Act 1990 with the relevant local planning authority (LPA) to secure the mitigation scheme. The s106 option is unlikely to be appropriate for schemes where the council is both the site owner and the LPA.

3.4 There are a number of other solutions to be considered, the suitability of which will depend on whether the sites are located in the area for which the council is the LPA or whether the sites are in the area for which the South Downs National Park Authority is the LPA.

3.5 It is suggested that all options to secure the mitigation schemes to the satisfaction of the relevant LPA and Natural England, are explored with Strategic Director and Director-Legal, given delegated authority to agree on the most suitable available option and enter into necessary arrangements, including any legal agreements required.

## 4 WORKFORCE IMPLICATIONS

4.1 The initial two WwTWs upgrades are completed. The monitoring regime is established as a delegated duty of the Service Lead – Engineering and this would not change as a result of selling surplus credits to third parties.

4.2 The administration of credit sales (processing customer enquiries, recording available capacity, receiving credit payments and preparation of monitoring reports) is to be absorbed into Service Lead – New Homes duties as a continuation of the HRA investment in the project.

4.3 A form of legal agreement will also be required to which each purchaser who buys credits will be party. These will be processed by Director-Legal.

4.4 The initial investigations and commissioning of reports for Phase II works has been absorbed by the Corporate Head of Planning and Regulatory and Service Lead – New Homes. The on-going procurement and commissioning of works will continue to be absorbed within existing resource.

4.5 The procurement and commissioning of works will be absorbed within existing resource, as this was already in the HRA maintenance workplan.

## 5 PROPERTY AND ASSET IMPLICATIONS

5.1 All sites are owned and operated by the council. The works result in improved efficiency of the facilities and replaces infrastructure to improve water efficiency.

## 6 CONSULTATION AND COMMUNICATION

6.1 Careful evaluation is being made of the scale of work necessary for the WwTWs that will be upgraded, which serve both HRA and private properties.

6.2 Ward members will be briefed on the works to be undertaken and a clear communication plan for local residents will be put in place before works commence.

## 7 ENVIRONMENTAL CONSIDERATIONS

7.1 A council motion was passed on 6 July 2022 to protect our local rivers and waterways by taking account of the cumulative impact of pollution including sewage discharge. Investment in the upgrade of WwTWs with improved and more efficient equipment results in water quality improvements, including in rivers, reducing the amount of pollution from sewage discharge.

## 8 PUBLIC SECTOR EQUALITY DUTY

8.1 None directly associated with the proposals.

## 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None required.

10 RISK MANAGEMENT

| Risk | Mitigation | Opportunity |
|---|---|---|
| Financial Exposure<br><br>*Up-front investment prior to the sale of credits.*<br><br>*Demand for credits may be removed or reduced, costs may increase or values may fall, thus removing or reducing financial benefits.*<br><br>*Increase in competition by other providers/upgrades to other facilities that may reduce demand.*<br><br>*Regulatory changes.* | Phase I works already paid for from HRA and capital budget – sale of credits is an additional revenue.<br><br>Phase II works funded by HRA budget subject to individual business case for each project. Projects to proceed based on agreements to purchase.<br><br>Horizon scan and stress test business cases. | Opportunity to generate additional income for the HRA to support its capital programme. |
| Exposure to challenge<br><br>*Challenge from competitor mitigation schemes.* | Fair credit price set based on other Local Authority schemes. | |
| Innovation<br><br>*WwTW are complex systems and project may not deliver as many credits as expected.* | Hydrogeological reports used to identify the exact amount of credits – to be confirmed by Natural England prior to sale.<br><br>Experience from Phase I means the council is aware of how to develop the projects on time and within budgets. | |

| | | |
|---|---|---|
| Reputation<br><br>*Perceived un-fair distribution of available credits may damage relationships.* | Selling strategy outlined in recommendation above to ensure transparency. | Environmental improvements and delivery of new housing, including new council housing. |
| Achievement of outcome<br><br>*Non - delivery of new council homes, initiatives and generation of income to HRA.* | Business case for each individual scheme to be in place. Feasibility studies will identify the most appropriate schemes to upgrade. | |
| Property<br><br>*Council housing continues to require nutrient mitigation.* | Projected council housing demand will be subtracted from the credits available for the market. | Development of council housing, providing affordable units for those in need. |
| Community Support | N/A | |
| Timescales<br><br>*Upgrades lag behind need.* | Feasibility works have been commissioned and implementation will take account of council home delivery | |
| Project capacity<br><br>*Insufficient resourcing* | Experience of Phase I works means the council understands the resource required and allocate accordingly. | |
| Other<br><br>*Natural England may not agree with using sites as mitigation.* | Natural England's Discretionary Advice Service will be used proactively throughout the project to understand any potential concerns in the planning stages of the project. Natural England have provided positive | |

| | | |
|---|---|---|
| *Not being able to agree a legally robust framework to set up and secure the mitigation schemes.* | responses to Phase I works.<br><br>The Council will explore all suitable legal mechanisms to secure satisfactory monitoring and enforcement arrangements for the mitigation schemes in cooperation with third party organisations and will enter into necessary arrangements, including any legal agreements. | |

11 SUPPORTING INFORMATION

11.1 Background

11.2 Nitrate Neutrality impacts all parts of the district. In 2019, Natural England issued advice to Winchester City Council that requires all new overnight development (e.g. houses, hotels, care homes) to mitigate for any increase in nutrient pollution arising from development that may harm internationally protected sites (such as the Solent Special Protect Area). Further advice was issued in March 2022 requiring the further mitigation of Phosphorus for new overnight accommodation with the catchment of the River Itchen.

11.3 Applicants have not been able to provide nutrient mitigation and therefore the LPA have been unable to undertake an Appropriate Assessment (required by the Habitat Regulations) to make a positive recommendation, these applications have therefore been held in abeyance. Currently, 37 applications are held in abeyance, amounting to 183 units.

11.4 The emerging Winchester District Local Plan 2020 – 2040 is scheduled for examination in 2025. The Local Plan has a demand for 6,247 Nitrogen credits and 355 Phosphorus Credits.

11.5 It should be noted that 2 sites have significant phosphorus mitigation demands. Alternative mitigation measures are available and Local Planning Authority Officers are working with site promoters to reduce or remove phosphorus mitigation requirements, this will reduce the overall demand figure.

11.6 Separate to the project proposed in this paper, the Council is working alongside the Partnership for South Hampshire (PfSH) to upgrade treatment

plants to generate further credits available for the wider market, to mitigate existing applications and those allocated within the Local Plan.

11.7 The Council operates 28 WwTWs across the district, all of which are capable of generating nitrate credits, 17 of the works are within the Itchen catchment and have the potential to generate nitrate and phosphorus credits.

11.8 Funding for these further works is provided by PfSH from the Local Nutrient Mitigation Fund. PfSH have highlighted upgrades to council owned facilities as a project supported by the fund.

11.9 Subject to a July 2024 PfSH Joint Committee decision, £200k will be released to undertake preliminary works, including the replacement of a small number of plants, with a further budget of £700k to be released later in the year to roll out a full scheme of mitigation across the facilities. The credits are likely to be sold and managed by PfSH, which is being considered in a future PfSH governance decision.

11.10 In addition, further funding is available to retrofit water efficiency measures in council housing to generate further credits. The HRA has already made provision to undertake works to sewage treatment plants where running costs are high so as to mitigate service charge recharges. Any works to WwTW will aim to reduce running costs of plants where possible. The Council is also supporting third-party mitigation providers by establishing standard legal agreements and monitoring fees, to enable the credits generated to also be available in the market.

11.11 The works described above are separate to those proposed in this paper, however when combined with the HRA projects they form a nutrient mitigation strategy to address the demand of existing applications and future Local Plan allocations.

11.12 <u>HRA Implemented Projects</u>

11.13 CAB3387 (9 February 2023) outlined a nutrient mitigation project undertaken by the council's New Homes Delivery team of HRA WwTWs. The project upgraded 2 WwTWs (Phase I) which are owned and operated by the Council. The upgraded WwTWs resulted in a higher amount of nitrates and phosphorus being removed compared to the existing equipment. This excess amount (or 'credit') can then be used to mitigate development and for phosphorous this credit needs to be upstream of the development.

11.14 The New Homes Delivery team have used some of the credits to mitigate the council's own developments, delivering affordable council homes. There remain a number of surplus credits which could be used to mitigate other developments, including new council housing.

11.15 The costs of the works to upgrade the 2 WwTWs have already been funded using the HRA. This covered the cost of site investigations and replacement of the WwTWs.

11.16 Details of HRA Proposal

11.17 As explained above, by upgrading council owned WwTWs there is the potential to create additional nutrient credits to mitigate the impact of development. An initial desktop study has been undertaken and further feasibility work, including hydrogeological studies, is underway. This will identify which WwTWs are best able to generate nutrient credits and the quantity of those credits that can be used as mitigation.

11.18 The purpose of this report is to seek approval, subject to individual business cases, to upgrade 4 of WCC's own HRA WwTWs (Phase II) and to set up nutrient mitigation schemes in order to generate nutrient credits, approval of a budget envelope and approval of a strategy for use of those credits, including disposal of credits to the external market.

11.19 Specific Phase II WwTWs will be selected once detailed scientific analysis has been carried out and detailed discussions have been held with Natural England.

11.20 This HRA led project would complement the strategic approach explained above.

11.21 It is proposed that credits generated from historic and new upgrades are used in accordance with the following strategy:

a) To support the delivery of council housing commissioned by the council.
b) To support the delivery of housing where an element of that housing is to be council housing and the approach helps to unlock delivery via credit disposal.
c) To dispose of credits to support other council led and enabled activities.
d) Disposal of credits to the open market.

11.22 The upgrades will be funded through the HRA and disposal proceeds will be reinvested into the HRA. This will supplement the receipts targets already set in the HRA business plan.

11.23 Successful implementation of these projects will help to deliver council led activities (including new council homes), generate income for the HRA and improve water quality.

## 12. OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Do Nothing. Not carrying out upgrades would reduce the opportunity for the council to develop new build housing due to the requirement to mitigate nutrients. In addition, the potential would be lost for the council to generate income to support the HRA, to facilitate new council and other affordable and market housing and to improve water quality. Each scheme will need to be supported by a specific business case. For this reason, the option is rejected.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3301 Nitrate Neutrality Update (21 July 2021)

CAB3387 Housing Revenue Account (HRA) Budget 2023/24 (9 February 2023)

Other Background Documents:-

None

APPENDICES:-

None

## Appendix 5 – WCC Cabinet Report: Partnership for South Hampshire Nutrient Mitigation Proposal

CAB3459

CABINET

REPORT Title: PARTNERSHIP FOR SOUTH HAMPSHIRE NUTRIENT MITIGATION PROPOSAL

11 SEPTEMBER 2024

REPORT OF CABINET MEMBER:

Cllr Jackie Porter, Cabinet Member for Place and Local Plan and;

Cllr Chris Westwood, Cabinet Member for Housing

Contact Officer: Robert Green Tel No: 01962 848 583 Email rgreen@winchester.gov.uk

WARD(S): ALL WARDS

PURPOSE

In 2019, Natural England issued advice to Winchester City Council that requires all new overnight development (e.g. houses, hotels, care homes) to mitigate for any increase in nutrient pollution arising from development that may harm internationally protected sites (such as the Solent Special Protection Area).

Developments which require Nitrate mitigation only can be approved as there is sufficient Nitrate mitigation available in the market.

Further advice was issued in March 2022 requiring the further mitigation of Phosphorus for new overnight accommodation within the catchment of the River Itchen.

The Council has a statutory duty under the Conservation of Habitats and Species Regulations 2017, as amended, to ensure that development within the district does not worsen the situation.

The impact of this has been a number of planning applications cannot be determined whilst a Phosphorus mitigation solution is awaited, and mitigation needs to be demonstrated in the upcoming examination of the Council's Local Plan.

The council's strategy to enable nutrient mitigation solutions is threefold.

Firstly, the council is generating nutrient credits by upgrading its own waste-water treatment works (WwTW). Works on 2 plants have been completed and the credits have been used to mitigate the council's own housing schemes. In July, (CAB3470 refers) Cabinet approved a further 4 upgrades using the Housing Revenue Account and the sale of surplus credits to private developers.

The council is also supporting third-party mitigation schemes and water efficiency measures in its own housing stock to generate further credits.

The Partnership for South Hampshire (PfSH) will provide WCC with grant funds to upgrade further WCC owned WwTW, with the credits generated being managed by PfSH. The release of this funding has been approved by the PfSH Joint Committee on 23 July 2024.

These initiatives complement each other to address the demand for nutrient credits in the district.

The purpose of this report is to seek permission to accept the PfSH funding and delegate authority to enter into agreements to implement the PfSH WwTW upgrade project.

RECOMMENDATIONS:

That Cabinet recommends Council:

1. Approves an HRA capital budget of £900,000 to implement works on plant upgrades funded by and on behalf of Partnership for South Hampshire (PfSH).

That Cabinet:

2. Subject to Council approval of the budget:

   a) Approves capital expenditure of up to £200,000, funded by the Ministry of Housing, Communities and Local Government (MHCLG) via Partnership for South Hampshire (PfSH), for feasibility and initial works.
   b) Approves capital expenditure of up to £700,000, funded by MHCLG via PfSH, for the implementation of works on further plant upgrades following agreed business cases with PfSH.

3. Delegates to Strategic Director and Director – Legal, in consultation with Cabinet Member for Place and the Local Plan, the authority to enter into necessary agreements with Fareham Borough Council on behalf of PfSH in order to receive the grant funds and establish working arrangements to implement the project and sell credits generated.

4. Delegates the procurement of any works or services to the Strategic Director and that the Strategic Director be authorised to award contracts and enter into all necessary legal agreements with the preferred bidder(s).

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

The upgrade of PTPs ensures that water quality discharged from the plants is improved and operates using more efficient plant. The associated water efficiency measures result in reduced water usage.

1.2 Homes for all

The mitigation and selling of nutrient credits would enable the assessment and determination of planning applications which at time of writing equates to 134 units of housing.
The project also ensures that the Regulation 19 Local Plan demonstrates nutrient mitigation options to meet the housing requirements up to 2040 and that the City Council can mitigate its own New Homes programme in the delivery of affordable housing.
The creation of a Nutrient Mitigation scheme allows developments to provide homes across the District, including Affordable Housing provision.

1.3 Vibrant Local Economy

A number of developments held in abeyance are to be completed by local small to medium sized enterprises, including local developers and construction companies and the creation of a Nutrient Mitigation scheme allows for development to be achieved, resulting in construction employment and supporting the local economy.

1.4 Living Well

A council motion was passed on 6 July 2022 to protect our local rivers and waterways by taking account of the cumulative impact of pollution including sewage discharge. The investment for the replacement of PTPs with improved and more efficient equipment results in water quality improvements, reducing the amount of pollution from sewage discharge in these areas.

1.5 Your Services, Your Voice

Ensuring a supply of housing is important to make sure the Council is able to show that it is delivering new homes in line with the requirements of the Local Plan, to meet housing delivery tests and to establish it has a 5-year housing land supply.

## 2 FINANCIAL IMPLICATIONS

2.1 The structure of the proposed partnership working is that WCC will procure on behalf of PfSH works to upgrade our WwTW's on their behalf, creating credits that can be used as mitigation for development.

2.2 PfSH agreed a fund of £900,000 at the Joint Committee on 23 July 2024. This will be provided to WCC, subject to a Memorandum of Understanding (MoU) and/or Inter Authority Agreement (IAA) which outlines how the funds can be spent, to undertake WwTW upgrades only.

2.3 An initial £200,000 will be provided to fund feasibility works and to undertake works on a small number of plants.

2.4 A further £700,000 will be provided once all technical work has been completed and assessed. The plant upgrades will be subject to business cases completed by WCC alongside PfSH Officers and agreed with PfSH Chief Executives prior to the release of further grant funding.

2.5 PfSH will market the 'credits' generated by the upgrades. Any revenue will be managed by PfSH and recirculated back into further nutrient mitigation schemes across the region.

2.6 WCC will retain the ownership of the WwTWs and will directly financially benefit as the upgrades to these plants will be funded by grant. The existing plants are already maintained by the council and additional budget is not required for their maintenance as a consequence of these works.

2.7 Where WCC carries out procurement, contract management, any other administration and monitoring of the sites being upgraded for the creation of PfSH credits, WCC will be reimbursed by PfSH for these costs. These arrangements will be secured by the MoU/IAA.

2.8 At each stage, the amount to be transferred to WCC from PfSH/FBC will be agreed before any spend is committed.

## 3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The £900,000 provided by PfSH/FBC will be subject to a Memorandum of Understanding and/or Inter-Authority Agreement. These will ensure that WCC spend the funds on nutrient mitigation projects to enable the procurement and administration of the projects.

3.2 The selected projects will be agreed alongside PfSH prior to commencement of works.

3.3 The Inter-Authority agreement will establish the principles of the collaborative relationship between members of PfSH. It sets out the working and funding arrangements in a co-operative way to meet shared obligations and objectives, to deliver the projects to be funded by PfSH across the region, including the WCC PTP upgrades.

3.4 Monitoring of the nutrient credit scheme arising from the plant upgrade may fall to WCC or another PfSH authority, however any WCC resources used will be reimbursed by PfSH under the terms of the IAA. The monitoring arrangements will be secured under appropriate legal arrangements. The ownership of the PTPs or any other council owned assets will remain with the council.

3.5 Any works or services procured by WCC on behalf of PfSH/FBC will be in accordance with the council's Contract Procedure Rules and where applicable external legislation.

## 4 WORKFORCE IMPLICATIONS

4.1 Under the agreements, PfSH/FBC may commission WCC to procure construction works and client manage this procurement. WCC will recharge PfSH/FBC for these costs at a rate agreed in advance.

4.2 Following completion of the works, the PfSH team will provide the administrative resource for the sale of generated credits with no further demand on the WCC existing workforce in this respect.

4.3 The monitoring of the works is to be established by the PfSH agreements but may rely on the Service Lead – Engineering. Remuneration will form part of the agreement to ensure this work is resourced.

4.4 Legal and finance resources will be required to provide safe entrance to the agreements and ensure the proposal does not disadvantage WCC. These resources will be absorbed into business-as-usual project resources. These resources cannot be paid for by PfSH as they will be advising WCC in its position in the arrangement.

## 5 PROPERTY AND ASSET IMPLICATIONS

5.1 All sites are owned and operated by the City Council. The works result in improved efficiency of the plants and replaces infrastructure to improve water efficiency.

5.2 As council owned infrastructure, the council will be required to upgrade and invest in the PTPs over their lifetime. The use of the grant to upgrade a number of the PTPs means a future HRA capital budget is not required for these upgrades, providing a benefit to the HRA.

## 6 CONSULTATION AND COMMUNICATION

6.1 The City Council sent Expression of Interest requests to planning applications currently held in abeyance to seek interest in buying credits. Out of 29 letters sent, 14 replied with a confirmed interest.

6.2 Careful evaluation is being made of the scale of the work necessary for the WwTWs that will be upgraded, which serve both HRA and private properties.

6.3 Ward members will be briefed on the works to be undertaken and a clear communication plan for local residents will be put in place before works commence.

6.4 Consultation is also being undertaken on the wider administration of the council's WwTWs, separate to this project.

## 7 ENVIRONMENTAL CONSIDERATIONS

7.1 The projects by their nature mitigate nutrient inputs into protected water systems, allowing development to take place without causing wider harm to the protected features.

7.2 In addition, the replacement of the PTP improves the water quality outputs of the council's WwTWs. Whilst also providing credits for mitigation, this results in local improvements to water quality as a result of the project.

7.3 A council motion was passed on 6 July 2022 to protect our local rivers and waterways by taking account of the cumulative impact of pollution including sewage discharge. Investment in the upgrade of WwTWs with improved and more efficient equipment results in water quality improvements, including in rivers, reducing the amount of pollution from sewage discharge.

## 8 PUBLIC SECTOR EQUALITY DUTY

8.1 The equalities impact assessment concluded that these works would benefit the health of the water, which will indirectly benefit the health of the Winchester communities.

8.2 There are no people disadvantaged by this project when measured against all protected characteristics.

## 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None Required

## 10 RISK MANAGEMENT

| **Risk** | **Mitigation** | **Opportunities** |
|---|---|---|
| Financial Exposure<br><br>*Demand for credits may be removed or reduced by legislative changes.* | WCC legal and finance teams will ensure we have the correct legal construct in place to prevent spend outside of correct authorities.<br><br>The upgrades will be funded by grant. If insufficient income is generated from credits, it | |

| | | |
|---|---|---|
| | will not impact WCC directly. | |
| Exposure to challenge<br><br>*Challenge from competitor mitigation schemes.* | Fair credit price set by PfSH. | |
| Innovation<br><br>*WwTW are complex systems and project may not deliver as many credits as expected* | Hydrogeological reports used to identify the exact number of credits – to be confirmed by Natural England prior to works bring instructed.<br><br>Experience from previous works means the council is aware of how to develop the projects on time and within budgets. | |
| Reputation<br><br>*Un-fair distribution of available credits may damage relationship between developers and LPA* | Developers will have choice in the Winchester market for credits, this is an advantage to them. | |
| Achievement of outcome<br><br>*Delays with Local Plan examination*<br><br>*Management of existing applications held in abeyance* | Local Plan demand being calculated to be ensured it can be met by this and wider mitigation schemes.<br><br>If paper is approved and a mitigation option is therefore available, the LPA will be required to refuse applications who have not chosen to join the mitigation scheme or provide alternative mitigation. | |
| Property | Projected council housing demand has been | Development of council housing, providing |

| | | |
|---|---|---|
| *Council housing continues to require nutrient mitigation* | subtracted from the credits available for the market – forms part of separate HRA project. | affordable units for those in need. |
| Community Support | N/A | |
| Timescales<br><br>*Local Plan examinations*<br><br><br><br><br><br><br><br><br><br>*Planning permissions continue to be held in abeyance* | These works will be commissioned with timeframes taking account of the proposed Local Plan examination timetable to ensure nutrient neutrality can be demonstrated.<br><br>The creation of a nutrient scheme will allow the LPA to grant consent to applications, if the nutrient scheme is joined. | |
| Project capacity<br><br>*Insufficient resourcing* | Experience of previous works means the council understands the resource required. | |
| Other<br><br>*Housing Land Supply/Delivery test – delays to residential schemes may start to impact on the council's land supply and Housing Delivery Test results, possibly leading to pressure for un-planned development, Government intervention, and fewer new homes available.*<br><br><br>*NPPF is being updated and may result in* | This project, alongside future projects enabled by the re-investment of revenue generated, ensures that the Local Plan can be adopted, and delivery tests upheld. This is subject to the local plan examination. | |

| | | |
|---|---|---|
| *increased housing requirements which increases demand.* | This project will complement other mitigation schemes such as working collaboratively with private companies to provide further mitigation in the market. | |
| *Natural England may not agree with using sites as mitigation.* | Natural England's Discretionary Advice Service will be used proactively throughout the project to understand any potential concerns in the planning stages of the project. Natural England have provided positive responses to the previous project. | |

11 SUPPORTING INFORMATION

11.1 Background

11.2 Nitrate Neutrality impacts all parts of the district. CAB3219 outlines and approves a Position Statement which sets out a strategy that enables planning applications which require nitrogen mitigation to be approved subject to a planning condition, providing developers the opportunity to source credits from a number of third-party suppliers prior to the occupation of development.

11.3 Since June 2022, proposals within the catchment of the River Itchen are also required to mitigate Phosphorus. The Itchen catchment covers a central section of the district, including larger settlements such as Winchester, New Alresford and Colden Common. Third-party mitigation options are limited in number and whilst some on-site mitigation options have been used, the Local Planning Authority has been unable to process many planning applications which require phosphorus mitigation in this area. Currently, 37 applications are held in abeyance, amounting to 183 units.

11.4 The emerging Winchester District Local Plan 2020 – 2040 is scheduled for examination in 2025. The Local Plan has a demand for 6,247 Nitrogen credits and 355 Phosphorus credits in the Itchen catchment. Proposed changes to the method of calculating housing requirements within the revised National Planning Policy Framework (NPPF) may increase this demand further.

It should be noted that 2 sites have significant Phosphorus demands. Alternative mitigation measures are available, and Local Planning Authority Officers are working with site promoters to reduce or remove Phosphorus requirements, this will reduce the overall demand figure.

11.5 Details of Proposal

11.6 Winchester City Council owns 28 Wastewater treatment works (WwTW), many of which use Package Treatment Plants (PTPs) to treat wastewater. If a PTP is upgraded to remove more nutrients than the existing equipment, the difference can be used as a 'credit' to mitigate other development.

11.7 All of the 28 plants have potential to generate nitrate credits.

17 of the plants are within the Itchen catchment and have the potential to generate nitrate and phosphorus credits. 2 of these plants have already been upgraded by the HRA, and CAB3470 outlines a project to upgrade further plants. These HRA upgrades will generate credits which can be sold to the wider market and therefore form part of the council's overall strategy for nutrient mitigation. The HRA will select plants which best meet their needs once technical work is completed.
This proposal outlines how the council's assets can be used to generate credits for the market using PfSH funding, working alongside the HRA projects.

11.8 PfSH have a dedicated team focussed on nutrient neutrality. PfSH have successfully applied for £9.6million funding as part of the Local Nutrient Mitigation Fund. This is to be invested in mitigation schemes across the region.

11.9 The PfSH Joint Committee approved a fund of £900,000 to be provided to WCC to undertake WwTW upgrade works on their behalf. An initial allocation of £200,000 will be provided for feasibility works and to undertake the works on the first plants. The remaining £700,000 will follow once initial technical work has been completed, assessed and business cases have been collectively agreed by PfSH Chief Executives.

11.10 To test the solution, we have desktop assessed ten sites to see what mitigation might be produced. These figures are still considered estimates whilst we await hydrogeological reports.

| Site | Nitrogen Credits | Phosphorus Credits |
|---|---|---|
| Beech Grove, Owslebury | 597 | 74 |
| The Pastures, Cheriton | 162 | 20 |
| Couch Green, Martyr Worthy | 187 | 23 |
| Baring Close, Itchen Abbas | 102 | 12 |
| Itchen View, Itchen Stoke | 76 | 9 |
| North Drive, Littleton | 82 | 10 |
| Hobbs Close, Bishops Sutton | 239 | 29 |
| Kiln Lane, Old Alresford | 119 | 14 |
| The Brook, Old Alresford | 170 | 21 |
| Woodlark Cottages, Bighton | 34 | 4 |
| **TOTAL** | **1,768** | **216** |

11.11 The initial works on the 10 plants show that the plants have capacity for credit generation which can be used as mitigation.

11.12 The investigation and investment into further plants (both within this PfSH project and the HRA project) will provide additional credits available for the market. The following demand and supply could be achieved based on the 10 assessed plants alone:

| | Nitrogen | Phosphorus |
|---|---|---|
| Total Itchen catchment demand *(applications in abeyance and local plan requirements)* | 6,483 | 364 |
| Indicative supply from the next 10 sites assessed so far | 1,768 | 216 |

11.13 It should be noted that two large schemes held in our local plan pipeline result in a demand for 201 phosphate credits, a significant proportion of the overall demand.

There are on-site mitigation options available to these developments which are being considered and the city council will continue to work with developers to achieve this. The sites have been included at this stage as a worst-case scenario, however following further work it is expected there would be a significant reduction of the overall demand figure.

11.14 The recommendations request permission to agree an initial £200k from PfSH for initial feasibility studies and authorise use of the funds.

The following £700k will fund works on the remaining plants so there is certainty they can be completed.

Whilst studies have been completed on the initial 10 sites which show significant credit generation, there is potential for any remaining funds to be used to upgrade further sites, subject to business cases agreed with PfSH, in order to generate further credits available for the market and Local Plan allocations.

11.15 As a PfSH project, the management, pricing and risk sits with PfSH and as a result any revenues will also be retained by the Partnership. A condition of the funding is that any revenue is recirculated back into regional nutrient mitigation schemes, providing further opportunities for mitigation options.

11.16 <u>Water Efficiency Measures</u>

11.17 Winchester City Council is also to receive £90,000 from PfSH to run water efficiency projects. These projects will create further nitrate and phosphate credits. It is a condition of the arrangements that credits created by water efficiency projects can only be recycled into credits offset against new council-owned homes. This is agreed as WCC intends to build 1000 homes in the next 10 years.

30 units are available for upgrades immediately, and this will form part of a future HRA project with the potential for further credit generation.

11.18 <u>Third-party mitigation providers</u>

11.19 The City Council has been approached by a number of private companies who upgrade PTPs and then seek to sell the credits generated to the wider market. This is an identical process to the council's own project; however, it does not involve any council assets or funding.

11.20 The council as Local Planning Authority (and competent authority under the Habitat Regulations) need to ensure they have sufficient information submitted to assess the suitability of this mitigation.

11.21 The City Council has produced a standard requirements list for section 106 legal agreements and a fair monitoring fee which allows the council to monitor these schemes. This allows further credits to be available for the market.

11.22 Summary

The council strategy to provide nutrient mitigation and release housing applications is in three schemes.

The first is to sell excess credits derived by the completed upgrades undertaken by the HRA. The HRA will also undertake further upgrades, generating additional credits. This has been considered and approved by CAB3470 (July 2024).

The second is to work with PfSH, using grant funding, to upgrade further PTPs out of the council's stock of 28. The sites all generate nitrate credits, and 17 provide phosphorus mitigation. Initial investigations from 10 sites show a significant number of credits will be generated, and the government grant requires all projects to achieve cost recovery in order to invest any income into further mitigation projects and to provide further benefits, providing on-going security that further projects can be funded and secured. PfSH are also providing grants for water efficiency measures, which will form part of a separate project which also generates further credits.

The third is to work alongside third-party companies as they upgrade their own PTPs. The LPA will assess this on a case-by-case basis to ensure the mitigation is acceptable, and secure finances and resources for future monitoring.

When combined, a significant number of credits are generated to ensure there is provision for applications held in abeyance and future Local Plan requirements.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Do Nothing – The Council could decline to work with the PfSH Partnership. This would result in not having an adequate pipeline for the local plan and WCC would lose the benefit of plants being upgraded via grant funding.

For the reasons above, this option is rejected.

12.2 Business as Usual – The City Council could continue to signpost developers to third-party mitigation schemes. However, due to the geographical mitigation requirements for Phosphorus, these third-party options are limited and are nearing capacity.

For the reasons above, this option is rejected.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3219 – Nitrate Neutrality – Wednesday 22 January 2020

CAB3301 – Nutrient (Nitrate) Neutrality Update – Wednesday 21 July 2021

CAB3470 – Housing Revenue Account Nutrient Mitigation Proposal – Monday 16 July 2024

Other Background Documents:-

None

## Appendix 6 – letter from Minister for Housing and Planning on Nutrient Neutrality, October 2024

Ministry of Housing, Communities & Local Government

**Matthew Pennycook MP**
*Minister of State for Housing and Planning*
2 Marsham Street
London
SW1P 4DF

To: Council leaders of local planning authorities affected by nutrient neutrality

30 October 2024

Dear Council Leader,

**Nutrient neutrality and Local Nutrient Mitigation Fund update**

The Government is committed to implementing solutions to unlock the building of homes affected by nutrient neutrality without weakening environmental protections.

I am keenly aware of the difficult situation nutrient neutrality has created for housebuilding in affected catchments. Addressing nutrient neutrality is therefore a key priority for this government. We are committed to building 1.5 million new homes across the country over the next five years to tackle our housing crisis and boost economic growth.

The Planning and Infrastructure Bill, which was announced in the King's Speech on 17 July, provides an opportunity to accelerate housebuilding and infrastructure by using development to fund nature recovery where currently both are stalled, creating a win-win outcome for both the economy and for nature.

We are working with nature delivery organisations and the wider sector to determine the best way forward and will only act in legislation where we can confirm to Parliament that the steps we are taking will deliver positive environmental outcomes. We will share further updates in due course.

While this policy is developed, we are clear that we need to continue to take action so that development can continue in areas affected by nutrient pollution, while delivering positive environmental outcomes. This complements other work that is happening, such as Natural England's £30 million Nutrient Mitigation Scheme.

Today, as part of the Local Nutrient Mitigation Fund (LNMF), I am pleased to announce that:

- the department is making available up to £45 million capital and revenue funding to seven catchments to allow local authorities to bring forward mitigation schemes and provide mitigation credits (Annex A) under Round 2 of the LNMF, as well as capacity support funding for successful bidders, and;

- catchments over 10,000 hectares in size will each benefit from £100k of Nutrient Support Funding, which will be distributed to lead local planning authorities for each catchment.

The Local Nutrient Mitigation Fund will be recycled locally until nutrient mitigation is no longer needed, at which point it will be used for measures to help restore the relevant Habitat sites. This will enable sustainable development, unlocking stalled housing delivery whilst delivering benefits like enhanced public access to nature and supporting our commitment to leave our environment in a better state than we found it.

I wish those you every success with delivering nutrient mitigation schemes and look forward to working together with you to unlock growth.

Yours sincerely,

Matthew Pennycook MP
Minister of State for Housing and Planning

**Annex A: table of successful LNMF Round 2 funding recipients**

| Lead Local Planning Authority (LPA) | Nutrient catchment(s) | LNMF Round 2 funding allocated |
|---|---|---|
| Broadland District Council | Norfolk Broads<br>River Wensum | £8.85m |
| East Devon District Council | River Axe | £4.09m |
| Fareham Borough Council | Solent | £6.93m |
| High Peak Borough Council and Staffordshire Moorlands District Council | River Wye | £2.75m |
| North West Leicestershire District Council | River Mease | £2.56m |
| West Berkshire Council | River Lambourn | £2.43m |
| Westmorland and Furness Council | River Eden<br>River Derwent and Bassenthwaite Lake<br>River Kent<br>Esthwaite Water Catchment | £15.28m |

**Annex B: Nutrient Support Fund and capacity support funding allocations**

**LNMF Round 2 capacity support funding**

| Lead Local Planning Authority (LPA) | Nutrient catchment(s) | LNMF R2 capacity support funding allocation |
|---|---|---|
| Broadland District Council | Norfolk Broads<br>River Wensum | £287,382 |
| East Devon District Council | River Axe | £192,494 |
| Fareham Borough Council | Solent | £224,498 |
| High Peak Borough Council and Staffordshire Moorlands District Council | River Wye | £129,428 |
| North West Leicestershire District Council | River Mease | £120,485 |
| West Berkshire Council | River Lambourn | £114,367 |
| Westmorland and Furness Council | River Eden<br>River Derwent and Bassenthwaite Lake<br>River Kent<br>Esthwaite Water Catchment | £931,346 |

**Nutrient Support Fund award (awarded to the 20 largest nutrient neutrality catchments)**

| Nutrient catchment(s) | Nutrient Support Fund allocation |
|---|---|
| Solent | £100,000 |
| River Eden | £100,000 |
| Somerset Levels & Moors | £100,000 |
| Teesmouth and Cleveland Coast | £100,000 |
| The Broads | £100,000 |
| River Avon | £100,000 |
| Poole Harbour | £100,000 |
| River Lugg | £100,000 |
| River Wensum | £100,000 |
| River Derwent and Bassenthwaite Lake | £100,000 |
| River Itchen | £100,000 |
| Stodmarsh | £100,000 |
| River Axe | £100,000 |
| River Camel | £100,000 |
| River Clun | £100,000 |
| River Lambourn | £100,000 |
| Lindisfarne | £100,000 |
| River Kent | £100,000 |
| River Mease | £100,000 |
| Peak District Dales | £100,000 |

## Appendix 7 - Sir John Moore Barracks Position Statement in relation to Nutrient Neutrality

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Your Ref:

30th October 2024

Emma Betteridge
Principal Planning Officer
Winchester City Council
By email: [redacted]

Dear Emma,

**Sir John Moore Barracks, Winchester – Nutrient Neutrality Position Statement (October 2024)**

Further to our recent nutrient neutrality discussions we write on behalf of our client, Defence Infrastructure Organisation (DIO). Avison Young is instructed by DIO to provide town planning and development consultancy advice in respect of the Sir John Moore Barracks (SJMB) in Winchester.

We can confirm that as an operational barracks, the SJMB site can currently accommodate up to 951 personnel. A previous assessment [undertaken for DIO] (TN002) used four years of water meter readings from 2017 to 2020. Further data, up to March 2024, has been provided to support an updated nutrient mitigation calculation, dated June 2024, indicating an average annual occupancy of 601 personnel during the analysis data set.

Using the SJMB water meter data from 2017 to 2024, this showed an average annual water usage of 76,149.43m3/yr, which equates to 208,628.57l/day.

Based on an average annual occupancy of 601 personnel, the baseline current average water usage is 347l/p person/p day. This calculated water usage has been compared to those presented in British Water Flows and Loads, and it aligns with the residential training (including meals) sizing value of 350l/p person/p day.

For a residential dwelling, the standard water usage based on 2.4 persons per dwelling is 120l/p/day equating to 50l/p person/p day, therefore the current baseline water usage is considerably higher than that of a standard residential dwelling under the future development scenario.

Based on this current nutrient budget assessment our client's technical consultants calculate that the 'break-even/zero point' is 669 dwelling units – this being the threshold of residential development beyond which there would be a deficit nutrient budget falling to be mitigated by the proposed development scheme.

**Delivery and Mitigation Plan**

- The mitigation would be to phase on-site development works so to

not exceed occupation of in excess of 669 dwelling units before 2030.

- This is the date at which, pursuant to the Levelling Up and Regeneration Act (LURA), the water and sewage provider of the receiving Harestock waste-water treatment works has a legal obligation to upgrade the plant. We are aware that the Harestock waste-water treatment works has a planned and programmed upgrade for phosphorus in 2025 (reduction from 1mg/l to 0.25mg/l), and this is reflected in the nutrient budget calculations.
- Based on projected SJMB building delivery start date of 2027 the limit on new dwellings that could be occupied before 2030 does not restrict delivery of new housing as it is not expected that occupations will exceed 669 by 2030.

**Next Steps**

Given the June 2024 budget calculation was based on a previous indicative SJMB masterplan of 919 units there are a series of next steps for DIO as follows:

- A SJMB Concept Masterplan has been prepared and will need to be considered by WCC's Cabinet as soon as possible – that emerging concept masterplan is based on c. 850 units;
- Ongoing work to prepare an outline planning application (OPA) to propose the redevelopment of SJMB is progressing and will involve the refinement of the current concept masterplan through the development of a series of OPA parameter plans;
- A DAS has been drafted but has not yet been submitted to Natural England - we envisage this will be submitted in early 2025 to be based on the next iteration of the masterplan;
- DIO is supportive of further engagement with Natural England, which will also need to happen in conjunction with the Environment Agency/Local Lead Flood Authority (HCC) so that a unified position can be reached with these statutory consultees on nutrients and flood risk matters; and
- DIO is intending to submit the SJMB redevelopment OPA in spring/summer 2025.

We trust this provides the updated information you require, but please let us know if you require anything further.

Yours sincerely

**Roger Shipton** BSc (Hons) Dip TP MRTPI

Associate Director

**For and on behalf Avison Young (UK) Ltd**

**E:** [redacted]

**M:** [redacted]