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| Report subject    | <b>Dorset Nature Park</b>  |
| Meeting date      | 16 December 2020   |
| Status            | Public Report  |
| Executive summary | <p>When planning for new homes the Council must ensure the development is nitrogen neutral and does not have an adverse effect upon Poole Harbour Special Protection Area. Nitrates cause algal mats which smother the feeding areas of internationally protected birds.</p> <p>BCP Council and Dorset Council work in partnership to collect contributions from developers and use them to implement mitigation projects to ensure development within the catchment of Poole Harbour is nitrogen neutral. The councils award grants for projects that change agricultural land from high to low nitrate input, in order to offset the impact of nutrients entering Poole Harbour through sewage treatment works, including Poole. The strategy is set out in the Poole Local Plan (2018) and the Nitrogen Reduction in Poole Harbour Supplementary Planning Document (2017).</p> <p>There are 2,076 planned homes in the Poole Local Plan area requiring 105 hectares of agricultural offsetting within the Poole Harbour water catchment basin during 2020/21. The Council is collecting developer contributions for this purpose with no implications for the Council budget.</p> <p>The proposal is to use developer contributions to award grant to Dorset Wildlife Trust, to purchase agricultural land and manage it in perpetuity as low nitrate input. Known as the Dorset Nature Park, this proposal will allow the Council to continue to grant planning permission for new homes, as well as providing multiple benefits to residents across Dorset and BCP Council areas. This proposal has the written support of Natural England.</p> |
| Recommendations   | <p><b>It is RECOMMENDED that:</b></p> <p><b>(a) In principle agreement to award grant of £2,047,500 to Dorset Wildlife Trust to offset the nitrate impact upon Poole Harbour Special Protection Area from planned</b></p>  |

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|                            | <p>housing and tourism accommodation during 2020/21;</p> <p><b>(b) In principle agreement to award Dorset Wildlife Trust an additional £741,000 to mitigate planned development during 2021/22; and</b></p> <p><b>(c) The Council finance this proposal from community infrastructure levy and planning obligations, as a grant with conditions attached, naming Dorset Wildlife Trust as beneficiary.</b></p>   |
| Reason for recommendations | <p>The Council is at a critical juncture in the implementation of the nitrogen neutrality strategy. Delivery of nitrogen offsetting projects during 2020/21 is essential to avoid the Council having to impose 'Grampian Conditions' upon planning permissions, whereby developers would not be allowed to build houses or tourist accommodation until the Council has delivered mitigation. Such a delay would have significant impact upon people's lives and the local economy.</p> |

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| Portfolio Holder(s): | Councillor Philip Broadhead, Portfolio Holder for Regeneration, Economy and Strategic Planning and Deputy Leader of the Council  |
| Corporate Director   | Bill Cotton, Corporate Director Regeneration and Economy   |
| Report Authors       | Steve Dring, Planning Research GIS & Information Manager   |
| Wards                | Alderney & Bourne Valley; Bearwood & Merley; Broadstone; Canford Cliffs; Canford Heath; Creekmoor; Hamworthy; Newtown & Heatherlands; Oakdale; Parkstone; Penn Hill; Poole Town; Talbot & Branksome Woods; Wallisdown & Winton West; |
| Classification       | For Recommendation   |

## Background

1. Poole Harbour is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site. Scientific evidence shows that Poole Harbour is increasingly subject to eutrophication through excess nitrogen loading from within the harbour catchment. Nitrogen loading in the harbour comes mostly from agriculture, but also from the outflows from sewage treatment works. Nitrogen in the water causes green algae blooms in the harbour which negatively impact the feeding areas of protected birds.
2. Poole Local Plan Policy PP33 requires all development within the catchment of Poole Harbour to be nitrogen neutral to ensure no adverse impact upon Poole Harbour. The Council, under the Habitats Regulations, is required as competent authority to ensure that all new residential development is nitrogen neutral before granting planning permission.
3. The [Nitrogen Reduction in Poole Harbour Supplementary Planning Document](#) (SPD) (2017) was prepared jointly with legacy councils (now Dorset Council) and is operated on a catchment partnership basis. The SPD sets out the strategy for ensuring that all new residential development can proceed as nitrogen neutral. The SPD covers the area of the Poole Local Plan within the BCP Council boundary and does not affect Bournemouth or Christchurch local plan areas, as the sewage treatment works for those towns drain into the sea.
4. Poole Sewage Treatment Works uses nitrate stripping technology, but this cannot remove all nitrates from the water that outflows into Poole Harbour. The impact of housing development therefore must be mitigated. The only current viable method of ensuring new development is nitrogen neutral is by offsetting the impact. This can be achieved by changing the management of agricultural land from high nitrogen input (fertilisers, livestock) to low nitrogen input (woodland, wetland, rough grassland, heathland, scrub, etc.).
5. Most of the Poole Harbour catchment falls within Dorset Council, with very limited opportunities to provide offsetting mitigation within the BCP Council area. Therefore, the councils work in partnership on a catchment wide basis to collect developer contributions and use them to implement projects that ensure

development is nitrogen neutral. Partnership working is beneficial to ensuring that the strategy helps achieve wider strategic environmental gains.

6. The implementation of the Strategy has reached a critical point. 63 hectares of offsetting mitigation is urgently needed for 1,366 homes with planning permission in the Poole Local Plan area. In addition, a further 42 hectares is needed to offset 710 homes that are expected to be granted planning permission during 2020/21 in accordance with the Poole Local Plan housing target. Therefore, considering both existing and expected permissions the Council must provide offsetting mitigation of 105 hectares of agricultural land during 2020/21 in order to mitigate 2,076 homes.
7. The Council should ensure that there is a supply of mitigation available when granting planning permission. This buffer ensures the Council can be certain that it can mitigate the development when it undertakes habitats regulations assessment of each planning decision. Therefore, in addition, it is proposed to award additional grant to Dorset Wildlife Trust for 2021/22. After discounting BCP Council and Dorset Council's offsetting needs for 2020/21, 38 hectares remains available in the Nature Park for offsetting in 2021/22. This land will mitigate 636 more homes built in Poole.
8. If mitigation cannot be secured the Council will have to consider using 'Grampian conditions' on new planning permissions in Poole from April 2021 onwards. This approach would effectively stop new homes being built until the Council has delivered the required mitigation. A similar condition is currently used in the Bournemouth Local Plan Area where developments over 50 homes cannot commence until the Council has provided a Suitable Alternative Natural Greenspace.
9. Moving forward, once the immediate shortfall in mitigation is remedied, the Council can review the strategy to ensure that the mitigation remains cost effective. Some mitigation projects, such as wetlands, can deliver a higher amount of mitigation per hectare than simply changing the management of agricultural land. These projects need to be explored in more detail, for example on land owned by the Council at Briantspuddle, but will take time to deliver and are a longer-term solution. The Council can also review the SPD and learn from potential solutions being considered in Hampshire to ensure that the mitigation options remain cost effective. The proposed mitigation and buffer requested in this report would place the Council in a strong position to continue to support housing growth whilst this work is undertaken.

## **Options Appraisal**

### Preferred Option:

10. Dorset Wildlife Trust has submitted a proposal to the Council to purchase a significant area of agricultural land within the Poole Harbour catchment and change its management to nature conservation purposes. Dorset Wildlife Trust would change the management of the land from high nitrate input to low nitrate input in perpetuity.
11. The Council can support this proposal, known as the Dorset Nature Park, by awarding grant from the Poole CIL nitrogen offsetting fund. The proposal would achieve the councils' 2020/21 and 2021/22 nitrogen offsetting requirements.

Natural England has written to the Council in support of the proposal, which would offer multiple benefits:

- It would enable the Council to continue to grant planning permission for homes and tourist accommodation in 2020/21 and 2021/22;
- There is the potential to explore possible wetland projects within the Park, which could provide more cost-effective mitigation from 2022 onwards, once the Park is established;
- Parts of the Park would be designed to be publicly accessible. There are ongoing discussions about creating an education centre and a Suitable Alternative Natural Greenspace (SANG) to provide heathland mitigation and help alleviate recreational pressure upon the Dorset Heathlands; and
- The change of use of the agricultural land for nature conservation purposes would result in a net gain in biodiversity. This Park would then provide a potential site for the councils to award further grants to purchase biodiversity net gain and carbon offsetting credits (should suitable sites not be found in BCP Council area). The emerging Environment Bill will make it a requirement for all developers to contribute to achieving a net gain in biodiversity and the Council will be looking for projects to spend developer contributions in coming years.

#### Alternative Option 1 - The Council ask landowners to submit possible projects

12. The councils are appointing a Poole Harbour Nitrogen Co-ordinator to work with rural landowners to identify and bring forward projects. The Co-Ordinator will also project manage the creation of wetland areas, such as on offsetting land previously purchased at Briantspuddle.

13. The reasons this option is not taken forward:

- Following appointment, the Co-ordinator will have a challenging job delivering 105 hectares of projects within the final quarter of the financial year;
- There is no certainty that landowners will submit affordable projects of the scale necessary within the time frame;
- Securing a mitigation buffer in 2020/21 and 2021/22 will give the freedom to enable the Co-Ordinator to focus on longer term solutions; and
- The sites would in all likelihood be disconnected, and therefore unlikely to provide the visitor and recreational benefits or biodiversity net gain of the preferred option.

#### Alternative Option 2 – Do nothing

14. The Council could continue to grant planning permissions and wait for another opportunity to present itself.

15. The reasons this option is not taken forward:

- Granting planning permission without mitigation would be unlawful, risking reputational damage to the Council and legal challenge or call-in of a planning decision by the Secretary of State;

- The Council would have to impose Grampian conditions on all new planning permissions for new homes or tourist accommodation in the Poole Local Plan Area, effectively delaying construction until the mitigation is in place; and
- The risk of stifling housing and tourism growth disadvantages local people, the economy (construction /employment) and has budgetary implications for the Council (Council tax, business rates, New Homes Bonus).

#### Summary of Options:

16. The preferred option of the Dorset Nature Park proposal has considerable environmental benefits to residents of BCP Council and Dorset.
17. Alternative Option 1, would require the newly appointed Project Co-Ordinator to set up a process for landowners to submit potential projects, assess those sites and deliver the offsetting mitigation by the end of the financial year. Whilst this option provides a robust approach for future years, it is not achievable to deliver the required 105 hectares of offsetting mitigation projects for 2020/21.
18. Alternative Option 2, Doing nothing, risks reputational damage to the Council and social and economic costs.
19. Alternative Options 1 and 2 would lead to a shortfall in mitigation in 2020/21. This would force the Council to use Grampian conditions on planning permissions granted from 2021/22 onwards, meaning that developers would be unable to build new homes until the Council had provided the necessary mitigation. These options cannot therefore be supported.
20. The preferred option will deliver the necessary mitigation for 2020/21 and a further year 2021/22. This will enable the Council to continue to grant planning permission and enable developers to build homes in Poole without delay. The social and economic benefits of this proposal therefore match the environmental benefits. The Dorset Nature Park will provide a new nature conservation facility, accessible for residents, with educational benefits, as well as enabling further benefits of new gain in biodiversity and carbon offsetting.

#### **Summary of financial implications**

21. There would be no cost to the Council. The grant award would use Poole Community Infrastructure Levy (CIL) and Section 106 contributions paid by developers to mitigate their schemes.
22. There would be no maintenance costs or liability to the Council. Dorset Wildlife Trust would own the land and would cover the costs of managing the land in perpetuity.
23. The grant would be awarded at £19,500 per hectare. 105 hectares of mitigation at this land value is £2,047,500 with a further £741,000 required for 42 hectares in 2021/22.
24. The Council has collected £1.2M of Poole CIL and £86,000 of Section 106 obligations from developers for nitrogen mitigation purposes and this is available for spend in 2020/21. Due the time lag, whereby CIL is only paid to the Council upon commencement of the development, the Council has yet to receive the necessary funding for the full mitigation requirements for 2020/21 and 2021/22. Therefore, the Council would use other CIL money to cover the shortfall and funds are available for this.

25. In summary the Council would award the grant to Dorset Wildlife Trust from Poole CIL and Section 106 contributions as follows:

- 2020/21: £2,047,500 for 105 hectares of offsetting;
- 2021/22: £741,000 for 38 hectares of offsetting; and
- Total for 2020/21 and 2021/22: £2,788,500 for 143 hectares of offsetting.

### **Summary of legal implications**

26. The councils are responsible as Competent Authority under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') to ensure that when granting planning permission for housing and tourism development in the catchment of Poole Harbour that the development will not have an adverse effect on integrity of the Poole Harbour SPA and Ramsar site. The strategy as set out in the SPD is to ensure that new development is nitrogen neutral.
27. When granting planning permission, the Council must undertake a Habitats Regulations Assessment of each proposal and be certain that the proposed development will not have an adverse effect. To do this the Council must maintain a buffer of mitigation to enable the development to go ahead. Were the Council to fail to deliver mitigation and knowingly grant planning permission, this would be unlawful.
28. The grant award would be set out in a legal agreement with conditions to ensure it is maintained by Dorset Wildlife Trust as low nitrogen input land in perpetuity.

### **Summary of procurement implications**

29. This proposal is out of scope of Public Contracts Regulations 2015.
30. This proposal is out of scope of Concession Contracts Regulations 2016.
31. Aside to the stated benefits to the Council, there would be commercial / revenue benefits to the grant beneficiary through marketing, membership recruitment and retention. The Council is satisfied that Dorset Wildlife Trust is preferred as beneficiary over potential other candidates, such as the RSPB or National Trust. Other conservation bodies have been engaged in this proposal but have dropped out, leaving Dorset Wildlife Trust as the only conservation body contributing to the funding of this project.
32. Timing is also crucial as it is not feasible to facilitate a procurement exercise and deliver the offsetting requirements during 2020/21. The councils are appointing a Nitrogen Project Co-Ordinator to work with landowners and land managers to identify and bring forward future projects.

### **Summary of human resources implications**

33. Drawing up the legal papers will require officer time. It is expected that the Poole Harbour Nitrogen Coordinator will complete much of the liaison and grant award work going forward.
34. The proposal has no implications for BCP staff, other than to maintain Council services.

### **Summary of sustainability impact**

- 35. The proposal would have significant environmental benefits through the change of use of land for nature conservation. The park would provide the opportunity for further grant awards for carbon offsetting and net gain in biodiversity, although the Dorset Nature Park will be located outside of the BCP Council boundary.
- 36. The protection of agricultural land is not currently considered of overriding national interest.

### **Summary of public health implications**

- 37. The creation of the Park would enable BCP Council and Dorset Council residents' greater public access to the countryside for exercise, education and general health and wellbeing. There are also air pollution benefits of taking land out of intensive agricultural usage.

### **Summary of equality implications**

- 38. The park must be located within the catchment of Poole Harbour, which falls within the Dorset Council area and therefore accessing the Dorset Nature Park may be difficult for some BCP Council residents. However, the Council can aim to ensure that the Dorset Nature Park is suitably located in South East Dorset to enhance accessibility.

### **Summary of risk assessment**

- 39. Doing nothing risks considerable reputational damage to the Council if housebuilding is stalled with consequential economic and social damage to the BCP Council area. As an example, housing development in Hampshire has been stalled for over a year due to the lack of a nitrogen neutral development strategy. This issue is of national attention in the media and government. BCP Council though, unlike Hampshire, has an agreed strategy in place and can therefore resolve this issue quickly through the delivery of mitigation projects.
- 40. Implementing Grampian conditions on all housing development in the Poole Local Plan area would hinder developers at a crucial time for jobs and the economy during the recovery from the Covid pandemic. There would be social costs of housing delivery from lack of available housing. There could be damage to the economy and unemployment from a slowdown in construction. The Council would also miss out on Council tax, business rates and New Homes Bonus.
- 41. The Council would provide funding as a grant and would not own any land so has no liability. Dorset Wildlife Trust would enter a legal agreement to maintain the land as low nitrogen input in perpetuity, with no management costs from the Council.

### **Background papers**

[Poole Local Plan \(2018\)](#) - Published works

[Nitrogen Reduction in Poole Harbour Supplementary Planning Document \(2017\)](#) - Published works

Dorset Nature Park Proposal – Exempt Information Category 3

Nitrogen Reduction in Poole Harbour: Monitoring, Projects and Implementation Plan – Draft document not yet published

Natural England letter of support (11/11/20)



## **Appendices**

There are no appendices to this report.