

Supplementary Information

**HAVANT BOROUGH COUNCIL
PLANNING POLICY COMMITTEE
TUESDAY, 4TH JULY, 2023**

Please note that the attached supplementary information was unavailable when the agenda was printed.

Agenda No Item

3 Legal Agreement for Warnford Park Estate Nutrient Mitigation Scheme 1 - 7

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Following Natural England's introduction of the obligation for new developments in the Solent Region to achieve nutrient neutrality, and after more than twelve months of consultations with Natural England, the Environment Agency, DEFRA and numerous Local Planning Authorities - including Havant BC, the Warnford Park Estate, signed the first S106/33 "Mitigation" Agreement with Fareham BC in April 2021. This Agreement enables the delivery of Nitrate Credits (off-setting) to developers in Fareham Borough who cannot achieve nutrient neutrality on their sites. Subsequently, a similar Agreement was entered into with Gosport BC and it is now proposed to complete an Agreement with Havant BC to enable the delivery of Nitrate Credits to development schemes within its own administrative boundary.

The Estate is situated adjacent to Warnford village and has a considerable length of the River Meon flowing through its grounds. The scheme operates on an "on-demand" basis and involves the cessation of agricultural use on designated areas of the Estate and the giving over of the land to low density woodland in perpetuity. This process results in the reduction of nitrates on the land and as a consequence, the River Meon to which the land drains, carries fewer nitrates into the Solent. The scheme also achieves considerable environmental and ecological enhancements. The scheme has the full support of Natural England and is transparent and auditable by the LPA concerned. In addition, the scheme is independently monitored by the South Downs National Park Authority - who are signatories to the Agreement in their capacity as the validation and enforcement authority.

The scheme is of a strategic scale having been authorized to provide in excess of 3,000 Nitrate Credits in its first phase. The scheme can serve developments draining to Budds Farm Waste Water Treatment Works (which serves most of Havant Borough) and as Budds Farm currently operates near the current technological limits of nitrate removal from waste water, the need for off-set schemes in the Borough, such as Warnford Park Estate, is likely to persist for many years into the future. The scheme has a proven track record of success and will provide a valuable resource to enable important developments in the Borough to achieve nutrient neutrality in a way that also results in environmental and ecological betterment.

Mark Budden
Partner – Land Consult LLP

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Deputation on Nitrate neutrality for meeting of Planning policy committee 4th July 2023

The Borough has a clear need for housing for residents. The Dutch case means the increase in nitrates due to increased overnight accommodation must be mitigated against and the amount of mitigation required increases when brownfield sites are developed.

The solution offered is to enter into a legal agreement with Warnford Park to reserve 3000 nitrate credits. The concern is this agreement will be used by developers to build on greenfield sites.

Can the nitrate credits be reserved for the development of brownfield sites? How many affordable homes have been built in Havant in the past two years compared to the total number of units? Our Council needs affordable housing on brownfield sites to be developed. Are there mechanisms available to reserve nitrate mitigation schemes for brownfield sites?

There are questions as yet unanswered about the efficacy of this scheme.

1. How long is the time between the land being taken out of agricultural production to having a positive impact on nitrate levels? This site is located in the South Downs where it is known that there is a long time for water to percolate through the chalk. Are there any available case studies to refer to examine the evidence for how well this method of nitrate mitigation will work in time to reduce the nitrates from homes? Nitrates from homes will have no time gap before going into the harbour so cannot be built until the scheme is shown to be working without causing further damage to the harbours.
2. Has there been any research to find out the length of the time for a positive impact?
3. If not, who is going to pay for this to be done and when will it be done?
4. Is it wise to enter into a legal agreement with Warnford Park without this information?

How confident can we be that this scheme will deliver the affordable homes that are needed by our residents?

There is a threat that the Government will remove the legal obligation to mitigate against the impact of nitrates. If this is the case, will Havant Borough Council continue to seek nitrate mitigation schemes given the extremely special nature of Chichester and Langstone harbours?

Cllr Rason

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Havant Borough Council Planning Policy Committee & Cabinet 4 July 2023 & 19 July 2023
Legal Agreement For Warnford Park Estate Nutrient Mitigation Scheme

Deputation from Andrew Hunnibal

There seems to me to be a fundamental flaw in the proposed agreement which does a disservice to both developers and residents alike. It does not address the 'Temporal principles' outlined in Natural England's Solent Nutrients Guidance (v5 June 2020) paragraph 5.43. Ref (1)

These 'Temporal principles' address the time taken from when a mitigation site is taken out of agricultural production, until there is a positive impact on nitrates levels in the Solent. The calculation of this 'Temporal Delay' is complex and requires a detailed knowledge of the soil type and level of the ground water at the mitigation site. The distance from the mitigation site to the WwTw catchment area will also affect this delay.

To emphasise the importance of the 'Temporal principles' Natural England has updated its guidance TIN186 Edition 1 Nutrient Neutrality Principles paragraph 3. Ref (2)

It would seem to be an omission that Natural England did not reference this latest guidance in their Appendix C Letter to Havant BC from NE.pdf dated 5 May 2023. I would ask that this is investigated.

Where is the information for the expected delays at Warnford Park Estate?

Natural England state that any development should be phased to take into account these delays. Ref (2) paragraph 3.a.i.

Natural England will expect HBC as the competent authority to know the duration of the delays and manage the phased development. Who will pay the significant costs involved in determining the 'temporal delay'? If not HBC, will it be the owner of the mitigation site or the developers, if a site is to 'serve multiple planning applications'.

These 'Temporal Delays' can be very significant in the order of decades. See Chichester District Council Water Quality Assessment. Amec Foster Wheeler. 2018, paragraph 4.2.19. Ref (3)

It is only right that developers should know the duration of the 'temporal delay' before they enter into an agreement with owner of the mitigation site.

As the agreement stands, does it not mean that a mitigation site that did not satisfy NE's requirements could be passed as suitable? For example, a site with a depth to groundwater of 40 m where there is no substantial watercourse nearby.

Should Councillors be minded to approve the agreement I would propose that the agreement is amended to ensure that delays are calculated and agreed with Natural England. This before Warnford Park Estate and any future mitigation schemes are made available to developers.

References

1. Natural England Advice On Achieving Nutrient Neutrality For New Development In The Solent Region v5 June 2020

<https://www.push.gov.uk/wp-content/uploads/2020/06/Natural-England%E2%80%99s-latest-guidance-on-achieving-nutrient-neutrality-for-new-housing-development-June-2020.pdf>

2. Natural England Advice TIN186 Edition 1 Nutrient Neutrality Principles

<https://publications.naturalengland.org.uk/file/5702669477085184>

3. Chichester District Council Water Quality Assessment. Amec Foster Wheeler. 2018.

https://www.chichester.gov.uk/media/30900/Chichester-Water-Quality-Assessment/pdf/Chichester_Water_Quality_Assessment.pdf

Deputation for Planning Policy Committee on 4th July 2023
ref. the Legal Agreement for the Warnford Park Estate Nutrient Mitigation Scheme
from Havant Climate Alliance and Friends of the Earth

1. We know that controlling nutrient levels in our Harbours is vital for the water environment. Excess nitrates cause a proliferation of green algae which has killed and damaged our seagrass beds. Our harbours were once full of these. Seagrass plays a vital role in carbon sequestration (area for area it absorbs 35 time more CO₂ than a tropical rain forest). The seagrass also plays an important role in providing a nursery for young fish, and food for water fowl and other sea life.

2. We are concerned about the effectiveness of nutrient mitigation schemes in protecting our Harbours from nutrients as ever more houses are built. Despite the support of Natural England we are not confident that such schemes will provide sufficient safeguard. Natural England provides nutrient calculations based on a theory, but is there sufficient evidence to support it?

3. Has there been an analysis of the changes to nutrient levels leaching from Warblington Farm? We questioned nutrient levels when that scheme was first proposed. We did not think that they were as high as was suggested.

4. How long does it take nutrients to reduce on land taken out of agriculture?
The Ricardo Report referred to legacy nitrates from past agricultural practices, entering the Harbours via streams, and indicated that they could remain for long periods. Thus they can continue to effect the water environment for a long time after a mitigation scheme has been put in place and the houses being mitigated have been built.

5. Even if we are to accept that nutrients can be effectively mitigated, there is also a question about how far mitigation on the River Meon, will assist nutrient reduction in our Harbours. The Ricardo Report gave evidence that some nutrients were coming into the Harbours from the Solent (supporting the argument for Warnford) but also said that a significant quantity of nutrients were flowing into the Harbours from agricultural land via streams. Therefore a mitigation scheme based on the river/stream catchment that flows into Langstone or Chichester Harbours should be far more effective for them. Given limited finance, it would be better that the Council invest in mitigation schemes that are in that direct catchment, rather than in Warnford.

Pat Brooks

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