

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

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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 <i>Demand for credits may be removed or reduced by legislative changes.</i>	WCC legal and finance teams will ensure we have the correct legal construct in place to prevent spend outside of correct authorities. The upgrades will be funded by grant. If insufficient income is generated from credits, it will not impact WCC directly.	
Exposure to challenge <i>Challenge from competitor mitigation schemes.</i>	Fair credit price set by PfSH.	
Innovation <i>WwTW are complex systems and project may not deliver as many credits as expected</i>	Hydrogeological reports used to identify the exact number of credits – to be confirmed by Natural England prior to works being instructed. Experience from previous works means the council is aware of how to develop the projects on time and within budgets.	
Reputation <i>Un-fair distribution of available credits may damage relationship between developers and LPA</i>	Developers will have choice in the Winchester market for credits, this is an advantage to them.	
Achievement of outcome <i>Delays with Local Plan examination</i>	Local Plan demand being calculated to be ensured it can be met by this and wider mitigation schemes.	

<i>Management of existing applications held in abeyance</i>	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 <i>Council housing continues to require nutrient mitigation</i>	Projected council housing demand has been subtracted from the credits available for the market – forms part of separate HRA project.	Development of council housing, providing affordable units for those in need.
Community Support	N/A	
Timescales <i>Local Plan examinations</i>	These works will be commissioned with timeframes taking account of the proposed Local Plan examination timetable to ensure nutrient neutrality can be demonstrated.	
<i>Planning permissions continue to be held in abeyance</i>	The creation of a nutrient scheme will allow the LPA to grant consent to applications, if the nutrient scheme is joined.	
Project capacity <i>Insufficient resourcing</i>	Experience of previous works means the council understands the resource required.	
Other <i>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</i>	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.	

<p><i>pressure for un-planned development, Government intervention, and fewer new homes available.</i></p>	<p>This is subject to the local plan examination.</p>	
<p><i>NPPF is being updated and may result in increased housing requirements which increases demand.</i></p>	<p>This project will complement other mitigation schemes such as working collaboratively with private companies to provide further mitigation in the market.</p>	
<p><i>Natural England may not agree with using sites as mitigation.</i></p>	<p>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.</p>	

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 (<i>applications in abeyance and local plan requirements</i>)	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 Water Efficiency Measures

- 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 Third-party mitigation providers

- 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