Southleigh, Havant 26/00324

Response to Natural England Comments, 23/10/26

1.1 This technical note, prepared by Ecological Planning & Research on behalf of Bloor Homes, provides a response to comments returned by Natural England in respect of the currently proposed residential-led development of land at Southleigh, Havant.

1.2 Natural England's consultation response of 23 July 2026 asserts that it "*may need to object to the proposal*" without *"Details of the chosen nutrient offsetting solution to ensure excess nitrogen does not harm designated sites in the Solent*," on the basis that such details are required to provide the decision-making 'certainty' mandated by Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended; the 'Habitats Regulations').

1.3 As set out in the submitted Information for Habitats Regulations Assessment (IfHRA) report, the applicant considers that details of nutrient mitigation can be secured by a suitable planning or legal mechanism, such as a Grampian-type condition, in accordance with established practice adopted across the Solent region following the emergence of the nutrient neutrality requirement in 2018.

1.4 Contrary to the implication of Natural England's advice, the Habitats Regulations does not preclude but rather condones reliance on such mechanisms for the purposes of making a Regulation 63 assessment. Regulation 63 (6) states:

> "*In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given*".

1.5 Regulation 70 (2), concerning the grant of planning permission, states:

> *"Where the assessment provisions apply, the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations".*

1.6 The principal planning test that applies to the use of such conditions is that they "*should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission*" (https://www.gov.uk/guidance/use-of-planning-conditions). Havant Borough Council can be satisfied that this criterion is met: as of its latest 'Solent Nutrient Mitigation Supply and Demand Update' (December 2025), the Solent Mitigation Partnership reports "*current availability of* **7,132** *Kg/TN/Yr in strategic mitigation*" within the respective 'East Hampshire' catchment – before the adoption of a Solent Nitrogen Environment

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Delivery Plan (EDP) and the implementation of further mitigation schemes which are expected to release additional capacity in due course. The mitigation requirements of the currently proposed development cannot be definitively determined at this outline stage but are preliminarily estimated at around **310** kg/year in the submitted IfHRA.

1.7 This preliminary estimate would of course be subject to recalculation at future project stages, to take account of the actual number and type of dwellings proposed (and overall occupancy as determined through Havant Borough's calculator); the detailed layout and landscape treatment; details of the surface water strategy and SuDS design; and any subsequent changes in the extant wastewater permitting regime, which is subject to regular periodic review.

1.8 The imposition of a pre-commencement condition is an accepted mechanism for securing nutrient neutrality and has been found to provide sufficient decision-making 'certainty' to enable innumerable planning permissions to be granted across the Solent region and other nutrient neutrality catchments. The applicant presumes that Natural England does not consider these permissions to have been contrary to the requirements of Regulation 63 and therefore unlawful.

1.9 The use of such a mechanism is particularly apposite to the circumstances of the current proposals which would be fully designed, built out, and occupied in several phases, over the course of many years. As described in Chapter 2 of the submitted Environmental Statement, first occupation at Southleigh is projected to occur from 2029, with full occupation from 2038 onward. It would be unreasonable and impractical to require the applicant to commit to a particular mitigation offering more than a decade in advance of full occupation and long before the point at which the overall quantum of mitigation can be determined or would be required to take effect.

1.10 Reservation of capacity from a "*chosen nutrient offsetting solution"* would also have the effect of unnecessarily 'locking up' mitigation for impacts that will not fully materialise (or be fully quantifiable) for more than a decade, resulting in an unnecessarily adverse effect on the interim mitigation supply position.

1.11 The appropriate approach to the securement of nutrient mitigation for development of the scale currently proposed at Southleigh is set out in advice issued by Natural England's Wessex Area Team Conservation and Planning Senior Advisor to assist in the determination of a public inquiry planning appeal regarding a proposed development of 1,700 dwellings at Land to the South of Ringwood Road, Alderholt (APP/D1265/W/23/3336518) in July 2024. Natural England's letter to the Inspector (appended to this document) explicitly disavows any requirement for the appellant to commit to a "*chosen nutrient offsetting solution*" at the outline planning application stage, stating that:

> "*Natural England accept the* principle *of avoiding harm to the River Avon designated sites through an obligation requiring the applicant to demonstrate that they have secured the necessary level of phosphate credits prior to the commencement of each phase of development….*
>
> *"it appears unreasonable and un-necessary to Natural England that the applicant should tie themselves to a rate per unit which may be some way adrift of a market price in a number of years to come should the application proceed…*

"If a suitable, legally binding Grampian style agreement which meets the legislative requirements and is acceptable by the Inspector then Natural England accept that all or parts of the application may be reliably prevented from giving rise to adverse effects on the River Avon."

1.12 The applicant considers that the same approach can reasonably and lawfully be adopted in respect of the current proposals.

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Date: 03 July 2024
Our ref: 427957
LPA ref: P/OUT/2023/01166
PINs ref: APP/D1265/W/23/3336518

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BY EMAIL ONLY

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Dear Mrs Fay

Planning consultation: Mixed use development of up to 1,700 dwellings including affordable housing and care provision; 10,000sqm of employment space in the form of a business park; village centre with associated retail, commercial, community and health faculties; open space including the provision of suitable alternative natural green space (SANG); biodiversity enhancements; solar array, and new roads, access arrangements and associated infrastructure (Outline Application with all matters reserved apart from access off Hillbury Road)

Location: Land To The South Of Ringwood Road Alderholt

Appeal Reference: APP/D1265/W/23/3336518

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Following a meeting with Dorset Council on 2 July 2024 and in the light of their confirmation that a number of matters of concern have now been considered and in principle resolved Natural England is writing to provide an update on out position as set out in our letter of objection dated 25 May 2023.

The meeting outcome is recorded below at Annexe 1 in the form of a draft condition relating to the securing of nutrient (phosphate neutrality) and SANG mitigation delivery in relation to the 13 phases proposed.

The Annexe details suitable Grampian style conditions. It may assist the Inspector to add some clarity as to the function of the requirement to allow a consideration of the appropriate legal mechanism. A Grampian style condition appears to Natural England to be the most suitable mechanism.

R Avon SAC and nutrient neutrality
Natural England accept the *principle* of avoiding harm to the River Avon designated sites through an obligation requiring the applicant to demonstrate that they have secured the necessary level of phosphate credits prior to the commencement of each phase of development.

The correspondence from a Phosphorus credit supplier confirms that credits are available and the applicant is apparently able to deliver these at the current pricing structure. Natural England is aware of other suppliers who are likely to join the current supplier creating a small market for credits. This will inevitably alter the unit price over time and thus it appears unreasonable and un-necessary to Natural England that the applicant should tie themselves to a rate per unit which may be some way adrift of a market price in a number of years to come should the application proceed.

In addition Natural England note that the level of phosphates to be offset will drop down to 0.25mg/ltr after 2030 releasing additional capacity for subsequent phases.

In addition the applicant may seek to make use of other phosphate reduction measures eg via SuDs and therefore it is reasonable for the Council to require the detailed proposals to be set out in a nutrient management strategy which can be fully scrutinised prior to commencement.

If a suitable, legally binding Grampian style agreement which meets the legislative requirements and is acceptable by the Inspector then Natural England accept that all or parts of the application may be reliably prevented from giving rise to adverse effects on the River Avon because they have not secured a suitable level of nutrient credits to offset the particular part of the development.

Natural England advise that any legal agreement should require the nutrient credits to be fully secured prior to the commencement of a particular phase/tranche of housing rather than at the first occupation stage. This provides certainty for the applicant and reduces un necessary administration by the Council.

SANG
Development Phasing and corresponding SANG mitigation delivery: Natural England is concerned that whilst a plan linking numbers of units in development phases to SANG areas is available (CDA99, 1 May 2024) the critical piece of information requested at the 19 April 2024 meeting, a plan linking the development phasing to the SANG areas is not available.

In order for SANG to be effective and used by new residents of any particular phase the SANG land needs to be co-located with the current phase. It would not be acceptable for a phase of development to be built in isolation from the nearest SANG either directly or via a piece of green infrastructure.

This matter may be resolved by the applicant committing to bring forward all the SANG and Green Infrastructure (GI) land at the time of first occupation of the application site or agreeing to a Grampian style condition whereby each new phase/tranche of housing must first submit details to the Council and Natural England which confirm that a suitable area of SANG/GI is to be made available prior to first occupation.

Natural England is fully cognisant of the fact that current phasing aspirations may change and scale of development completions may vary over the course of the construction, if authorised, thus a degree of flexibility would be desirable and acceptable to Natural England.

Bringing forward all the SANG and GI as proposed above would have two benefits, firstly for developers this matter would not cause any delay/hindrance to commencement and secondly the landscape and habitats in the SANG will have a period over which to establish and mature, further encouraging new residents to make use of them.

Summary
Natural England can confirm that for both Nutrient Neutrality (phosphorus) and SANG mitigation a Grampian style condition which secures the delivery of the proposed mitigation measures during the duration of the development and in perpetuity thereafter will allow Natural England to **withdraw its objection** to these matters.

New Forest SAC, SPA and Ramsar : Air Quality and increased recreational impact matters (SAMM)
I understand that the draft S.106 secures agreed financial contributions to deliver the necessary mitigation measures. On the basis that appropriate measures are therefore secured Natural England can advise the Inspector that a conclusion of no adverse effect on integrity may be reached in respect of these matters.

Yours sincerely

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Annexe 1

Nutrient neutrality
Natural England advice is based on the fact that the Council accepted in evidence (ecology and planning) that there would be no adverse habitats impact if a Grampian style condition was imposed. This is in light of:

a) The statutory assumption change, i.e. waste water treatment assumption (in the LURA 2023), confirmation of the River Avon as a Sensitive Water and the confirmation that the Christchurch WWTP will be upgraded by 2030 and to which standard.
b) Provision of the updated Habitats work (CDA99).
c) Provision of a letter from a nutrient credit provider (CDA87) which was dated January but we saw first in April and had a meeting about it.
d) Knowledge of the improving commercial availability of nutrient credits in this area.

I am satisfied that subject to the imposition of a Grampian style condition, the Natural England objection in relation to nutrient neutrality can be withdrawn.

The draft condition is as follows:

Prior to commencement of development:
Approval mitigation delivery strategy to be submitted which demonstrates how nutrient neutrality across the application site will be achieved
Approval mitigation delivery strategy which demonstrates how nutrient neutrality across the phase will be achieved

Development of each phase shall be undertaken in accordance with the strategy.

SANG
Prior to commencement of development on a phase:

Separately, in terms of the SANG: a SANG Strategy should be submitted in writing and approved by the LPA, including the following:

(i) The timing and location of the delivery of the SANG in connection with that phase;
(ii) The [detail of that] SANG; and
(iii) That the SANG will be delivered in accordance with those approved details.