

# PUDDLETOWN NPG

## STATEMENT OF COMMON GROUND

Statement prepared by Jo Witherden BSc(Hons) DipTP DipUD MRTPI on behalf of the Puddletown Neighbourhood Plan Working Group

For agreement with Natural England and Dorset Council

08 OCTOBER 2020

### 1. BACKGROUND:

#### **Habitats Regulations Assessment (HRA) – screening and appropriate assessment requirements**

1.1 As set out in the Puddletown Neighbourhood Plan Habitats Regulation Assessment (Feb 2020), the Puddletown Neighbourhood Plan (NP) should be subject to an Appropriate Assessment (AA). Only where a neighbourhood plan can show conformity with Chapter 8 of the Habitats Regulations (as amended) can it progress.

#### **Assessment of implications for European sites and European offshore marine sites**

105. (1) Where a land use plan—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site,

the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) The plan-making authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

(3) The plan-making authority must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate.

(4) In the light of the conclusions of the assessment, and subject to regulation 107 [considerations of overriding public interest], the plan-making authority must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

(5) A plan-making authority must provide such information as the appropriate authority [the Secretary of State, and any person exercising any function of the Secretary of State] may reasonably require for the purposes of the discharge by the appropriate authority of its obligations under this Chapter.

1.2 The AA considers the mitigation measures necessary to ensure the plan does not result in an adverse effect on the integrity of the international sites and recommended policy wording that has been incorporated into the Neighbourhood Plan Policy 7.

1.3 The submitted AA of the Neighbourhood Plan relies on the mitigation measures set out in the Dorset Heathlands Planning Framework SPD and the Poole Harbour Nutrient Reduction SPD to ensure the proposals have no adverse effect on the integrity of the International Sites.

1.4 In responding to the consultation on the AA for the Puddletown NP, Natural England made the following comments:

- a) Natural England agrees with the Puddletown Neighbourhood Plan HRA Screening Assessment (Feb 2020).
- b) Natural England agrees with the conclusions set out in the appropriate assessment that adverse impacts to the Dorset Heaths / Dorset Heathlands European Sites can be avoided through adherence of the Dorset Heathlands Planning Framework SPD.
- c) Natural England has requested a review of the mitigation measures through the provisions of the Poole Harbour Nutrient Reduction SPD. The review was completed recently and has demonstrated that sufficient permanent nitrogen offsetting has been provided for the development that was permitted in 2017 to 2019 and is now built out, or under construction. However, a further 75.66 hectares of offsetting land, or other equivalent measures, is now needed to offset the remaining schemes permitted in that period but which have not yet commenced. This represents a significant backlog of mitigation requirements that now need addressing and raises some uncertainty about whether future permissions or allocations for residential development that rely on the SPD will meet the nitrogen offsetting requirements prior to occupation. Given the current deficit of nitrogen offsetting measures Natural England recommends the AA for the NP considers whether additional safeguards are now needed within the Policy 7 to ensure that development cannot commence until the Competent Authority is satisfied that sufficient nitrogen offsetting measures have been secured through the SPD, or other suitable mechanisms, to ensure the new developments will achieve nitrogen neutrality by first occupation.

An approach suggested elsewhere for impacts on internationally designated sites with a similar set of circumstances involved the following Neighbourhood Plan Policy wording:

*“Development will be required to confirm the nitrogen budget and set out specific and appropriately located mitigation measures that would be implemented in order to ensure that development is nutrient neutral from the start of its operational phase. Such mitigation measures must be secured for the duration of the development’s effects. A financial contribution to strategic mitigation measures may be an appropriate alternative to direct provision of mitigation. In this case it will be necessary to liaise with Dorset Council and Natural England to confirm an appropriate mitigation scheme to which the contributions will be directed and to ensure any contributions are sufficient to fully mitigate the impacts of the development on the Poole Harbour internationally designated sites”.*

The Appropriate Assessment should also consider whether the necessary level of mitigation required by the allocated development within the plan can be wholly or partly secured through the provision of permanent land use change within the Neighbourhood Plan area. This might be achieved by the NP allocating additional agricultural land for land uses with a low nutrient status that will also be of benefit to the local community and/or biodiversity interests (eg community woodland, community orchards, nature reserve, new wetlands, or other similar green infrastructure including SANG) and thereby provide certainty that the appropriate level of nitrogen offsetting will be secured to enable the development identified within the NP.

- d) The NP proposes some 60 new dwellings, the Plan Group should seek confirmation from Dorset Council that there is no policy conflict with this number of dwellings coming forward without an identified Heathland Infrastructure Project. Dorset Council have a wider overview of development coming forward. It appears to Natural England that a very small number of dwellings might come forward within the 5km area from the Dorset Heathlands.
- e) Natural England is aware of recent policy adjustments required at the Purbeck Local Plan. The examiner has required that reference to SPDs should not be made within plan

policies. The group should seek the advice of Dorset Council on this matter (policies 7, 12 and 18 refer to SPDs).

1.5 This issue (raised under point (c)) of whether reliance on the SPD would meet the nitrogen offsetting requirements prior to occupation was not raised by either Dorset Council / Natural England during the Reg 14 pre-submission consultation, and for this reason the Parish Council was unaware of this issue and was not able to address it in the submission version of the plan.

## 2. SUBMISSION DRAFT PUDDLETOWN NP

2.1 The policy wording for Policy 7 is set out below:

### **Policy 7. European and internationally protected sites**

Development must avoid having an adverse effect on the integrity of European and internationally important wildlife sites. This can be achieved by adhering to the Nitrogen Reduction in Poole Harbour SPD and, within the 5km heathland zone, adhering to the Dorset Heathlands Planning Framework SPD.

2.2 The supporting text (3.2.8 to 3.2.10) sets out the context for this policy. This reads as follows:

3.2.8 Whilst there are no European designated sites within the parish, there are European designated sites in close proximity (including large areas of land to the east and south of the parish) which could be indirectly affected by development. This includes Poole Harbour (which the River Piddle flows into) and the Dorset heathlands between Bere Regis and Bovington, and at Warmwell and Winfrith.

3.2.9 Poole Harbour has been deteriorating due to the increased nitrogen levels from sewage and agricultural practices in the surrounding area that gradually make their way to the harbour. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document (SPD) was adopted in April 2017 to ensure that any new development within the hydrological catchment of Poole Harbour is 'nitrogen neutral'. As all of Puddletown parish is within the catchment zone, all new residential development, tourism attractions and tourism accommodation will need to be nitrogen neutral. This can be achieved via improvements to sewage treatment mechanisms so that they remove more nitrogen, or through changing the management of agricultural land to a use that requires less nitrogen input, at a proportionate level to the likely impact of the development. This can normally be done through Dorset Council's use of Community Infrastructure Levy payments, but may require a financial contribution secured through a S106 legal agreement if there is no CIL payable (such as tourism accommodation or tourist attractions).

3.2.10 Evidence has shown that residents living within 5km of protected heathland will tend to visit the heathland areas (unless other more attractive spaces are available nearby), leading to increased damage and wildlife disturbance. The accepted solution (set out in the Dorset Heathlands Planning Framework SPD) is to put in place measures to divert recreational pressure away from heathland. Only a small strip of land along the eastern boundary of the parish, and an area of land extending about 2km in from the southern extent of the parish, to either side of Ilsington Road, lies within 5km of protected heathland. As there is unlikely to be a significant amount of residential development within the 5km zone in the parish, it is unlikely that additional recreational land needs to be secured within the parish, and instead a financial contribution secured through a S106 legal agreement towards a suitable project (which could potentially include improved access to Puddletown Forest) is likely to be the most appropriate solution.

## 3. ADOPTED LOCAL PLAN CONTEXT

3.1 The wording in the adopted Local plan is as follows:

**ENV2. WILDLIFE AND HABITATS**

- i) Internationally designated wildlife sites (including proposed sites and sites acquired for compensatory measures), will be safeguarded from development that could adversely affect them, unless there are reasons of overriding public interest why the development should proceed and there is no alternative acceptable solution.**
- ii) Development that is likely to have an adverse effect upon the integrity of the Poole Harbour and Dorset Heaths International designations will only be permitted where there is provision to avoid, or secure effective mitigation of, the potential adverse effects in accordance with the strategy in Table 2.2.**

3.2 And Table 2 includes:

<p><b>POOLE HARBOUR</b> important site for breeding passage and wintering birds.</p>	<p>Any development in the Poole Harbour catchment that may potentially contribute to an increase of nutrient loading (nitrogen) discharge into Poole Harbour, primarily through sewage treatment and disposal.</p>	<p>Development will only be permitted where it makes provision to avoid or mitigate any adverse effects of nutrient loading on the ecological integrity of the protected Poole Harbour sites, either as part of the development or through a contribution towards mitigation measures elsewhere.</p> <p>A strategic approach to the mitigation of anticipated adverse effects on these sites is being developed in conjunction with neighbouring authorities also affected (Borough of Poole and Purbeck District Council) the Environment Agency and Wessex Water to ensure that mitigation measures are coordinated and consistent, and to secure their delivery.</p> <p>Mitigation measures may include solutions that tackle point sources from sewage treatment works, or those that deal with diffuse pollution from agriculture.</p>
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**4. UNCERTAINTY ABOUT RELIANCE ON THE POOLE HARBOUR NUTRIENT REDUCTION SPD**

4.1 All parties to this agreement accept that, based on the recent review, it is now clear that reliance on the success of the approach set out in the SPD is not sufficiently certain to ensure that it will not adversely affect the integrity of Poole Harbour as a European site.

4.2 On this basis, three options have been considered:

- (1) To amend Policy 7 by using text similar to that proposed by Natural England into the supporting text (but covering both Poole Harbour and Heathland issues).
- (2) To delete the second sentence of Policy 7 and insert text similar to that proposed by Natural England into the supporting text.
- (3) To delete Policy 7 altogether and rely on Local Plan Policy ENV2, but insert informative text explaining the current requirements including text similar to that proposed by Natural England.

4.3 As a result of discussions between the representatives of all parties, there was a clear preference for Option (2), but an acceptance that Option (3) would also be appropriate should the Examiner wish to recommend this way forward (as queried in the examiner's letter ref 02/AM/PNP dated 23 September 2020).

4.4 On this basis, the amended text and policy would read as follows:

*3.2.8 Whilst there are no European designated sites within the parish, there are European designated sites in close proximity (including large areas of land to the east and south of the parish) which could be indirectly affected by development. This includes Poole Harbour (which the River Piddle flows into) and the Dorset heathlands between Bere Regis and Bovington, and at Warmwell and Winfrith.*

*3.2.9 Poole Harbour has been deteriorating due to the increased nitrogen levels from sewage and agricultural practices in the surrounding area that gradually make their way to the harbour. To ensure that any adverse impact on Poole Harbour is avoided, development will be required to demonstrate that it will include specific and appropriately located mitigation measures. These need to be implemented in a timely fashion in order to ensure that development is nutrient neutral from the start of its operational phase, and must continue for the duration of the development's effects. This could, for example, be achieved by securing additional agricultural land for land uses with a low nutrient status that would offset the anticipated increases in nitrogen from the development. Such land could also have the benefit of providing recreational and biodiversity benefits (eg community woodland, community orchards, a local nature reserve, new wetlands etc). A financial contribution to strategic mitigation measures may be an appropriate alternative to direct provision of mitigation. In this case it will be necessary to liaise with Dorset Council and Natural England to confirm an appropriate mitigation scheme to which the contributions will be directed and to ensure any contributions are sufficient to fully mitigate the impacts of the development on the Poole Harbour internationally designated sites.*

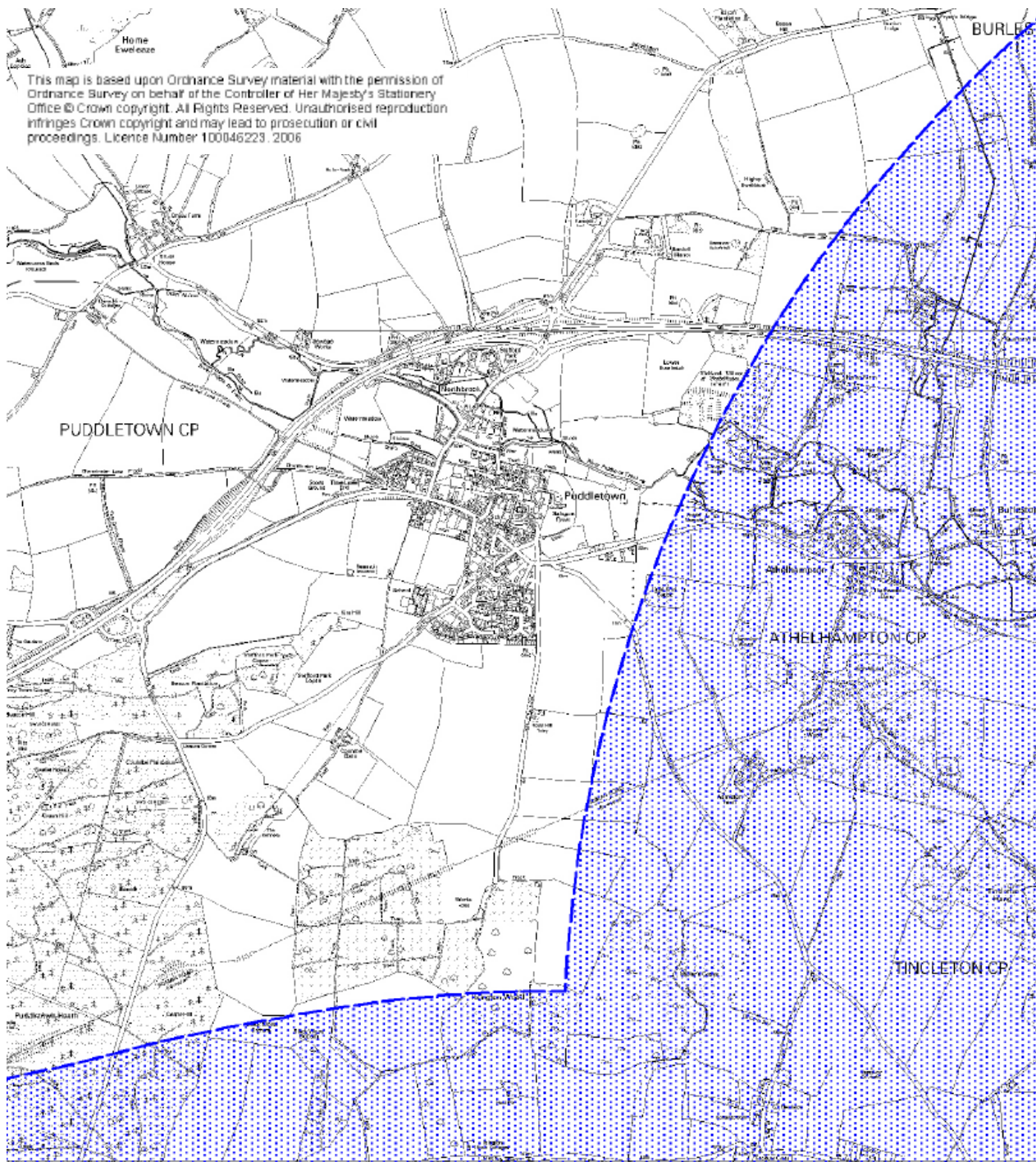
*3.2.10 Evidence has shown that residents living within 5km of protected heathland will tend to visit the heathland areas (unless other more attractive spaces are available nearby), leading to increased damage and wildlife disturbance. The accepted solution (set out in the Dorset Heathlands Planning Framework SPD) is to put in place measures to divert recreational pressure away from heathland. Only a small strip of land along the eastern boundary of the parish, and an area of land extending about 2km in from the southern extent of the parish, to either side of Ilsington Road, lies within 5km of protected heathland. As there is unlikely to be a significant amount of residential development within the 5km zone in the parish, it is unlikely that additional recreational land needs to be secured within the parish. However, if any new dwellings are built in this zone (under the Local Plan policies that , and instead a financial contribution secured through a S106 legal agreement towards a suitable project (which could potentially include improved access to Puddletown Forest) is likely to be the most appropriate solution.*

#### **Policy 7. European and internationally protected sites**

*Development must avoid having an adverse effect on the integrity of European and internationally important wildlife sites.*

## **5. THE POSSIBLE IMPACT OF DWELLINGS THAT MIGHT COME FORWARD WITHIN THE 5KM AREA FROM THE DORSET HEATHLANDS**

5.1 The 5km area as shown on the published maps is shown below. The suggested plan allocations and defined development boundary are not within this area. The Neighbourhood Plan makes no change to the Local plan approach to restricting development in the countryside that would apply to with the 5km zone.



All parties to this agreement accept that the plan should not give rise to any further dwellings within the heathland zone over and above that anticipated through the adopted Local Plan (and this would be very limited in scope given the restrictions applied to building new homes in the countryside).

**6. GENERAL POINT REGARDING REFERENCE TO SPDS IN POLICY**

6.1 Whilst reference to an SPD within a policy is to be avoided, this is of application in all cases. The point made by the Inspector in reference to the Purbeck Plan, was that the proposed policies “require compliance with an SPD” thereby giving the SPDs development plan status by default. This is not the case in Policy 7 as the wording used is ‘can’ rather than ‘will / must’ implying that adhering to the SPD is an option, but not the only option to meet the plan requirements.

6.2 However, for the avoidance of doubt (and the concerns related to whether the SPD is now achieving its intended aims) it is agreed that:

- the reference to the Poole Harbour SPD in the final sentence of Policy 7 should be deleted;
- reference to the Poole Harbour SPD should also be removed from Policy 12 (h) and 13 (h);
- reference to Policy 7 should be removed from Policy 12 (e) and 13 (a).

**Signatories to the agreement:**

On behalf of Dorset Council

Jo Langrish, Senior Planning Policy Officer, Planning and Community Services

*Confirmed by email 06/10/20*

On behalf of Natural England

Alison Appleby

*Confirmed by email 08/10/20*

On behalf of Puddletown Area Parish Council

Anna Bendall, Clerk

*Approved at a meeting of the Parish Council held 13/10/2020 as confirmed by minute number 20/099.*

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