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1. Councils in south Hampshire are not granting planning permission for most housing developments around the Solent

At the beginning of June, updated legal [advice](#) from Natural England advised local authorities that new developments in the Solent region should only be permitted if they are nitrogen-neutral. The Solent is home to special protection areas (SPAs) and special areas of conservation (SACs), protected under the EU habitats and birds directives. Natural England is concerned that sewage generated as a result of new development does not harm the integrity of the protected areas. Nitrate enrichment can lead to eutrophication, whereby nitrate and phosphorus overloading encourages algae blooms that can starve a body of water of oxygen and kill aquatic species. “The resulting mats of green algae are impacting on the Solent’s protected habitats and bird species,” the advice says.

The advice from Natural England has led to the suspension of planning permissions for potentially thousands of new homes. Sean Woodward, chairman at the Partnership of Urban South Hampshire (PUSH) - which comprises 12 local authorities - and leader at Fareham Borough Council, told ENDS’ sister title [Planning](#) magazine he believed consents for 10,000 homes are currently in limbo.

2. Natural England updated its advice because of EU case law

The regulator updated its position because of a 2018 Court of Justice of the European Union (CJEU) ruling against the Netherlands which has implications for areas where the conservation status of a habitat type is already known to be “unfavourable” and where the authorisation of activities - such as new housing - which would add further nitrogen loading to that habitat. You can view the ruling,

Last month, a [report](#) to Portsmouth City Council’s cabinet said that following the CJEU ruling Natural England “advises that, under the requirements of the habitats regulations, the existing uncertainty about the deterioration of the water environment must be appropriately addressed in order for the assessment of a proposal to be legally compliant. They recommend that this is addressed by securing suitable mitigation measures to ensure that proposals achieve “nitrate neutrality”.

3. Natural England advice urges ‘nutrient neutrality’ approach

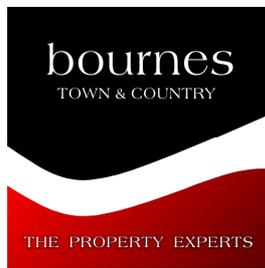
Natural England says that one way to address uncertainty as to whether new growth will further deteriorate designated sites is for new development to achieve “nutrient neutrality”, a means of ensuring development does not add to existing nutrient burdens.

It advises that a nitrogen budget is calculated for new developments to show that new homes either avoid harm to protected sites or provide the level of mitigation required to ensure there is no adverse effect. If mitigation is required, the advice says, measures will need to be secured for the duration over which the development is causing the effects, generally 80-125 years.



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4. One council has already adopted Natural England's advice

Havant Council has approved a position statement setting out how new development in the borough can achieve nitrogen neutrality.

The council's [position statement](#) says that an avoidance and mitigation package will be necessary for almost all proposals. Those which include development on agricultural land will need to prepare a site-specific nitrogen budget, using Natural England's methodology, it says. On-site mitigation measures could include the application of the optional water efficiency standard of at least 110 l/pp/d, and the creation of wetland environments in SuDS systems that act as a nitrogen sink and remove nitrogen from surface water, it adds.

However, the council says it considers that development on non-agricultural land will not be able to provide mitigation on-site. Here, the council says it will use "grampian conditions" preventing occupation of the development until an avoidance and mitigation package is agreed. The council admits that this approach "will require applicants to take on an unknown cost and risk when implementing planning permissions relying on an avoidance and mitigation package provided under this position statement".

5. The councils have asked the government to suspend housebuilding targets

The councils that make up the Partnership for South Hampshire, the partnership set up to support economic growth in the south Hampshire sub-region, have written to the government asking it to suspend housebuilding targets while councils in the area work to find a solution.

[Last month](#), the Conservative MP for Fareham, Suella Braverman called for the suspension of the targets to avoid councils being unfairly treated at potential planning appeals. "Hundreds of new homes in Farnham are in limbo," she told MPs. Responding, junior minister Jake Berry said that the housing minister "is already looking into this issue, and I am sure he will be in touch with her in due course".

6. This has happened before and it is not over yet

In 2017, councils in Dorset adopted supplementary planning guidance intended to create nitrate-neutral developments in response to excessive nitrates in Poole Harbour.

A Natural England review of the estuaries on the Isle of Wight is on-going, and the regulator has particular concerns about the river Medina – the main river on the island – where high levels of phosphates have been detected.



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