

Minutes of a Meeting of the Scrutiny Committee - Climate and Place held in the John Meikle Room, The Deane House, Belvedere Road, Taunton TA1 1HE, on Friday, 26 April 2024 at 1.30 pm

Present:

Cllr Martin Dimery (Chair)

Cllr Steve Ashton

Cllr Bente Height

Cllr Marcus Kravis

Cllr Matthew Martin

Cllr Tom Power

Cllr Alan Bradford

Cllr Henry Hobhouse

Cllr Dave Mansell

Cllr Harry Munt

60 Apologies for Absence - Agenda Item 1

The Chair welcomed all those in attendance and online to a Special Scrutiny meeting regarding Water Quality in Somerset and began by read the following opening statement for context.

“To provide a little context before we begin the presentations, today’s session is not about revisiting ‘nutrient neutrality’ but to provide a better understanding of the research that is currently underway to understand nutrient pollution sources on the Somerset Levels and Moors and to outline the actions key organisations are taking to reduce nutrient pollution. It should be noted that Somerset Council does not have a statutory responsibility for water quality and whilst we are actively engaged with partners to support improvements in water quality, we are limited in our powers”

Apologies for absence were received from Cllrs Edric Hobbs (Cllr Murphy as sub), Cllr Adam Boyden (Cllr Rigby as sub), Cllr Suria Aujla (new committee member), Prof Penny Johnes from Bristol University and Prof Paul Withers from Plymouth University.

The Chair, on behalf of the committee, gave thanks to Cllr Steve Ashton (in

attendance as
a non-committee member) who has been replaced by Cllr Suria Aujla, for his
knowledge and the valuable contributions he made during his time on the
committee.

61 Election of a vice-chair for the meeting - Agenda Item 1a

In the absence of Vice-chair Cllr Adam Boyden, The Chair invited members to
nominate a Vice-chair for the meeting.

Cllr Harry Munt proposed that Cllr Henry Hobhouse be elected, which was seconded
by Cllr Mike Rigby.

Members Voted unanimously in favour and Cllr Henry Hobhouse was duly elected as
the vice chair for the meeting.

62 Declarations of Interest - Agenda Item 2

There were no declarations of interest received.

63 Public Question Time - Agenda Item 3

The Chair welcomed David Orr to the Scrutiny Committee Climate and Place who
introduced himself and presented his [statement](#) (Supplement 1 pages 5-6) to the
committee. In addition to the statement that had been published in advance of the
meeting, Mr Orr added;

*“I went to a Strategic Planning meeting in March and requested relevant
information on the
legal position and the impact on the 5-year housing supply (if held-up homes
were released). I received partial information, so I followed-up. Councillor
Rigby has now obtained the withheld information but too late for my use here
today.”*

Kate Murdoch, Service Manager Planning Policy and Implementation
thanked Mr Orr for his statement and provided responses for each section of Mr
Orrs statement as follows;

*Section 1. It is ironic that we are meeting today to discuss “Water Quality in
Somerset” when this Council does not have a formal policy for that. A senior planner*

advised me I had made the common mistake of thinking that “nutrient neutrality” was about getting our world-renowned moors and levels into a good condition. She stated that “Nutrient neutrality is a national approach to provide a solution to a legal requirement”.

Cornwall Council recognised that the “Competent Authority” planning role in nutrient neutrality was a community leadership role. Cornwall decided to make clean rivers and building social and affordable housing their top priorities. There have been no negative outcomes or legal threats, from their 2023 decision in Bodmin, to count sewage treatment works upgrades.

RESPONSE

Cornwall Council took an alternative approach with one planning application for 170 dwellings in Bodmin. At the current time Cornwall Council have not applied this approach to other sites impacted by NN in the River Camel. Cornwall Council was also awarded Nutrient Mitigation Funding by Government and is progressing a phosphate credit scheme for the River Camel. This clearly demonstrates that phosphate mitigation is still required to unlock impacted development in Cornwall.

Members have received a briefing note on this specific matter (7th March) and both the LGA legal advice and Somerset Council’s own legal advice on this matter has also been circulated to members.

Section 2. In Somerset, we are using the Natural England nutrient neutrality guidance as “rules for the following of”, rather than emulating Cornwall in prioritising water quality and community benefits.

RESPONSE

Natural England is responsible for enforcing laws that protect SPAs and SACs and all the local authorities impacted by nutrient neutrality (approx. 70 local planning authorities) are following the advice (including Cornwall). Again I would like to draw member’s attention to the LGA legal advice and Somerset Council’s own legal advice both of which have been provided to members.

Habitats Regulations advice for LPAs | Local Government Association

Section 3. Somerset has 18,000 held-up homes with insufficient numbers of social and affordable homes being built; with negative impacts on the 5-year land supply, which knocks out local development plans, encouraging some developers to make speculative planning applications.

If nutrient neutrality is only actioned via the planning system, then the burden narrowly falls upon new homes, while existing homes, current and past agricultural practice and climate change impacts are ignored. Worse still, is that this outdated and unevidenced policy will not, I believe, get our precious levels and moors back into a favourable condition by 2030.

For example, the Somerset phosphate calculator assumes that 100% of waste water from a new home finds its way, even after modernised wastewater treatment, on to the moors and levels, when scientific research shows it doesn't. The calculator then adds another 20% to that 100%! Why can't that 20% super-precautionary buffer now be removed from the calculator, to lower phosphate credit costs by 17%, with immediate effect?

RESPONSE

The precautionary buffer is based on advice from Natural England and they are responsible for enforcing laws that protect the Somerset Levels and Moors

Ramsar site. If Natural England advises that we can remove the 20% precautionary buffer we will do so. The Habitat Regulations requires a high bar of 'beyond reasonable scientific doubt.' However in the State of our Rivers Report 2024 published by the Rivers Trust it highlights that: Evidence from published studies have shown that spot sampling can underestimate phosphorous pollution loads by 60% and that up to 80% of the phosphorous pollution load can enter rivers in just 2 or 3 rainfall runoff events.

[State of our Rivers Report 2024 | The Rivers Trust](#)

Section 4. I am sceptical that the claims for Batch Reverse Osmosis and the grant funding will remove the 18,000 held-up homes backlog by 2030, as there is no financial case to demonstrate viability.

RESPONSE

The Salinity Solutions trial and rollout is not intended to unlock the 18,000 dwellings, it is part of a package of measures to deliver phosphate mitigation (both temporary and permanent measures). The £9.6m funding is intended to deliver a range of measures that in combination aim to unlock the 18,000 dwellings impacted by nutrient neutrality. The 18,000 dwellings are to meet the Council's requirements to 2032 and not 2030.

Section 5. Somerset needs a nutrient neutrality policy that is evidence-led, targeted at improving the condition of the moors and levels and supports the economic and social well-being of Somerset.

RESPONSE

Nutrient Neutrality is national advice from Natural England as the statutory body responsible for Special Protection Areas such as Somerset Levels and Moors. Nutrient Neutrality is not about ‘improving the condition’ of the Somerset Levels and Moors Ramsar site, instead it is about ensuring new affected development has a neutral impact on current nutrient levels entering the Ramsar sites.

Local Government does not have a statutory responsibility to restore Special Protection Areas and Special Areas of Conservation.

Section 6. I strongly urge this Scrutiny Committee to recommend that the Council conducts an urgent and independent review of the current nutrient neutrality policy and develops a formal policy for “Water Quality in Somerset”.

RESPONSE

The Council has a range of environmental protection policies within the Local Plans that cover Somerset and these inform and support the future sustainable development of Somerset. However the Council does not have a statutory responsibility for water quality or for the status of the Special Protection Areas and Special Areas of Conservation.

The Environment Agency is the main body responsible for regulating water quality and ecological protection. Natural England is responsible for enforcing laws that protect SPAs and SACs. Ofwat is the economic regulator for the water sector.

The Council has been awarded £9.6m funding to deliver nutrient mitigation to unlock impacted developments. This is also a unique opportunity for the Council to deliver for Somerset residents on its climate and nature recovery commitments. This funding can also seek to stack other wider benefits such as nature recovery, water quality and natural flood management measures.

The Chair thanked Mr Orr for his statement and advised that he would receive the full written response to his statement within 5 days of the meeting.

The committee noted the statement from David Orr.

64 Overview of the nutrient pollution problem on the Somerset Levels and Moors designated sites - Agenda Item 4

The Chair welcomed Mark Taylor, Senior Water Advisor, Wessex Area, and colleagues from Natural England who were in attendance online.

Mr Taylor gave a [presentation](#) of the evidence of the pollution problem, the impacts

on the natural habitat, the need for a holistic approach to the framework for restoration of the ecology of the Somerset Levels and Moors (Supplement 1 Pages 7-24) and invited members to make comments and ask questions at the end of the presentation.

Following the presentation the following points were discussed with members.

- One member sought clarity that the local planning authority (LPA) is the decision maker, and that Natural England acts as statutory advisors on nature conservation.
- Rising temperatures due to climate change is increasing the oxygen problem in aquatic ecosystems.
- Page 17 – The rationale behind the use of the model applied in Holland.
- Page 14 – In the Graph showing trends of phosphorous in Somerset's rivers. Why is data for the River Tone so different to the others.
- One member thanked Mr Taylor for his very impressive presentation and asked Mr Taylor if the work of Natural England is strongly enough linked to policy development and influencing funding decisions? Mr Taylor agreed that this is a very good question and that there is a need for all partners across Somerset to pull together to make the restoration of the SLM's happen.
- Regarding oxygen levels and the health of ditches on the SLM's, we have seen a significant decline in the last 65 years.
- A member sought clarity on whether Somerset Council has representation on the Somerset Catchment Partnership, and it was confirmed that there is both officer and member representation.
- Referencing the case in Cornwall cited in Mr Orr's public statement, Natural England takes an advisory role, but that does not always mean that Natural England agrees with the decisions that are upheld by the Local Planning Authorities.
- The scale of the challenge in terms of the point of no return for the ecology of the SLM's.
- Mr Taylor received several comments and questions from non-committee members in attendance online regarding specific issues and he and his colleagues from Natural England offered to speak with members about specific issues outside of the meeting.

The Chair thanked Mr Taylor and his colleagues for their attendance and the presentation which members have found incredibly interesting and informative.

65 Citizen Scientist research from the river catchments and the Ramsar sites - Agenda Item 5

The Chair welcomed Dr Andrew Clegg, a former research chemist from Martock, Somerset to give a [presentation](#) to the committee regarding his own research on the phosphate load in the Parrett-Yeo system, citing examples of data sampling and findings from several locations in the SLM area. (Supplement 1 pages 25 –36) During the presentation Dr Clegg invited comments and questions from the committee and the following points were discussed with members -

- The Vice-Chair asked Mr Clegg about the residual amounts of phosphates at the bottom of rivers and streams and Mr Clegg advised that his opinion was that the phosphates have likely to have been in the water for many years and have likely originated from sewage works.
- One member suggested that Dr Clegg's research shows us that the phosphate calculator used by Somerset Council is not fit for purpose, and the 20% buffer serves no purpose and should be removed.
- In terms of the data, the phosphate load data being presented by Dr Clegg is newer than the data (although different in nature) shared by Natural England in the previous presentation and both Dr Clegg and Mark Taylor from Natural England explained the key differences in their respective data sets, reassuring members of the validity and reliability of all of the data that has been brought to the committee.
- The Vice-Chair expressed his heartfelt thanks to Dr Andrew Clegg and felt that he should be commended for all the research and analysis that he had undertaken to better understand the issue of phosphate load.

The Chair, on behalf of the committee, thanked Dr Andrew Clegg for his attendance and the very interesting and informative presentation.

66 How is the water level controlled on the Somerset Levels and Moors? - Agenda Item 6

The Chair welcomed Philip Brewin, Ecology Officer from the Somerset Internal Drainage Boards (IDB) and invited him to give a [presentation](#) on the role and responsibilities of the IDB in terms of its statutory duties with Water Level Management Plans and drainage infrastructure under the Land Drainage Act 1991. Following the presentation Mr Brewin took comments and questions from the committee and the following points were discussed with members -

- The Executive Lead member for Climate Change queried the IDB's use of historic plans, practices and regimes in setting and managing water levels, suggesting a more responsive approach would be important given that

climate change is forcing us to do things differently. Mr Brewin advised that the IDB has permissive powers only over land management, and that the Water Level management Plans follow trends of what landowners need.

- The Vice-Chair sought clarity on membership of the IDB's and inferred that historically IDB's were made up of landowners. Mr Brewin advised that this is a very important point and is inaccurate, the IDB's are made up of elected members from several stakeholder organisations, including councils, concerned with water management.
- The Vice-Chair asked Mr Brewin if the IDB have any knowledge of the amount pollution that is flowing into the SLM's, to which he confirmed that they do not, the IDB do not measure flow into the SLM's but that there is a need for a better understanding of this.
- Cllr Alan Bradford, a member of the Parrett Internal Drainage Board gave his own gratitude to the IDBs for all the good work they do.
- In terms of water dredging, is this good or bad for nutrient levels? Mr Brewin advised that much of the sediment from water dredging comes from upstream, and not from the catchments, and is therefore low in phosphorous.
- Mr Brewin was asked for his professional opinion on the Bridgwater tidal barrier in terms of whether it is good or bad for nutrient levels. Mr Brewin responded by stating that the purpose of the barrier is to protect people and stop tidal surges into the River Parrett and that in his opinion this is a good thing.
- One member queried how the IDB's fit in with the riparian responsibilities of landowners, The Environment Agency and the Council as LLFA. Mr Brewin explained that there are set responsibilities and clearly defined roles for all the relevant authorities concerned in water level management and, although the IDB recognises that there is always room for improvement, there is a focus on promoting effective communication between all the agencies concerned.

The Chair, on behalf of the committee, thanked Phil Brewin for his attendance and very interesting and informative presentation.

67 Wessex Water improvements driving phosphate reduction on the Somerset Levels and Moors - Agenda Item 7

The Chair welcomed Matt Wheeldon, Director of Infrastructure Development and Tim Stephens, Catchment Advisor from Wessex Water to give a [presentation](#) to the committee. Mr Wheeldon highlighted an inaccuracy in the agenda title, and advised that the presentation is titled 'Wessex Water improvements driving phosphate level reduction **in the rivers near** the Somerset Levels and Moors'.

Following the presentation Mr Wheeldon invited comments and questions from the committee and there were several discussion points including –

- A member sought clarity that the easy 80% of bio solids that are removed at the wastewater treatment works are sold on as fertiliser.
- A member asked questions around the origin, supply chain and use of coagulants such as ferric sulphate in water treatment works.
- There was a query on Slide 5 Phosphate load discharge permitted limit of 300 tonnes per year, which is set at the technical achievable limit.
- The phosphate load discharge from water processed is plummeting as result of what Wessex Water is doing, from 292 tonnes last year down to 147 tonnes a year later, of phosphate load discharged into the rivers near the Somerset Levels and Moors.

68 The contribution of agricultural pollution to the nutrient problem on the Somerset Levels and Moors - in terms of scale and the known unknowns. - Agenda Item 8

Committee members, along with the representatives from all the flood and water management partners and stakeholders in attendance, in light of the research and analysis that had been shared at the meeting, discussed and debated the contribution of agricultural pollution there was a general consensus that the solutions to the nutrient problem on the SLM's cannot be attributed to agricultural practices (which are regulated by the Environment Agency in the main) alone, and that the solution to the nutrient problem on the SLM's requires a multi-faceted approach from all of the key partners for flood and water management in Somerset.

69 Summing up and next steps - Agenda Item 9

The Chair, on behalf of the committee and Somerset Council thanked all for attending and for the very informative presentations and worthwhile discussions regarding Water Quality in Somerset.

The Chair gave his apologies to Prof Shane Rothwell of Lancaster University who he understood had joined the meeting online and had intended on sharing a progress update for the Phosphorus SFA project under item 8 of the agenda but was unable to do so due to being unable to stay for the duration of the meeting. The Chair asked Democratic Services colleagues to ensure that Prof Paul Withers and Prof Shane Rothwell be invited back to a future meeting to present their information.

The Chair invited final comments from members and there was a proposal that given the information that had been shared at the meeting, the committee should look to make the following recommendations to the Executive.

1. Immediately remove the 20% buffer included in the Somerset phosphate calculator.
2. Conduct a speedy review of the huge inconsistency between what Dr Clegg said, echoed by Wessex Water and what the calculator says with how much of the river borne phosphorus enters the Somerset Levels and Moors, as that calculator is what informs developers as to how much phosphate we are requiring them to offset.
3. Conduct an urgent review of the entire nutrient neutrality policy in light of the legal advice we have received, which makes it clear that headroom exists and that it could be used in the mitigation of new housing development.
4. The Climate and Place committee to set up a Task and Finish Group which will report back to the Committee on a tight timescale to set out the options available to the Council once it is in possession of the correct data.
5. The Council looks to work on a Land Use Strategy as part of a Local Plan.

The committee voted all in favour of the recommendations 1-5.

Mickey Green, the Executive Director for Climate and Place thanked the committee for the recommendations, which would be followed up with the Executive committee, but asked members to remember that the Council does not have any statutory responsibilities to improve water quality on the Somerset Levels and Moors, that the Council is following legal advice around nutrient neutrality, and that he would reflect on whether the Council has any resources available to support a Task and Finish Group at this time.

(The meeting ended at 6.15 pm)

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CHAIR