

Phosphates on the Somerset Levels & Moors

Briefing to Somerset Strategic Planning Committee
21 March 2024

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Purpose of the Report

- Provide the Strategic Planning Committee with an **update on recent work undertaken in relation to nutrient neutrality** in the Somerset Levels & Moors (SL&M) and River Axe SAC.
- Provide the Strategic Planning Committee with an update on **recent Government announcements and changes to legislation** in relation to nutrient neutrality.
- Provide the Strategic Planning Committee with an update on the **Local Nutrient Mitigation Fund** and the Council's award of £9.6m from central government to deliver phosphate mitigation projects in the SL&M.

Update on Progress to Date



Update on Progress to Date

Somerset Phosphate Budget Calculator

- The updated Somerset Phosphate Budget Calculator has been uploaded to the Phosphates Webpage.
- Following agreement from Natural England, the calculator is the single, agreed nutrient calculator for use across Somerset.
- The updated Somerset Phosphate Budget Calculator allows users to see their mitigation requirements now, and post-2030 Wastewater Treatment Work (WwTW) upgrades.

Update on Progress to Date

Stakeholder Engagement

- Officers from the Somerset Area Planning Teams, and Dorset Council continue to have regular monthly meetings with the Environment Agency, Natural England and Wessex Water.
- The next Somerset Developer Forum meeting is scheduled for 27 March 2024.

Update on Progress to Date

Jurston Farm, Wellington Appeal

- National 'test case' in relation to nutrient neutrality as previously reported to this Committee.
- A dismissed planning appeal in August 2022. The High Court dismissed a challenge by CG Fry & Son to the operation of the Habitats Regulations in June 2023.
- A Hearing in the Court of Appeal was held on 19 March 2024 and an outcome is awaited.
- Proceeding recording available at: <https://www.youtube.com/watch?v=oj19GbAaDcc> and <https://www.youtube.com/watch?v=R7ipBZSN7Dk>



Catchment Area Updates



River Axe Catchment

- The lead authority for nutrient neutrality in the River Axe catchment area is East Devon District Council (EDDC).
- Using our collective experience of having made successful bids in Round 1, officers from Somerset and Dorset Council are assisting EDDC in submitting a bid to Round 2 of the Local Nutrient Mitigation Fund.
- The deadline for this is 26 April 2024.

River Brue Catchment

- Approximately 16 planning applications are held in abeyance seeking a phosphate solution in the River Brue catchment area equating to circa 800 dwellings.
- The Council has agreed legal processes for two third-party phosphate credit schemes in the Brue catchment including:
 - **Yew Tree Farm, Walton:** Pig farm closure. Currently, 45.8 P-credits have been allocated releasing 453 dwellings. A second phase of this scheme A second phase of the scheme agreed December 2023. (7.46 P credits). Reservations have been made for schemes in East and South areas totalling 3.13 P-Credits for 51 dwellings.
 - **Manor Farm, Prestleigh:** Farm closure and fallowing of land generating 143 P-credits which is anticipated to unlock approximately 1400 dwellings. A second phase may come forward if all these are allocated.

River Brue Catchment

- Both the calculation of credits and management plans have been agreed with Natural England and secured via a Section 106 (S106) agreement.
- All P-credit sales/allocations are agreed between promoter and applicant. The LPA has no control on prioritising applicants or credit pricing. Agreed allocations are confirmed by a certificate provided to the LPA – this is the case for all third-party credit schemes across the SL&M catchment areas.

River Parrett Catchment

- There are approximately 4,500 dwellings seeking a phosphate solution in the River Parrett catchment area.
- To date:
 - Area South Committee has resolved to approve 765 dwellings with a variety of nutrient neutrality solutions of which 435 had previously been presented to committee for approval prior to August 2020 and required re-determination.
 - In addition, 185 dwellings were approved by former SSDC's Area Committees with nutrient neutrality solutions with S.106 awaiting completion.

River Parrett Catchment

- Details about the background to the EnTrade P-credit scheme were reported to this committee in July 2023.
- EnTrade has now completed 2 markets with the S.106 to release the 2nd market moving towards sealing. A further market round is proposed for Spring 2024.
- There are a further 2 no. third-party P-credit schemes operating in the River Parrett catchment areas (Woodrow Farm and Badger Street) which are generating 273.35 permanent P-credits.

River Tone Catchment

- There are approximately 111 planning applications held in abeyance seeking a phosphate solution equating to circa 2600 dwellings in the River Tone catchment area.
- There is one third-party P-credit scheme currently in operation in the River Tone catchment area (Flyboat Farm) generating 60.15 P-credits.

River Tone Catchment

- Somerset is one of only a handful of Councils across the country to have its own operational nutrient credit scheme. To date:
 - **Round 1:** 9 planning applications are progressing to acquire River Tone P-credits equating to 11 dwellings. 12 applications have received planning permission with River Tone P-credits unlocking 30 dwellings.
 - **Round 2:** there are 6 planning applications progressing to acquire River Tone P-credits equating to 3.6 River Tone P-credits and 28 dwellings. 2 planning applications have received planning permission with Round 2 River Tone P-credits equating to 0.3 P-credits and 5 dwellings.
 - **Round 3:** There has been 3 no. applications for Round 3 P-credits.

Across the SL&M Catchment Area

- Planning applications are also progressing across all catchment areas where applicants have their own phosphate mitigation solutions with common sources of mitigation including septic tank to PTP upgrades and orchard planting.
- Officers continue to liaise with third party credit providers to aim to create further P-credit solutions across the catchment areas.



Legislative Updates

Levelling Up and Regeneration Act

- The Levelling Up and Regeneration Act received Royal Assent on 26 October 2023.
- The LURA contains a **statutory duty on water companies to upgrade Wastewater Treatment Works** (WwTW) in designated 'nutrient sensitive catchment areas' to the 'Technically Achievable Limit' for nutrient removal by 2030. Applies to WWTW's which serve a population equivalent of more than 2,000.
- The **Somerset Levels and Moors was designated as a nutrient sensitive catchment area on 25 January 2024.**

Levelling Up and Regeneration Act

- Once we have confirmation from Defra of the WwTW's that are required to be upgraded to TAL, we will be able to **consider these upgrades to be 'certain' for the purposes for Habitats Regulations Assessment**. These are expected to be published by Defra on 1 April 2024.
- In practical terms, this means that **after 2030**, phosphate neutrality will still be required but **the level of mitigation required is likely to be significantly less** for proposed developments.



Local Nutrient Mitigation Fund (LNMF)

LNMF Overview

- At the end of May 2023, Somerset Council submitted a partnership funding bid to the Government's Nutrient Mitigation Fund.
- In December 2023 confirmation received that Somerset Council has been awarded £9.6m capital funding – need to demonstrate committed spend by 31st March 2025 revolving fund and longer-term use for restoration of SL&Ms.
- Currently received £0.5m. Remainder promised in Q1 of financial year 24/25.
- Opportunities: - Revolving fund and longer-term use in delivery of nature-based solutions for restoration of SL&Ms Stacking benefits – water quality, flood management, Biodiversity Net Gain (BNG).

LNMF Interim Delivery Strategy

- The Committee Report contains an Interim Delivery Strategy for the LNMF.
- This sets out an indicative delivery programme, as well as provisional capital allocations for each of the mitigation projects that Somerset Council is currently looking to progress (see Table 5 and Figure 2 in the Strategy).
- An update on progress will be provided to the Committee within the next 6 months when more information on the delivery of the LNMF is known. Officers have committed to updating the Interim Delivery Strategy within the next 12 months.

LNMF Phosphate Mitigation Programme

Project 1	Salinity Solutions: 6-month trial – secondary effluent treatment process.
Project 2	Call for sites in partnership with the Farming and Wildlife Advisory Group (FWAG).
Project 3	Council housing and property stock and affordable housing partners – water efficiency measures and septic tank/PTP upgrades.
Project 4	Council owned land opportunities for nature-based solutions.
Project 5	Miscanthus Grass: Subject to an initial trial.
Project 6	New technical innovations.

Recommendations

That the Strategic Planning Committee notes:

- a. The content of this report and the activity across the three affected river catchments that feed into the Somerset Levels and Moors (Tone, Parrett, and Brue) which continues to unlock the delivery of housing and affected development to ensure nutrient neutrality. .
- b. The recent legislative changes introduced by the Levelling Up and Regeneration Act 2023 (as summarised in paragraphs 37 to 39 of the Committee Report).

Recommendations

That the Strategic Planning Committee agrees:

- c. to delegate authority to the Head of Planning / Chief Planning Officer in consultation with the Chair of the Strategic Planning Committee to:
 - i. oversee the delivery of the interim delivery strategy including approving any documents (e.g. Section 106 agreements) needed to support implementation of the Interim Delivery Strategy, (enclosed as Appendix A to the Committee Report).
 - ii. spend up to £9.6m from the Local Nutrient Mitigation Capital Funding to deliver nutrient mitigation schemes in line with grant conditions and promised outstanding government funding in financial year 2024/25.
 - iii. commit to the spend of the Local Nutrient Mitigation Fund on the delivery of nutrient mitigation with the provisional indicative programme of spend as detailed in Table 4 of the Interim Delivery Strategy.

Table 4 Interim Delivery Programme and Provisional Capital Allocation

Proposed Project	Estimated Timeframe	Provisional Allocation (£)
Project One: Salinity Solutions	Pilot: Q4 2023/24	£2,000,000
	Roll out: From Q2 2024/25 ¹⁸	
Project Two: Call for sites for Land/Nature Based Solutions	First call for sites: Q1 2024/25	£3,500,000
	Delivery of projects not expected until Q3 or Q4 2024/2025	
Project Three: Working with Registered Social Housing Providers and our Council Property Stock	Rolling programme from Q1 2024/25	£1,000,000
Project Four: Opportunities for nature-based solutions on Council-owned land/assets	Feasibility work: Q4 2023/24 and Q1 2024/25	£2,000,000
	Delivery of projects not expected until Q3 or Q4 2024/2025	
Project Five: Miscanthus Grass	Pilot: Q1 2023/24 Roll out: From Q2 2024/25 ¹⁹	£620,000
Project Six: New technical innovations	TBC	£480,000
Total Capital Cost:		£9,600,000

Thank You and Questions



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