

17 March 2025

Phosphate progress report and Local Nutrient Mitigation Fund update

Executive Member: Lead Member for Economic Development, Planning and Assets,
Councillor Mike Rigby

Local Members and Divisions: All within the affected river catchment areas of the
Tone, Parrett, and Brue

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Summary / Background

1. On 17 August 2020, all the planning authorities in Somerset Council and Dorset Council received an advice note from Natural England (NE) concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar site (SL&M). As a result since then, a large proportion of new development (particularly housing development) in the impacted area, needs to demonstrate nutrient neutrality.
2. Members will recall that the Council has been awarded capital funding of £9.6m via the Local Nutrient Mitigation Fund (LNMF), to increase the supply of phosphate mitigation projects to unlock impacted developments.
3. The first part of this report updates the Strategic Planning Committee on recent work undertaken across the Authority area, to achieve nutrient neutral development whilst also supporting housing growth. The second part of the report updates Members on recent Government announcements.
4. The third part of this report considers matters relating to the LNMF. The conditions of the grant are that it must be replenished to deliver more phosphate mitigation projects in the catchment and continue to help support, where possible, the delivery of development in the affected river catchments (i.e. The Tone, Parrett, and Brue). This funding will help pump-prime nutrient neutrality interventions within the river catchment area of the SL&M Ramsar site and ultimately secure the release of homes in Somerset and Dorset (within the environs of Sherborne), which are held up by the phosphates issue. Members are asked to agree the revised delivery strategy, enclosed as Appendix 1.

5. Over the period from 2020 to 2032 we expect 18,000 homes to be built (based on existing local plans) which will need to demonstrate nutrient neutrality. Of these 6,400 have a phosphates mitigation solution in place (i.e. nutrient neutrality is not an impediment to development), 6,300 are awaiting a phosphate solution (actions being taken by the Council to help create more and cheaper solutions aim to help support these through to development) and 5,300 are not yet impacted as no planning application has been submitted. This is set out in Appendix 2. The increasing supply of nutrient credits from range of sources means that we expect that the price of P Credits in Somerset will continue to fall. Furthermore, each P Credit in Somerset will unlock more homes through agreed “stretch targets” and Technical Achievable Limits (TAL) at Waste Water Treatment Works post 2030. It is other factors such as development viability and the impact of inflation which are leading to a continued decline in housing supply nationally.
6. The introduction of a new standard methodology by central government takes the housing requirement for Somerset up from 2,669 to 3,769 homes per year – a 41% increase and means the Council will need to identify sites for approximately 57,000 new homes in the Somerset Local Plan. Through the Planning Advisory Service (PAS) Somerset is one a several Councils working with Natural England to develop a more robust method for modelling future nutrient requirements. When completed, this work is anticipated to update the initial assessments made by the Council in September 24.

Recommendations

7. 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 to ensure development achieves nutrient neutrality.
 - b. The spend to date in 2024/25 from the Local Nutrient Mitigation Capital Funding to deliver nutrient mitigation schemes in line with grant conditions.
 - c. The commitment of spend of the Local Nutrient Mitigation Fund, as detailed in the Financial and Risk section of this report.
 - d. In order to demonstrate progress on phosphate related matters a further up-date report to be provided to this Committee in September 2025

That the Strategic Planning Committee agrees:

- e. To delegate authority to the Head of Planning / Chief Planning Officer in consultation with the Chair of the Strategic Planning Committee to:
 - i) Agree minor amendments to the contents of the revised delivery strategy, enclosed as Appendix 1.

- ii) Oversee the delivery including approving any documents (e.g. Section 106 agreements) needed to support implementation of the revised delivery strategy, enclosed as Appendix 1.
- iii) Removal of the covenant between the owner of the site and the Council for planning applications using River Tone P-Credits to commence development within a 3-month period. Removal of the 3-month commencement period is to apply to existing and completed S106 Agreements. The 3-month commencement period is no longer necessary given the establishment of 3rd party credit schemes in Somerset.

Background to Report

- 8. As Members of this Committee are aware, the Council as Local Planning Authority is required under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to ensure that any adverse impacts arising from development (either alone or in combination with other plans or projects) can be mitigated to avoid harm to internationally important nature conservation sites, which are protected by law. For the SL&M Ramsar site, as a designated site, this requirement applies at all stages of both plan-making and decision-taking on planning applications.
- 9. The Strategic Planning Committee considered an update report on the 16 September 2024. The Committee noted the work being undertaken to unlock the delivery of homes across three affected river catchments (i.e. River Tone, Parrett, and Brue) and the unfavourable condition of the River Axe Special Area of Conservation (SAC), which affects the environs of the Blackdown Hills and Chard. The Committee also noted the spend to date from the Local Nutrient Mitigation Capital Funding to deliver nutrient mitigation schemes in line with grant conditions and that a further update report would be provided to this Committee in March 2025 (Draft Minutes of the meeting available at: [Agenda for Strategic Planning Committee on Monday, 16th September, 2024, 10.00 am - Modern Council](#)).

Update on Progress to Date

Across Somerset:

Progress on updating the Phosphate Budget Calculator

- 10. The Somerset Budget Calculator (V3) was last updated in November 2024. <https://www.somerset.gov.uk/planning-buildings-and-land/phosphate-budget-calculator/> Following the launch of V3 a small number of minor technical issues were resolved. Unfortunately, Natural England's approval of using a lower household size of 2.03 was not obtained. Accordingly, the updated version (V3) continues to use a figure of 2.29, which is still lower than the national figure of 2.4 persons per household.

Regular Meetings with Key Stakeholders

11. Officers from the area planning teams, and Dorset Council, continue to have regular monthly meetings with the Environment Agency (EA), NE, and Wessex Water officials. As part of this work, the Council is lobbying Government to deliver funding to support the evidence base required to understand the measures required to bring the Somerset Levels and Moors back into a favourable condition. Following the announcement of their successful Round 2 Local Nutrient Mitigation Fund bid (see paragraphs 23 to 25 below), officers from East Devon District Council have attended these meetings to provide updates on the activities associated with the River Axe Special Area of Conservation (SAC).
12. Agents / developer forum meeting have been held on the 3 October 2024 and the 17 January 2025. The next meeting is being scheduled for April 2025. Audio recordings of Developer Forum meetings are circulated to all those invited, as well as being uploaded onto the Somerset Council YouTube page, see the [Phosphates Webpage](#).

Legal Challenge to Nutrient Neutrality: Jurston Farm, Wellington

13. Details on the background to this case were last reported to this committee in September 2024 (See paragraphs 12 to 14 of the Committee Report available [here](#)).
14. In December 2024, the Supreme Court agreed to hear the latest appeal in the CG Fry / Jurston Farm, Wellington case. The appellants have been granted leave to challenge the current view that an appropriate assessment is required under the habitat regulations at condition discharge and reserved matters stage.
15. Somerset Council are an interested party and will be represented at the hearings. There is also another potential intervener in these proceedings involving a coalition of environment and wildlife organisations. The timescale for the hearing is the 17 and 18 February 2025. We await the judgment which will probably take a few months.
16. At the time of drafting this report, we wait to hear whether the appeal has been successful. If the appeal is granted, it will result in some housing developments being able to proceed where the relevant planning consent has been obtained but is currently stalled due to nutrient neutrality. The case will also have wider legal implications around the Habitats Regulations.

Third Party Phosphate Credit (P-credit) Schemes

17. Where applicants have their own phosphate mitigation solution, planning applications are progressing across all three river catchment areas. In addition, Officers continue to liaise with third party phosphate credit providers to create further P-credit solutions, details of which can be found on the Council's website [here](#).

18. The Council is also aware of several strategic residential development sites where developers are working to progress their own phosphate mitigation solutions, to facilitate their development. For example, Pyrland Farm (aka Lyngford Lane), Taunton went to Planning Committee in February 2025 with a phosphate solution and a resolution to approve. ([38-19-0129 Report.pdf](#))

Development Management: Use of pre-commencement condition(s)

19. As a result of the progress that has been made and the ability to source P-Credits from a range of providers, Officers propose to move to a pre-commencement condition on approved planning applications whereby phosphate mitigation will not be required when determining the planning application but prior to the commencement of development. This will assist developer cashflow issues and reduce potential delays associated with drafting Section 106 Agreements. In accordance with the Council's Constitution, the Head of Planning/Chief Planning Officer, will introduce the implementation of pre-commencement condition(s) as soon as the Council is satisfied that there is sufficient mitigation/credits available in the catchment area.

River catchment area updates

20. A small part of Area North (former Sedgemoor DC area) is subject to nutrient neutrality advice with parts of the area falling within the Brue, Parrett, and Tone river catchments. Notwithstanding this, given that only a small part of the area is affected, the need for phosphate neutrality is not having such wide-ranging impacts on the delivery of new development in Area North, compared with the other planning areas across Somerset Council, and as such a detailed update is not provided in this report.
21. Based upon the Council records, information on the number of homes within the other planning areas that have approved nutrient neutrality measures in place, is enclosed as Appendix 2.

River Axe (Devon/ Somerset)

22. As previously reported, a small geographical area of Somerset falls within this river catchment area, as does a small part of Dorset. For the River Axe, the lead authority is East Devon District Council (EDDC).
23. In late October 2024, EDDC were notified by central government that their Round 2 LNMF bid was successful. EEDC were awarded £4.09m (For details see Gov.UK website at <https://www.gov.uk/government/publications/local-nutrient-mitigation-fund-round-2-funding-allocations/local-nutrient-mitigation-fund-round-2-funding-allocations>)

24. The successful bid contained both permanent and temporary mitigation solutions, details of which are contained within their Cabinet Report of the 27 November 2024 (available at: <https://democracy.eastdevon.gov.uk/documents/s25549/River%20Axe%20SAC%20Local%20Nutrient%20Mitigation%20Fund.pdf>)
25. Details of the governance arrangements went to their Cabinet on the 5 March 2025([River Axe LNMF governance.pdf](#))

River Brue

26. This catchment covers the western half of Somerset East and parts of Somerset South area with 4 out of 5 of the main towns impacted in the Somerset East area.
27. There are 6 applications (over 5 dwellings) equating to 715 units which do not have a proposed phosphate solution. This includes the Cannards Grave allocated site in Shepton Mallet (620 dwellings) where a revised application is under consideration.
28. The Council have signed off four third party P-Credit schemes in the Brue catchment:
 - a. Yew Tree Farm, Walton. A scheme involving the closure of a pig farm generating 48 P-credits. All allocated with schemes releasing 454 dwellings.
 - b. A second phase of the Yew Tree scheme agreed December 2023. (7.46 P Credits with 7.04 allocated or reserved releasing 23 P Credits have been allocated or reserved totalling 256 dwellings.
 - c. Hillcrest Farm providing 13.8 P-Credits (13.13 P Credits available).
 - d. Manor Farm, Prestleigh (farm closure/fallowing of land – agreed May 2023) generating 143 P-credits which is anticipated will unlock approximately 1400 dwellings. 23.77 P-Credits are reserved or allocated equating to 264 dwellings.
 - e. In addition to agreed schemes the Somerset-wide WCI septic tank upgrades will provide 3.29 credits in this catchment.
29. With regard to 3rd Party P-Credits, management plans are agreed with NE and secured via a S106 Agreement. However, all P-Credit sales/allocations are agreed between promoter and applicant. The LPA does not control the prioritisation for applicants or credit pricing. Agreed allocations are confirmed by a certificate provided to the LPA.
30. A number of applications have also been agreed to date with their own mitigation solutions (woodlands, PTP upgrades, partial fallowing).

River Parrett

31. The majority of Area South is impacted by nutrient neutrality predominantly in relation to the River Parrett catchment area, but with areas south and west of Chard impacted by the River Axe SAC catchment area.

32. The number of applications impacted by the issue remains constant as applications that have secured permission with phosphate solutions are replaced by new proposals for development. The headline figure of schemes awaiting solutions is circa 3,000 dwellings the subject of live planning applications comprising a total of 250 applications with a further 1,000 dwellings benefiting from resolutions to approve permission with a phosphate solution awaiting a S.106 Agreement. As dwellings are released however new proposals are coming forward reflecting the more positive environment in relation to solution availability.
33. Across Area South there has been an increase in the number of providers of land use change credit proposals, with a mix of approved solutions, as well as land use change schemes currently being progressed to S.106 Agreement.
34. Additionally, the former SSDC Stock Transfer Registered Provider, Abri is rolling out a programme of retro-fitting retained stock to enable it to acquire sites to deliver 100% affordable dwellings.
35. En Trade have completed 2 markets within the terms of its agreement with the council allowing for a series of markets over a 5 year period.
[Somerset Catchment Market](#)

River Tone

36. This catchment falls largely within the Somerset West area with the towns of Taunton and Wellington and its environs impacted.
37. At the time of drafting this report, approximately 111 planning applications have been submitted which will require a phosphate solution – this includes applications for which a phosphate solution has been agreed but are awaiting S106s to be drafted, or for other planning matters to be resolved. This includes circa 29 applications for major development, circa 3 applications for the discharge of conditions and 2 applications for the approval of reserved matters. Overall, this equates to circa 5233 dwellings.
38. Progress on the scheme is set out below:
 - In Round 1: 3 planning applications are progressing to acquire River Tone P-Credits equating to 4 dwellings. 13 planning applications have received planning permission (i.e. signing and completion of a Section 106 (S106) Agreement) with River Tone P-credits unlocking 26 dwellings.
 - In Round 2: there are 2 planning applications progressing to acquire River Tone P-Credits equating 20 dwellings. 6 planning applications have received planning permission with Round 2 River Tone P-Credits equating to 12 dwellings.
 - At the time of writing there have been 4 no. applications for Round 3 P-Credits equating 5 dwellings, with one of these applications having been consented.

39. In addition to the Somerset Council River Tone P-credit scheme, there are 3 no. third party P-Credit schemes (known as Burrow Environmental, Flyboat Farm and WCI) currently operating in the River Tone catchment area. These schemes provide mitigation through land use change and septic tank/Package Treatment Plant (PTP) upgrades.
40. As of 31 December 2024, the number of third-party P-credits available totals were as follows:
- Burrow Environmental: 0.81
 - Flyboat Farm: 56.81
 - WCI: 28.09
41. As noted above, planning applications have also progressed in the River Tone catchment area where the applicant has proposed their own phosphate mitigation solution (e.g. For example, Pyrland Farm which went to Area West Planning Committee in February 2025 with a phosphate solution and a resolution to approve. ([38-19-0129 Report.pdf](#))). Also following agreement at Comeytrowe.
42. Across the River Tone catchment area there has also been an increase in the number of planning applications seeking their own phosphate mitigation solutions through accepted mitigation measures e.g. septic tank to PTP upgrades.
43. In total, c. 97 applications for dwellings with phosphate mitigation have received planning consent since August 2020, equating to approximately 953 homes. Compared to figures provided reported to this committee in September 2024, this is an increase of c. 37 applications involving c.408 homes.

River Tone P-Credits removal of 3-month commencement period

44. With the increased uptake of third-party P credit schemes, Officers have been in discussion with our legal colleagues on moving to a position where the Council removes the 3-month commencement period limit on River Tone P Credits.
45. Currently standing advice is that “there is a 3-month commencement limit. However, should you require additional time to commence you can submit an extension request providing justification towards the end of 3-month period and we can issue an extension for an additional 3 months only on a case-by-case basis.”
46. If **recommendation e iii)** is agreed, officers would undertake an exercise of updating those applicants affected which are currently progressing their applications using River Tone P-Credits. The consequence would be that, once River Tone P-Credits are reserved through a S106 Agreement, the applicant would then have up to 3 years to commence the development in the usual way.

Other Matters: The Planning and Infrastructure Bill

47. The government's forthcoming Planning and Infrastructure Bill which is due to be introduced to Parliament in March 2025 aims to accelerate the delivery of infrastructure and housing projects in the UK. The key purposes of the Bill are:
- **Boosting Economic Growth:** The Bill is designed to streamline the planning process and speed up approvals for major infrastructure projects and housing developments.
 - **Increasing Housing Supply:** It aims to facilitate the construction of 1.5 million new homes over the next five years, particularly near commuter transport hubs.
 - **Environmental Improvements:** measures to support environmental outcomes, such as the creation of a Nature Restoration Fund, allowing developers to contribute to environmental improvements more efficiently.
 - **Job Creation:** By accelerating infrastructure projects, the bill is expected to create secure, high-paying jobs and bolster public services.
48. These reforms are part of the government's broader strategy to promote economic growth and improve living standards across the country.

Other Matters: Government Planning Reform Working Paper: Development and Nature Recovery.

49. The government has announced plans to establish a Nature Restoration Fund intended to enable developers to meet their environmental obligations and deliver on the government's goal to deliver 1.5 million homes in England during this Parliament. Under the reforms proposed by the government in a document entitled [Planning Reform Working Paper: Development and Nature Recovery](#), developers will be able to pay into a Nature Restoration Fund so the building can proceed immediately. The government proposes that a delivery body, such as Natural England, would take responsibility for securing positive environmental outcomes. Through the production of "delivery plans" which could be prepared in parallel with the legislative process for the Planning and Infrastructure Bill, this could be delivering a reduction in nutrient pollution affecting the water environment or securing habitats to increase the population of a protected species.
50. The Working Paper also states that nature must be rebuilt at the same time as building sustainable homes, clean power, and other infrastructure. Streamlining development processes and the discharging of environmental obligations can unlock economic benefits, "which in turn can help fund tangible and targeted action for nature's recovery."
51. An Officer response to the government has been prepared (enclosed as Appendix 3). Whilst supportive of a more strategic and streamlined approach in delivery, on the information currently available, Officers have various reservations around the proposed Delivery Plans. For example, on what basis will the Secretary of State decide on which issues a Delivery Plan needs to

address and consistently decide on which types, scales and locations of development should be subject to payments into the Nature Restoration Fund?

New housing figures for Somerset: The introduction of the government's new standard methodology

52. The government's new standard methodology for housing is designed to provide a consistent and transparent approach to identifying the housing requirement. The new standard methodology is based on current housing stock and affordability ratio with mandatory targets. The methodology provides an unconstrained assessment of housing need, meaning it does not take into account land availability, environmental constraints, or other factors that might limit development. Further details about the methodology are available on the Gov.UK website at: <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>
53. The introduction of a new standard methodology takes the housing requirement for Somerset up from 2,669 to 3,769 homes per year – a 41% increase and means the Council will need to identify sites for approximately 57,000 new homes in the Somerset Local Plan.
54. As a result of the increased housing requirement for Somerset, the Council is not able to demonstrate a five year housing land supply, with the exception of Area North (former Sedgemoor area).
55. Until such time as the law is changed (see paragraphs 49 to 51 above), the new standard methodology for identifying the housing requirement will contribute to an increased demand for P Credits in Somerset. This is primarily due to the need for developments to achieve nutrient neutrality. Without an increase in supply, increased demand for P Credits may also lead to an increase in the price of such P Credits.

Other Matters: Nutrient Network – Evidence Benchmark Pilot (January 25)

56. Somerset Council is one of several Local Planning Authorities that is participating in this pilot which is being coordinated via the Planning Advisory Service (PAS). The purpose of this pilot is to support the delivery of the Local Nutrient Mitigation Fund, wider plan-making and help reduce resource burden for Councils. These matters can also inform early stage thinking of how environmental mitigation might be required by the Planning and Infrastructure Bill (see paragraph 47 and 48 above). It is envisaged that work associated with this pilot will also assist in providing more robust and consistent demand forecast modelling associated with the housing coming forward, in each sub-catchment area and its predicted nutrient burden, which is being developed by Natural England.
57. In light of the anticipated outputs from this pilot the annual requirement for P Credits for each of the 3 affected river catchment areas, as reported to this Committee in September 24 have not been updated.

Other Matters: Ofwat final determination (December 2024)

58. The Ofwat final determination for the 2024 price review was announced in December 2024. It outlines significant investments and improvements in the water sector over the next five years. The review supports a record £104 billion in spending by water companies from 2025 to 2030. This investment aims to transform the sector, ensuring better outcomes for customers and the environment. The determinations include 3,000 storm overflow projects to reduce spills by 45% from 2021 levels and upgrades to over 1,700 wastewater treatment works. It is stated that these measures will help reduce pollution and improve or protect over 15,000 km of rivers across England and Wales. A summary is available at:

<https://www.ofwat.gov.uk/wp-content/uploads/2024/12/PR24-FD-sector-summary.pdf>

59. Across Somerset water supply and sewerage are predominantly provided by Wessex Water. With regard to Investment in Environmental Improvements: Wessex Water is expected to embark on a substantial £820 million programme to reduce nutrient pollution in water bodies. This includes projects aimed at improving water quality and protecting local ecosystems. The risk(s) associated of non-implementation lie with Wessex Water. Further details are available in the final determinations for the 2024 price review by Ofwat for Wessex Water at:

<https://www.ofwat.gov.uk/wp-content/uploads/2024/12/Overview-of-Wessex-Waters-PR24-final-determination.pdf>

Government Nutrient Mitigation Fund

The Successful Bid: update

60. Members will recall that, at the end of February 2024, the Council received £0.5m, with the remaining balance of £9.1m from central Government being received at the beginning of May 2024. As part of the conditions of the grant funding the Council is required to demonstrate the proposals to spend the grant funding before the end of March 2025.

The Council's Delivery Strategy

61. The Interim Delivery Strategy (IDS) outlining how Somerset Council is proposing to use the grant funding awarded across the Somerset Levels and Moors catchment area was considered and agreed by this [Committee in March 2024](#). This delivery strategy document has been reviewed and updated. Members are asked to agree the revised delivery strategy, enclosed as Appendix 1. (see recommendation (e) (i)). With regard to matters relating to spend commitment on

projects these are considered within the Financial and Risk section of this report (please see paragraphs 73 to 79 below).

62. The delivery strategy is intended to provide a high-level project plan setting out key interventions that the Council has identified to deliver, both temporary and permanent, nutrient neutrality solutions. through several projects.

Project One: Temporary/Bridging Credits

- Temporary/Bridging Credit Solution
- Miscanthus Grass (Temporary/Bridging Credit Solution – formerly project five)
- New Technical Innovations (formerly project six)

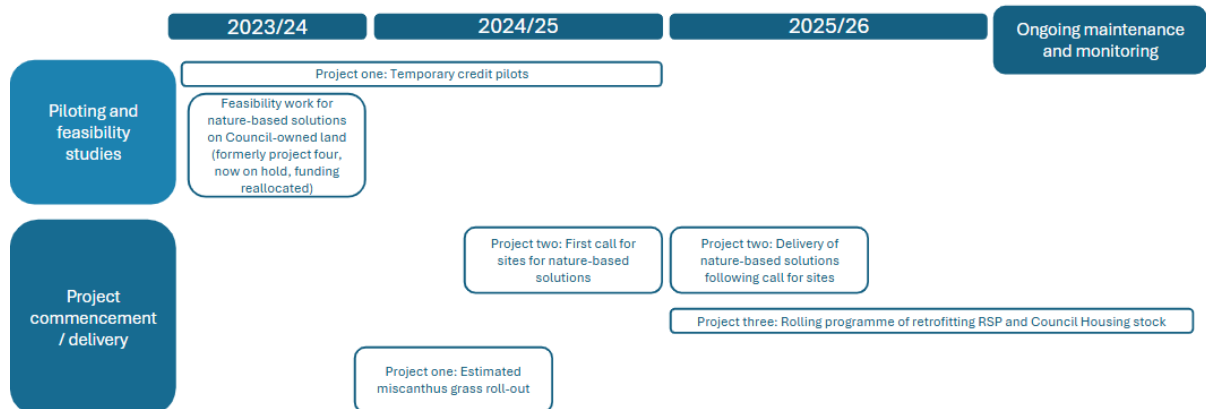
Project Two:

- Call for sites for land-based phosphate mitigation measures

Project Three:

- Working with Registered Social Housing Providers and our Council Housing and Property Stock to release P-credits to support the delivery of affordable housing (In Perpetuity Mitigation Solutions)

63. Figure 2 below presents the key milestones associated with each programme.



64. The programme is based on best available information at the time of writing. It is proposed that this document will be updated within the next 12 months once further information on the projects, and notably their costs are known. In addition to this up date, officers will provide an update report on progress to the Strategic Planning Committee in 6 months' time.

65. In terms of an update on the delivery against the key projects:

- **Project One:**

The Salinity Solutions trial testing ultrafiltration (UF) as a pre-treatment step has been completed and was a success. It significantly improved membrane performance. A summary report on this trial is enclosed as Appendix 4. Based upon the anticipated costs to scale up (capital and operational), Officers are not

proposing to progress the trial to the next stage. Salinity Solutions temporary P credit prices are not cost effective for Somerset given the work that the Council have done to reduce P credit prices in the SLM catchment. However, the Salinity Solutions technology may be cost effective for areas impacted by both phosphates and nitrates and where credit prices are higher. Officers will progress these matters via the Planning Advisory Service (PAS).

Other methods of creating temporary P Credits in Somerset are more cost effective (e.g. fallowing land). Furthermore, the planting miscanthus grass as a cover crop on fallowed land is anticipated to lead to further reductions in the cost of a temporary P Credit in Somerset.

Miscanthus Grass (Temporary/Bridging Credit Solution – formerly project five)

The details of this were reported to this committee in September 2024. The trialling of miscanthus grass on Council owned land that is currently fallowed is planned to commence in Spring 2025 to align with the planting season.

New Technical Innovations (formerly project six)

The Housing Revenue Account is still investigating the use of water efficiency measures to achieve phosphate reductions. This method involves fitting flow control devices to existing HRA homes when they become vacant.

The Housing Revenue Account have made investigations and can see that the use of water efficiency measures is a cost effective and relatively simple and low risk method to achieve phosphate savings. However, this project hasn't progressed further because the current focus has been on work to replace HRA sewage treatment tanks. (See Project 3 section below for further details).

- **Project Two:**

Call for sites for Land/Nature Based Solutions.

The details of the were reported to this committee in September 2024 (<https://democracy.somerset.gov.uk/documents/s36576/Phosphate%20progress%20report%20and%20Local%20Nutrient%20Mitigation%20Fund%20update.pdf>)

The Council have now entered into the new S39 Agreement for Flyboat Yard. Also, that legal work has commenced on the Legal Agreements necessary to secure Phosphate Mitigation utilising NMF monies on the following parcels of land identified in the 'call for sites':

- Trinity and Eastcombe Farms
- Woodrow Farm
- Barrington Hill

Site location plans for each of these parcels of land are enclosed as Appendix 6. The aim is to complete these Agreements by the end of March. 2025.

- **Project Three:**

Working with Registered Social Housing Providers and our Council Housing and Property Stock to release P-credits to support the delivery of affordable housing

The proposed transfer of funding to the Housing Revenue Account was reported to this committee in September 2024. Members will recall that funds were transferred to enable the rollout of a programme of work that replaces septic tanks in council owned properties.

Good progress has been made. A programme manager has been appointed to implement a series of schemes, and a tender pack has been issued.

Conclusion

66. Until such time as the SL&M's Ramsar site returns to a favourable condition, planning decisions will need to ensure affected developments are nutrient neutral.
67. Through the Nutrient Mitigation Fund, the Council is committed to enabling a delivery programme to create P-Credits in all three river catchment areas. As set out in this report, a range of nature-based projects are also being progressed.
68. As set out in paragraph 75 to 76 below, the projects are being progressed in accordance with Council's governance and procurement processes. In accordance with funding allocations made by Executive Committee on the 4 November 2024, ([LNMF Report.pdf](#)) there have been adjustments to some of the budgets associated with these work streams.
69. Developers still have the option to find bespoke mitigation projects or to purchase P-Credits from third party providers. By facilitating the private/third-party market of mitigation solutions helps to increase supply and reduces the cost of P-Credits.
70. It is worth noting that between 2020 and 2032, we anticipate the construction of 18,000 homes, as outlined in existing local plans, all of which must demonstrate nutrient neutrality. Of these, 6,400 have a phosphate mitigation solution in place, meaning nutrient neutrality is not a barrier to development. 6,300 are awaiting a phosphate solution, with the Council actively working to create more and cost-effective solutions to support these developments, and 5,300 are not yet impacted as no planning application has been submitted. This information is detailed in Appendix 2. The increasing availability of nutrient credits from various sources is also expected to drive down the price of P Credits in Somerset. Additionally, each P Credit in Somerset will facilitate the development of more homes through agreed "stretch targets" and Technical Achievable Limits (TAL) at WWTW's post-2030. Other factors such as development viability and the impact of inflation are contributing to a continued decline in national housing supply.

Links to Council Plan

71. The Council Plan 2023 to 2027 sets out the Key Priorities of the Council and is available on the Council website at: <https://www.somerset.gov.uk/council-and-democracy/somerset-council-council-plan-2023-2027/>.
72. This report has links to various corporate priorities including:
- Greener, More Sustainable Somerset.
 - A Flourishing and Resilient Somerset.

Financial and Risk Implications

73. As previously advised, the Local Nutrient Mitigation fund has been added to the capital programme and the Interim Delivery Strategy has been recorded on the Council Corporate risk register / risk management software where risks are regularly monitored, reviewed, and mitigated against.

Current Risk Score:

Likelihood	4	Impact	5	Risk Score	20
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Projected risk score if recommended actions are agreed and delivered:

Likelihood	n/a	Impact	n/a	Risk Score	na/
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74. As final cost(s) become known, Members will recall that Officers advised on the need to adjust some of the budgets associated with the work streams and that these changes were governed by processes associated with Executive.
75. Accordingly, Executive Committee on the 4 November 2024, considered and approved revised budgets associated with the various work streams. These have been reproduced and are enclosed as Appendix 5. Furthermore, in line with governance procedures, Officers have continued to produce the necessary decision papers (Key and Officer Non Key) to record formal approval of fund allocations to projects.
76. This Committee will recall that the £9.6m Local Nutrient Mitigation capital funding is to be “committed” by the end of this financial year (ie 2024/25). MHCLG have advised that this matter is being monitoring through the usual quarterly returns. MHCLG have not raised any matters of concern on spend to date. The next returns are anticipated to be in April 25.
77. As previously advised, in line with Council financial procedures, where possible, staff resources and costs to deliver the projects will be capitalised. The aim is to fully recover these costs by income generated by the sale of P-Credits to developers and then recycling this money into further nature-based solutions in line with the terms of the LNMF.

78. The detailed arrangements for the disposal and allocation of P-Credits have yet to be finalised. Members are already aware that there is a Council-led scheme covering the River Tone. It is a “not for profit” scheme. The aim is to still use this experience through a “not for profit” scheme, where the sale of P-Credits allows the council to recover the funding to invest the income generated into land use mitigation projects, across the affected river catchment areas, which in turn increases the supply of options.
79. Without the required level of certainty that mitigation projects can be found and funded, the Council, as the Local Planning Authority, will not be able to continue to approve planning applications and other consents, nor move forward with the Somerset Local Plan.

Legal Implications

80. The legal and policy background to the ‘phosphates issue’ have been set out in the body of previous reports and presentations to Members. A legal update on the forthcoming Infrastructure Bill is enclosed within this report (see paragraphs 47 to 48 above).
81. The enclosed report also provides an update on Jurston Farm, Wellington is also given (see paragraphs 13 to 16 above). The Council await the Supreme Court’s decision that Regulation 63 of The Conservation of Habitats and Species Regulations 2017 applies to the determination of reserved matters approvals and discharging planning conditions, even if the condition does not relate to drainage matters.
82. As set out in the “Call for sites” update (see above) the Council have entered into the new S39 Agreement for Flyboat Yard. Also, that legal work has commenced on the Legal Agreements necessary to secure Phosphate Mitigation utilising NMF monies on several parcels of land.

HR Implications

83. None related directly to the information parts of this report. With regard to the Council having been awarded revenue funding to set up the capital programme, as previously advised, this will be used to cover some staff resources on an interim basis with the aim that it is fully covered by charges associated with the council-led P-credit scheme.

Other Implications:

84. Procurement has and will be undertaken in line with corporate procedures. For example, as reported in March 2024, there is a signed waiver in place for procuring Salinity Solutions to trial their new technology. If the technology had proven to be a cost-effective method in Somerset, the waiver covered the roll out of the technology. (For further details see paragraph 65 above).

Equalities Implications

85. The Public Sector Equality Duty has the following aims which the authority must have due regard to:
- a. Eliminate discrimination, harassment, victimisation.
 - b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - c. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
86. None of the above relate directly to this report.

Community Safety Implications

87. This can include:
- Possible impact upon local crime rates.
 - Likely impact upon reoffending rates.
 - Ability for services to help prevent crime and disorder.
 - Overall impact upon quality of life and wellbeing.
 - Increase or reduce fear of crime.
 - Impact on social isolation or exclusion.
88. None of the above relate directly to this report.

Climate Change and Sustainability Implications

89. Somerset Council has declared both a Climate and Ecological Emergency. Through that, the Council has committed to working towards making the whole county, including our own estate and operations, 'Carbon Neutral' by 2030 and to take positive action to reverse the damage on our natural habitats by man-made activity. We have also pledged to ensure that Somerset is resilient to, and prepared for, the effects of Climate Change.
90. The climate and sustainability implications of development proposals is a material planning consideration which will be assessed for each planning application which applies for P-credits.
91. As explained within the report, in light of NE's letter of August 2020, concerning the unacceptable levels of phosphates present in the SL&M Ramsar site, nutrient neutral development does not make the situation any worse, but neither does it help to improve the situation.
92. As set out in paragraphs 49 to 51 above, the government have announced their intention to reform the approach on how housing and infrastructure development that can meet their environmental obligations. The governments working paper, sets out a new approach for dealing with nutrient pollution issues, currently impacting on housing delivery, with strategic scale mitigation and a tariff approach. Furthermore, the intention is that Environmental Outcome Reports will

replace the existing system of Sustainability Appraisals (SA), Strategic Environmental Assessments (SEA) and Environmental Impact Assessments (EIA) and make the process simpler.

93. With regard to the delivery of mitigation measures associated with the LNMF, until such time as the law and associated regulations are changed, the income generated from the sale of P-credits will be reinvested into land/nature-based solutions, land secured for phosphate strategic mitigation may also be used to meet other local and central government objectives unrelated to phosphates e.g. securing biodiversity net gain (BNG), natural flood, management, carbon sequestration or public open space to avoid recreational pressures on other wildlife areas.

Health and Safety Implications

94. None related to this report.

Health and Wellbeing Implications

95. None related to this report.

Social Value

96. None related to this report.

Asset Management Implications

97. None related to this report.

Data Protection Implications

98. None related to this report.

Background Papers and web links

Natural England Advice to LPAs on Nutrients in the Somerset Levels and Moors (17 Aug 2020): PDF of letter available at:

<https://somersetcc.sharepoint.com/sites/SCCPublic/Planning%20and%20Land/Forms/AllItems.aspx?id=%2Fsites%2FSCCPublic%2FPlanning%20and%20Land%2FSW%26T%20Natural%20England%20Advice%20to%20LPAs%20on%20Nutrients%20in%20the%20Somerset%20Levels%20and%20Moors%20%2817%20Aug%202020%29%2Epdf&parent=%2Fsites%2FSCCPublic%2FPlanning%20and%20Land&p=true&ga=1>

Somerset Levels and Moors: Background to phosphates

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/>

River Axe Special Area of Conservation

<https://www.somerset.gov.uk/planning-buildings-and-land/river-axe-special-area-of-conservation/>

Somerset Phosphate Budget calculator

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphate-budget-calculator/>

Somerset Strategic Planning Committee: March 2024 Progress Report: Phosphates:

<https://democracy.somerset.gov.uk/documents/g2530/Public%20reports%20pack%2021st-Mar-2024%2010.00%20Strategic%20Planning%20Committee.pdf?T=10>

Somerset Strategic Planning Committee: September 2024 Progress Report: Phosphates:

<https://democracy.somerset.gov.uk/documents/s36576/Phosphate%20progress%20report%20and%20Local%20Nutrient%20Mitigation%20Fund%20update.pdf>

Executive Committee: November 2024

[LNMF Report.pdf](#)

Pyrland Farm (aka Lyngford Lane) Report to Planning Committee in February 2025
[38-19-0129 Report.pdf](#)

East Devon District Council Successful Round 2 LNMF bid

<https://www.gov.uk/government/publications/local-nutrient-mitigation-fund-round-2-funding-allocations/local-nutrient-mitigation-fund-round-2-funding-allocations>

East Devon District Council Cabinet Report 27 November 2024:

<https://democracy.eastdevon.gov.uk/documents/s25549/River%20Axe%20SAC%20Local%20Nutrient%20Mitigation%20Fund.pdf>

East Devon District Council Cabinet Report 5 March 2025:

[River Axe LNMF governance.pdf](#)

[LNMF Appendix 1 - Governance.pdf](#)

[River Axe SAC LNMF outcomes - Appendix 2.pdf](#)

Third Party Phosphate (P) Credit Schemes

<https://www.somerset.gov.uk/planning-buildings-and-land/potential-third-party-phosphate-mitigation-schemes-in-the-somerset-levels-and-moors-catchment-area/>

Developer Forum meeting: October 2024 available to listen to at:

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-guidance-template-documents-and-useful-information/>

Jurston Farm, Wellington G Fry & Son to the operation of the Habitats Regulations.

[High Court Judgment Template \(landmarkchambers.co.uk\)](#)

<https://www.judiciary.uk/wp-content/uploads/2024/06/C.G.-Fry-v-SSLHC-and-another-Approved-Judgment-28.06.24-1.pdf>

Government Planning Reform Working Paper: Development and Nature Recovery:

[Planning Reform Working Paper: Development and Nature Recovery - GOV.UK](#)

Housing: the governments standard methodology:

<https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

Ofwat final determination (December 2024)

<https://www.ofwat.gov.uk/wp-content/uploads/2024/12/PR24-FD-sector-summary.pdf>

Ofwat final determination: Wessex Water Summary (December 2024)

<https://www.ofwat.gov.uk/wp-content/uploads/2024/12/Overview-of-Wessex-Waters-PR24-final-determination.pdf>

Round 2 Local Nutrient Mitigation Fund

<https://www.gov.uk/government/publications/local-nutrient-mitigation-fund-round-2-funding-allocations/local-nutrient-mitigation-fund-round-2-funding-allocations>

Somerset Council Plan 2023 to 2027

<https://www.somerset.gov.uk/council-and-democracy/somerset-council-council-plan-2023-2027/>

Somerset Council: Constitution: May 2024

<https://democracy.somerset.gov.uk/ieListDocuments.aspx?CIId=137&MIId=7466&Ver=4>

Entrade Markets Rounds

[Somerset Catchment Market](#)

Appendices

Appendix 1 Nutrient Mitigation Fund: Delivery Strategy:



Somerset Council -
Nutrient Mitigation

Appendix 2: Summary of impact of nutrient neutrality on total potential homes affected

<i>Status</i>	<i>Dwellings</i>	<i>Notes</i>
Consented (awaiting S106)	1,500	Already have a phosphate mitigation solution - i.e. nutrient neutrality no longer an impediment
Unlocked to date	4,900	
Awaiting phosphate solution	6,300	Actions being undertaken by the Council to seek to help unlock this development
Balance	5,300	No mitigation required yet - these are future housing sites to 2032 not currently subject to a planning application
Total	18,000	Note that this is based upon existing local plans

Notes:

Figures are approximate numbers.

Appendix 3 Government Planning Reform Working Paper: Development and Nature Recovery: Somerset Council Officer response



Working Paper
Proposed Nature Re

Appendix 4 The Salinity Solutions trial: Summary



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marised.pdf

Appendix 5 Revised budgets associated with the various work streams

Table 2: Revised allocations from Local Nutrient Mitigation Fund

Project	Allocation
Project one: supply of temporary/bridging credits including Salinity Solutions (subject to the outcome of the trial), Miscanthus and other potential opportunities to increase supply of temporary/bridging credits between 2024-2030	£3,000,000
Project two: call for sites subject to the ongoing site assessment process and negotiation with landowners.	£5,600,000
Project three: Council housing stock septic tank upgrades	£1,000,000
Total capital cost	£9,600,000

Source: Executive: 4 November 24

Note: Project One refers to Salinity Solutions. For the reasons set out in paragraph 65 of this committee report, this trial is not being progressed. The updated position is reflected within Table 4 on page 17 the Delivery Plan document: March 25

Appendix 6 Call for sites

Site location Plans for the following parcels of land:

- Trinity and Eastcombe Farms
- Woodrow Farm
- Barrington Hill



Flyboat Yard Plan Barrington Hill NNR S106_plan_map_eas S106_plan_trinity.p
13.2.25 (Listed BuildiNutrient mitigation tcombe_no_labels.p df

Report Sign-Off (if appropriate)

Alison Blom-Cooper: Assistant Director Strategic Place and Planning
Kate Murdoch: Service Manager Planning Policy and Implementation
Martin Evans Jo Allen: Legal Department