

## Planning Reform Working Paper: Development and Nature Recovery - GOV.UK

1. With regard to the above document, Somerset Council welcomes the opportunity to comment on proposals for a new approach to how housing and infrastructure development, can meet its environmental obligations and contribute to nature recovery. We trust that responses will inform further policy development and potential legislative changes through the forthcoming Planning and Infrastructure Bill.
2. As MHCLG are aware, 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. The Council were also awarded capital funding of £9.6m via the Local Nutrient Mitigation Fund to increase the supply of phosphate mitigation projects to unlock impacted developments. Our [Strategic Planning Committee](#) regularly consider update reports on the work being undertaken to unlock the delivery of homes across 3 affected river catchments (i.e. River Tone, Parrett, and Brue.).

### General comments on the suggested approach

3. **Somerset Council broadly welcomes a more strategic and streamlined approach in delivery**, considering the wider underlying causes of environmental issues, and pollution at source as advocated within the [Planning Reform Working Paper: Development and Nature Recovery - GOV.UK](#).
4. In ensuring that new affected development is nutrient neutral, the Council already work closely with a range of other organisations. We have built up a wealth of local knowledge on recent work undertaken across the three affected River Catchment areas. We also collaborate closely with our colleagues in East Devon, given the unfavourable condition of the River Axe Special Area of Conservation (SAC), which affects the environs of the Blackdown Hills and Chard in Somerset.

5. Within the working paper, **the Council notes that paragraphs 25 and 28 set out a new approach for dealing with nutrient pollution issues**, currently impacting on housing delivery, with strategic scale mitigation and a tariff approach. **This approach relies on a Delivery Plan being in place.** The Government are proposing that Delivery Plans can be prepared in parallel with the legislative process for the Planning and Infrastructure Bill.
6. Comparing river catchment areas and different local authority approaches to nutrient neutrality is difficult and there is no single solution to resolving this complex issue. Whilst supportive of a Delivery Plan approach, on the information currently available, the Council's reservations around the proposed Delivery Plans are:
- Somerset's Local Nature Recovery Strategy is unlikely to be suitable as a Delivery Plan as it does not address the nutrient pollution issues and actions for Somerset Levels and Moors.
  - 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?
  - The capacity and powers of suggested bodies with responsibility for Delivery Plans (e.g. Natural England) to produce and implement such Plans across England. Likewise, Somerset Council will need to identify staff and budget resource to assist progression of the Delivery Plan. This will be extremely challenging against the financial emergency that our Council currently faces ( [Council seeks to minimise impact while bridging £100m budget gap](#) )
  - In partnership with Natural England, the Environment Agency and infrastructure providers (such as Wessex Water) there is a need to agree the scope of matters to be addressed and where the responsibility for this work resides.
  - The potential loss of local control / loss of local discretion around securing mitigation at a local level, which takes account of broader spatial strategy objectives of the Council to facilitate sustainable development (e.g. as contained within the Local Plan). It would also be regrettable if the wealth of local knowledge is lost.
  - Future impact on development viability of a tariff approach and need for forward funding mitigation and restoration measures, identified in the delivery plan, ahead of the Nature Restoration Fund having collected sufficient funds to move forward these measures.

## Specific responses to questions asked

### a) Do you consider this approach would be likely to provide tangible improvements to the developer experience while supporting nature recovery?

7. In our opinion, developers / home builders are likely to welcome a strategic approach to tackling this issue which is:
- Based upon a broader plan that seeks to tackle all ‘environmental harms’ to habitat sites at source, and which apportions responsibilities and costs for tackling harm fairly.
  - Clear, transparent, affordable, straight forward to apply, and makes it easier for them to discharge a range of environmental obligations.
  - Clear and effective monitoring of interventions, which are linked to opportunities to regularly review delivery plans and approaches.

### b) Which environmental obligations do you feel are most suited to this proposed model, and at what geographic scale?

8. In our opinion, a strategic approach to environmental obligations could be applied to:
- Requirements under Habitats Regulations.
9. A strategic approach may be best suited to nutrient pollution in broadly the same geographic area / hydrological connections. A strategic approach may be less well suited to those sites / environs which have very specific characteristics. Regarding the later, it may be more effective to address these habitats on a case-by-case basis.

### c) How if at all could the process of developing a Delivery Plan be improved to ensure confidence that they will deliver the necessary outcomes for nature?

10. Confidence in Delivery Plan’s may be achieved through :
- A legal and administrative framework that supports delivery, alongside a commitment to properly fund / resource Delivery Plan measures..
  - A plan which builds upon local expertise and evidence which presents a series of specific deliverable options and alternatives for achieving nature recovery and addressing any specific ‘environmental impacts’ in the short, medium, and long term.
  - A commitment to independently monitoring and review.

**d) Are there any additional specific safeguards you would want to see to ensure environmental protections and / or a streamlined developer experience?**

11. As stated in response to question c, independent monitoring, and review of Delivery Plan.

**e) Do you support a continued role for third parties such as habitat banks and land managers in supplying nature services as part of Delivery Plans?**

12. Yes, we support the continued role of third parties in supplying nature services as part of preparing and implementing Delivery Plans. Their existing expertise and relationship with landowners has helped expand the third party credit market in Somerset and also helps in understanding the challenges, opportunities and environmental impacts.

**f) How could we use new tools like Environmental Outcomes Reports to support this model?**

13. It is too early to say. 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, using more consistent data and focussed on measuring environmental effects against improving environmental outcomes. There are few details available on how Environmental Outcomes Reports will operate.  
[Environmental Outcomes Reports | Local Government Association](#)

**g) Are there any other matters that you think we should be aware of if these proposals were to be taken forward, in particular to ensure they provide benefits for development and the environment as early as possible?**

14. **Habitat Regulations** - Paragraphs 44 and 45 state that a Habitats Regulation Assessment. (HRA) may not be needed with delivery plans in place. Under the current HRA regime, we do not believe that this would be the case. Current case law requires an Appropriate Assessment to take place, as mitigation cannot be considered at the HRA screening stage. If the intention is to alter the Habitats Regulations to allow for this, then this would be perceived by some environmental groups as weakening environmental legislation.

15. **Timing** – does the mitigation proposal need to be fully delivered before any development can occur, or could, for example, a residential development be built and occupied before the phosphate mitigation solution is operational? In paragraph 42 the paper states that: *interventions identified in the Delivery Plan may commence in advance of development coming forward*". However, what about the converse? Could non delivery of mitigation cause delays?
16. **The “devil is in the detail”** - How would the effects of development on the Somerset Levels and Moors be measured, as the Working Paper suggests applicants would no longer need to conduct their own surveys/assessments. Would the delivery body be undertaking its own phosphate calculations on behalf of the applicant, or could the applicant still submit their own calculations. The latter would most likely be quicker. If the developer also wanted to provide, for example SuDS and water efficiency measures on site, in order to minimise their financial contributions, would this be acceptable and how would this be factored into any calculations?
17. **Development viability challenges** – at the current time strategic scale greenfield residential sites in Somerset are often unable to deliver a viable development, alongside the necessary infrastructure and affordable housing contributions. Nutrient Neutrality has exacerbated this issue. Where independently verified viability evidence, demonstrates residential development is unable to support all the developer contributions required, how will the Government ensure that supporting infrastructure is delivered alongside the necessary environmental protections?

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#### Officer Contacts

For general queries please email [phosphates@somerset.gov.uk](mailto:phosphates@somerset.gov.uk)

Specific Officer contacts:

Paul Browning                      Principal Planning Policy Officer                      [paul.browning@somerset.gov.uk](mailto:paul.browning@somerset.gov.uk)