

Somerset Council  
Scrutiny Climate and Place Committee  
Wednesday 17<sup>th</sup> May 2023



## Phosphates and Nutrient Neutrality Update

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Executive Lead Member: Cllr Sarah Dyke, Environment and Climate Change

Division / Local Member: NA – impact across multiple divisions

### 1. Summary

- 1.1.** The presence of high levels of phosphates in Somerset rivers and affecting the Somerset Levels and Moors is a complex environmental issue for Somerset. On 17 August 2020 the Somerset authorities received an advice note from Natural England concerning the unacceptable levels of phosphates present in the Somerset Levels and Moors Ramsar site. As a result of a European Court Judgment known as Dutch N, the Somerset Authorities were advised, as Competent Authorities under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), that they must not permit any new residential development, infrastructure that supports agricultural intensification, anaerobic digesters, some tourism development and development that provides overnight accommodation unless it *'can be certain beyond a reasonable doubt'* that it would not give rise to additional phosphates (either alone or in combination with other plans or projects) within the hydrological catchment of the Somerset Levels and Moors Ramsar Site.

Since the advice from Natural England was received the Somerset authorities have worked to progress various measures which seek to reduce phosphates entering the Ramsar site. The need to address phosphates levels and restore nutrient neutrality is not unique to Somerset – 74 local authorities across the country have received similar advice from Natural England – but the geographical extent and impact environmental, economic and social impact locally makes Somerset one of the most significantly affected areas areas.

- 1.2.** Since 2020 Somerset Councils have worked with external partners to mitigate the immediate impact of this issue (particularly in terms of impact on planning delivery) and to find longer term solutions to address its causes and restore nutrient neutrality. The impact and approaches taken have been reported to Scrutiny Committees of the former Councils. It is therefore intended that the

Climate and Place Scrutiny Committee receives a presentation about the matter at its first meeting. This will also provide an opportunity to update about the emerging Somerset response to the call for submissions of expressions of interest and evidence to the Government in response to its Nutrient Mitigation Fund announced in the Chancellor's March 2023 budget.

## **2. Issues for consideration / Recommendations**

- 2.1.** Feedback from Scrutiny Committee members about the update contained in this report and the presentation made to the meeting of the Committee is welcomed.

## **3. Background**

- 3.1.** On 17 August 2020 the former councils received advice from Natural England about the high levels of phosphates in the Somerset Levels and Moors. Subsequently, authorities have received similar letters relating to high levels of phosphates in the River Axe.
- 3.2.** In light of a court Judgment (known as Dutch N), Natural England advised the former councils that, in light of the unfavourable condition of the Somerset Levels and Moors Ramsar site and subsequently the river Axe catchments, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment (HRA). Categories of development affected include:
- New residential units – including tourist accommodation, gypsy sites /pitches
  - Commercial developments – where overnight accommodation is provided
  - Agricultural development – additional barns, slurry stores etc. where it is likely to lead to an increase in herd size
  - Anaerobic Digesters
  - some tourism attractions
- 3.3.** Since receipt of Natural England's advice Somerset councils have worked jointly in the short term minimise delay and uncertainty around planning applications following guidance over unacceptable amounts of phosphates in the Somerset Levels and Moors. For example, in February 2021 Somerset West and Taunton Council obtained funding from Homes England to commission work to develop the Somerset Phosphate Budget Calculator and the Somerset Authorities and Dorset Council commissioned the Somerset Solutions report. This report, published in February 2022, sets out a range of mitigation options that could potentially be used to offset the additional phosphorus load from a new development within the catchment of the Somerset Levels and Moors Ramsar

Site, including consideration of strategic mitigation options. The councils have also identified longer term mitigation measures in terms of the planning system and work is ongoing with external bodies, including Natural England, Wessex Water, Environment Agency and others, to identify solutions to the underlying environmental issues which are causing this problem. Nevertheless the issue has unavoidably had significant impacts in terms of the delivery of development in Somerset and in particular has stalled the delivery of new housing, most significantly (but not exclusively) in Taunton.

- 3.4.** A number of interim solutions in Somerset have been progressed most notably a council phosphate credit scheme for the River Tone catchment area has been developed, which includes a number of mitigation projects including the following of land at Orchard Portman (near Taunton) to provide 'bridging credits' before wetland creation, the retrofitting of Council housing stock with water efficiency measures and wetland development schemes. As a result of these measures and mitigation projects brought forward by developers for their schemes some progress has been made to facilitate planning approval and delivery of a number of housing developments. Somerset is one of only a handful of Councils across the country to have an operational nutrient credit scheme which has been particularly important in allowing smaller scale development by SMEs to find mitigation solutions. In addition to work that has been completed within the River Tone Catchment, non Council run schemes have also been agreed for the Brue and Parrett catchments.
- 3.5.** Some financial support for this work has been received from Government to date. To continue to seek solutions to this challenging issue the Council is continuing to gather evidence of local impact and is developing an expression of interest for the first round of the Government's nutrient mitigation fund. The Council is also continuing dialogue with external bodies including Wessex Water about longer term solutions.

#### **4. Consultations undertaken**

- 4.1.** Somerset Council (and previously the Somerset District Councils and County Council) have engaged extensively with a range of local, regional and national stakeholders including the water industry, environmental bodies, local councils the development community, the farming community (including the NFU) and Government agencies (in particular Natural England) as part of our local response to the phosphates issue and to inform the development of the countywide nutrient strategy.

#### **5. Implications**

- 5.1.** There are no implications for Somerset Council arising directly from this report

given that it is scope is to provide a briefing and update on the phosphates issue.

- 5.2. There are significant environmental, economic and social impacts and risks for Somerset associated with the recorded levels of phosphates. As part of this it is estimated that the delivery circa 18,000 new homes identified in the adopted local plans are currently stalled as a result of needing to demonstrate nutrient neutrality. These impacts are being partly mitigated by actions undertaken by the Somerset Councils, with further redress envisaged should Somerset Council's forthcoming expression of interest to government's nutrient mitigation fund be successful.

## 6. **Background papers**

- 6.1. Somerset Solutions Report (commissioned by Somerset Councils and published March 2022) [Somerset Solutions Report \(March 2022\)](#)