



Department for Levelling Up,
Housing & Communities

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Chief Planning Officers,
Local Planning Authorities

By email only

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Dear Chief Planning Officer,

GOVERNMENT ANNOUNCEMENT ON NUTRIENT NEUTRALITY

You will have seen that on 29 August, the Government made a significant announcement in relation to nutrient neutrality. This letter provides more detail on the changes we are introducing, including explaining what the amendments to the Levelling Up and Regeneration Bill (LURB) would mean in practice when commenced, the breadth of the environmental package that sits alongside these amendments, and how Local Planning Authorities (LPAs) should approach this important issue in the months between now and these provisions coming into effect.

Nutrients entering our rivers are a real problem. The Government has however been concerned that development is being held up across a significant area of the country, despite the contribution made by new homes to this problem being very small. The levels of nutrient loads in treated wastewater is subject to pollution control regimes that sit outside of the planning system and which should address many of the issues relating to the discharge into rivers. Planning decisions should be made on the assumption that these pollution control regimes will operate effectively¹. That is why the Government has always been clear that nutrient neutrality could only be an interim solution.

The Government has listened to the concerns of both LPAs and developers about the nature of the nutrient credit market, including that it is developing too slowly. The Government is therefore acting to unblock development and to address the underlying sources of nutrient pollution. The aim is to create certainty for planning decision-making and to remove the time lag which arises from securing mitigation measures in advance of consent. The action and increased funding from Government will also enable Natural England and other partners to take a more strategic approach to site restoration on a catchment-wide basis.

¹ Paragraph 188 of the National Planning Policy Framework

PROPOSED LEGISLATIVE CHANGES TO UNLOCK NEW HOMES

The Government has put forward amendments to the LURB that, when in force, would address this issue in particular circumstances. Their targeted and specific effect will be to no longer require the consideration of nutrient flows from urban wastewater as part of Habitats Regulations Assessments (HRA) for planning decision making and plan-making in nutrient neutrality catchments. These legislative changes align with the longstanding planning policy that it is assumed that wastewater is being managed effectively. This assumption is limited to development where the wastewater is treated by a wastewater treatment works (or private treatment system) regulated through the appropriate regime. It would not apply to agricultural development.

These amendments sit alongside the existing obligations in the LURB to upgrade wastewater treatment works in affected catchments by 1 April 2030 (where designated by the Secretary of State). The Government estimates that this will lead to around a 69% reduction in phosphorus loads and around a 57% reduction in nitrogen loads in total from wastewater treatment works across all affected catchments, reducing a significant source of nutrient pollution.

The measures are subject to Parliamentary scrutiny and process; they will only take effect following Royal Assent of the Bill and the commencement of provisions. Government's objective is to implement these changes as soon as possible after the Bill receives Royal Assent to enable development to start on site.

Until the provisions come into effect, it is important that planning decision-making continues and decisions will need to be taken on the basis of the current legal framework. While this letter is being sent to all local planning authorities, the proposed changes to the HRA would apply only to areas affected by nutrient neutrality, and would not change the HRA considerations for other areas or issues (such as water neutrality).

Further factual information on the amendments is included below, and the amendments can be found on the [on the parliamentary website](#), on the parliamentary website.

ACTION TO BETTER PROTECT AND IMPROVE HABITATS SITES

In parallel with these amendments the Government has announced a significant environmental package to protect and restore affected habitats.

A core part of this package is the commitment of £280 million to Natural England to expand and evolve its existing Nutrient Mitigation Scheme, focusing on strategic measures such as creating new wetlands and other innovative approaches to tackle pollution at source. This will involve close working and partnerships with third parties to deliver nutrient reductions, and associated environmental co-benefits, where this represents good value for money.

The Government is working with the house building industry to ensure that larger developers make an appropriate and fair contribution to this scheme over the coming years, including determining the right structure and approach.

Nutrient reduction activities will be accelerated by further work to develop Protected Site Strategies (PSSs) in the catchments most affected by nutrient pollution and with the most acute housing pressures. Natural England will work in partnership with LPAs to identify bespoke measures to combat the causes of nutrient pollution in their catchments. Before Natural England publish PSSs, they will be consulted upon including with LPAs.

Alongside these measures the Government will:

- open a new £25 million nutrient management innovation fund;
- invest £200 million in slurry management infrastructure and equipment;
- consult this year on modernising our fertiliser product standards, to support the increased use of organic and recycled nutrients;
- consult this year on new requirements and national standards, where needed, for Sustainable Drainage Systems (SuDS) to reduce pressure on storm overflows from new homes and reduce surface water flood risk; and
- launch a River Wye Action Plan to address the unique nature of the river and how we will work with local farmers, housebuilders and Welsh Water to reduce nutrients at source.

The press notice regarding the package as announced can be found on GOV.UK at the link below:

<https://www.gov.uk/government/news/100000-more-homes-to-be-built-via-reform-of-defective-eu-laws>

FUNDING, ONGOING APPROACH AND SUPPORT

The Government is aware that these changes will lead to a shift in approach for mitigation schemes and associated credit markets. The additional funding that the Government is making available to Natural England and the changes in law, will mean that the current Nutrient Mitigation Scheme will evolve. Natural England (working in partnership with LPAs) will now both establish a strategic approach for river catchments which offsets the limited nutrients outflow from new housing and also invest in starting to restore Habitats Sites which are in a poor condition due to excess nutrients. The Government expects that Natural England will partner with LPAs and third parties to deliver nutrient reductions and associated environmental co-benefits. **The Government and Natural England will provide further details on this new approach in the coming weeks.**

Given the intention to continue investing in mitigation projects, the Government hopes that progress on live projects will continue to be made in advance of these changes coming into effect, during which time developers will still need to source credits as necessary and planning decisions will be made on the basis of the existing legal framework.

The valuable and practical support from the Planning Advisory Service (PAS) will continue. Government officials will continue to work closely with LPAs, via regular sessions hosted by PAS.

We will keep you updated regarding the next level of detail on the funding programme, legislative changes and implementation over the coming months.

Finally, I would like to take this opportunity to thank those of you in catchments impacted by nutrient neutrality for all your work and leadership grappling with this issue.

Yours faithfully,

Joanna Averley

Chief Planner

Annex - Factual information on the Government amendments (as tabled):

- The measures are subject to Parliamentary scrutiny and process; they will only take effect following Royal Assent of the Bill and the commencement of provisions.
- The measures will remove the need for nutrient neutrality and the consideration of nutrient loads (at the screening and appropriate assessment stage of HRA) where this is controlled via the Environment Permitting regime.
- The measures cover nutrients in wastewater from development, including surface water, so will encompass housing development and other development which generates such wastewater. HRA considerations for developments which generate nutrient loads outside of urban waste water, such as agricultural and certain industrial developments, are unchanged and neutrality requirements will remain.
- The proposed changes to the HRA will apply only to areas affected by nutrient neutrality and will not change the HRA considerations for other areas or issues (such as water neutrality).
- Following the commencement of the provisions, the Secretary of State will designate catchments affected by nutrient neutrality and a map will be published online showing the catchment areas where the provisions apply in England (only).
- The provisions cover: planning decision-making (including the consideration of planning applications, reserved matters approvals, and discharges of conditions), permitted development rights and plan-making (including local plans and neighbourhood plans).
- The legislative provision will not change material planning considerations.
- The Government will make necessary and consequential changes to national policy following Royal Assent of the Bill and prior to commencement of provisions.