

Partnership for South Hampshire Strategic Environmental Update

January 2024

Nutrient Neutrality – Where We Are Now

At the end of August, DLUHC announced that they intended to change how nutrients pollution from development would be managed. This news was published in the press the day before the official announcement on the 29th August. The announcement proposed that developers would pay a contribution fee to Natural England to go towards strategic habitat recovery projects. The Local Nutrient Mitigation Fund, which LPAs had applied for earlier in the year, was reallocated to Natural England. This would be implemented in the LURB as one of the final amendments before it went to the Lords. Furthermore, the amendment stated that LPAs must assume that nutrients pollution from development would not adversely affect the environment.

Initially, it seemed likely that the amendment would pass through the Lords, and the SEPO team started working with the PfSH LPAs, mitigation providers and DLUHC to prepare for a policy change. However, when the amendment was reviewed by the Lords it was blocked with a 203-person majority. Much of the criticism of the amendment came from the last-minute addition of such a significant amendment, the relaxation of water pollution laws, and the punitive wording of the amendment that would force planners to ignore scientific evidence when considering an application.

DLUHC responded by announcing that it would pursue other routes to scrap nutrient neutrality. In late September, a government source reported that Rishi Sunak was drafting a new nutrient focused bill to scrap nutrient neutrality. While there was no official announcement from DLUHC or the Prime Minister, multiple MPs confirmed during press events that a nutrients bill was being drafted and that it would be fast tracked.

By mid-October, it was reported that the nutrients bill had been dropped. This was not officially confirmed by the government, but the nutrients bill was not included in the King's Speech in November. The King's speech sets out the government's plans for the next year, and by not including nutrients it all but confirmed that there would not be a nutrients bill within the next 12 months.

The Autumn Statement provided another opportunity for a nutrients bill to be announced, but instead the Local Nutrient Mitigation Fund was reinstated.

On the 20th December, DLUHC confirmed that successful catchments would continue to receive funding to manage nutrient neutrality and published further details on the Local Nutrient Mitigation Fund. The DLUHC update can be found [here](#), and a letter from Lee Rowley to Council Leaders in affected catchments can be found [here](#).

It is anticipated that nutrient neutrality will be here to stay in the short term with significant funding going towards new local authority run solutions. It is harder to predict the medium-term plans for nutrients with the upcoming general election, however party manifestos may provide some indication of what we may be facing in the next 12-24 months.

LURB – Royal Assent and Enactment

On the 26th October the Levelling Up and Regeneration Bill officially became the Levelling Up and Regeneration Act (LURA) after receiving Royal Assent.

The first LURA provisions are set to come into force on the 26th December 2023 – two months after enactment. This includes:

- The designation of Sensitive Catchment Area (SCA) and Catchment Permitting Areas (CPA) .
- A new consultation requirement for developments that would impact ancient woodland.
- EIA, Sustainability Appraisals and Strategic Environmental Assessments will be replaced by Environmental Outcome Reports (with a transition period yet to be confirmed)

This is dependent on secondary legislation being in place to implement the new policy. Furthermore, following the designation of SCA's and CPA's an updated Nutrient Budget Calculator and list of waste water treatment works to be upgraded is expected to be published imminently.

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BNG – Delays and New Publications

On the 18th January, mandatory BNG was pushed back further and is due to come into force on the [12th February 2024](#). Small sites have also been delayed to the 2nd April 2024. The finalised regulations will be published in [this blog](#) once they are made available. This delay is due to ongoing delays in secondary legislation going to Parliament. The following documents have recently been published:

- A package of BNG guidance that sets out further advice for landowners, [developers](#), and [Local Planning Authorities](#)
- [BNG Irreplaceable Habitats](#)
- [BNG Requirements Exemptions](#)
- [BNG Site Register Regulations](#) and [Register Fees and Penalties](#)
- [BNG Statutory Instruments Blog](#)
- [Commencement Order](#)
- [Draft BNG Planning Practise Guide](#)
- [Habitat Management and Monitoring Plan template](#)
- [Incorporating LNRS when planning for BNG blog](#)
- [New draft BNG guidance](#)
- [Statutory Biodiversity Metrics](#)
- Town and Country Planning [Amendments](#) and [Further Amendments](#)

A number of additional documents have been published below:

- PAS - [BNG Essentials Slide Pack](#)
- PAS - [Update: BNG Readiness Checklist](#)
- Environment Bank – [BNG Regulations Guide](#)

Read [here](#) for more details and [here](#) for the whole LURA (Part 7 in particular for nutrients).

Appeals and Objections

Ashford Borough Council

A planning inspector has granted consent for 550 homes in the Stodmarsh Lakes catchment after an appeal was made by Pentland Homes and Malcolm Jarvis Homes.

The original outline planning application, which covers two sites within the Local Plan, was not determined within the statutory period back in 2015. The main issue with the application was the potential environmental impact.

It was decided that, provided that on-site mitigation was made (a range of SUDs and a new WWTW), the development would not have a significant impact on the protected sites in the catchment. The inspector also stated that the harm that would come from the development was outweighed by the need for affordable housing. During the appeal the council confirmed that they would have granted planning permission had it been empowered to do so and was satisfied that the development would be nutrient neutral.

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Sheffield City Council

An appeal to demolish an existing dwelling to build 5 new detached dwellings has been dismissed. Issues were raised around the impact on the character and appearance of the area and biodiversity.

The Biodiversity Impact Assessment (BIA) found that the development would result in a net loss of biodiversity. The BIA stated that in order to achieve net gain “an offsite solution” would be required. A UU was submitted to the Council to offset the loss recommending a financial contribution to the council of £12,372.50 for 0.49 habitat units to create a 1% net gain. However, this was based on Doncaster Metropolitans BNG Supplementary Planning Guidance and not based on a document provided by the Council.

There was no evidence in front of the Inspector of how the contribution would be spent and therefore whether the proposal would achieve net gain. The inspector found that this was not acceptable.

Telford and Wrekin Council

An appeal for a cattle shed, concrete apron and cattle track has been dismissed.

The proposal was initially considered to not pose a threat to the nearby European Designated Sites (EDS) (between 0.03% – 0.04% increase in nitrogen and ammonia), however the 2022 Air Quality Risk Assessment Interim Guidance (AQRAIG) states that even if an individual project only has a small negative impact, an “in combination” assessment should still be carried out. This combines the proposal impacts, current impacts, and neighbouring projects impact on the EDS. The total site contribution of the farm was 1.24% of the critical level of ammonia, and a neighbouring pig farm has a 4.02% critical level of ammonia – giving a total of 5.26%. An appropriate assessment under AQRAIG is required if critical level of ammonia exceeds 1%.

The inspector acted as the competent authority to carry out the appropriate assessment. They concluded that it had not been shown that the proposal would not have an adverse impact on the EDS and would be in conflict within the Local Plan.

Horsham Council

An appeal for a dwelling and garage has been dismissed due to not complying with the Horsham District Planning Framework and its impact on the Arun Valley.

The new development would have been on a brownfield site, however, the local and national planning policies did not support the dwelling's capacity or countryside location. There were also concerns about the impact on the Arun Valley – particularly in regard to Water Neutrality. Mitigation would have been created via water-efficiency upgrades, but the inspector felt that the conditions proposed by the council were not robust enough to enforce the mitigation in the long term.

