

The Levelling Up and Regeneration Bill & nature-based solutions

Lords committee stage briefing

Executive summary

- This joint briefing has been prepared by Wildlife and Countryside Link, representing nature and climate organisations, Water UK, representing water companies and the Chartered Institution of Water and Environmental Management, representing water resource professionals.
- It makes the case for amendment 390 of the Levelling Up and Regeneration Bill, tabled by Baroness Willis of Summertown with cross-party support.
- The amendment would enable nature-based solutions to play a greater role in reducing nutrient pollution, whilst also increasing compliance checks to ensure this reduction takes place.
- This would reduce pollution whilst also restoring habitats to provide bigger and better spaces for wildlife, store more carbon and provide flooding, access to nature and water quality benefits.
- The amendment is strongly supported by both environmental charities and the water sector and we urge peers to speak in favour of it at Lords committee stage.

Nutrient pollution

Nitrate and phosphorus pollution are destroying life in England's rivers, lakes, streams and seas. An excess of these nutrients causes "eutrophication"—algal blooms which starve freshwater habitats of oxygen, killing wildlife. As a result of continuing pollution, England's rivers, streams and coastal habitats have consistently failed tests of good ecological condition.¹

Urban runoff and wastewater from development is a significant contributor to this pollution, along with agricultural runoff.²

Part 7 of the Levelling Up & Regeneration Bill: A missed opportunity

The Government introduced new clauses into the Levelling Up and Regeneration Bill in December, to address nutrient pollution from development. These clauses, which now stand as Part 7 of the Bill³, will put a legal duty on water companies to upgrade sewage disposal works to reduce pollution to meet new nutrient pollution standards in the worst affected freshwater habitats (referred to as sensitive catchment areas in the Bill).

The intention behind the clauses is welcome and the measures mark a positive step towards addressing the problems caused by nutrient pollution. However, the wording around how water companies are to deliver the required upgrades is unnecessarily prescriptive. The clause specifies that upgrades should only take place at

¹ <https://www.wcl.org.uk/not-one-river-in-england-in-good-health.asp>

² For further information on the impacts of these combined pollution sources, see Poole Harbour case study produced by RSPB:

<https://www.rspb.org.uk/globalassets/downloads/our-work/poole-harbour.pdf>

³ <https://bills.parliament.uk/publications/49177/documents/2671>

sewage disposal works discharging treated effluent into sensitive catchment areas (see p181-p182), with measurement of pollution levels occurring in the treated effluent the works discharge (see p185).

This narrow focus means that, when working to meet their legal requirements under Part 7 of the Levelling Up & Regeneration Bill, water companies will have to ensure that all this work is carried out at sewage disposal works themselves. The site-specific nature of the legal requirement means that most of the work will have to be delivered through traditional engineering, using concrete, steel and chemicals, carrying a high carbon cost.⁴

This prescriptive, site-specific approach closes down an environmentally beneficial alternative for upgrades - restoring habitats across the catchment of a sensitive area. Habitat restoration, from the creation of new habitats like wetlands and riparian woodlands, to the enhancement of farmland through more hedges and increased soil retention, can soak up nutrient pollution and allow nutrient pollution standards to be met.⁵ Pioneering partnerships between water companies and nature organisations in a range of locations, from Cumbria to Dorset, have shown how effective habitat restoration can be in reducing nutrient pollution levels and achieving nutrient neutrality.⁶

Such restored habitats, often known in this context as nature-based solutions and as a catchment-based approach, can deliver far more for nature and climate than concrete engineering.

The Government, to its credit, has recognised the potential of nature-based solutions as part of a catchment-based approach through non-legislative initiatives. The Nutrient Mitigation Scheme has so far seen £30 million of Government funding for the creation of new wetland and woodland habitats to reduce nutrient pollution across catchments.⁷ The April 2023 Integrated Plan for Water recognised that restored habitats like wetland could result in *“fewer greenhouse gas emissions, remove more nutrients, and deliver multiple environmental benefits.”*⁸

It is disappointing that the Government has not aligned its legislative approach to nutrient pollution to these welcome non-legislative schemes. Nature-based solutions are promoted as a key part of the answer to nutrient pollution outside of the Levelling Up & Regeneration Bill, why is this not reflected in the Bill itself?

The Willis amendment: Unlocking nature-based solutions

Amendment 390⁹ tabled by Baroness Willis of Summertown, with support from Baroness Jones of Whitchurch and Baroness Bakewell of Hardington Mandeville, would align the Levelling Up & Regeneration Bill with the Government’s wider approach to nutrient pollution, enabling water companies to use nature-based solutions to meet their new nutrient pollution legal standards, subject to strict compliance checks.

⁴ <https://www.nature.com/articles/s41561-021-00690-8>

⁵ <https://www.water.org.uk/blog-post/unblocking-housebuilding/>

⁶ <https://www.unitedutilities.com/globalassets/documents/pdf/pr24---unlocking-nature-based-solutions-to-deliver-greater-value.pdf> p10-11

⁷ <https://www.gov.uk/government/news/teesside-first-to-area-benefit-from-new-scheme-to-unlock-development-and-drive-nature-recovery>

⁸ <https://www.gov.uk/government/speeches/the-plan-for-water>

⁹ <https://bills.parliament.uk/publications/50497/documents/3200>

The current wording of clause 153 allows water companies to use nature-based solutions only if they are delivered on-site at sewage disposal works, limiting their use and precluding their deployment across the whole catchment of a sensitive area. Amendment 390 would remove this barrier by requiring water companies to set out how they will deploy nature-based solutions wherever possible and feasible across a catchment, in compliance and investment plans to be assessed and monitored by OFWAT.

This duty to plan for the deployment of nature-based solutions to meet nutrient pollution standards will increase habitat restoration across catchments, helping to reduce nutrient pollution through a means which provides a range of benefits for nature and climate.

This catchment-based approach also recognises that, whilst new development may tip a sensitive catchment into an unacceptable state of nutrient pollution, much of the pre-existing nutrient load may not originate from development, but from other land uses, such as farming, across the catchment. Nature-based solutions deployed across a catchment can address these multiple sources of nutrient pollution.

Whilst widening water company options to respond to the new legal duty to include nature-based solutions across catchments, the amendment also strengthens the compliance checks on companies to ensure nutrient pollution reductions are actually delivered, whatever the mix of methods used. The amendment requires companies to secure OFWAT approval for a compliance and investment plan before any upgrades commence, and to report annually to OFWAT, the Environment Agency and local planning authority on progress against the agreed plan. Failure to demonstrate progress could lead to sanctions.

This extra reporting duty, currently missing from Part 7 of the Bill, is required to ensure that the upgrades to reduce nutrient pollution are delivered to schedule and to plan.

The benefits offered by nature-based solutions

Contributions to net zero

The habitats whose restoration could help achieve nutrient pollution standards have formidable carbon storage capabilities, when restored to healthy condition; a hectare of restored saltmarsh can store 7.97 tonnes of carbon dioxide per year.¹⁰ In the words of Foreign Office Climate & Environment Minister Lord Goldsmith *“there is no pathway to net-zero that does not involve a massive scale up of nature-based solutions. They could provide a third of the cost-effective climate change mitigation we need.”*¹¹

Contributions towards nature’s recovery

A 2021 comparative study of traditional concrete engineering and nature-based solutions in Belgium revealed *“similar flood security, lower costs, more ecosystem services benefits and higher biodiversity values associated with the NBS [nature-based solution] option in comparison to the technical alternative.”*¹² Nature-based solutions increase the quantity and quality of the habitats wildlife depend on, helping wildlife species to recover. The recently restored Hesketh Out Marsh in Lancashire provides an illustrative example; previously an area poor in

¹⁰ <https://www.wwt.org.uk/news-and-stories/news/could-creating-more-mud-become-as-important-as-tree-planting-in-fight-against-climate-change>

¹¹ <https://www.iied.org/cba14-closing-uk-minister-urges-countries-allocate-more-finance-nature-based-solutions-help-tackle>

¹² <https://link.springer.com/article/10.1007/s13280-021-01548-4>

nature, the marsh now attracts a variety of wading birds, including avocets, little egrets, redshank, teal and wigeon.¹³ The restoration of more habitats through nature-based solution projects to reduce nutrient pollution will help us to meet the Environment Act target to halt the decline in species abundance by 2030.¹⁴

Restored habitats in freshwater catchments also have the potential to reduce flooding, increase public access to nature-rich spaces and to improve water quality.¹⁵

It is for these reasons that recommendations to Government to increase the deployment of nature-based solutions have been made by a range of bodies, from the UK Inter-Agency Climate Change Group¹⁶ to the Lords Science and Technology Select Committee.¹⁷ The Government has in turn asked the water industry to *“significantly increase their use of nature and catchment-based solutions to achieve multiple benefits for the environment and the public.”*¹⁸

Government’s own Environmental Improvement Plan, published on 31.01.23, includes a welcome commitment to: *“use nature-based solutions to reduce pollutants entering the water environment”*.¹⁹

Amendment 390 presents an opportunity to deliver on this commitment. It will increase deployment of nature-based solutions, whilst at the same time addressing nutrient pollution, enabling housing development to progress. It also places stricter duties on water companies to show they are reducing nutrient pollution to schedule and to plan. This simple change to the Levelling Up & Regeneration Bill represents a win-win for climate, nature and people. Nature charities, water companies and water resource professionals are united in urging members of the House of Lords to support the amendment.

www.wcl.org.uk

www.water.org.uk

www.ciwem.org

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¹³ <https://www.rewildingbritain.org.uk/rewilding-projects/hesketh-out-marsh>

¹⁴ <https://www.gov.uk/government/news/landmark-environment-bill-strengthened-to-halt-biodiversity-loss-by-2030>

¹⁵ <https://www.iucn-uk-peatlandprogramme.org/about-peatlands/peatland-benefits/water-quality>

¹⁶ <https://jncc.gov.uk/our-work/nature-based-solutions-iaccg-case-studies/>

¹⁷ <https://committees.parliament.uk/publications/8646/documents/87644/default/>

¹⁸ <https://www.gov.uk/government/publications/strategic-policy-statement-to-ofwat-incorporating-social-and-environmental-guidance/february-2022-the-governments-strategic-priorities-for-ofwat>

¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1133077/environmental-improvement-plan-2023.pdf p97