

# BRIEFING NOTE

30 August 2023

## NUTRIENT NEUTRALITY – LEVELLING UP & REGENERATION BILL

As there is a clear desire for the Government to speed up the planning system and remove the current obligations for relevant developments to be nutrient neutral (and thus avoid harmful effects on relevant/protected designations) the Levelling Up & Regeneration Bill (LURB) proposes several amendments. In short:

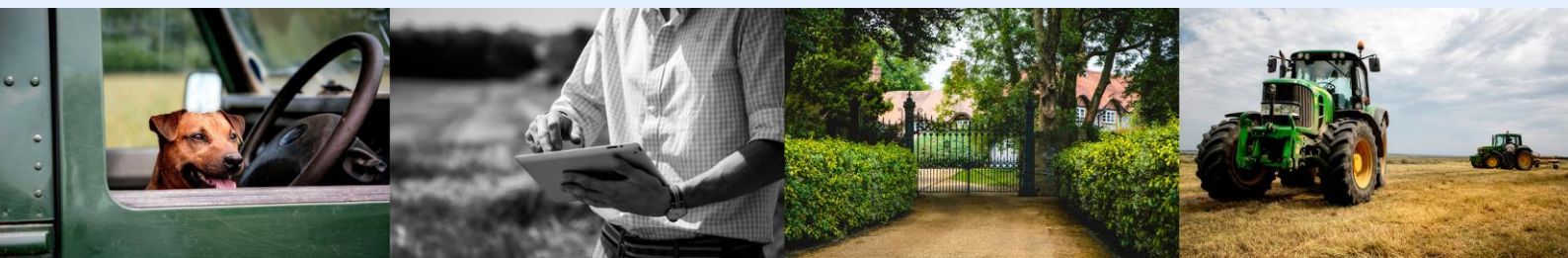
- 1) Via Proposed Regulation 85 A (2) it seeks to compel competent authorities (being Local Councils) to ‘assume that nutrients in urban wastewater from the potential development, whether alone or in combination with other factors, will not adversely affect the relevant site’.
- 2) Proposed Regulation 84 A (4) states that this assumption ‘must be made even if a finding to the contrary is made’ whether through (a) the finding of an appropriate assessment, (b) advice from a nature conservation body (realistically being Natural England) and (c) by any other person.

### What does this mean?

- The Government is directing Local Authorities (being the Competent Authority) to dismiss historic advice from Natural England when making decisions under the Habitats Regulations.
- Against the above, Proposed Regulation 85 A (5) confirms that ‘a Competent Authority is not to be regarded as having failed to comply with a duty imposed by any provision of these Regulations or another enactment because it has acted in accordance with this regulation’.

Contrary to media speculation which reports such matters to be a ‘done deal’ we suspect there are many considerations to overcome than merely muting the concept via amendments to the LURB. This creates a tricky dilemma when the uncertainty is now elevated about how developments/developers are to proceed and how mitigation providers are to secure environmental solutions. We eagerly look forward to clear direction from the Government. We will keep you posted.

## CONTACT





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