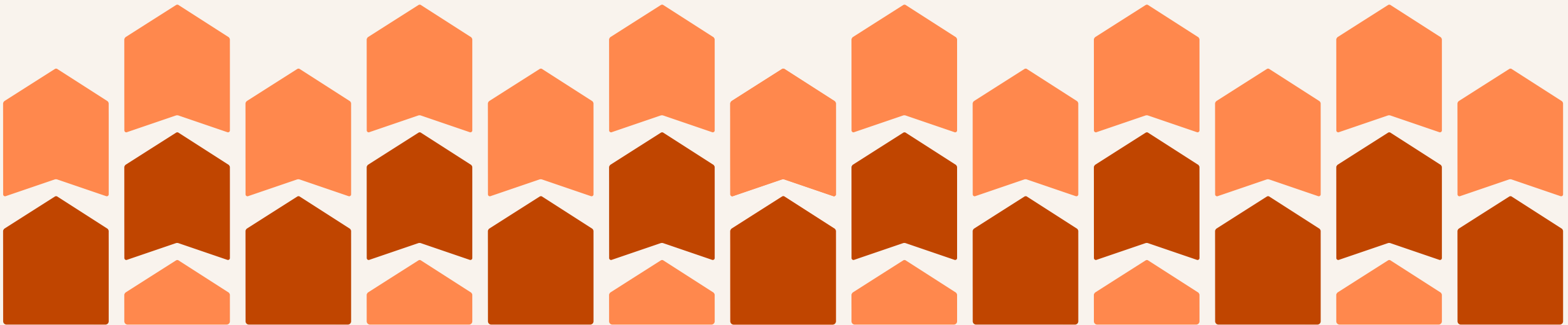


Nutrients and Water

James Stevens

Director for Cities



We will consider:

1. Nutrient neutrality and the Nature Restoration Fund
2. Water neutrality
3. Wastewater

Nature Restoration Fund

Part 3 of the Planning & Infrastructure Bill

Angela Rayner and Steve Reed letter to nature conservation NGOs – 20 July 2024:

Government “*was elected on a mandate to get Britain building again, alongside protecting and improving the natural environment.*”

“Win-win for housebuilding and nature’

Existing approaches have not been able to reverse environmental decline but create significant barriers to building the homes and infrastructure needed.

NRF creates an opportunity for development to do more for environmental recovery while producing a streamlined and simpler route to an implementable permission for housebuilders.



Environmental Delivery Plans

What are they?

EDPs set out conservation measures needed to outweigh the specific negative effects of development on habitat sites/protected species.

EDPs will not be England-wide but geographically focused on the site/species.

EDPs need to detail costed conservation measures and a charging schedule.

EDPs enable certain 'environmental obligations' for development - e.g. nutrient neutrality - to be discharged via a levy payment to Natural England



Environmental Delivery Plans (EDPs)

EDP outline the conservation measures required to both address the environmental effect of a development & secure an uplift.

- Public body is responsible for writing an EDP, monitoring & reporting on progress to SoS.
- EDP approved by SoS once satisfied conservation measures will deliver the intended environmental improvement.
- EDP includes back-up measures which could be deployed if monitoring demonstrates environmental outcomes not being achieved.



What things will be covered by a nutrients EDP?

- **Evidence base** – Description of protected site & features affected by nutrient pollution, map of the EDP area and how EDP goes beyond neutral & contributes to site recovery.
- **Types of development** –types of development covered by the EDP.
- **Volume of development** – NE determines the maximum quantum of development serviced by the EDP - NE is assuming housing allocations detailed with Local Plan, but is that the same as the requirement?
- **Conservation measures** to offset development impacts and contribute to site recovery.
- **Timescale** – The period that the EDP will cover (for nutrients, assumed 10 years).



Benefits of the Nature Restoration Fund



Payment of the levy discharges applicant's legal duty.

Once paid, applicant can build-out (subject to satisfying all other planning conditions unrelated to nutrient neutrality etc).

LPAs cannot introduce any further obstacles in relation to that 'environmental obligation'.

If measures not fully effective, applicant will not have the relief cancelled – no retrospective cancellation.

House of Lords amendments:

To appease the eNGOs:

- Upfront measures may be necessary before applicants can benefit from paying the levy
- network measures can only be adopted where they would make a greater contribution to the improvement of the environmental feature than measures that address the impact of development locally – nutrients ok but could limit use of NRF for specific issues
- continued role for the mitigation hierarchy in the design of EDPs, ensuring that local conservation measures are preferred unless network approach more effective.

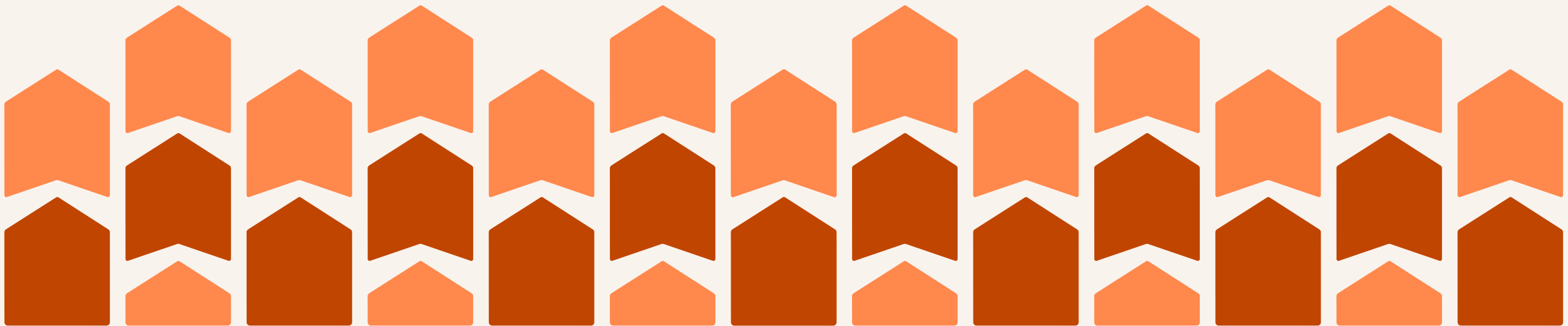
Much of this already implicit in the Bill

But pro-development groups consider measures weaken the NRF



Water

Water neutrality, supply and wastewater



Cunliffe Review

Sir John Cunliffe



Independent Commission on the Water Regulatory System

Major reform to restore public confidence in the sector and its regulation, to attract investment, and to establish a framework that will meet the water demands of the future.

But Cunliffe fails to respond to concerns of housebuilding industry

Recommends removing 'right to connect'



Water neutrality

20,000 homes delayed still in Horsham, Crawley and Chichester

Timetable for SNOWS remains uncertain
(now called Sussex North Water Certification Scheme)

Only allocated sites will benefit

Uncertainty contributes to failure of Horsham draft Local Plan

Pulborough meadows



Kilnwood Vale High Court judgment

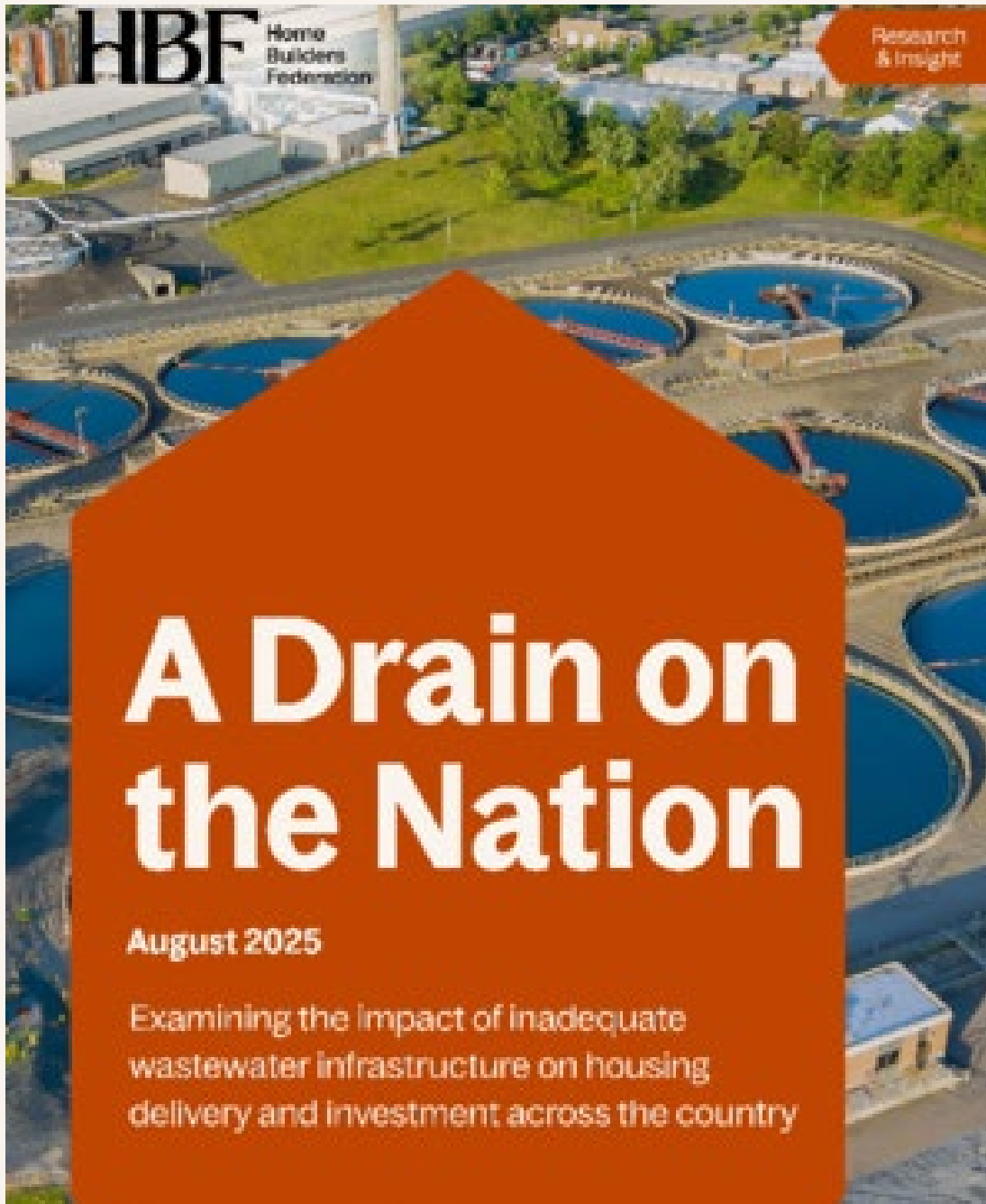
Crest Nicholson v Secretary of State for Housing and Horsham District Council

Applicant could not rely upon future measures by water company to reduce abstraction since effect was uncertain

Finch - Supreme Court – held existence of other regulatory controls does not remove the obligation on a planning authority to undertake a full EIA. Likely this principle applies, by analogy, to an appropriate assessment under the Habitats Regulations.

NPPF, para 204 - proposition that the “*decision-maker is entitled to proceed on the basis that other regimes will operate effectively and properly is not a legal requirement to do so*”





Wastewater

A Drain on the Nation

HBF survey of members

30,000 homes delayed including 7,000 affordable homes

Numbers greatest in areas of Anglian Water and Thames Water

Water companies failed to make the investment necessary – not regulated effectively by Ofwat

HBF has written to the Government

Solutions:

Government seeking solutions

Section 94 places an obligation on every sewerage undertaker to provide, improve and extend a system of public sewers.

Section 106 of the WIA 1991 confers a power to connect to a public sewer. Section 106(1) states that the owner of any premises or the owner of any private sewer which drains premises, shall be entitled to have its drains or sewer communicate with the public sewer of any sewerage undertaker and therefore discharge foul water and surface water from those premises or that private sewer.

But Government seems reluctant to assert legal duty on water companies



Solutions:

Government will seek to reinforce the role of strategic and local plans

Reduces risk of this becoming a DM matter

However, what to do in the short term remains the challenge

