

Partnership Meeting

Supplement to the agenda for

Wye Catchment Nutrient Management Board

Wednesday 12 July 2023

2.00 pm

3. PUBLIC QUESTIONS

Pages

3 - 14

Nutrient Management Board – Public Questions 12th July with responses

QUESTION 1.

This question is directed to the Environment Agency and Natural Resources Wales. At the last NMB meeting on 21st December 2022, I asked the Environment Agency whether a review of environmental permits within the Wye catchment was underway in the light of the judgement in Harris & Anor v Environment Agency & Natural England [2022]. I have not yet received a response. If there is no current review, is a review planned or have all permits already been reviewed for compliance with the Conservation of Habitats & Species Regulations 2017? Can I please have responses from both the EA and NRW?

Helen Hamilton

RESPONSE

Response MARTIN QUINE EA

At the last meeting, the EA were asked for its opinion on a recent court judgement relating to abstraction licences impacting the Norfolk Broads. It was the finding of the court that the review from 2010 which was used to inform the EA's decision was not acceptable. We were asked whether this judgement would change our approach to the Wye. Information on the Norfolk Boards can be found here: [https://www.gov.uk/government/news/habitats_protected\[1\]in-norfolk-through-stricter-abstraction-limits](https://www.gov.uk/government/news/habitats_protected[1]in-norfolk-through-stricter-abstraction-limits).

Our response is that each site will be fact specific, and it does not necessarily mean that other Review of Consent (RoC) decisions are incorrect, including the Wye. The RoC was a programme undertaken by the EA from 2002-2010. We reviewed all permits, licences and consents issued by us and assessed the effects on the Habitat Regulations, such as the River Wye SAC; affirming or changing those permissions accordingly. With regards to the Wye we are still awaiting the inspector's decision on the abstraction license appeal. Each case is considered on its own merits, and we did not believe it was appropriate to delay decisions on New Authorisation abstraction licenses in the Wye.

A response from NRW will follow

QUESTION 2.

Please can I ask the following question at Fridays NMB meeting. I'd be grateful if you would confirm receipt. The EA should have established how much phosphate reduction is required in the Lugg catchment annually to meet revised targets. Does the NMB have this figure? Further, can the NMB confirm whether sufficient actions have been identified and implemented to realistically meet the targets and over what timeframe?

Matt Tompkins

RESPONSE

A response from Natural England will follow.

QUESTION 3.

Can you indicate when credits will be available to purchase for planning application 213332 submitted 31/08/21

Jeffrey J Hancorn

RESPONSE

Rachael Joy - Herefordshire

Thank you for your question, Credits are being released to developers in tranches based on their position in the waiting list, with the oldest applications being processed first. The process can take a little while as many of the development applications need to be brought up to date before they can be determined involving work by both Council Staff and developers and their teams. We encourage all applicants to keep in touch with their case officer over the availability of credits.

QUESTION 4.

Could the Board name the 5 most important decisions taken since it was formed (10 years ago? and could it indicate the 5 most important practical steps it will take in the future to address serious pollution in the River Wye and tributaries?

Tony Norman

RESPONSE

Response from Elissa Swinglehurst CHAIR

Dear Tony 5 decisions and 5 practical steps.

Basically 'the board' is not there to deliver actions although the individual board members are. They report into the board the actions that align with or deliver aspects of the plan.

1. The NMB has become the locus for public discussion about Nutrient Management in the catchment and providing a forum for a) agencies to coordinate action b) a place for public scrutiny of performance in delivering the plan and c) a locus to bring call for national action to bring about river restoration for example in drawing attention to the need for a WPZ. Asking for a WPZ was a decision that the board took by majority.
2. The board invited Gamber and Avara to a meeting and it was at this meeting that John Reed pledged to ensure that Avara would not be part of the problem post 2025. That pledge having come from the work being done in the WUF agri supply chain work.
3. During my tenure the board was instrumental in establishing the citizen science cohort and linking them with agency partners. This has grown to an established network of over 600 cit sci volunteers gathering data that is spatially and temporarily detailed in a way that was totally lacking in 2019.
4. Herefordshire Council has delivered the first wetland to provide a degree of betterment and some measure of relief to house builders.
5. Since the board began DCWW have reduced their share by some 22% through their investment in improving infrastructure.

In the future I would hope that the individual board members take ownership of the plan, that they populate it with the good work they are doing and prosecute that work to benefit the river.

The specific task of the plan to act as mitigation has been taken to one side in the light of the Dutch cases. Mitigation will be achieved through actions within the plan but at the moment it will not be via

the plan itself. The Nutrient Management Board needs to demand more of its members and to remain open in its dealings. It must focus on solutions and be very determined to see these delivered.

Simon Evans, as a board member since the beginning, was also asked to comment:

If I was to list its main achievements they would be

-Asking for a WPZ

-Securing council support for Integrated Wetlands

-raising political (local and national) awareness of the issue and its severity

-The Safeguarding soils programme came from the earlier NMP and was taken up and delivered through the catchment partnership

-The original Delivering the Nutrient management plan project was great, but DCLG ripped all the meaningful P reduction measures out during the revision process except the reduction of sewer infiltration which reduced DCWW's

-Supporting DCWW in ensuring its PR14 and PR19 settlements with OFWAT for the Wye were approved which has allowed DCWW to invest in and deliver the most intensive P stripping for any catchment in the UK (over 90% of the population after the next AMP). This did not happen on the Usk.

QUESTION 5.

I note with concern that there is a lack of TAG working group engagement and progress, and a general lack of quantifiable, evidence-based investigation into how to deliver actions that reduce P at scale. How will the Board propose to get to grip with this stasis, given the severe implications to the construction industry, economic development and employment, as well as non-favourable ecological conditions in our beautiful rivers? Will the multi-agencies Leadership at the highest level need to be lobbied and drawn in, for example?

Mike Harries

RESPONSE

Response Rachael Joy- Herefordshire

The Nutrient Management Board is a voluntary partnership overseeing a voluntary partnership. It is for each statutory organisation to determine the resource that they commit to the work of the TAG against the many competing priorities they are each tasked with. All TAG members, including the TAG Chair have full time roles with TAG being an addition to their duties. The Board has always been concerned about the capability and capacity to undertake the work necessary to meet the challenges the Wye faces. We would of course like TAG to do more so recently, Herefordshire Council was successful in a funding bid to Welsh Government and has secure £40,000 towards the cost of a full time role to drive the work of TAG. The wider governance issues you raise will be discussed under agenda item 5 today.

QUESTION 6.

What help, in any form, have Herefordshire Council and/or the Nutrient Management Board actually been given by central government or its statutory agencies in relation to the desperate condition of the River Wye? Are Jesse Norman MP and Bill Wiggin MP actively offering assistance?

Mr Moore

RESPONSE

Response Elissa Swinglehurst Chair-

Dear Mr Moore, Thank you for your question. The Nutrient Management Board was established in 2014 in response to the Water Framework Directive and the failure of the River Lugg to reach favourable conservation status.

It must be remembered that the Rivers Wye and Lugg straddle the border between England and Wales and that therefore political action needs to come from both sides.

There has been a long standing regulatory misalignment between the two countries that leads to anomalies and is detrimental to achieving the right conditions for the river to recover. Since 2018 there has been a greater focus on getting the legislation right and currently it is closer to alignment than previously with the equivalent of NVZ on both sides. However, as the Welsh Government looks to include Phosphate in their drafting of the revised legislation there is a risk that the English rules will become misaligned again by not providing a clear enough imperative not to over apply phosphate in a phosphate sensitive area.

Since 2022 the Welsh Government have taken a strong lead from the first minister who has convened two summits which he has personally chaired. The connections between the Nutrient Management Boards in Wales and Welsh Government becoming well established as the government is taking ownership of the issue and supporting the boards to deliver the solutions. A pan Wales approach is providing a strategy with individual boards adapting the strategy to their local situation.

The Welsh Government and the English Government have provided some financial support recently. The interface between the English government and the RWNMB is less direct as we do not have the equivalent of the SACROG(SAC rivers oversight group) to pull everyone together. Nationally the government has been very focussed on the water industry and has brought forward a scheme to reduce the pollution from sewage. The Levelling Up bill, 'technically achievable limits', does not apply to Welsh Water as it is not an English water provider. Having said that, DCWW have already invested heavily in the catchment and are now about 23% of the source apportionment with an investment strategy that will see their share fall by 90%.

What is lacking is some clear and robust guidance to eliminate over application of P on farmland as well as a scheme to support the industry to reduce the legacy P over time.

There is a great deal of work being done by individual board members on this element – Farm Herefordshire is engaging with farmers and advising them, a Phosphate Loss tool is being developed to assist farmers to monitor their phosphate, advice on healthy soils and tillage is being shared etc. but without a sturdy regulatory floor we are entirely reliant on the good will of farmers working peer to peer and giving freely of their time to help to improve practices.

The board lobbied both governments for a WPZ. Neither government wanted to consider that option. The English Government secretary of state has visited the catchment on a number of times (Rebecca Pow came twice, Therese Coffey has come once) to learn about the situation first hand. We have not yet seen any clear action that will help the river as a result of these visits but discussions are ongoing.

It is not the role of Jesse Norman MP or Bill Wiggin MP to support the River Wye Nutrient Management Board per se. They have both raised the problem of the river in the house at PMQs and Jesse Norman

MP convened a roundtable with senior agency officials, the water company, MPs from both sides of the border and others to get a 5 year plan for river recovery. Herefordshire Council worked closely with Jesse Norman MP to secure the recent Wye Roundtable by the Secretary of State Therese Coffey.

Questions about the work done by the MPs are probably best addressed to their respective offices for a detailed response.

QUESTION 7.

FOUW is delighted that the private meeting of the NMB's members on 26/4/23 allowed "discussions which allow a fuller discussion and wider public debate at the next formal public meeting of the Nutrient Management Board." We look forward to the widening public debate at the forthcoming meeting.

Specifically we have a couple of questions that we'd like to pose to the NMB at the next meeting:

1) Re: TAG update report.

From: RECORD OF TAG MEETINGS, Recommendations to Board: (pg1) How is the TAG or NMB going to raise the resourcing and commitment to the various working groups? Some of them, although charged with important work, don't even have a chair to drive forward activity? The TAG is possibly the most important source of technical information/expertise to keep the programme rolling forwards. It must not be allowed to be under resourced.

2) Re: TAG update report.

From: Evidence Working Group, Scope and Updates: (pg1) Please advise who is the citizen science coordinator, appointed July 2023?

ANSWER: Andrew McRobb of CPRE

Given the recent publication by Avara of a revised roadmap, which is distinctly difficult to follow the numbers through on (missing graph axes labels, calculations that don't add up, etc) is the Chair of the Evidence working group satisfied that he has all the information and data he needs from Avara Foods (and the broader poultry sector) to contribute to his remit of coordinating modelling and collating data for use in directing further action?

How is he ensuring that the right questions are being asked?

3) Re: TAG update report.

From: Regulation Working Group, Updates: (pg2) When will the group start reviewing the powers and limitations of existing legislation, recommending measures to improve local compliance and raising issues / challenges with the board?

4) Re: TAG update report.

From: Farm Advice Working Group, Updates: (pg2) How can Citizen Science efforts contribute to the NMB's effort to make a plan to reduce the pollution in the catchment and restore the river's ecological status to thriving?

When will Farm Herefordshire publish the results of their survey of landholdings in the Wye catchment?

5) Re: TAG update report.

From: Poultry Working Group, Chair: (pg2) When will a chair be appointed to drive forwards the essential work of this working group?

From: UPdates:

Please explain what work is underway and how it is being undertaken/managed if it is "outside the working group"?

I look forward to hearing the answers at the meeting on 12th.

with best wishes

Tom Tibbits

RESPONSE

To be considered at the meeting.

QUESTION 8.

Thank you for the opportunity to put a question to the Wye NMPB Meeting on 12/7/23.

Question from CPRW. How will the Board ensure proportionate, effective and well-informed advisory roles in consideration of the geography (including political geography) of the Wye Catchment?

Statutory Advisers according to Agenda for 12/7/23:

England 12 [of which: 5 from Herefordshire Council, 4 from EA, 2 from NE, 1 from FoDean Council]

Wales 3 [all 3 from Monmouthshire Council]

Total

15

Dr Christine Hugh-Jones

RESPONSE

Response- Elissa Swinglehurst Chair

Dear Christine, Many thanks for the question. Powys, Monmouthshire, NRW are all able to bring as many advisors as they wish. The voting numbers remain the same however. The number of advisors from Herefordshire Council reflects the priority that HC gives the condition of the Wye and the cross cutting nature of the issues involved. Not all of the advisors attend every meeting. It would seem unfair to ask HC to send fewer attendees – perhaps the Welsh authorities might want to review their attendance but it is up to them to allocate resources as they see fit.

QUESTION 9.

Dear Elissa and the Nutrient Management Board, I'm submitting the following questions for the Wye Nutrient Management Board Meeting on Wednesday 12 July. Given the Poultry Working Group doesn't have a Chair and the latest TAG report says work to secure reductions from the poultry sector "is underway but under mechanisms from outside the working group" - can you tell me who is responsible for scrutinising Avara's roadmap and the progress they're making towards their goal of eliminating excess P from their supply chain by 2025?

I studied Avara's recent update to their roadmap - <https://www.avarafoods.co.uk/News/June-2023/An-update-on-our-manure-management-progress> - and have a number of questions.

Avara says they have achieved a 30% reduction in manure this year due to farm closures and exporting more manure out of the catchment. How does this tally with the graph provided in their document? The graph indicates that they've reduced overall manure from just under 160,000 tonnes to just under 140,000 tonnes - so around 20,000 tonnes which assumedly relates to an approximate 12.5% drop in bird numbers? The graph also shows around 10,000 tonnes is now being sold to a 3rd party out of catchment, which makes another 6% or so being exported. That's less than 20% from farm closures and manure exports. How have they got to 30%? Can you explain?

Does 'farm closures' mean that farms have closed completely and therefore the overall number of birds in the catchment has reduced, or have some farms simply left Avara's supply chain for a different company, leading to no change in bird numbers for the catchment?

I don't understand the significance of increasing manure volumes going to Anaerobic Digesters without phosphate-stripping because this doesn't reduce the phosphorus content of the manure. What happens to the digestate presents exactly the same problem as what happens to the manure.

Avara says they're still in the process of establishing new soil management standards for manure spreading and running trials. When will new standards be set for manure and digestate spreading and how they will be enforced? This is the critical question. Are any NMB members working with Avara on this and if so, can they shed light?

How can Avara justify their claim that the new proposed Anaerobic Digester solutions provide the potential for 'circular economies'? If Avara is still importing animal feed from overseas, they have a huge net P import into the catchment - so where is the circular economy?

Furthermore, with any strategic reliance on more Anaerobic Digesters in the catchment, will there be a guarantee that this won't increase maize production? The boom in maize production (driven by demand from AD plants) and its associated soil erosion and run-off is a major contributor to the demise of the river. Many thanks for your time and consideration. I look forward to the answers.

Nicola Cutcher

RESPONSE

Elissa Swinglehurst – Chair-

Thank you for your questions. When the board last met in December 2022 there was a working group specifically tasked with working with the poultry industry. However, as you correctly observe the chair of that working group has left and it is not clear who is taking the working group on. This meeting will be the first opportunity for the board to discuss this issue.

With regards to the work on Poultry Kate Speke Adams- Director of Herefordshire Rural Hub is leading on this through the Farm Working Group and in particular the Courtauld Project (see response to Question 10 below).

Likewise the update from Avara which has happened between board meetings. I think it is appropriate to acknowledge that Avara are engaged with the problem and to broadly welcome the reduction in Phosphate/manure given in the update.

The specific queries you raise need to be asked of Avara as only they know how they have calculated their reduction. I am happy for the board to pass the query on – this will also help the working group to a better understanding of the update and roadmap. You are right to point out that routing the manure via ADs does not address the issue of phosphate unless it is stripped and separated out. Follow the phosphate!

Standards for manure and phosphate spreading are between Avara and their contracted growers. Of course if spreading is in accordance with best practice then P should not be applied in excess of crop requirement on either side of the border and soil testing needs to demonstrate existing P levels to give assurance that the soil is not already leaching. There is some uptake of soil testing, DCWW will not sell biosolids where a field is at Olsen 3 or higher but even this doesn't tell the full story. It would be useful to know the details of the Avara soil/spreading allowances so we can factor in the reduction to the plan.

The question you raise about ADs in the catchment increasing the growing of maize and all the attendant problems with soil run off is something that there is a level of concern about on both sides of the river. Afonydd Cymru are doing some work on the impact of ADs and Herefordshire Council have placed a policy within their Minerals and Waste Plan to limit the flow of feedstock to local 'on farm' waste. The irony of maize growing – that creates such a negative impact in the SAC – is that it is to harvest a 'green subsidy', the RHI. For some reason a quality assurance scheme, such as applies to wood pellet boilers, has not been adopted and so there is only the usual regulatory controls to reduce the environmental impact.

ACTION: forward the question to Avara and ask for response.

QUESTION 10.

Regarding the Round Table Meeting with Tesco's on Monday 17th July in Hay-on-Wye, convened by the Wildlife Trusts; what outcome from that meeting and what commitments from Tesco, and in what timescale, would the NMB consider truly worthwhile and a genuine step towards improving the health of the Wye? Would the NMB consider that the urgency and seriousness of the Wye's situation demands the attendance of a Board Member or Senior Director of Tesco's at that meeting on 17th July? If so, would they consider making that recommendation to Tesco?

Marches Climate Action

RESPONSE

Rachael Joy Herefordshire-

Thank you for your question. Invitations to attend the Roundtable and the desired outcomes of the meeting are a matter for Herefordshire Wildlife Trust and not the Nutrient Management Board. Tesco is one of many retailers and members of the supply chain who are participating in a project with the World Wildlife Fund and the Waste Resource Action Project. They are currently meeting on a quarterly basis and are developing action plans which will be published in due course. It is for WWF, WRAP and the retailers to determine when they are ready to publish their plans. The Board has no statutory role or oversight of this project but is supportive of the work taking place.

Further details about the project can be found here

[Our Water Roadmap project in Wye & Usk \(West of England and Wales\) | WRAP](#)

QUESTION 11.

I'm submitting a public question in advance of the meeting next week.

In addition, my question from the last NMB has yet to be answered: "Are any of the working groups looking at issues around reducing the number of birds in the catchment and discussing alternative options or routes out of the poultry farming industry for those looking to exit?"

At this NMB I would like to ask: Will each of the local planning authorities (Powys, Herefordshire, Bannau Brycheiniog, Monmouthshire, Forest of Dean) give assurances that they will not allow increased volumes of livestock manure to be generated in the Wye catchment and that they will therefore refuse to grant any further planning permissions for additional intensive livestock units (including free range hen units)?

Alison Caffyn

RESPONSE

Peter Morris – Powys Council

From a Powys CC perspective I would respond as follows:

In determining planning applications for IPUs, the Council follows prevailing legislation, regulations, planning policy and guidance that is in place at the time a decision is taken. Comments made by statutory consultees, including Natural Resources Wales (NRW), and non-statutory consultees are also taken into account.

Over time, the policy and guidance has changed as exemplified by NRW introducing planning advice to all Local Planning Authorities in January 2021 in relation to planning applications affecting phosphorous sensitive river SAC catchments (latest advice is on the link below).

Natural Resources Wales / Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation

Since its publication, the Authority has determined all planning applications in line with the advice and planning applications are only acceptable where they comply with the advice.”

Bannau Brycheiniog- Helen Le Clerq

We screen applications for planning permission which lie within a phosphorous sensitive Special Area of Conservation (SAC) catchment area (like the Wye) in accordance with the latest guidance available from NRW. NRW's current advice can be found here: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/advice-to-planning-authorities-for-planning-applications-affecting-phosphorus-sensitive-river-special-areas-of-conservation/?lang=en>).

Planning applications for development which are not 'screened out' against the above NRW guidance will be subject to an Appropriate Assessment so that the phosphorous impact of a proposed development on water quality can be considered. If adverse effects on the integrity of the SAC from the proposal cannot be ruled out through the Appropriate Assessment process (taking into account any proposed mitigation measures) then this will be a sufficient reason to refuse a planning application - assuming the proposal does not fulfil the legal tests for derogation. Further information on the broad process can be found here: <https://www.gov.wales/habitats-regulations-assessments-protecting-european-site-html>"

Herefordshire – Rachael Joy

Herefordshire takes its responsibility to the environment seriously and we also value our rural economy. Any proposals that might result in the intensification of farming activity must demonstrate full nutrient neutrality. Since the nutrient neutrality requirements came into force in 2019, Herefordshire has not approved any new expansion of intensive poultry units in the county, other than the replacement of existing units which have reached the end of life. Any new proposal, which resulted in further intensification, are highly unlikely to be approved until the river returns to health, unless it can demonstrate nutrient neutrality. The Council considers these types of applications in line with the Conservation of Habitats and Species Regulations 2017 (as amended) which set out a very clear mechanism for considering the effects of development.

Our catchments leaky soils are in poor health and organic matter is a key way of improving them. Herefordshire Council is working with our statutory partners and the supply chain to find ways to remove phosphate from poultry manure; however these have to be the right solutions in the right locations.

Given both these factors, the key task is to improve the management of phosphate within the supply chain to prevent it entering the river. A moratorium would therefore serve little practical benefit and provide no additional safeguard.

Monmouthshire

As per BBNPA, we screen applications for planning permission which lie within a phosphorous sensitive Special Area of Conservation (SAC) catchment area (like the Wye) in accordance with the latest guidance available from NRW. NRW's current advice can be found here: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and->

development/our-role-in-planning-and-development/advice-to-planning-authorities-for-planning-applications-affecting-phosphorus-sensitive-river-special-areas-of-conservation/?lang=en).

Planning applications for development, including intensive poultry units, which are not 'screened out' against the above NRW guidance will be subject to an Appropriate Assessment so that the phosphorous impact of a proposed development on water quality can be considered. The guidance requires development proposals to demonstrate neutrality or betterment in terms of phosphate levels. If adverse effects on the integrity of the SAC from the proposal cannot be ruled out through the Appropriate Assessment process (taking into account any proposed mitigation measures) then this will be a sufficient reason to refuse a planning application - assuming the proposal does not fulfil the legal tests for derogation. Further information on the broad process can be found here: <https://www.gov.wales/habitats-regulations-assessments-protecting-european-site.html>

Forest of Dean

The design and construction of new development must take into account important characteristics of the environment and conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment, including their wider context. New development should demonstrate an efficient use of resources. It should respect wider natural corridors and other natural areas, providing green infrastructure where necessary.

In achieving the above, the following will be considered:

- The effect of the proposal on the landscape including AONBs and any mitigation/enhancement that is necessary or desirable
- The impact on any protected sites (natural and historic sites and heritage assets and potential for avoiding and/ or mitigating any impacts, or providing enhancement, should the development be acceptable
- The requirements of the management plans of the AONBs
- Whether the existing infrastructure is adequate- additional provision will be required where it is not.
- Whether the development is at risk from flooding, whether it can be permitted taking into account any risks, and the sequential approach and any mitigation that may be necessary to ensure the development is safe and flood risk is not increased elsewhere
- The impact of the development on any land contamination or risk to the development from ground instability including the mining legacy- Proposals must undertake appropriate remediation measures and verification works where contamination and /or stability issues are identified
- The potential for the development to cause pollution and any mitigation measures to avoid pollution or make environmental improvements where existing problems occur
- The provision of water supply and the development's impact on groundwater, watercourses and any protected abstractions
- Any potential impact on the sterilisation of mineral resources and consideration of the potential for the prior extraction of those mineral resources ahead of development
- Proposals for waste minimisation and management

Development that is not able to be satisfactorily accommodated in respect of the above will not be permitted

