

Minutes of the meeting of Environment and Sustainability Scrutiny Committee held in Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Monday 25 September 2023 at 10.00 am

Board members present in person, voting:

Councillor Dave Davies
Councillor Robert Highfield
Councillor Justine Peberdy
Councillor Louis Stark (Chairperson)
Councillor Richard Thomas

Board members in attendance remotely, non-voting:

Councillor Helen Heathfield (Vice Chairperson)

Note: Board members in attendance remotely, e.g. through video conference facilities, may not vote on any decisions taken.

Others present in person:

Ben Boswell	Head of Environment, Climate Emergency and Waste Services	Herefordshire Council
Simon Cann	Democratic Services Officer	Herefordshire Council
Joelle Higgins	Democratic Services Support	Herefordshire Council
Steve Hodges	Directorate Services Team Leader	Herefordshire Council
Danial Webb	Statutory Scrutiny Officer	Herefordshire Council

Others in attendance remotely:

Mark Averill	Service Director Environment and Highways	Herefordshire Council
Elizabeth Duberley	Service Manager Built and Natural Environment	Herefordshire Council
Rachael Joy	Interim Delivery Director for Environmental Transformation	Herefordshire Council

42. APOLOGIES FOR ABSENCE

No apologies were received.

43. NAMED SUBSTITUTES

There were no named substitutes.

44. DECLARATIONS OF INTEREST

There were no declarations of interest.

45. MINUTES

The minutes of the meeting held on 19 January 2023 were agreed as a correct record and signed by the Chair.

46. QUESTIONS FROM MEMBERS OF THE PUBLIC

See Appendix 1 – Questions from members of the public.

47. QUESTIONS FROM MEMBERS OF THE COUNCIL

There were no questions received from Councillors.

48. RIVER WATER POLLUTION

The Chair gave a brief introduction and overview of the report and suggested the discussion be broken down by structuring it around the four objectives listed in the work programme for the item:

- Understand the factors contributing to the pollution of rivers and watercourses.
- Examine the council's duties and powers to address river pollution.
- Scrutinise how the council fulfils its duties and exercises its powers.
- Identify key partners and their roles and responsibilities

The Cabinet Member for the environment warned of oversimplifying the source of the pollution and focusing on just one of the causes of what was a complex and multi-faceted problem.

It was explained that when discussing phosphate it was important to consider the ecological impact on the river. Algal blooms were triggered by temperature, low flow, sunlight and nutrients.

Phosphate was not the only substance contributing to nutrient imbalance - ammonia and PFAS (Per- and Polyfluorinated Substances) were also factors, but the focus of the committee's discussion would be phosphate.

The cabinet member explained that phosphate was required for life and to make things grow, but that it had got out of balance and as covered in the RePhoKUs report phosphate levels had adversely impacted the nutrient balance in the catchment area, with a 3,000 tonne excess of Phosphate in the area.

The complexity of the problem was demonstrated by the numerous contributing factors including: run off, land drains, sewage treatment, detergents, soil health and peak flow of the river in response to rainfall.

The committee referred to the RePhoKUs report's comments regarding phosphate getting into the subsoil and how that would potentially be a long-term problem with no short term fix.

The committee asked the cabinet member if they felt there were any gaps in the evidence.

The Cabinet Member noted that there was a lot of information on accumulation and legacy phosphate, but that robust data on total phosphorous and the impact it was having would be useful.

It was also noted that the use of soluble reactive as a proxy worked in relation to sewage treatment works, but was not an effective proxy for land-based studies.

The Cabinet Member stressed that in order to deal with the accumulation of legacy phosphate, it would be necessary to work towards solutions, involving building a greater understanding of how the phosphate could be copped out to help get the soils balanced again.

The committee heard from the Chief Executive of the Wye and Usk Foundation, who stated that understanding drives action and pointed out that the problem was chronic as well as acute.

The chronic problem was fundamentally related to the fact that too much phosphorous was being applied to the catchment soil - this was predominantly due to the intensification of agriculture and the basic supply chain/logistical pressures of locating feed stock close to the factories - with manure/waste products from that increasing the soils in those areas.

The Chief Executive then explained that the acute problem was the mechanism by which the phosphorous was getting into the water. There was an increased understanding that some of it was getting in through drain flow, overland flow and a lot was coming from yard run off and direct manure impact.

It was explained that the current focus was on phosphate P04, as that was the statutory monitoring programme. The statutory monitoring programme was built to measure what comes out of sewage works - soluble reactive phosphorous.

Regarding what comes from agriculture, it was stated that only about 10% of it is in the form of the soluble reactive phosphorous, the phosphate from the other 90% of the phosphorous was in other forms that people had been blind to and this was causing major ecological problems in certain catchment areas.

The Chief Executive explained that the Environment Agency was set to expand its monitoring programme to include other forms of phosphorous and that analysers were set in place in the catchment to start to understand this.

The Chief Executive pointed out that when dealing with the chronic problem, the 1,750 tonnes of bag phosphorous being applied was the excess and action from Avara could take 600-800 tonnes of that out - as farmers want to own the problem. Controlling the amount of fertilizer being applied to the soils determines whether or not the catchment is in balance and that can potentially be controlled through regulation.

In terms of solving the acute problem, the chief executive felt this was a more complex matter. There was a need to open up things wider than just phosphate in order to understand why the river was going green and why there were eutrophic problems. There were forms of condensed phosphorous predominantly coming from manures that fell outside of the current statutory monitoring programme and this needed to be addressed.

The Interim Delivery Director for Environmental Transformation explained how council members had placed considerable pressure on government to do more about the problem, including: a call for a WPZ (Water Protection Zone), round table and promise of a plan from the Secretary of State and the legal requirement on the agencies to produce a diffuse water pollution plan, however, there remained a need to go further.

The Interim Director pointed out that where this was a cross-government, cross-country problem, there was a need to bring systems thinking to bear and that the committee needed to think about systems as a whole and what needs to change within the system.

It was suggested that there was need to see, from the governments of both England and Wales, a proper scientific analysis of what it would take to actually recover the river, followed by a proper fair and open assessment of what the options were to do that. This might likely involve more voluntary action, a mixture of voluntary action and enforcement or a better set of tools.

The Interim Director noted that this was the first time in human history where there had been a requirement to manage down phosphate levels.

Thinking systematically about the problem, the potential solutions and having a public process that included the community would be crucial to solving the problem. The solutions would likely be very difficult and would require significant change within the poultry industry and significant change in farming practice.

The Interim Director stressed the need to focus energy on getting a proper process to get to a proper plan in place and then a properly resourced plan to deliver a solution. The committee enquired who would lead the plan being discussed and it was explained that ultimate responsibility for such a plan would lie with Defra, although the council and other agencies could continue to press with soft power.

The committee asked about the powers available to the Council to assist in tackling the problem.

The Head of Environment Climate Emergency and Waste Services broke the powers down into four main categories, with some examples:

- Planning and the ability to influence through planning.
- Convening power of the Council - including working with and coordinating other organisations, bodies and regulators, which had led to lobbying for a water protection zone and the creation of a Cabinet Commission
- General decision making of the Council – including decision reports and guidance from officers, environmental impacts featuring in all decision reports.
- The general powers of competence - the general wellbeing powers pioneering nationally some of the mitigation projects, such as the wetlands and the phosphate calculator on how to evidence the mitigation. These had set national standards.

The committee asked if the Council was able to influence the water companies in relation to the amount of sewage input going into the waterways.

The Cabinet Member for the environment explained that the water companies have an investment period and were currently installing phosphate stripping technology into sewage treatment works. Welsh Water had invested £60 million in phosphate reduction for the catchment.

The Interim Delivery Director for Environmental Transformation pointed out that Welsh Water was looking to reinvest in communities and on the Wye and that plans were in place to manage new house builds.

The committee asked if it would be possible to draw up an action plan similar to the one that had been created for the flood risk strategy, with a view to establishing a standardisation for action plans moving forward.

The Interim Director explained that unlike with the flood risk action plan, Herefordshire Council was not a lead authority in this matter, but was a partner. However it would be possible to provide a plan about what the Council was trying to influence through the

Cabinet Commission. It would also be possible to detail action around the planning system and how those levers were being used. Details of the limited role of environment enforcement and what is happening on the mitigation side could also be included.

The Chief Executive of the Wye and Usk Foundation explained they had been working with the Wye Catchment Partnership on a whole catchment approach to dealing with the principle issues. Once an issue has been identified it become possible to look at what the quantum of the issue is, what the cause is, the solution, then who implements the solution, where it happens and monitor it and feed it back.

It was explained that the approach allows for gap analysis, which is being built up with 124 different partners, of which the council is one. The Councils play a key role in this, but it is owned by everybody. What it will ultimately do is highlight gaps in research, knowledge and funding, which could feed into other related plans.

The committee noted that the Council was a publicly elected body within the 124 partners and that it would be crucial that they instilled confidence in the public and brought them along in the process, in order to ensure any plans were successful.

The Cabinet Member pointed out that housing in Herefordshire was responsible 0.02 of the problem and was mitigated. The housebuilding industry was being hit hard and restricting new builds was doing no good for the river nutrient neutrality in the region.

The Chief Executive of the Wye and Usk Foundation detailed an Environment Agency-funded project being run with the Foundation and some local farmers that had revealed a correlation between soil P indices and the amount leaving through land drains. Only one tenth was leaving through the land drains and in heavy soil areas this figure dropped to zero.

A Defra project for a phosphate balance calculator, would be able to focus on which of the soils need to be focused on to get phosphate applications and export into balance. This would create a science based pathway that farmers were aware of and engaging with to assist with putting in place better mitigation.

The Chief Executive stated that there was a lot going on, a greater understanding of the causes of the problem was emerging, the farmers were engaging, solutions were arising around legacy, but there were still fundamental issues with manure and manure management, which needed to be focused on.

The Chief Executive described to the committee how phosphate analysers, which allow for the recording of phosphate and other forms of phosphorous, were currently being used in the Wye and Usk catchment areas. The devices, of which there are currently three in the Usk catchment (funded by Dŵr Cymru Welsh Water) and one in the Wye catchment, enable continuous data retrieval on phosphorous components and ammonia. The analysers require a river bank lab, which costs approximately £40,000 to install and £20,000 per year to run.

An analyser on the Lugg would massively improve the efficacy of any plan to bring the river back into favourable conditions.

The committee noted that lost income resulting from the moratorium on building development had adversely impacted the GDP of the county and council by significant amounts and that funding the analysers being described seemed like a sensible positive development.

The Interim Director suggested that a recommendation about exploring such funding with others, such as Welsh Water, might be a sensible approach.

The Interim Director pointed out that the Council had used softer powers to inform the poultry industry and give it a greater understanding of what was happening in the river.

The Council had brought together the local farming community, Scottish Rural College, Defra, Natural England and the Environment Agency to do some detailed work on issues with the soil, which had resulted in a new tool that would measure phosphate within the field rather than having to send it off to labs. The tool was about to be trialled and further tools would allow farmers to make better choices regarding the impact of planting cover crops later or earlier.

The committee felt that work needed to be done with the Environment Agency in relation to manure management plans and raising awareness. There was a need for a regulatory floor, where there would be consequence for going below that.

The committee agreed that farming rules for water and control of agricultural pollution regulations needed improvement and both could be better. It was felt that here was a potential need to create an awareness campaign for what the requirements were, but this would be about getting things right and not punishing people.

The Interim Director raised a point of order, suggesting that the discussion was beginning to stray into areas of what the EA (Environment Agency) can do, and that the committee might want to invite an EA rep to discuss this before making recommendations.

The Chair acknowledged this point, but said that the recommendation would request working with the EA to inform and implement any campaign.

The committee discussed introducing a kitemark of quality to highlight a catchment sensitive farming approach where it has been taken. It was pointed out that the Herefordshire Farming Alliance was already doing something similar through 'river friendly farming' and 'river friendly food'.

The committee asked the Chief Executive of the Wye and Usk Foundation if it might be possible to obtain a breakdown of the 124 partners involved in the whole catchment approach.

The Chief Executive confirmed that it would be possible to do so and that the partners ranged from government, supermarkets, supply chains, deliveries to farmers, citizen scientists, wildlife trusts and other councils.

ACTION: The Chief Executive of the Wye and Usk Foundation to provide a breakdown of the 124 partners in the whole catchment process by governance area, for reference.

The committee discussed and made a number of amendments to the proposed recommendations on this item relating to:

- b) adding funding for analysers to the recommendation to ensure decisions are being made based on accurate data.
- c) concerns were raised about the EA not being engaged before putting the recommendation forward, but the committee felt that the recommendation was proposing working with the EA.
- d) to acknowledge the need to work with partners already running similar schemes, such as the Herefordshire Food Alliance.

Following debate, the committee unanimously voted in favour of making the following recommendations to the Executive:

RESOLVED:

That:

- a) The Executive should consider drawing up a River Improvement Direct Action Plan itself, constructed around the Council’s existing statutory responsibilities, to inform policy development, prioritisation on actions to be taken, including those in the pipeline, budgeting and resourcing. This would also refer to and draw from related plans being constructed by partners; and**
- b) The Executive should collect its own water quality samples, through funding analysers on the river Lugg specifically:
 - first to fulfil its role as the “competent” authority under the “Habitat regulations”**
 - second, to use as evidence on the true state of our rivers in our catchment area, in negotiations with partners on the required river improvement actions;**
 - third, as a response to the claim by RePhokUs in their latest report, “that current inconsistencies in river water quality monitoring programmes are confounding understanding of the impact of variable farming pressures and P surpluses on river P pollution; and****
- c) With the EA, an awareness and engagement campaign should be run within the livestock and agricultural sector, covering manure management plans and compliance with the requirements of the “Storing silage, slurry and agricultural fuel oil regulations”; and**
- d) With livestock and agricultural producers, the Executive should explore the value of a kitemark designation for local sourced produce to indicate they have come from “Catchment Sensitive Farming (CSF)” practices. This should include discussion with the Herefordshire Food Alliance and any other interested partners; and**
- e) That the Executive should push strongly through the existing Cabinet Commission, for the proposed SoS led plan for the river Wye to include a glide path to a Water Protection Zone, if all voluntary arrangements fail to achieve river recovery.**

49. EXECUTIVE RESPONSE TO RECOMMENDATIONS ON THE LOCAL FLOOD RISK MANAGEMENT STRATEGY ACTION PLAN

The Chair introduced the item and provided background information in relation to the recommendations made by the Committee and the responses received from the Executive.

The Chair explained that unless there were any questions from members, the focus would be on the responses to recommendations 5 and 6, which had been partially accepted.

Recommendation 5 and the Executive response to it were read out to the committee. The Chair invited the Directorate Services Team Leader for Economy and Environment to provide an update on the response.

It was explained that the reason for the recommendation being partially accepted was due to the potential impact of forthcoming national policy, but that the directorate was

aware that policy elements specific to Herefordshire would need to be considered as part of the Local Plan. The team leader read out a statement that had been provided by the Strategic and Neighbourhood Planning Manager:

“The draft local plan contains policies to ensure that the effects of climate change and flooding risks are recognised, considered and managed. Specific policies have been drafted to address these issues. These may need to be reviewed if a flood risk policy is included within the national development management policies, as part of the levelling up and regeneration bill and changes to the national planning policy framework, which are expected this autumn. The local plan is going to define the up-to-date extent of the land at risk of flooding, which may include sources of flooding other than the environment agency flood zones and this is the area where the national and local policy will apply. Strategic flood risk assessments both at county and site level will be important in this process and the strategic flood risk assessment part two is currently being commissioned.”

It was stated the Strategic and Neighbourhood Planning Manager’s work would be underpinned by the local flood risk strategy as well.

The committee understood that the local flood risk management strategy action plan needed to be used as an evidence base to inform the local plan, but it had concerns about the accuracy and reliability of EA (Environment Agency) flood mapping information.

The committee stated that it felt the EA’s flood mapping was out of date, too reliant on height above sea level data and contours, and didn’t give enough consideration to water coming in from higher grounds.

The committee also raised concerns about plans that focused solely on how to rush water through systems at the expense of considering other factors, such as how to slow down the arrival of water. It was felt that local knowledge was vital in shaping flood planning, but was not always available or included.

The committee voiced concerns about the EAs evidence base and over reliance on central government policy.

The Cabinet Member for the Environment stated that plans tended to focus on riparian/fluviial flooding rather than pluvial flooding. It was suggested that a systems thinking style approach would be helpful going forward. Plans should take a holistic approach and needed to be future-proofed to take into account climate change. The committee noted this and suggested a recommendation be put to the Executive in relation to the matter.

Recommendation 6 and the Executive response to it were read out to the committee. The Chair invited the Directorate Services Team Leader for Economy and Environment to provide an update on the response.

It was explained that arrangements were already in place and were currently being assessed, which was why the recommendation had been partially accepted. The Council’s ecology team in conjunction with ecologists within Balfour Beatty Living Places (BBLP) would be further developing the process of assessing projects in relations to Habitats Regulations Assessments (HRAs) and that this was very much a work in progress.

ACTION: That the team leader provide the committee with a further update in relation to any amendments to the process in this area and to give assurance that recommendation 6 has been fully signed off.

At the end of the debate, the committee voted unanimously in favour of the proposed recommendation:

RECOMMENDATION:

That:

- a) **The Executive reassure themselves that any review of the Local Plan takes account of all the flood risks, both pluvial and fluvial, specific to Herefordshire.**

50. WORK PROGRAMME

The committee discussed the work programme.

RESOLVED:

That:

- a) **The planned 'Meeting net zero-carbon in Herefordshire' item would be rescheduled from the 22 January 2024 meeting to the 25 March 2024 meeting of the committee and;**
- b) **The planned 'Nutrient Management Board' item would be rescheduled from the 25 March 2024 meeting to the 22 March 2024 meeting of the committee and;**
- c) **A briefing would be held on the Minerals and Waste Local Plan and;**
- d) **Members would conduct enquiries in relation to littering and public bins in their local area, findings would then then be shared and discussed at a future informal briefing and a decision taken as to whether or not to include the topic as a work programme item.**

51. DATE OF THE NEXT MEETING

Monday 27 November 2023 10.00 am

52. APPENDIX 1 - QUESTIONS FROM MEMBERS OF THE PUBLIC

Questioner:	Ms Carol-Ann Banks, via email
Scrutiny Meeting:	ESSC Meeting 25 September 2023
<p>Herefordshire Council would appear to be waging a war against private car ownership. The roads are narrowing, you are reducing parking spaces, forcing people into using public transport, spending £2m on electric buses powered by batteries which are anything but green all whilst aiming to reduce carbon dioxide emissions to net zero as per the WEF Agenda30.</p> <p>Facts:</p>	

- carbon dioxide is only 0.04% of the atmosphere
- only 3% of the 0.04% is produced by cars
- 1.3% of the 3% is produced by manufacturing, cows passing wind and bush fires
- Only 1% of the 3% is produced by the UK
- China emits in one day the equivalent of the UK emissions in one year
- There has been global COOLING over the last 8 years, despite 450 billion tons of emissions, which is 14% of total human manufacturing CO₂. (Part of the 1.3% of the 3% of the 0.04%).

(the National Oceanic and Atmospheric Administration (NOAA))

Looking at the science:

A mature tree will absorb 21.77 kg of carbon dioxide per year. This doesn't include other plant life.

The area of woodland in the UK at 31 March 2023 is estimated to be 3.25 million hectares. This represents 13% of the total land area in the UK.

Woodland Carbon Code projects in the UK that were validated (including those that were also verified) at 31 March 2023 were predicted to sequester a total of 8.5 million tons of carbon dioxide over their lifetime of up to 100 years.

[\(forestry.gov.uk\)](https://www.forestry.gov.uk/)

**Question: So why are we trying to reduce carbon dioxide emissions?
If carbon dioxide levels fall to 0.02% ALL life will cease to exist.**

Response:

- The Council is committed to providing residents with a transport network that supports all transport modes, enabling safe and sustainable travel choices for residents.
- The Council is also committed to leading a local response to the Climate & Ecological Emergency, which was recently reaffirmed by unanimous vote at Full Council on the 28th July.
- Here we have set targets, and are making good progress to achieve:
 - carbon neutrality across the Council's own emissions by 2030
 - and we are working with partners, businesses, communities and residents to achieve this countywide.
- The importance of this commitment is reiterated within the [most recent report from the Intergovernmental Panel on Climate Change \(IPCC\)](#), who are the internationally accepted authority on climate change. Some headlines

statements from this report include:

- *Human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850–1900 in 2011–2020.*
- *Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred.*
- *Human-caused climate change is already affecting many weather and climate extremes in every region across the globe.*
- *This has led to widespread adverse impacts and related losses and damages to nature and people.*
- *Continued greenhouse gas emissions will lead to increasing global warming, with the best estimate of reaching 1.5°C in the near term in considered scenarios and modelled pathways.*
- *Risks and projected adverse impacts and related losses and damages from climate change escalate with every increment of global warming.*

Questioner:	Ms Carol-Ann Banks, via email
Scrutiny Meeting:	ESSC Meeting 25 September 2023
Supplementary Question: Sent via email and read out by the clerk during the ESSC meeting 25 September	
<p>Given that carbon dioxide is essential for life, and that reducing carbon dioxide emissions to net zero could have disastrous consequences, what is your rationale for waging a war against private car ownership and reducing parking spaces?</p> <p>Supporting information:</p> <p>The National Oceanic and Atmospheric Administration (NOAA) website shows that there has been global cooling over the last 8 years, despite 450 billion tons of emissions.</p> <p>I look forward to receiving a response to my question at the meeting.</p> <p>Thank you for your time and consideration.</p> <p>Kind regards Carol</p>	
Response: A written response was provided to the question as set out below.	
The Council remains committed to providing residents with a transport network	

that supports all transport modes, including private cars. Parking charges do play an important role in managing the balance between private car use, and promotion of other options such as walking and cycling.

Work is currently underway preparing the development of the next Local Transport Plan which will set out the council's strategy for supporting economic growth, improving health and wellbeing and reducing the environmental impacts of transport.

Through the development of this new plan the Council will be activity consulting and I would encourage you to take part in the future consultations.

The meeting ended at 12:39 pm

Chairperson