

Title of report: Cabinet Commission - Restoring the Wye

Meeting: Cabinet

Meeting date: Thursday 29 September 2022

Report by: Cabinet member finance, corporate services and planning;

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

Following the cabinet decision to establish a cabinet working group on 28th July 2022, Cabinet is asked to note the Terms of Reference and Membership for the 'Phosphates Commission - Restoring the River Wye'.

Recommendation(s)

That:

- a) **Cabinet agree the Terms of Reference and Membership for the 'Cabinet Commission - Restoring the River Wye'**

Alternative options

1. None – At its meeting on 28 July 2022 Cabinet resolved to establish a Cabinet Commission - Restoring the River Wye (the Cabinet Commission), to consider how the Council and its partners can progress the wider systemic and strategic issues needed to address water quality including Phosphate Pollution in the Wye; and agreed that the Terms of Reference for the Cabinet Commission be agreed in writing by Cabinet with the Final Terms of Reference and Membership of the Phosphates Commission being reported to the next available meeting of Cabinet.

Key considerations

2. A Cabinet Commission (“Commission”) is being established to undertake a more strategic and systems led review of river quality and in particular to consider how the council can use all the powers and influence available to it to progress the restoration of the Wye and Lugg.
3. The Technical Advisory Group (TAG) of the Nutrient Management Board (NMB) comprises practitioner staff from partner agencies undertaking important work which will deliver incremental improvements within current systems approaches. TAG is not equipped or resourced to take a wider strategic role. The Cabinet Commission will therefore add value and capacity rather than duplicate the work of NMBs TAG. Close liaison will take place to ensure that activity compliments and supports each other.
4. An early task of the Commission will be to consider what more can be achieved by the Local Planning Authority (LPA) and in particular identifying a package of measures that will create a staged route map to move the planning regime for both agriculture and new housing development to demonstrate full Nutrient Neutrality for all new planning applications within the LPA area by April 2025. The council would propose to introduce new measures in phases based on the source apportionment data as a priority for action. This would also allow time for agricultural and housing developers to prepare and to enable the council to complete the development of appropriate systems and safeguards.
5. In particular the Commission will consider whether it is now reasonable to use Planning Conditions and the Planning Enforcement regime to ensure that nutrient outputs from new developments are certified to ensure that they do not create down-stream impacts within the Lugg and Wye Catchments. The Commission will also address what more can be done to address river quality issues caused by current developments.
6. Over the summer recess work has been undertaken to finalise the Commission’s terms of reference, work programme and timetable regular progress reports to be provided to Cabinet. Additional capacity will be created by Commission support where existing gaps exist. The Commission will draw on expertise, leading national experts, other impacted local authorities and from our national regulatory partners.
7. The proposed Terms of Reference and Membership for the 'Cabinet Commission - Restoring the River Wye' are attached as Appendix 1.

Community impact

8. The Commission and the work to progress the restoration of the River Wye and River Lugg will positively contribute to the following ambitions within the County Plan 2020-2024.
 - a. Seek strong stewardship of the county’s natural resources.
 - b. Protect and enhance the county’s biodiversity, value nature and uphold environmental standards through “River Betterment.”
9. The restoration of both the River Wye and River Lugg will enable future economic development across the county.

Environmental Impact

10. The River Wye and River Lugg are considered important in terms of nature conservation, as a consequence both rivers are designated as Sites of Special Scientific Interest (SSSI). In addition the lower stretch of the River Lugg; from Hope under Dinmore, along with the River Wye are also

designated as a Special Area of Conservation (“SAC”) under the European Community Habitats Directive (Council Directive 92/43/EEC).

11. The special features for which the River Wye is designated include a range of aquatic habitats and species. Improving the water quality will support the council’s commitment to address the climate and ecological emergency through the protection and enhancement of these, and other important wildlife habitats.

Equality duty

12. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:
13. A public authority must, in the exercise of its functions, have due regard to the need to –
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.
15. The Cabinet Commission will consult broadly with stakeholders and will undertake a comprehensive equalities impact assessment when making its final recommendations.

Resource implications

16. Grant funding of £100k has been provided for Phosphates work by DLUHC enabling a commissioning budget of £60k to be created to underpin the work of the Cabinet Commission

Legal implications

17. This report is to note the membership and terms of reference of the Commission, which will have no decision making powers and therefore there are no legal implications arising from this report.

Risk management

Risk / opportunity	Mitigation
Risk - There is a significant risk that the condition of the River Wye deteriorates and is classified as failing. This would restrict the future economic development in the south of the county.	Improved partnership working and additional strategic leadership across the River Wye and River Lugg catchment areas
Opportunity - To improve the water quality of both the River Wye and River Lugg which will protect and enhance biodiversity.	
Not securing agreement between Commissioners	The Commission is a voluntary Cabinet working group of Herefordshire Council with no decision making power. Commissioners will seek to achieve consensus but in the event this is not possible are free to provide minority recommendations.
Not securing cross border buy in from both Governments	The Commission will seek to produce evidence led and locally developed solutions which is hoped will command the respect of both governments. However, it is accepted that national policy decisions by both governments could override ambitions developed through a localism remit.
What if there isn't enough time for Commission to consider all evidence and reach conclusion	The terms of reference for the Commission and scope are of necessity broad because of the complexities of river quality. The Commission will deliver as much work as possible before March 2023. If work is not complete scoping will be undertaken as to how remaining tasks can be delivered beyond May 2023, either through a second phase of the Commission or an enhanced NMB.

Consultees

18. The following consultation has taken place:

Consultation	Date	Feedback
Nutrient Management Board	March and June 2022	The concept of a Commission has been raised at the March and June 2022 meetings. NMB are keen to avoid duplication.
NE / EA / NRW		Comments were included in the ToR
Powys County Council / Monmouthshire County Council		Comments are included in the ToR
Directorate Leadership Team	7 September 2022	Comments are included in the ToR

Corporate Leadership Team	13 September 2022	Supports the formation of a commission
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Appendices

- Appendix 1 - Terms of Reference and Membership for the 'Cabinet Commission - Restoring the River Wye

Background papers

- None

Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 13/09/2022
Finance	Louise Devlin	Date 13/09/2022
Legal	Alice McAlpine	Date 13/09/2022
Communications	Luenne Featherstone	Date 12/09/2022
Equality Duty	Carol Trachonitis	Date 12/09/2022
Procurement	Mark Cage	Date 14/09/2022
Risk	Kevin Lloyd	Date 13/09/2022

Approved by	Ross Cook	Date 21/09/2022
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Please include a glossary of terms, abbreviations and acronyms used in this report.