

Title of report: Nutrient Management Board

Meeting: Environment and Sustainability Scrutiny Committee

Meeting date: Monday 22 January 2024

**Report by: Head of environment, climate emergency and waste services,
Service Manager Built and Natural Environment Services, Interim Delivery
Director, Sustainability & Climate Change Manager**

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

This report seeks to provide an overview of the role and purpose of the Nutrient Management Board to the Environment and Scrutiny Committee. It will address the following queries raised by Scrutiny:

- The role of the Nutrient Management Board;
- Aims & Objectives;
- Terms of Reference;
- Governance Arrangements;
- Agreed Targets and Key Performance Indicators

Recommendation(s)

That:

- a) **The Committee notes the role and purpose of the Nutrient Management Board and recognises the role the Council has as an active member of this board, and**
- b) **The Committee determines any other actions or recommendations it may seek to make.**

Alternative options

1. None identified, this report seeks to provide an update to the Environment and Sustainability Scrutiny Committee.

Key considerations

2. The Nutrient Management Board was established in 2014 following a Review of Consents (RoC) of Waste Water Treatment Works (WWTW) under the Habitats Regulations carried out by the Environment Agency in 2010. It revealed the River Lugg section of the River Wye SAC was exceeding its phosphate target (0.05mg/l phosphate) and that despite measures undertaken to address point source pollution via the consents on WWTW, the levels continued to exceed conservation targets. A need was identified for a Nutrient Management Plan to set out how the reduction in concentrations could be delivered from all sources of pollution. The report highlighted that future growth must not compromise the achievement of conservation targets
3. The Nutrient Management Board was established in 2014 by the Environment Agency in partnership with Natural England. It instigated the development of a Nutrient Management Plan setting out an Evidence Base; incorporating source apportionment modelling, with Options Appraisal and Action Plan agreed by the board, which would set out a trajectory to bring the watercourse back into favourable condition with respect to phosphate levels.
4. The Board proposed that the plan would also take into account the proposed development growth within Herefordshire and Powys, to ensure the predicated impact on phosphate levels are calculated and considered within the plan, this would ensure that future growth would not compromise the achievement of conservation targets. *'The production of the NMP will thus allow Hereford Council to 'rely' on the decisions made under RoC when considering the impacts of future growth.'* p2 Evidence Base of NMP. By adopting the plan it ensured that the new Local Plan, which sets out the county's strategy for growth complied with Habitats Regulations and would pass examination by the Inspectorate.
5. The overarching aim of the NMP is set out in the explanatory note prepared by the Environment Agency and Natural England to the Council and is shown as Appendix 1 *The Environment Agency in partnership with Natural England have instigated the development of a Nutrient Management plan to ensure that the River Wye Special Area of Conservation (SAC) achieves and maintains favourable condition with respect to phosphate. The plan also takes into account proposed development growth within Herefordshire and calculates the predicted impact that development will have on the phosphate levels within the SAC.*
6. The original Terms of Reference shown as Appendix 2, sets out the functions of the Board, with attendees from all representative groups. It highlights the need at the time for collaborative working between statutory agencies and the landowning community and that through engagement with the proposals in the Action Plan from all parties will secure delivery of the aims. It defines the parameters of the role, the Council has on the Board: *'Herefordshire Council will chair and provide secretariat for the NMP Board, including minutes being published on the CC website.'*

7. The monitoring and surveillance programme will comprise monthly monitoring of phosphate levels from 3 locations (Carrots Pool, Holme Lacy, Mordiford) along the Rivers Wye and Lugg by EA and tracking of uptake on voluntary measures for agriculture through for example Catchment Sensitive Farming by NE.
8. Source apportionment modelling which identified the two main sources of pollution as WWTW and agricultural within the Evidence Base, of the Plan; shown as Appendix 3, could be rerun and revised in later iterations of the Plan, thereby providing an indicator of progress.
9. As Figure 3.3 taken from the Plan's Evidence Base shows spikes in orthophosphate levels have been in evidence since monitoring has been recorded in 2004 and the accompanying report states the following: *'The orthophosphate monitoring data from the River Lugg at Mordiford Bridge also suggests a similar falling trend over the same timeframes, again suggesting the phosphate levels overall are also gradually falling within both the upper River Wye sub-catchment and the Lugg sub-catchment. Although it is not possible to specify the exact causes of the fall in orthophosphate levels within the rivers, it could in part be due to a combination of improvements in water company treatment processes as well as improvements in land management practices.'* p24 Evidence Base NMP

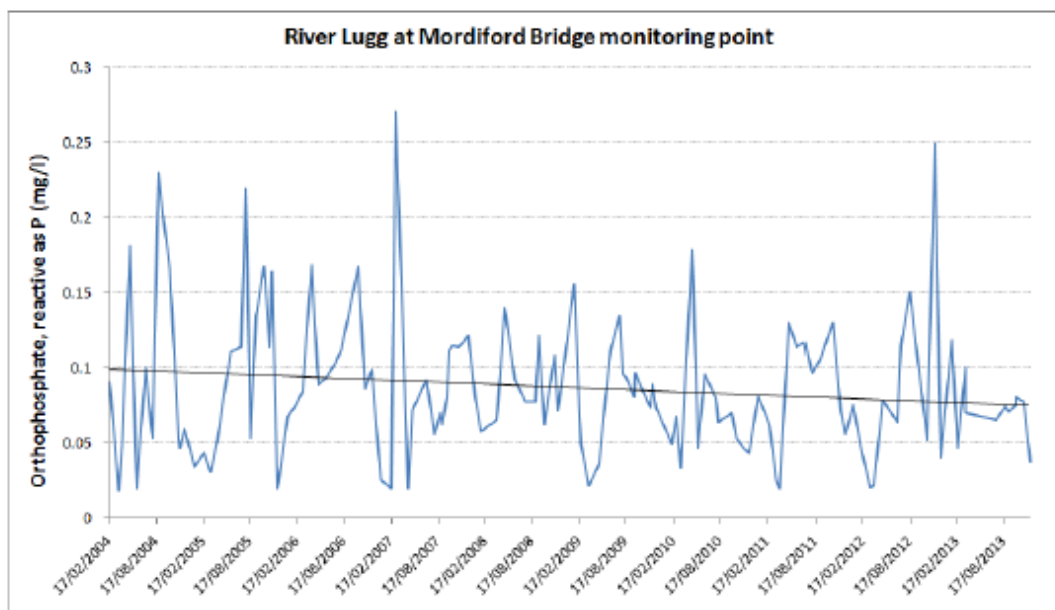


Figure 3-3: Orthophosphate monitoring data (2004-2013) - River Lugg at Mordiford Bridge

- 10.
11. With the developments in case law relating to Habitats Regulations, as a consequence of the Dutch judgement (2018) Natural England advised that as the River Lugg is already exceeding its recommended phosphate levels the Plan could not be relied upon to ensure no likely significant effects upon the integrity of the internationally protected river. All development within the Lugg catchment (the majority of the north of the county) from 2019 was now required to demonstrate Nutrient Neutrality. This had led to a renewed impetus driven by the Council as Chair of the Board to review and update the Plan.
12. In 2021 an updated version of the Plan; shown as Appendix 4, drafted by the statutory agencies advised that the River Lugg continues to exceed its phosphate targets, SAGIS modelling indicating a source apportionment similar to that shown in the original plan of 2014; 66% agriculture, 25% WWTW and 9% other sources. The predicted concentration of

phosphate at Mordiford Bridge once AMP7 measures are implemented, is shown as 0.055mg/l which suggests a falling trajectory.

13. The current Plan recognises the need to explore additional measures to reduce phosphate in the Lugg as the only quantifiable measure included to date is the Council's wetland initiative.
14. In January 2022 the Nutrient Management Board requested a Water Protection Zone to be considered for the River Wye. The Environment Agency advised this decision could only be taken by Defra following a recommendation from the Agency with a supporting evidence base and that Defra were unlikely to progress this course of action.
15. As an alternative measure the statutory agencies have undertaken a comprehensive review of the governance of the Board. The revised governance document as shown in Appendix 5 sets out the purpose of the River Wye Nutrient Management Board as:

A wide group of partners with an interest in improving water quality in the catchment and a role in delivering that outcome who come together to:

- To influence decisions and actions that have an impact directly or indirectly on the catchment
- To advise decision makers on their proposals, plans and decisions/actions
- To challenge decision makers on their proposals, plans and decisions/actions.

Works with the Technical Advisory Group to contribute to delivery of actions as required.

16. Whilst seeking to work collaboratively, it recognises the limitations of the Board, in terms of the need for the organisations with statutory responsibility to agree collective decisions with their own organisations in the first instance.
17. It has sought to develop a single, joined up, cross border approach at operational level which now includes Natural Resources Wales as the third statutory agency. It has also sought to ensure all Authorities with a planning remit now encompassing Brecon Beacons National Park Bannau Brycheiniog, Monmouthshire County Council and Forest of Dean District Council are attendees on a new Statutory Officers Group (SOG) which enables members to reach agreement on how they will collectively use their powers and resources to improve the condition of the catchment.
18. A revised Technical Advisory Group which now has broader representation from all specialist fields including agriculture, Ecology and Hydrology will continue to provide technical analysis and recommendations to an impartial Board who can call for change, be that political or otherwise.
19. The Council continues to play a participative role in all levels of the Board from technical through to Chair and, recognising the necessary limitations of its role, also seeks to influence change through direct action in securing funding for strategic mitigation as well as lobbying central government on the effects of Nutrients at a national scale.

Community impact

20. The work to progress the restoration of the River Wye and River Lugg Special Area of Conservation will positively contribute to the ambitions within the County Plan 2020-24:

- a. Protect and enhance the county's biodiversity value and uphold environmental standards through River Betterment.
 - b. Seek strong stewardship of the county's natural resources
 - c. Invest in low carbon projects
 - d. Support an economy which builds on the county's strengths and resources.
 - e. Develop environmentally sound infrastructure that attracts investment
 - f. Spend public money in the local economy wherever possible.
21. Farming and agriculture, home building and tourist industries as well as resident access to countryside leisure amenity are all essential to the vibrancy and life of rural communities. The restoration of both the River Wye and Lugg catchment will assure the vibrancy and future prosperity of all our communities.

Environmental Impact

22. 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).

Equality duty

23. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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.

As a committee report this will not have an impact on our equality duty.

Resource implications

24. There are no resource implications associated with providing this progress update to the Environment and Sustainability Scrutiny Committee.

Legal implications

25. It is a function of the Environment and Sustainability scrutiny committee to consider, as part of its work programme activities, integrated wetlands & water quality. The work of the Nutrient Management Board is a key partner and influencer in this regard.

Risk management

26. There are no risks associated with providing a progress report to the Environment and Sustainability Scrutiny Committee.

Consultees

27. None

Appendices

Appendix 1 – Explanatory Note

Appendix 2 Terms of Reference

Appendix 3 Nutrient Management Plan 2014

Appendix 4 Phosphate Action Plan 2021

Appendix 5 River Wye Management Board Governance 2023

Background papers

None

Report Reviewers Used for appraising this report:

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Approved by	Mark Averill	Date 16/01/2024