

29th July 2022 Summary of Cabinet Commission Progress

The Cabinet Commission met in June with attendance from Monmouthshire, Powys, Herefordshire and Brecon Beacons National Park to review the progress against the Cabinet Commission Plan issued 2022/2023. All parties confirmed the Commission provided a useful forum to share progress updates and to identify constraints at officer level in delivering the desired progress on river restoration, growth and interpretation of Habitats Regulations. It was agreed that the CC has the ability to provide a political platform to lobby central government in respect of issues raised.

A progress report was provided on the current work being undertaken by members and the wider catchment partners:

The development of the Diffuse Water Pollution Plan derived from a consent order as a consequence of a judicial review in 2014, led by the Environment Agency and in lieu of a Water Protection Plan. Phase 1 encompasses an update of evidence and modelling of source apportionment, phase 2 of the plan is an options appraisal engagement from all partners including Herefordshire Council, it will consider all potential mechanisms for tackling diffuse pollution include regulatory and enforcement measures. Phase 3 is an identified action plan to address diffuse pollution and target compliance with conservation objectives for the River Wye SAC agreed by all partners.

The Nutrient Management Plan has undergone a recent progress update undertaken by Natural England. Welsh government has latterly confirmed funding of £80k to Herefordshire Council for the purpose of data gathering of Welsh evidence, to be reviewed and incorporated into the Nutrient Management Plan, as well as wider catchment plans including the Wye Catchment Plan and the Diffuse Water Pollution Plan in order that evidence based modelling of apportionment and targeted actions reflects the entire cross border catchment.

Powys and Monmouthshire provided an update on the Upper Wye Restoration Project led by Natural Resources Wales with 10 million investment over a 5 year period the project will initiate a series of targeted projects to delivery improvements to the condition of the Wye, the project is due to be formally launched at the forthcoming Royal Welsh Show.

Herefordshire provided an update on the review of the Local Plan; regulation 18 consultation had been undertaken with feedback provided from Natural Environment team on Nutrient Neutrality policy, with a formal consultation from Natural England provided. It was noted that catchment Ecologists meet quarterly to review their interpretation of the implementation of Habitats Regulations and that there is scope to broaden this out to encompass a catchment wide approach to planning. With Herefordshire Council having now allocated resource to a Nutrient Mitigation Lead further work to develop this can be progressed.

Actions

- Members agreed to review the ToR and feedback at the next meeting any updates required.
- Members agreed to draft a letter to the new Secretary of State and the Cabinet Secretary for Climate Change & Rural Affairs in the Welsh office to request joint engagement on the delivery of the DEFRA River Wye Action Plan. Expressing a further need for joined up working between the statutory agencies on interpretation of both Water Quality and guidance on Nutrient Neutrality to local planning authorities.
- Implementation of catchment wide Planning and Ecology teams to review interpretation of Habitats Regulations

Motion

RESOLVED: We welcome all the actions that Herefordshire Council and other statutory partners have taken and continue to take to address the issue of phosphate over-loading of the River Wye SAC.

As scientific research now exists which indicates that further impactful and coordinated responses are required to save the river catchment from permanent eutrophication, this motion calls upon the executive to:

Consider including the following areas of urgent action in the remit of the proposed Cabinet Commission on Phosphates:

1. Request of government that:
 - The new Minister in charge of Defra clarifies what additional evidence they require before they would be prepared to reconsider the Council's Water Protection Zone request for the Wye;
 - DEFRA commission the catchment-wide appraisal of nutrient flows in the Wye (and all other river systems within Herefordshire) that will inform and enable consideration of the cumulative impact of housing, agricultural and industrial development.
2. Request that:
 - The Environment Agency improve the effectiveness of their regulatory and enforcement actions and their work with partners, to deliver best practice in sewerage treatment and manure management and to encourage and support the ongoing work of compliant farm businesses.
 - Natural England update their current (2011) River Wye water quality data in relation to the SSSI and SAC targets in a timeframe which is aligned to the current update of the Herefordshire Local Plan; and provide guidance on appropriate conditioning of permissions to achieve the necessary reduction targets.
3. Identify now how best to use the update of the Local Plan to:
 - recognise and address proportionately the legacy and ongoing contribution to phosphate pollution made by each development sector;
 - promote and support best practice nutrient actions across all sectors;
 - encourage and incentivise catchment restoration through alternative, restorative and regenerative land use; and
 - decommission intensive poultry units that have reached the end of useful life.
4. Using the 'precautionary principle' explore immediately the adoption of a planning position statement for all future development which accurately reflects the sector risks identified in research; and reinstating the consideration of '*cumulative impact*', in co-ordination with Powys County Council, to ensure that the Supplementary Planning Document on Agricultural Development, which is already in progress, enables officers to exercise the full extent of the council's planning powers in these regards.
5. Consider urgently how data sharing, data management and data visualisation can support science-led and evidence-based decision-making at all levels and across all stakeholders.

RESPONSE:

1. Yes, underway. On July 2024 the Cabinet Commission wrote to the Minister of Environment Farming and Rural Affairs to request the River Wye be given special consideration with appropriate measures and funding allocated to deliver its restoration. The Wye Catchment Partnership and Chair of the Nutrient Management Board have since met with Minister Hardy and Huw Irranca Davies to formalise their request for funding to deliver the development of the Wye Catchment Management Plan and its recommendations. Following a judicial review of the Environment Agency's interpretation of Farming Rules for Water, a judgement was taken which required the development of the Diffuse Water Pollution Plan (DWPP). The plan will provide an evidence led appraisal of the English catchment nutrient levels within the Wye and its tributaries. This will include modelling of nutrient levels based upon implementation of existing identified measures. Taking the above into account it will set out an action plan to return the river to favourable conservation status. A Water Protection Zone will be included as a potential action within the plan in the event that all other measures have been exhausted.

In addition to bringing forward the DWPP funding has been received from Welsh Government for the development of the Welsh catchment evidence base and the alignment of both English and Welsh evidence to create a catchment wide Nutrient Management Plan. Both plans are due to be delivered by April 2025.

2. Partial Agreement. The statutory agencies; Natural England, Environment Agency and Natural Resources Wales provide quarterly updates to the Nutrient Management Board via the Statutory Officers Group, which include both current data and reporting on actions. The Environment Agency provide a summary of their enforcement action figures both in respect of farm inspections and enforcement action taken. It is noted however that whilst the Council as a member of the Nutrient Management Board can advocate further resource being allocated to implementation of Farming Rules for Water the responsibility for its interpretation and resourcing rests with the Environment Agency.
3. Partial Agreement. The evidence base of the Local Plan will recognise the contribution of both Legacy Phosphorous and pollution by sector where the evidence is presented by the statutory agencies. However the legislation; Habitats Regulations relates to the avoidance of harm upon a protected site in this instance the River Wye Special Area of Conservation and must be applied to all plans and projects accordingly. In the case of the Lugg catchment which is exceeding its Phosphate targets, Nutrient Neutrality must be applied for all development. In the wider Wye catchment where the nutrient levels are within the established targets and the Local Plan indicates capacity for growth can be accommodated, best environmental technology is sought for all projects in order to minimise environmental impact upon the river. This is set out in the Council's current published guidance and will be referenced in policy.

The draft Plan acknowledges that agricultural buildings can become redundant but that this should not allow for an increase in demand for alternative units. For a building to be considered redundant the original use for that building must no longer be active.

4. No. The Habitats Regulations Assessment undertaken on all plans and projects which have the potential to harm the River Wye SAC already employs the precautionary principle and will be reinforced via policy within the Local Plan.
5. Yes. Monitoring of water quality and sharing of data is already in place between the statutory agencies and Citizen Science groups. Data is shared via the Statutory Officers Group to the Nutrient Management Board. Both the Wye Catchment Plan and the Nutrient Management Plan will be catchment wide evidential led plans that utilise best available data compiled from all available sources including both the agencies and conservation groups in order to ensure the plans are applying the same datasets and are aligned.

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