

River Wye Nutrient Management Plan Board

24th October 2019, 1:30pm

Committee Room A, County Hall, Powys County Council.

Notes

1. Introductions and Apologies

Attendance; Kevin Bishop, Cllr Elissa Swinglehurst, Mark Willimont, Sam Banks, Kevin Singleton, Bethany Lewis, Mark Rychnovsky, Richard Pitts, Jenny Gamble, Dave Throup, Clare Minett, Sarah Faulkner, Kate Adams, Simon Evans,

Apologies; Nick Read, Cllr Phyl Davies, Clare Walters, Dane Broomfield.

2. Notes of Board Meeting, April 2019

Alteration required to paragraph 3 of point 12, to now read; “3. The review of EA monitoring has resulted in 43 sampling points being reduced to **8** – was the board consulted about this? ...

3. Board Membership/Chair and Regularity of Board Meetings.

MW and SE proposed and seconded that Cllr Elissa Swinglehurst be Chair of the Board for the next 12 months. This was agreed. Cllr ES then asked for copies of the Draft NMP Action Plans. KS to provide.

The issue of the regularity of meetings will be left until the end of this meeting.

It was agreed that the following organisations be invited to join the board;

- Monmouthshire. KS to contact.
- Brecon Beacons NP. RP to contact.
- CPRW/E. RP and KS to contact
- Farming Connect. SE to contact.
- Severn Trent Water.
- Farming Union of Wales.

4. ‘Dutch Nitrates’ Judgement and its Implications for the NMP and Future Actions.

CM explained the aim of the NMP is to deliver favourable conservation status to the River Wye SAC. The presence of the NMP has been used as part of the Appropriate Assessment methodology. The 'Dutch Nitrates' case applies to catchments, such as the Lugg, that are already failing their conservation targets. If a part of a SAC is failing then any new proposals in that catchment have to provide certainty that the proposal will not make the situation worse. NE supports the aim of the NMP but consider that the current actions and outcomes that it is working towards will not provide the certainty that the Dutch Nitrate judgement now requires. In the absence of that certainty then NE's legal opinion is that development may not comply with HRA Regulations. The NMP cannot currently provide certainty as the actions within it are not considered statutory or legally binding. As a result since July 2019 NE has been unable to agree that there are no likely significant effects on a significant number of planning applications.

NE had provided advice to HC recommending that HC should get legal advice on the judgement as they considered that where planning applications are submitted that have likely significant effects and require an Appropriate Assessment under the Habitats Regulations, the effects are currently uncertain. As the competent authority for this matter under the Habitats Regulations, the Council needs to form a view on whether, and in which circumstances, it can approve applications that allow increases in Phosphate levels to sites that are already failing their conservation objectives. It will need to decide whether the Nutrient Management Plan gives enough 'certainty' around mitigation measures to allow it to be relied upon in an Appropriate Assessment.

One way in which a new development proposal that will add nutrients to a site that is already unfavourable due to nutrients could be allowed is for the proposal to achieve 'nutrient neutrality'.

This is being undertaken in other locations such as the Solent, where they face a similar situation, a proposal can be permitted if it can demonstrate that it consumes or mitigates the phosphate that it creates.

DT also stressed that the NMP actions themselves were not wrong just did not provide the certainty that is required.

General discussion followed about data and the monitoring process. Parts of the catchment are either close to or at the point of failing. NE to review its advice for the Upper Wye, but do not consider that it is failing at present. EA's monitoring regime also raised, Frome catchment a recognised problem. DT is looking to see if more can be done, however the reduction in monitoring was carried out in places where the results were predictable and were not adding to knowledge about phosphates, so it is questionable if extra monitoring would tell us more than we know now.

SE stressed we were managing the river to specific limits, but there was an apparent conflict between legal targets and environmental impacts. This is illustrated by the fact that 0.03Mg/litre is enough to bring on algal blooms in the lower Wye, but we are managing to 0.05, so this may not be low enough.

MR pointed out that whilst 87% of Herefordshire's population feed into STWs which are equipped with means for phosphate removal, there are 13% that do not have this facility and these are giving rise to 50% of the emissions of Phosphate. It was thought that between 4 and 6 of these STWs could potentially benefit from the installation of an integrated wetland system. This solution is considered relatively cost effective but it was noted that this may not provide any extra headroom for further development. CM added that long term management and maintenance would also need to be tied down. MR explained that all 25 of the STWs in the Lugg catchment are equipped with this technology.

DC/WW and EA are looking at the compliance issues and permitting for STW's.

Question was raised about the issue of application of fertilizers from new or all developments. SF agreed to check with her legal team.

ES asked whether there had been an update regarding source apportionment since the NMP had been published. MR explained that this had been updated and information will be shared with the TAG once OFFWAT has signed off on AMP7 by 11th December. MR to provide detail of AMP7 together with a map.

Whilst the NMP is a voluntary mechanism, one option might be through the imposition of a Water Protection Zone, via the Secretary of State, as this could mean that the actions the NMP is delivering would then have more of a statutory status and could therefore potentially provide more certainty. ES asked if this was a solution. SF was not convinced that additional legislation would provide certainty and considered Water Rules for Farming was adequate. CM added that a WPZ would not give an immediate level of certainty, but there may be longer term potential.

CM agreed to speak to NRW about attending future meetings and regarding their advice to Welsh Local Authorities.

MW asked if fencing rivers to prevent stock from getting direct access could be a relatively quick measure. SF indicated that this is not possible everywhere. KA explained that there had been success in north west Herefordshire, but north east of the county had not been targeted, but could have an impact.

5. Monitoring Dashboard Update.

JG explained that the updated Dashboard was now online. There had been a lot fewer soil pollution incidents, with only 1 in Wales, however this was almost certainly as a result of a drier year.

Housing across both counties has increased by more than 100%, however in Powys the increase has been very small (4 units).

Farm visits are still continuing. A lot less regulatory visits have taken place, but again the drier year is implicated in abstraction licence work. WW compliance for phosphates was 100%.

There was a slight increase in levels of phosphates at the three monitoring sites.

JG agreed to add the word 'reported' to the 'soil incidents' sections.

6. Update of the NMP Action Plan

ES suggested that as the Action Plan had not been published yet it would be possible to add further actions that would be necessary in order to provide the certainty that the present situation requires.

NRW, NE and EA should be working extremely closely on this as it is a catchment wide problem. CM(NE) will pursue NRW's involvement in the Board and TAG.

WUF offered to develop a shopping list of actions (for S106's), that could get approved by NE and NRW, that HC and PCC could then use in determining planning applications.

7. Brief Update from Partners

Wye Catchment Partnership

Recent meeting to get update from partners and feedback on funding bids. 10 farm advisers are now on the ground. Courtauld project still underway. Next meeting will be on 11th March and will hear from Norfolk Rivers Trust, and Wessex Water (re Poole Harbour NMP activity) and to hear an update from the RePhocus project.

Natural England

Catchment Sensitive Farming advisers now busy across the catchment. A report into the evaluation of the project will be circulated with these minutes.

Farm Herefordshire

Delivered 'enhancement' events, involving 200 attendees 'to increase biodiversity'. Also companion cropping events, 'how to manage your stewardship' events also.

Brightspace have been commissioned by the EA to evaluate FH to see if the approach is leading to behavioural change in the sector.

DC/WW

Waiting for OFFWAT to sign off their AMP on 11th December so that resources can be transferred across to the new Plan.

NRW

Absent

NFU

Lots of Brexit related assessing and evaluating underway, and future support for environmental actions delivery. Colleagues heavily involved in Poole Harbour NMP. NFU also now has a Net Carbon Zero aspiration by 2040.

Powys County Council

Work still ongoing with writing and adopting Supplementary Planning Guidance. Work also underway on Monitoring of the LDP after it's first, almost complete, year, and this includes the SEA monitoring indicators also.

Herefordshire Council

Have been focussing on Gypsy and Travellers planning advice, and commencing a review of the Core Strategy. The situation that Herefordshire is in makes for interesting times and may possibly result in a major rewrite of the Core Strategy and fundamentally influencing where houses can or cannot be built in the county.

8. Questions from the Public

Q1. Ian Jardine/CPRE asked what the planning impacts were of the Dutch Nitrates ruling. Currently there are approximately 160 Planning Applications, involving over 1000 dwellings that are on hold in the Lugg catchment.

Q2. Helen Hamilton/CPRE asked about the precise criteria that were used in deciding why the Lugg was failing but the Upper Wye was not. CM explained that it is historical and longer term rather than a single point in time, but agreed to look into it for HH.

Q3. Ian Jardine/CPRE sought some clarity on Dashboard, was this a three year rolling average? SE considered it to be an annual average but would seek clarification from the EA.

Q4. Helen Hamilton/CPRE asked about the evidence behind the belief, stated in Herefordshire Council's Position Statement, that the five actions it specifies are

considered appropriate – who says they are? CM responded saying they are all based on the best available ecological evidence, but it is only NE's advice, and it is up to the local planning authority as the competent authority. Discussion ensued re the role of 'best available evidence' and being 'beyond reasonable scientific doubt', and that much of this is ultimately determined by case law. CM agreed to provide further information on the evidence NE have used to base their decision on (see links at the end of these notes).

Q5. Margaret Tregear/CPRW asked the Board to ask NRW for greater involvement in this work. CM/NE already agreed to contact them.

Q6. Alison Caffyn, Cardiff Uni, asked if there was any way to know the percentage of the farmers that the NMP and its partners was getting to/working with. KA explained that their data is caught in GDPR issues and data sensitivity, but that this was being looked at with Nick Read of Farm Herefordshire as part of the evaluation work that is underway. JG added that EA and WUF know where each other is working to avoid duplication of effort wherever possible.

Q7. Alison Caffyn also asked about volumes of manure in the area and what happened to it. See notes of January 2020 for update on this question.

9. Dates of Next Meetings

Board agreed, in light of the Dutch Nitrate judgement, to meet again in January. KS to find a date and venue in Herefordshire. KS also agreed to advertise forthcoming Board meeting date to enable observers to attend.

TAG will attempt to meet in mid to late November. JG agreed to coordinate.

10. AONB

ES suggested that another Member Training Seminar would be appropriate. Agreed that this could happen in Spring and desirable if it could involve a visit to the river, or farm or STW. KS and RP to liaise and organise.

Meeting closed at 4pm

Links provided by CM regarding the evidence used in NE's decision;

[Development of a risk assessment tool to assess the significance of septic tanks around freshwater SSSIs: Phase 1 – Understanding better the retention of phosphorus in the drainage field \(NECR171\)](#)

[NECR221 edition 1 - Phosphorous in Package Treatment Plant effluents](#)

[Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs \(NECR222\)](#)

[A review of the effectiveness of different on-site wastewater treatment systems and their management to reduce phosphorus pollution \(NECR179\)](#)

[The impact of phosphorus inputs from small discharges on designated freshwater](#)