

CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 23rd September 2021

Title: Phosphates on the River Teifi Special Area of Conservation

Purpose of the report: To update Cabinet in relation to Phosphates within the River Teifi Special Area of Conservation (SAC), and to seek Delegated Powers to determine Planning Applications that would adversely affect the integrity of the SAC

For: Decision

Cabinet Portfolio and Cabinet Member: Cllr Rhodri Evans, Economy and Regeneration

The following report was presented and approved by Cabinet on 13th July 2021.

The Council is committed to development only taking place if it is sustainable development that includes relevant environmental protections.

The quality of the natural environment in our area is of a particularly high standard. The Teifi River is a Special Area of Conservation. Within this area various locations are of national and international significance for wildlife. Thus the Teifi River is designated as a Special Area of Conservation (SAC) under the Conservation of Habitats & Species Regulations 2017, as amended ("The Habitat Regulations").

The Local Planning Authority (LPA) recently received a letter from Natural Resources Wales (NRW) about the high levels of phosphates in the Teifi. The same letter has also been sent to the other Local Planning Authorities in Wales in relation to the Teifi as well as other SAC water bodies.

In light of a court Judgement (known as "The Dutch Case"), NRW have advised Ceredigion County Council that, in light of the unfavourable condition of the Teifi SAC, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment (HRA).

Ceredigion County Council is a 'competent authority' under the Habitats Regulations, and thus means the council is legally required to assess the potential impacts of projects and plans, on internationally important sites which include the Teifi SAC. In its role as competent authority, the council must carry out a 'Habitat Regulations Assessment' on any relevant planning application that falls within the boundary and catchment areas. Where there is a 'Likely Significant Effect', the council must carry out an 'Appropriate Assessment' in order to determine, with scientific certainty, that there would be no 'Adverse Effect on Integrity' on the designated site from the plan or project, either alone or in combination with other plans and projects.

The council takes this into account when considering whether planning permission can be granted. If it cannot be proven that there would not be an adverse effect on integrity, then planning permission cannot be granted without further stringent consideration under the Habitats Regulations. NRW is a statutory consultee on appropriate assessments and provides advice to competent authorities in relation to sites designated such as SACs. Local Planning Authorities must have regard to the advice given by NRW when making planning decisions (for both individual developments and local development plans (LDP)).

The types of development impacted by this requirement include (but are not limited to):

- New residential units - including tourist accommodation, gypsy & traveller sites /pitches, student accommodation, care homes etc.
- Commercial developments - new commercial floor space including extensions to existing, change of use from one business to another where there is an increase in employees and/or to a use that would impact on wastewater.
- Agricultural Development - additional barns, slurry stores etc.
- Prior Notifications of agricultural development where, as a result of the development, the amount or concentrations of wastewater discharge is increased.
- Anaerobic Digesters
- Tourism attractions
- Permitted development to an existing property (e.g. extensions) that increases the volume of foul drainage (e.g. as a result of increased occupancy).

Further advice from NRW (02/05/21) suggests that Private Sewage Treatment plants discharging domestic wastewater to ground built to the relevant British Standard should be designed so that;

- The drainage field is located more than 40m from any surface water feature such as a river, stream, ditch or drain, **and**
- The drainage field is located more than 50m from the SAC boundary, **and**
- The maximum daily discharge rate is less than 2 cubic metres
- Also, to ensure that there is no significant in combination effect, the discharge to ground should be at least 200m from any other discharge to ground. The density of discharges to ground should also not be greater than 1 for every 4 hectares (or 25 per km²)

The other issue that has been raised, and the LPA are awaiting clarification is the necessity to de-sludge private sewage treatment plants (STW), waste carriers are legally obliged to discharge the sludge at Welsh Water sewage treatment works, however there are no STW's within Ceredigion that have the necessary phosphate stripping facilities, apart from Llanddewi Brefi which provisionally only has remaining capacity for up to 5 units, therefore discharge to Welsh Water STW's contributes to the damaging effects of phosphates in the river Teifi SAC.

Current situation (25/05/21)

The LPA currently have 45 applications that cannot be determined due to the above issue, of the 45 applications they consist of 47 dwellings, and 22 other uses, consequently the applications need to be refused, however the CLO Economy and Regeneration does not currently have delegated powers to refuse, and furthermore Local Members cannot request that applications are presented to DCC for determination, as there is insufficient information to support a proposal and a resolution to approve would result in an illegal decision.

Has an Integrated Impact Not Required

Assessment been completed?

If, not, please state why

Wellbeing of Future Generations:

Summary:

Long term:

Collaboration:

Involvement:

Prevention:

Integration:

Recommendation(s):

Cabinet recommends that Council approves the granting of delegated powers to the CLO Economy and Regeneration in consultation with the cabinet member to determine planning applications that do not comply with the phosphates directive (pursuant to the Conservation of Habitats and Species Regulations 2017), and have been received after the 1st June 2021.

All applications that fall under this category and were received prior to the 1st of June 2021 would be held in abeyance until a time when there is clear guidance for determination of applications.

Reasons for decision: To allow for Planning Applications to be determined efficiently

Overview and Scrutiny:

n/a

Policy Framework:

Corporate Priorities: n/a

Finance and Procurement implications: none

Legal Implications:

Staffing implications: none

Property / asset implications: none

Risk(s):

Statutory Powers:

Background Papers:

Appendices: none

Corporate Lead Officer: Russell Hughes Pickering, CLO Economy and Regeneration

Reporting Officer: Alan Davies, Corporate Manager Planning Services

Date: 01/09/21