

CEREDIGION COUNTY COUNCIL

Report to: Cabinet

Date of meeting: 1st February 2022

Title: River Teifi Nutrient Management Board

Purpose of the report: To seek Cabinet approval to set up a Nutrient Management Board and subsequent Plan for the Afon Teifi Special Area of Conservation

For: Decision

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

In January 2021, Natural Resources Wales (NRW) published a report which assessed compliance with revised phosphorus targets for Welsh Riverine Special Areas of Conservation (SACs). Of the 107 water bodies assessed, 61% failed. This includes the River Teifi SAC.

In light of the above, NRW issued interim planning guidance (updated May 2021) advising competent authorities to undertake a Habitats Regulations Assessment (HRA) prior to determining any planning application that would generate an increased volume or concentration of wastewater to ensure that the design will not contribute to increased phosphate levels in the SAC. Therefore, any development that increases phosphate levels in the SAC is not acceptable under the Habitats Regulations Assessments.

Natural Resources Wales have requested that Ceredigion County Council establish a Nutrient Management Plan Board for the River Teifi SAC. The role of the River Teifi SAC Nutrient Management Plan Board would be to identify and deliver actions to achieve the conservation targets of the Teifi Riverine SAC. The primary mechanism for achieving this would be through the delivery of the Nutrient Management Plan. It is proposed that the Teifi SAC Nutrient Management Plan

Board would be supported by two additional groups – A Technical Officers Group and a Stakeholder Group.

This report seeks Cabinet approval for the establishment of a Nutrient Management Plan Board for the River Teifi Special Area of Conservation. The attached report sets out the reasons as to why such a Board should be established alongside the likely role and structure of the Board.

Has an Integrated Impact Assessment been completed? If, not, please state why

No not for the establishment of the Board but it is likely an IIA will be required for the plan which results from the board

Wellbeing of Future Generations:

Summary:

Long term:

Collaboration:

Involvement:

Prevention:

Integration:

Recommendation(s):

It is recommended that Cabinet agrees to the establishment of a Nutrient Management Board, with further work to be undertaken on collaboration with neighbouring authorities.

Reasons for decision:

To allow for further work to be undertaken around the phosphate and other nutrients situation in the Afon Teifi

SAC and the creation of a plan to manage water quality improvements

Overview and Scrutiny:

The report has not been to Scrutiny

Policy Framework:

Ceredigion Local Development Plan 2007-2022 and Ceredigion replacement Local Development Plan 2018-2033.

Corporate Priorities:

Corporate Priority 1- Boosting the Economy.

1.1 Promote and provide employment opportunities for the citizens of Ceredigion.

1.3 Develop 21st Century Infrastructures across the County.

Corporate Priority – 2 Investing in People’s Future.

2.4 Promote and facilitate the distinct and vibrant bilingual culture and identity of Ceredigion.

Corporate Priority -3 Enabling Individual and Family Resilience.

3.1 Promote the well-being of individuals and families within safe, affordable and accessible homes.

Corporate Priority 4 – Promoting Environmental And Community Resilience.

4.1 Actively engage in programmes to deal with the effects of climate change.

4.2 To improve infrastructure to facilitate future development to meet community needs.

4.3 To help and assist communities to become more self-resilient.

Finance and Procurement implications:

It is likely there will be cost implications in establishing the board and preparing and delivering the plan. The regional authorities with responsibility for NMB’s are working closely with NRW and WG to establish what if

any resources are available including but not limited to a joint NMB officer / coordinator.

Legal Implications: None

Staffing implications: None

Property / asset implications: None

Risk(s): As outlined in report

Statutory Powers:

Background Papers: None

Appendices: None

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Reporting Officer: Sarah Groves- Phillips

Date: 1-2-2022

River Teifi Special Area of Conservation Nutrient Management Plan Board

Cabinet Report January 2022 Ceredigion County Council

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1. Introduction

- 1.1 This report seeks Cabinet approval for the establishment of a Nutrient Management Plan Board for the River Teifi Special Area of Conservation. The following sections will set out the reasons as to why such a Board should be established alongside the likely role and structure of the Board.

2. Background and Context

- 2.1 The River Teifi is designated as a Special Area of Conservation (SAC) under the Conservation of Habitats and Species Regulations 2017 (as amended). Within this area are various locations of national and international significance for wildlife.
- 2.2 Following the consideration of new evidence about the environmental impacts of phosphate, the Joint Nature Conservation Committee (JNCC) recommended that UK nature conservation organisations adopt tighter targets. Consequently, Natural Resources Wales (NRW) introduced new phosphate standards for riverine SACs in Wales.
- 2.3 In January 2021, NRW published a report which assessed compliance with the revised phosphorous targets for Welsh river SACs. Each river was divided into water bodies (river sections). In total, 125 water bodies were in scope. A thorough quality assurance process was carried out on the data. Of the 107 water bodies that were assessed, 39% passed the new targets and 61% failed. Most failing water bodies were in mid and south Wales. This includes the River Teifi SAC.
- 2.4 Though phosphorus is an essential and potent plant nutrient which is critical for ecosystems, the presence of this in high quantities in a system causes problems. Such problems include an increased risk of algal blooms, loss of important species such as water crowfoots and it can also cause river gravels to become deoxygenated, killing river invertebrates. High phosphate levels are

also often a marker for other water quality problems such as ammonia or low oxygen.

- 2.5 Though phosphate is naturally occurring and released from natural sources at low levels, phosphate can also enter rivers from land management practices, sewerage and foul water that can contain detergents and food waste. Sources of phosphorus include agricultural fertilisers, animal manure, foul flows from developments and domestic products such as toothpaste and dishwasher tablets.
- 2.6 In light of the above, NRW issued interim planning guidance advising competent authorities to undertake a Habitats Regulations Assessment (HRA) prior to determining a planning application that may give rise to additional phosphates within the catchment areas.
- 2.7 In its role as competent authority, Ceredigion County Council must carry out a HRA on any relevant planning applications that fall within the boundary and catchment areas of the Teifi SAC. 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.
- 2.8 Local Planning Authorities (LPAs) must have regard to the advice given by NRW when making planning decisions for both individual developments and Local Development Plans (LDPs). NRW's advice should be given considerable weight, but competent authorities are entitled to depart from it where they can give cogent reasons for doing so.

3. Implications

- 3.1 In practice, NRW's Interim Planning Guidance means that where development proposals are located within the Teifi SAC catchment, and the wastewater treatment works does not have phosphate stripping in place, the foul flows of the development are deemed to have an unacceptable potential impact on the SAC. Therefore, the development is not acceptable under the Habitats Regulations Assessments. The new guidance, therefore, affects any proposals for new development that involve foul flows such as new homes and employment and tourism sites.
- 3.2 The catchment area of the Teifi SAC encompasses 44.6% (806km²) of the total land area of Ceredigion. Within said area are 48 settlements named under the adopted Ceredigion LDP. This includes the 4 'Urban Service Centres' of Lampeter, Llandysul, Tregaron and Adpar (Newcastle Emlyn), 2 'Rural Service Centres' and 44 'Linked Settlements'. At present, only the wastewater treatment works serving the 'Linked Settlement' of Llanddewi Brefi has phosphate stripping, however, Dŵr Cymru are currently reviewing all permits and as yet we have not been advised if the permit for Llanddewi Brefi would allow additional discharges. There are unadopted plans by Dŵr Cymru for phosphate stripping improvements at the Tregaron Wastewater Treatment Works under AMP 8 (2026-2030). No other settlements in Ceredigion are presently identified in the draft plans.
- 3.3 A total of 14 sites allocated for housing under the adopted LDP are currently constrained by phosphates. This equates to 572 houses, 114.4 of which were expected to be affordable. Moreover, some 5 employment allocations equating to 39.25ha and 2 mixed use allocations equating to 55.89ha are also impacted. All of the impacted allocations are within 'Urban Service Centres' and 'Rural Service Centres'.
- 3.4 The current phosphate issues on the Teifi SAC also has major implications on the preparation of the Replacement LDP. The Planning (Wales) Act 2015 requires LDPs to be in general conformity with the National Development

Framework (Future Wales: The National Plan 2040). Future Wales: The National Plan 2040 identifies the Teifi Valley, this includes the settlements of Lampeter, Llandysul and Newcastle Emlyn, as one of two 'Regional Growth Areas' in Ceredigion which, through specific policies in Strategic and Local Development Plans, should retain and enhance the commercial and public service base that make them focal points in their areas.

- 3.5 The Replacement LDP will be unable to articulate national policy as the development embargo will mean that development has to be directed away from the Teifi Valley. Not only would this put a burden on Ceredigion's other 'Regional Growth Area', Aberystwyth, but it could also give rise to potential housing provision being located away from the areas of greatest need.
- 3.6 The progression of a Replacement LDP which excludes the Teifi Valley would not meet the needs of the entire County and thus not meet the 'tests of soundness'. This would result in the Replacement LDP failing at examination. It is anticipated that the Replacement LDP will be significantly delayed as the preparation process is now on formal pause to allow essential evidence and data to be gathered and mitigation options to be devised.
- 3.7 It should be noted that there are likely to be similar implications to those mentioned above with regards to the preparation of the Mid Wales Strategic Development Plan (SDP). However, as the Mid Wales Strategic Planning Region also encompasses Powys and the Brecon Beacons, the situation is more complex as similar phosphate failures in the River Wye SAC and River Usk SAC will have implications on its preparation.
- 3.8 Regarding planning applications, there was a total of 49 applications located within the catchment of the Teifi SAC as of September 2021. This equates to 55 housing units, of which 5 are affordable, 3 commercial developments, 7 tourism developments and 5 agricultural developments impacted.
- 3.9 A number of the Council's projects are also affected by the current phosphate issues. This includes the Cylch Caron Integrated Care Centre as a new

planning application is likely to be required, strategic projects such as the Food Manufacturing Innovation Centre in Llandysul and Canolfan Tir Glas in Lampeter, as well as a number of allocated and potential projects under the Transforming Towns Grant.

4. Actions

4.1 A number of actions are being undertaken to improve the River Teifi SAC and riverine SACs across Wales. These include:

- Dŵr Cymru undertaking apportionment research in order to establish the sources of phosphates at various sections of the Teifi SAC. Dŵr Cymru are expect to report their work in January 2022 which is still awaited at the time of writing. This information will feed into their AMP 8 investment programme which is due to be announced in January 2022. AMP 8 will commence in 2025.
- NRW are undertaking a range of technical work to inform responses and are investigating nutrient offsetting mechanisms and tools. They are also developing a regulatory position for constructed wetlands.
- The Leader of the Council has wrote to Mark Drakeford, Julie James, Vaughan Gething and Lesley Griffiths requesting a balanced and nuanced approach with local factors, in particular the realistic causes of the failure, to be taken into account in revised guidance for each specific SAC catchment area. This is so a fairer and balanced decision can be made about the genuine impacts of some developments on the phosphate load of the Afon Teifi SAC and other SACs with varying and different problems.
- Welsh Government have established an Oversight Group and there is an officer level All Wales Planning Sub-Group attended by Ceredigion County Council which is sharing information and best practice.

- 4.2 A key action identified by the Planning Sub-Group is for the development of local strategy, the delivery of which is to be progressed through the creation of Nutrient Management Plan Boards. This is based on the experiences of the River Wye SAC where Herefordshire County Council established such a board in 2016 when faced with similar issues. In England it is Natural England who are responsible for delivering the Nutrient Management Plan (NMP), we are still awaiting confirmation as to where the exact legal responsibilities lie in delivering NMPs in Wales.
- 4.3 Natural Resources Wales have requested that Ceredigion County Council establish a Nutrient Management Plan Board for the River Teifi SAC. The role of the River Teifi SAC Nutrient Management Plan Board would be to identify and deliver actions to achieve the conservation targets of the Teifi Riverine SAC. The primary mechanism for achieving this would be through the delivery of the Nutrient Management Plan.
- 4.4 Whilst Ceredigion County Council would be the lead authority, and would chair and offer secretariat for the Teifi SAC Nutrient Management Plan Board, there is an expectation that other stakeholders who have a local interest would have a role. The Board itself would comprise of those bodies with a regulatory responsibility for the condition of the Teifi SAC. Such bodies include Ceredigion County Council, Carmarthenshire County Council, Pembrokeshire County Council, NRW and Dŵr Cymru.
- 4.5 It is proposed that the Teifi SAC Nutrient Management Plan Board would be supported by two additional groups – A Technical Officers Group and a Stakeholder Group.
- 4.6 The former is to consist of technical officers from the regulatory bodies who will be responsible for identifying and analysing options to deliver improvements to Water Quality. This will result in the Technical Group presenting options and recommendations to the Board.

- 4.7 Regarding the Stakeholder Group, this will comprise of representatives from interested groups such as the National Farmers' Union, the Farmers' Union of Wales and Afonydd Cymru for example.
- 4.8 It is proposed at this time that a joint technical and stakeholder group could be established across a number of Nutrient Management Boards. This would make the meetings less resource intensive as often the issues and solutions would be very similar across Pembrokeshire, Carmarthenshire and Ceredigion. Neighbouring authorities are also working closely with NRW and WG to establish what resources are available to support this work including but not limited to a joint post of NMB coordinator.
- 4.9 It is proposed that a formal Delivery Agreement, setting out timescales, resources and community engagement, alongside an agreed monitoring framework, will be produced for the plan.
- 4.10 There will be costs associated with officer time and operating as a secretariat for the Board. There may be additional costs associated with research necessary to support the work of the Board and development of the plan. A breakdown of potential costs has been requested from NRW but as yet no further information has been forthcoming.
- 4.11 Further discussions remain ongoing at the Planning Sub-Group of the Phosphates Oversight Group as to a joint initial meeting of the proposed regional Nutrient Management Plan Boards to agree regional terms of reference, board structures and to prepare an agreed Delivery Agreement. Therefore, until such discussions are resolved it would not be prudent to undertake the first meeting – it is expected a decision on this point will be taken in January 2022.
- 4.12 This report seeks delegated authority for the Cabinet Member for Economy and Regeneration to establish a Nutrient Management Plan Board for the Teifi SAC and to undertake, in conjunction with said Board, the preparation of a Nutrient

Management Plan for the Teifi which is to be brought back for endorsement by Cabinet.

5. Conclusion

- 5.1 To conclude, the current levels of phosphates present in the River Teifi SAC are above the newly amended targets set by NRW. As a result of new guidance published by NRW in light of this, the LPA is unable to grant planning permission for developments which would otherwise be considered acceptable.

- 5.2 The Local Authority is currently working collaboratively with key stakeholders in numerous ways to address the current phosphate issues. However, it is proposed that the establishment of a Nutrient Management Plan Board would be a useful addition. Cabinet support for the establishment of such a Board is,