Cyngor Sir CEREDIGION County Council

REPORT TO: **Thriving Communities Scrutiny Committee**

DATE: **7th of December 2022**

LOCATION: **Hybrid**

TITLE: **Update on Phosphate Situation**

PURPOSE OF REPORT: **To update members on the current situation with regards phosphates in Ceredigion**

REASON SCRUTINY HAVE REQUESTED THE INFORMATION: **Members requested that officers update them on the current situation**

BACKGROUND: In January 2021 NRW released interim planning advice regarding development with the catchments of riverine SACs in Wales. This advice was to ensure that following a European legal case known as 'The Dutch case' compliance monitoring of the river Teifi and all riverine SACs in Wales was undertaken. The river Teifi was failing the revised monitoring targets and was suffering from episodic failure of its Phosphate level monitoring. This effectively meant no further development would be allowed which could or potentially could increase waste water discharges and the associated phosphate levels in the riverine SAC. This advice was updated in July 2022 which has facilitated some employment development however residential and tourism developments remain undevelopable (outside of specific exceptions). As a result of this guidance a number of planning applications have been held in abeyance and development has not been able to proceed through planning stages. (Though it is worth noting this guidance does not just apply to Planning but all forms of plans or projects the council undertakes.) The Teifi catchment extends to 48% of Ceredigion land and 3 of the 6 main towns, it also encompasses the entirety of the regional growth zone identified in Future Wales The National Plan 2040 – one of only 2 in Ceredigion the other being Aberystwyth. In order to address the issue Ceredigion were asked by WG to develop a Nutrient Management Board for the Teifi. Members of the Ceredigion planning and ecology service sit on the all-Wales phosphate sub group and now on the ministerial oversight group and have played an instrumental role in lobbying at a national level.

CURRENT SITUATION:

Since the introduction of the interim and revised guidance, the LPA has worked closely with neighbouring authorities who share river catchments namely Carmarthenshire (Tywi) and Pembrokeshire (Cleddau) to address the situation:

1. As a collective we have established the 3 Nutrient Management Boards (NMB) and held the inception meetings, developed a term of reference and established a Technical Officers Group and Stakeholder Group.
2. Lobbied Welsh Government for NMB funding, which has been awarded at £75,000 for the 2022-2023 financial year with expectations of £100,000 per catchment for the next 3 subsequent years.
3. Appointed a NMB programme Manager to take forward the work of the NMBs and develop the Nutrient Management Plan for the catchment – we intend to go out for a NMB officer to support this role in the coming weeks.
4. Appointed consultants to expand the Carmarthenshire Nutrient calculator and mitigation guidelines into the Teifi and Cleddau catchments it is expected to be ready in January / February 2023. Some concerns expressed by NRW will be addressed in the new release and we anticipate this calculator will be adopted nationally and rolled out as the All-Wales Nutrient Calculator.
5. We have undertaken a Geographical Information System (GIS) mapping exercise across the 3 catchments and now have detailed modelling of where 'the phosphate hotspots' are and suggested mitigations to reduce phosphate run-off.
6. We are currently undertaking a feasibility study to create a Nutrient Credit Trading Scheme regionally liaising with DCWW who are also working on a similar project from a Water Company perspective.
7. We are seeking detailed advice on creating long term strategies for the NMPs through the leading expert in the field, including reconsidering / testing the catchment water bodies to establish if there are some where we could implement a 'de-minimus' threshold where development may be acceptable.
8. DCWW have completed the source apportionment work on the Teifi and this has revealed that 68% of the phosphorus sampled in the river is from WWTP's rather than diffuse phosphates (agricultural and surface water run off) as previously expected.
9. To address the source of the phosphates we are in early days stages of working with DCWW to establish sites for wetlands and how we can 'over engineer' them to not only address the WWTP permit level but provide some 'headroom' for future development.
10. We are liaising with NRW on where they are undertaking river restoration projects so we can 'piggyback' of existing works and increase the headroom capacity through extending riparian buffers they may be working on.
11. We have developed Green Infrastructure Action Plans for each of the 6 towns where Phosphate's mitigations have been a key theme for developing the greening projects.
12. We have worked closely with the Public Service Board to ensure Phosphate mitigation projects have been identified in the forthcoming Well-Being Plan.
13. We have worked closely with the Economy and Regeneration Team to ensure that Nutrient Management was a key theme in the Ceredigion Shared Prosperity Fund (SPF) Bid to UK Government so forthcoming mitigation projects can potentially be financed through SPF.

Solutions:
Since the introduction of the guidance, and knowledge and expertise has developed in this area internally the LPA are now of the view that a multi-faceted strategy is required to ameliorate this issue and are prioritising 4 distinct workstreams these are outlined below:

Its easy to assume that as we now know the source apportionment work has confirmed the main source of phosphates is from WWTPs its DCWW's issue to resolve, unfortunately that's not a realistic expectation. Whilst they are now obliged to consider solutions for the Teifi more rigorously, it is still unlikely that Phosphate stripping will be installed due to the high costs and low density of populations. They are primarily concerned with nature-based solutions and are therefore bringing forward some wetlands to be developed namely Llanybydder into AMP 7 and finalising locations for wetlands in AMP 8. Its therefore important we consider all methods of phosphate reductions thus the LPA are prioritising the following 4;

1. Short term measures to unlock development in the coming months- creation of the nutrient calculator will allow developers to understand their nutrient load – the mitigation guidelines will let them see how they could 'spend' that load. The GIS mapping will identify if that spend is worthwhile. Unfortunately, there are not that many opportunities to 'spend' the load for the scale of developments we get, but we continue to investigate and amend the mitigation guidelines adding in new solutions as they become available.
2. Medium term measures include utilising expert advice to establish given the episodic failures of the Teifi monitoring whether there are any water bodies in the catchment that consistently achieve (with headroom) their targets so we could create a threshold under which we believe new development will have limited impact on phosphate levels in that river stretch. Meaning we could say that housing/ tourism developments up to a certain size will have little impact on the conservation objectives in XYZ location and thus can come forward.
3. Longer medium-term measures include working with partners already undertaking river restoration such as NRW to enhance their existing works and thus create headroom within catchments for new developments. We are currently working under the Habitats Regulations section 6 to procure a list of all works being undertaken and then intend to source finance to multiply the benefits of the existing schemes, utilising the regulatory powers of the partner organisation. This will most likely be in the form of extending riparian buffers which has the most measurable success in reducing phosphate run off.
4. Long term measures include working with DCWW and any other interested partners in over engineering constructed wetlands to not only meet the permit requirements of DCWW WWTPs but also create headroom capacity for additional housing and tourism developments in Teifi SAC catchment. Due to the long-term planning of such developments including land acquisition, planning consent and finance, this will take some time to realise but will ultimately be the most cost-effective mechanism for delivering real solutions.

There are a number of other potential mitigation schemes and we continue to explore each and every one, whilst being mindful of the limited viability of the region and thus trying to ensure all measures are at the most reasonable cost to developers. This will of course necessitate the authority or WG bearing the brunt of the costs, it is too early to speculate what these may be, when this information is available the appropriate reports will be prepared in due course.

Other service Areas:
The impact of the guidance on other service areas is also an important consideration:

Development Management:
Following the revised guidance, the DM service have prepared a developer toolkit to establish if they can screen out any of the applications held in abeyance as now complying with regulations relating to PTPs which under very specific criteria can now be approved, however the parameters in which they are acceptable are quite tight and thus this will not be a solution open to all. The service continues to work through the backlog of cases and those newly submitted to screen out where the guidance may apply and development can move forward. Given the information requirements to be submitted by developers in order to meet the requirements is fairly onerous this is a relatively slow process as tests of likely significant effect and where necessary appropriate assessments (both requiring ecology expertise) may still be needed to move to decision stage.

Ecology PRAM project
The ecology team were successful in a Heritage Lottery funding bid for the Phosphates Reduction and Mitigation (PRAM) project. A project officer was appointed (albeit behind schedule) and they are subject to the tight funding timelines embarking on a programme of works to establish riparian buffers and the feasibility of wetlands on public sector owned land. Unfortunately, this project was devised before we understood the full extent of the issue and what mitigations were best placed. Thus, in hindsight may have been delivered differently never the less the overall outcome of the works is to deliver Phosphate reductions in the Teifi SAC and this is welcomed.

Looking to the Future
It is likely at some point in quarter one of 2023 we will receive a marine nutrient release for the marine SACs, as yet we do not know what this will yield. We anticipate that it will be related to failing targets of nitrogen (a bigger concern in marine environments). The entire Ceredigion coast is covered by 3 marine SACs (Cardigan Bay SAC, Penllyn & Sarnau SAC and the West Wales Marine SAC) and if these SACs were failing their targets and / or the guidance were to be released as it was in England it could lead to a county wide embargo on development that increases waste water. However, it’s important to note we do not know what the marine release will say and / or if we are failing the targets. Furthermore, all is not lost as the lessons learned form the Phosphate release mean we are better placed to manage such an issue and have a clear pathway for managing the impact. We also know that nitrogen is easier to mitigate than phosphates and all the phosphate reduction works we are planning to embark on also work for nitrogen. So, as we progress the work streams we are also factoring in Nutrient monitoring and mitigations more broadly than simply phosphates to nutrient stack our mitigations where this is allowable.

Future Workstreams

- Commissioning HRA specialist advice on NRW compliance report of the Teifi, and where appropriate constructively challenging NRW in their role as the nature conservation body
- Continued lobbying of WG and NRW in their role as environmental regulator for provision of clarity of interpretation and clear leadership.
- Undertake strategic land use review of Authority's assets to identify sites for mitigation purposes – linking into disposal strategy and PRAM project.
- Identify & shortlist potential onsite and offsite mitigation measures – gather evidence, produce high level, outline costs for shortlisted mitigation schemes. incl. surface water separation, filter strips, planting, wetlands – undertaking feasibility and technical appraisals and identifying funding streams.
- Produce GIS Maps showing mitigation options.
- Develop strategy to deliver off-site mitigation schemes.
- Establish a framework for and develop and implement a Nutrient Credit Trading System.
- Develop a Nutrient Management Supplementary Planning Guidance (SPG) Incl. potentially enabling locally focused delivery.
- Explore potential for retro fitting RSL Housing Stock with water saving measures to enable AH delivery.
- Develop a Water retention and reduction SPG.
- Develop opportunities for Grampian conditions and s106 agreements to secure mitigation.

WELLBEING OF FUTURE GENERATIONS:	**Has an Integrated Impact Assessment been completed? If, not, please state why** ***Summary:*** **Long term:** **Integration:** **Collaboration:** **Involvement:** **Prevention:**	No as this discussion and is not producing or developing policy

RECOMMENDATION (S):

No formal recommendations, discussion for information only.

REASON FOR RECOMMENDATION (S):

Contact Name:	Dr Sarah Groves-Phillips
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Date of Report:	14/11/2022
Acronyms:	WWTP – Waste Water Treatment Plant DCWW - Dwr Cymru Welsh Water NRW – Natural resources Wales USC – Urban Service Centre PTP – Private Treatment Plant