

Report to	Cabinet
Date of meeting	29 September 2022
Lead Member / Officer	Cllr W Mullen-James, Lead Member for Local Development and Planning/ Cllr B Mellor, Lead Member for Environment and Transport/ Angela Loftus, Strategic Planning and Housing Manager
Report author	Karsten Brußk, Senior Planning Officer
Title	Formation of a Nutrient Management Board to tackle phosphorus pollution in the “River Dee and Bala Lake” Special Area of Conservation

1. What is the report about?

1.1. This report is about the introduction of a newly-formed partnership in North Wales, i.e. Nutrient Management Board (NMB), to tackle phosphorus pollution in the River Dee catchment area. It sets out details on the legal framework, structure, potential resources requirements and early workload.

2. What is the reason for making this report?

2.1. Wrexham County Borough Council (WCBC) and Flintshire County Council (FCC) are committed to form a NMB. Both Councils aim to deliver their respective Local Development Plans (LDPs) in light of the legal duties that are set out for competent authorities in “The Conservation of Habitats and Species Regulations 2017” (as amended) (Habitats Regulations 2017).

2.2. Denbighshire County Council (DCC) should consider joining this partnership to not only enable a catchment-wide approach to improving the water quality in the River Dee but to ensure that the Council can deliver local community projects and an efficient Planning Service under consideration of the Habitats Regulations 2017.

3. What are the Recommendations?

3.1 DCC joins the Nutrient Management Board and works collaboratively with its partners to tackle phosphorus pollution in the River Dee catchment area.

3.2 The Council is represented by the Lead Member for Environment and Transport with the Lead Member for Local Development and Planning being the substitute.

4. Report details

4.1. Natural Resources Wales (NRW) set new phosphorus standards for the nine Welsh riverine Special Areas of Conservation (SACs) on 21st January 2021. The objective is to improve the water quality by reducing phosphorus load levels, which are about 50% to 80% lower than the previous standards. The assessment report on compliance with tightened phosphorus targets has shown that about 38% of the surveyed waterbodies in the “River Dee and Bala Lake SAC” compliance areas fail to achieve the targets.

4.2. Appendix 1 contains the original report on phosphates that was taken to the DCC Strategic Planning Group in November 2021 that sets out details on phosphorus in our environment, legal duties for competent authorities as defined in the Habitats Regulations 2017, lack of professional advice and the implications for decision-making in Development Management and Strategic Planning & Housing.

4.3. NMBs are voluntary, strategic and long-term partnerships with the principal aim to secure overall improvements in water quality and achieve the phosphorus conservation objective targets for the respective SAC across local authority boundaries. Their role is to coordinate the actions of all participants, and, hence, ensure an efficient use of scarce resources. NMBs operate within the framework of existing legal and regulative powers that pre-define roles and responsibilities.

4.4. Whilst there are many rivers in Denbighshire, the River Dee is the only waterbody that benefits from a SAC designation. Studies, programmes and actions will accordingly focus on the River Dee and its contributors. Other rivers such as, Clwyd and Elwy fall outside the scope of the NMB.

- 4.5. Partnerships are in place for all nine Welsh riverine SACs. Inception meetings have taken place in South West Wales. Terms of reference were drafted on the basis of (and experience from) the River Wye NMB. The inception meeting for the River Dee is expected to take place in September 2022. At this stage, officers are not in the position to confirm details on the terms of reference, resources and membership. Appendix 2 contains nevertheless the draft Terms of Reference as presented to the Executive Board at WCBC in March 2022.
- 4.6. It is envisaged to set up three groups under the NMB umbrella: (1) Stakeholder Group (SG) and (2) Technical Officer Group (TAG) which are guided by an (3) Oversight Group (OG) 'Nutrient Management Board'. The purpose of the OG is to steer the strategies, programmes and actions of individual stakeholders and TAG. Exchanging information and expertise is crucial for a successful partnership. If DCC join the NMB, the Lead Member for Environment and Transport would be part of the OG but may also wish to attend meetings of the SG and TAG.
- 4.7. The Council is not obliged to participate but would benefit from available resources, expertise and best practice in its efforts to comply with legal duties. If the Council was to continue individually with the existing resources, there would be an impact on the performance of services and delivery of Corporate documents. For example, Welsh Government (WG) closely monitor performance relating to the period of time that local planning authorities take to determine applications. The production of the replacement LDP is also bound by the timescales as agreed with WG in the Delivery Agreement. Without solutions for phosphorus pollution, this will continue to have significant impact on development within the catchment area.
- 4.8. FCC and WCBC are at advanced stages in their respective Local Development Plan's 'Examination in Public' stage. Both Councils were required to produce comprehensive evidence to the effect of not causing additional phosphate loads in the SAC catchment area because of development proposals contained in their forthcoming LDPs. Supported by environmental consultancies, both Councils submitted the 'Dee Catchment Phosphorus Reduction Strategy' to their Planning Inspectors at the end of 2021. DCC is currently in the process of producing the replacement LDP for the County, and will require a similar strategy as part of the Habitats Regulations Appraisal.

4.9. Initially, actions will relate to the collection of available information in stakeholders' programmes and plans on phosphorus reduction to produce a Nutrient Management Plan (NMP), which would likely need to be similar to the WCBC/ FCC 'Dee Catchment Phosphorus Reduction Strategy' but on a river Dee catchment-wide area.

5. How does the decision contribute to the Corporate Priorities?

5.1. Whilst the recommendation to join the NMB (see Section 3.1.) will not contribute to any corporate priority in itself, the new partnership will assist the Council in delivering objectives and many projects that are outlined in the (draft) Corporate Plan 2022 to 2027; including the delivery of affordable homes (Theme 1); support rural businesses (Theme 2); deliver new modern education facilities in the Dee Valley (Theme 3); restore habitats and support wildlife (Theme 5); and improve customer service delivery (Theme 7).

6. What will it cost and how will it affect other services?

6.1. Joining the newly-formed NMB for the River Dee catchment area will initially require resources in terms of representatives at OG, SG and TAG. Unless funding is provided by external sources, the Council will source any necessary actions in support of the NMB's objectives within the administrative boundaries of Denbighshire from existing budgets.

6.2. WG will provide funding to support the work of nutrient management boards, with up to £415k being made available in 2022-23 (across Wales) with additional provision in 2023-24 and 2024-25. (Appendix 3 contains the 'Written Statement by Welsh Government on River Pollution Summit at Royal Welsh Show', 01 August 2022)

6.3. As soon as professional expertise and a strategic, reliable approach to mitigation becomes available, the Council will be able to deliver many projects that are outlined in the Corporate Plan (see previous section), access external funding streams that rely on planning approvals in a set timeframe, and support the goals that are defined in the DCC "Climate and Ecology Change Strategy 2021/22 to 2029/30".

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1. A Well-being Impact Assessment has not been carried out as the recommendation does not seek a change in Council procedure, policy or directs specific actions. Any future action will be derived from legal requirements, or justified on the basis of Corporate strategies, programmes and documents, which all have been subject to a Well-being Impact Assessment.
- 7.2. It should however be highlighted that working long-term and cooperatively with adjacent local authorities and other stakeholders supports the following two Well-being goals: “A Prosperous Wales” and “A Resilient Wales”.

8. What consultations have been carried out with Scrutiny and others?

- 8.1. Members of the Strategic Planning Group and ‘Dee Valley Member Area Group’ were briefed on the introduction of tighter phosphate targets and the effects on decision-making in the DCC Planning section at their respective meetings in November and December 2021.
- 8.2. Chief Executive Team (CET) discussed the option of joining the NMB on the 18th July 2022; being principally supportive of the recommendation. Clarification was sought on the organisational set-up and resource requirements. Section 4 has been amended to reflect the discussion.

9. Chief Finance Officer Statement

- 9.1. There are no significant direct costs associated with this report and any costs will be met from existing budgets.

10. What risks are there and is there anything we can do to reduce them?

- 10.1. None.

11. Power to make the decision

- 11.1. Section 2 of the Local Government Act 2000.