

## Record of Officer Decision

<b>Decision title:</b>	Phosphate Credits Allocation update
<b>Date of decision:</b>	16th July 2024
<b>Decision maker:</b>	Corporate Director Economy and Environment
<b>Authority for delegated decision:</b>	<p>A cabinet member decision was taken on the 10<sup>th</sup> August 2020:</p> <p>a) That the approved £2m allocation in the Council's 2020/21 capital programme relating to the New Homes Bonus is authorised for the land purchase, design, construction and management of the integrated wetlands as set out in this report;  <a href="#">Issue details - The construction and management of Integrated Wetlands as tertiary treatments for waste water treatment works to reduce phosphate levels within the River Lugg catchment area - Herefordshire Council</a></p> <p>On the 26<sup>th</sup> May 2022 a further decision was taken by the Cabinet Member in respect of the Phosphate Credit Pricing and Allocation Policy:</p> <p>d) To approve an interim 'First Come First Served' policy in validation order allocation of Phosphate Credits for housing development applications received and validated on or prior to 31st October 2021 as outlined in this report;</p> <p>h) To delegate to the Corporate Director of Economy and Environment in consultation with the Cabinet Member for Infrastructure and Transport minor clarifications and amendments to the interim Phosphate Credit allocation policy as may be needed from time to time and to review and update the Phosphate Credit price as required.  <a href="#">Decision - Nutrient Certainty - Herefordshire Council</a></p> <p>On the 28<sup>th</sup> July 2022 a further decision was taken by the Cabinet Member:</p> <p>b) To authorise the Corporate Director Economy and Environment to commence the trading of credits as outlined in the Phosphate Credit Pricing and Allocation Policy agreed by Cabinet on 26 May 2022.</p> <p>d) To delegate authorisation to proceed with Phases 2 and 3 of the Council's Nutrient Trading Phosphate Mitigation Scheme to the Corporate Director of Economy and Environment in consultation with the Cabinet members for Finance and Resources and the Cabinet Member for Environment.  <a href="#">Issue details - Restoration of the River Wye – Options for Public Inquiry and Policy Review - Herefordshire Council</a></p> <p>On the 29<sup>th</sup> February 2024 the Cabinet Member took a further decision:</p> <p>c) To authorise Phases 2 and 3 of the Council's Nutrient Trading Phosphate Mitigation scheme</p> <p>d) To delegate authorisation to proceed with Phases 2 and 3 of the Council's Nutrient Trading Phosphate Mitigation Scheme to the Corporate Director of Economy and Environment in consultation with the Cabinet members for Finance and Resources and the Cabinet member for Environment.  <a href="#">Decisions for issue Phosphate Mitigation Strategy - Herefordshire Council</a></p>
<b>Ward:</b>	All
<b>Consultation:</b>	Phosphate Mitigation Lead/Service Manager for Built & Natural Environment, Head of Service for Environment Climate and Waste, Governance Services, Legal Team, Ecology Team & Planning Team. Service Directors for Environment & Highways and Economy & Growth

<p><b>Decision made:</b></p>	<ul style="list-style-type: none"> <li>• <i>To continue to allocate credits from the Council's Strategic Mitigation Schemes to planning proposals held on the waiting list, in validation date order, beyond the 31<sup>st</sup> October 2021.</i></li> <li>• <i>To allocate Phosphate credits from Council mitigation schemes strategically in order to ensure the credits maximise housing growth within the Lugg catchment.</i></li> <li>• <i>To progress a non-refundable deposit scheme for the future allocation of Phosphate credits with the final payment to be made prior to commencement of works as set out within the legal agreement.</i></li> </ul>
<p><b>Reasons for decision:</b></p>	<p>Since the European Court of Justice 'Dutch Case' ruling, planning consents in the River Wye are required to demonstrate Nutrient Neutrality.</p> <p>Herefordshire Council's Phosphate Strategic Mitigation now encompasses integrated wetlands and non-mains infrastructure upgrades, these schemes demonstrate a reduction in Phosphate entering the watercourse against which Phosphate credits can be traded to release housing within the Lugg catchment.</p> <p>To date credits have been released to planning from two mitigation schemes at Luston and Tarrington. With further schemes due to come on line to encompass housing growth during the plan period the Council now reserves the right to allocate credits strategically, thereby seeking to maximize the number of dwellings released through credit sales.</p> <p>Advice from Natural England confirms the Luston wetland is placed strategically at the top of the river Wye SAC, Lugg sub-catchment, which enables credits to be used for applications throughout the SAC sub-catchment. Tarrington is lower in the sub-catchment, limiting the use of credits to the sub-catchment of the Frome.</p> <p>The Council will now progress the allocation of Phosphate credits to planning proposals listed upon the published waiting list beyond the first phase; validated before 31<sup>st</sup> October 2021. Whilst continuing to allocate in validation date order, the Council will seek to allocate credits strategically from its mitigation schemes as it considers appropriate to maximise housing growth within the Lugg catchment.</p> <p>The Council has taken advice from Natural England and has now determined, given that a precedent has been set by wider Local Authorities, it will seek to commence trading of Phosphate credits via a non-refundable deposit scheme. The Council will secure a 10% deposit from the developer with the final 90% payment taken prior at the agreed date set out in the ensuing legal agreement.</p>
<p><b>Highlight any associated risks/finance/legal/equality considerations:</b></p>	<p><b>Risk: Assigning the correct credits to applications</b></p> <p><b>Mitigation:.</b></p> <p>Guidance and Mapping will be published on the Council website to aid understanding of the strategic approach to allocation and the deposit scheme. The internal mechanism of credit allocation through the planning process will not change.</p> <p>To mitigate the potential risk of non- payment, developers will be required as part of the legal agreement to pay the remaining balance in advance of the commencement of construction on site.</p>
<p><b>Details of any alternative options considered and rejected:</b></p>	<p>1. Not to proceed with the new strategic allocation. This would limit allocation of credits and would result in a shortage prior to further mitigation schemes coming forward, resulting in a wider pressure around housing growth in the north of the county.</p>
<p><b>Details of any declarations of interest made:</b></p>	<p>N/A</p>

I am an officer delegated to make the decision

A handwritten signature in blue ink that reads "Ross Cook". The signature is written in a cursive style with a large initial "R" and "C".

Signed:

Print Name: Ross Cook

Job Title: Corporate Director Economy and Environment