

## **RIVER MEASE – IMPACT ON DEVELOPMENT WORKING PARTY**

North West Leicestershire



**Senior Scrutiny Officer:** Keith Gordon (01530  
454538)

Overview and Scrutiny  
Committed to Improvement

**Next meeting:** 6.30 p.m. on 23 June 2010

**Venue:** Room 103, Council Offices, Coalville

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

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Circulation:  
Councillor G Jones, Councillor A Saffell and Councillor M Wyatt



**RIVER MEASE – IMPACT ON DEVELOPMENT WORKING PARTY  
MEETING  
MINUTES**

**Wednesday 24 March 2010 – 6.30 p.m.  
Council Chamber**

Attendees

**Councillors**

G Jones, A Saffell, M Wyatt

In attendance

J Coxon	NWLDC	B Allen	Senior Environmental Planning Officer,
J Houlton	NWLDC		Environment Agency
D Howe	NWLDC		Area Environmental
J Summerfield	NWLDC	P Hulme	Planning Team
	NWLDC & Measham		Leader, Environment
C Miles	Parish Council		Agency
	Packington Parish		Planning and
B Weston	Council	S Quinlan	Corporate Services
	Ashby Woulds Town		Manager,
	Council		Environment Agency
		P Thorpe	Planning Liaison
			Team Leader,
			Environment Agency
		I Butterfield	Freshwater Senior
			Specialist, Natural
			England
		P Johnson	Planning and
			Biodiversity Advisor,
			Leicestershire and
			Rutland, Natural
			England
		N Pike	Statutory Casework
			Target Delivery
			Leader, Natural
			England
		M Foster	Commercial
			Development
			Manager, Severn
			Trent Water Ltd
C Tandy	Ashby de la Zouch	S Clarke	Sansom Clarke &
	Civic Society		Housemartin Designs
R Rushton	East Midlands	J Deakin	David Wilson Homes
	Process Control		East Midlands
		A Thomas	Thomas Taylor
			Planning Ltd

## Officers

Chris Elston, Development Control Manager  
Keith Gordon, Senior Scrutiny Officer  
Ian Nelson, Spatial Planning Policy Manager

### 1. Election of Chairman

It was **RESOLVED** that Councillor A Saffell be elected Chairman of the Working Party

### 2. Appointment of Deputy Chairman

It was **Agreed** that Councillor G Jones be appointed Deputy Chairman of the Working Party

### 2. Apologies for Absence.

Apologies for absence were received from Councillors R Bayliss.

### 3. Declarations of Interest

Councillor G Jones declared that he represented the area as a Councillor.

### 4. River Mease – Impact on Development

The Senior Scrutiny Officer introduced the subject of the examination and gave background detail of how the topic had been referred to the Working Party and the Terms of Reference.

### 5. Evidence (including questions from Members of the Working Party)

The Chairman outlined the procedure he would be following during the meeting. The meeting would be focused on gathering evidence to enable the working party to develop a final report at future meetings.

#### a. Chris Tandy, Ashby de la Zouch Civic Society

Mr Tandy referred to his written submission accompanying the agenda, he stressed that the issues had been developing over a number of years but the designation of the catchment area had brought them to notice as the water contains phosphates that are harmful to the protected species and habitat. He suggested that the Severn Trent water treatment works could not cope and needed improvement.

The issues not only affected Ashby de la Zouch but also a large number of villages in the surrounding area.

If all of the nine waste water treatment works were improved it was still unlikely that the improvement to water quality would be sufficient to permit development. Other resolutions had been put forward but none had been acceptable or successful to date. Mr Tandy suggested that the only apparent solution was to move development out of the area.

Arising from Mr Tandy's comments it was suggested that Severn Trent adds phosphate to water to prevent lead assimilation.

**b. Ian Nelson, and Chris Elston, NWLDC**

The Spatial Planning Manager stressed that the designation of the River Mease and its tributaries as a Special Area of Conservation (SAC) represented the highest level of protection at European level.

The SAC status required that planning strategy documents were required to be subject to an Appropriate Assessment (AA). This included taking account of any other projects having an accumulative impact on the area.

The main phosphate sources were from the sewage treatment works and agricultural land.

The Council was charged with undertaking an AA to show that policies would not have an adverse impact on the catchment area. Development Control had to consider planning applications on the same basis, including those with incomplete conditions.

The Local Development Framework (LDF) indicated future development. If no new development was possible within the area it would have to redistribute development to other areas within the district. The Regional Plan took account of the restriction on development so it would be difficult to argue a need to provide for less housing than designated.

The Council had commissioned a Scoping and Outline Water Cycle Study and anticipated the report within the next few weeks. This could have financial implications for the Council if this recommended a more detailed study. It could also impact upon the timetable for the LDF.

The Development Control Manager informed the meeting that twenty-two planning applications were currently delayed in consideration and likely to go beyond performance time limits before decision. It was difficult to advise on these applications as, due their different responsibilities the Environment Agency and Natural England were not of the same view on some issues. There were also issues arising from difficulties meeting conditions attached to existing planning permissions.

Arising from the Spatial Planning Policy Manager and Development Control Managers' comments it was stated that;

- Once decisions were made on the delayed applications they would have an impact on the Council's performance in meeting government targets. The delays could also have an impact on the retail vitality of Ashby.
- Due to differing approaches to issues, Natural England and the Environment Agency did not always agree on issues but all parties were making efforts to work together. Although it was the Council's responsibility to make decisions on planning applications to do so ignoring the advice of the Environment Agency and/or Natural England could lay the Council open to challenge or the application being called-in.

**c. Ian Butterfield, Natural England**

Mr Butterfield referred to a recent planning appeal decision and noted that the Inspector had accepted the water quality targets were correct targets for the designation.

The Council was the 'Competent Authority' and as such expected to be the decision maker. The Council could decide upon the twenty-two delayed applications (referred to above) by refusal or by seeking additional information from the applicant. National England could support the Council in its role but it remained the decision of the Council.

Natural England's role was not to design solutions to problems, it would comment and advise where possible and assessing the impact on the designated area but the proposal of solutions remained the responsibility of those proposing development. Any development also had to comply with other planning policies in the usual way.

The wastewater treatment works remained a major source of phosphates in the water.

Natural England and the Environment Agency were responsible for different aspects of the issues and so did not always agree totally on possible solutions. The issues were very complex and in recognition of this and a desire to resolve them Natural England was looking to appoint a project manager for all the issues in the catchment.

Arising from Mr Butterfield's comments the Spatial Planning Policy Manager confirmed that refusal of delayed applications could lead to a number of appeals. He confirmed that he had first become aware of the issues during the middle of 2009. He had recently written to Defra (Department for Environment, Food and Rural Affairs) regarding the situation.

Mr Butterfield described the ecology as 'hanging on rather than surviving'. Having existed since the last glaciation it had survived despite difficult conditions and although there had been improvements recently conditions were still not meeting the required standards.

There was unlikely that a short-term full solution would be possible. All agencies shared a responsibility to contribute to a solution but it was appropriate that the Council should lead on the matter as the Local Planning Authority.

Neil Pike confirmed that

- Natural England balanced its responsibility to enforce the designation conditions with helping to assess proposed solutions.
- Any action taken by the European Court over the breaching of limits would be against the Government.
- It was not clear that the water treatment works were such large contributors to the phosphate levels until recently. The 'Review of Consents' contained the information regarding the balance between Waste Water Treatment Works (WWTW) and diffuse sources, this procedure/report was the trigger for the revised position regarding planning. The Natural England contribution to the Regional Spatial Strategy was based on the best information available at the time.

**d. Penny Thorpe and Philip Hulme, Environment Agency**

Ms Thorpe gave details of the Environment Agency's role through which it aimed to contribute towards achieving sustainable development. In advising on planning development plans and applications it has regard to the habitat regulations in areas of appropriate designation. The Agency also administers consents to discharge and extract involving protected waters and assess the resulting impact to ensure that there is no deterioration in the condition of the River Mease.

Connection to a public sewer was preferred as private sewer arrangements often suffer from lack of expertise and regular maintenance leading to problems. The Council was responsible for decisions on acceptable arrangements and needed to ensure that if permitted any conditions were enforceable.

Mr Hulme referred to the Agency's role in reviewing the consents on the principle that the consent holders should remove their share of phosphate affecting the water quality. The waste water treatment works at Packington was in a particularly sensitive location affecting the headwaters of the River Mease. In the waters of the River Mease and its tributaries approximately 80% of phosphate in the water originated from the waste water treatment works with 20% from other sources. Improvements to all nine waste water treatment works were scheduled under a five-year investment programme. The Packington treatment works would have a limit of 1 mg/litre.

The Council's LDF was a key document in connection with the Habitat Regulations and assessing sustainable development in the catchment area. If Severn Trent could not accept the flow from proposed development, the Environment Agency would maintain an objection.

Arising from Ms Thorpe and Mr Hulme's presentation, Mr Hulme stated that;

- increasing flow in the River Mease by pumping from another source would dilute pollution but would have an impact on flow rates that could have an adverse impact. He suggested that detailed examination of this issue could be included in a more detailed water cycle study. The meeting was also reminded that the River Mease had not dried up in living memory and a serious flooding problem existed in Packington. Additional water flow could aggravate this problem.
- By 2015, Severn Trent Water will have phosphate removal technology at all of its wastewater treatment works on the River Mease. Whilst this investment will significantly improve phosphate levels in the watercourse, subsequent levels will remain above the aspirational target for the river.
- The quality improvements already agreed between the Environment Agency and Severn Trent Water Ltd are based on concentrations of phosphate eg 1mg/l. In addition, the EA has proposed a total load methodology to manage any additional phosphate loading from future development, which it refers to as the Constant Load Approach.

In response to questions, Mr Butterfield stated that Natural England;

- Did not approve of the use of the 'Constant Load Method' as it did not consider it sustainable. He recognised that this was an area where natural England and the Environment Agency did not agree.

- justified the imposition of limits on Waste Water Treatment Works through the Review of Consents procedure that did not result in water quality meeting the required standard as a reasonable step accepting that activities were already taking place. The limits used Best Available Technology at reasonable economic cost.

**e. Matt Foster, Severn Trent Water Ltd**

Mr Foster reminded the meeting that the Packington wastewater treatment works functioned within the current consent limits. Severn Trent Water had agreed the future limits for all its treatment works discharging into the Mease catchment. The quality of effluent leaving Packington works has improved recently but was not solely a sewage treatment issue.

Mr Foster confirmed that river water quality modelling work carried out by the EA has confirmed that even if the wastewater treatment works discharged zero phosphates into the watercourse, the aspirational targets for phosphates in the River Mease would still not be met as the average concentration of phosphate in the headwaters is considerably higher than the ultimate target. Severn Trent Water was making a serious contribution towards resolving its contribution to the issue but Severn Trent could not resolve the wider environmental issue on its own.

There was currently available capacity shown in the consent figures that could allow development in the short term but this was inadequate to cater for the number of additional houses included in the emerging LDF plans.

Consequently, Severn Trent Water is in the process of appraising a number of options to provide additional capacity over the longer term. These include;

- additional capacity at the works
- reduced infiltration in the sewerage system
- catchment transfer
- effluent transfer

The scale of development decided upon would affect all of these options but they did indicate future solutions were possible.

In response to questions arising from Mr Foster's comments;

- Mr Foster stated that The Environment Agency had set out the confirmation it would require developers to seek from Severn Trent Water in order for it to confirm no adverse effect and to enable the EA to remove their objection. This information needs to confirm that Severn Trent Water can accept the load from the proposed development within the consent parameters currently in place.
- The review of consents process assessed existing flow and quality consents and did not make any allowance for future growth. For Packington wastewater treatment works, Severn Trent Water believes it has some capacity within its current consents for additional growth, but other agencies responsible for other aspects might object
- Mr Butterfield accepted that the Review of Consent procedure and limits

made to Waste Water Treatment Works would not meet the sites Conservation Objectives alone, and that the discharges from Waste Water Treatment Works were identified as having an adverse effect on the site. The Local planning Authority needed a clear legal understanding of the position so that the LDF could set a clear policy for the appropriate level of development.

- The Spatial Planning Policy Manager was not sure that the Council could rely upon the review of consents to indicate 'headroom' for development. The Water Cycle Study was a new concept and not a 'panacea for all ills'. The Government Office was encouraging the Council to make progress with the Core Strategy and not delay it for the detailed study.

**f. Stephen Clarke, Sansom Clarke & Housemartin Designs**

Mr Clarke welcomed the approach taken in seeking a resolution to the problem by 'conference'. He stressed that he had no specialist knowledge of the issues beyond his knowledge as a local Chartered Surveyor and Property and Development Consultant.

Mr Clarke stressed that there was a complete ban on development in the Mease catchment area and beyond, where sewage was pumped to within the catchment. He was confident that the ban would be resolved eventually, after several years but that in the meantime, it affects all development producing sewage including house extensions.

The ban affects significantly the local economy, including traders supporting the development as well as those involved in construction. It is vital that the Council recognises the importance of small development and imposes appropriate conditions with a degree of flexibility. It should be possible to permit small development with private sewage arrangements that cause no detriment to the water quality with a condition that requires connection to the public sewer as soon as this becomes possible. The private treatment equipment would also assist in discharging treated water to the public sewer once connected not raw material.

In Scotland with 254 designated SACs it has been recognised that long-term solutions take too long to implement and interim solutions are permitted – 'A Flexible Approach to Constrained Sites'.

**g. Bryan Weston, Ashby Woulds Town Council**

Councillor Weston stressed that the area was 'At the Heart of the National Forest' and ecology should be at the heart of the consideration.

**h. Conclusion**

In response to questions, the Spatial Planning Policy Manager confirmed that once the Water Cycle Study report was received it would be published and available on the Council's website and that regular meetings were held with planning officers from South Derbyshire to discuss this and other planning issues.

The Chairman thanked all those present for attending and their contribution and confirmed that a further meeting would be consider a report of this meeting in development of the working party's final report.

The meeting closed at 8.45 p.m.

**ENVIRONMENT SCRUTINY COMMITTEE**

**RIVER MEASE – IMPACT ON DEVELOPMENT WORKING PARTY**

**23 June 2010**

**1. Background**

Members will recall that the Working Party met on 24<sup>th</sup> March 2010 when it heard evidence from a range of organisations and individuals in respect of the River Mease Special Area of Conservation (SAC) and how its current poor condition was impacting upon new development.

**2 Purpose of report**

This report provides an update for members on the current situation.

**3 Current situation**

Since the meeting in March, Council officers have continued to meet on a regular basis with representatives of the Environment Agency, Natural England and Severn Trent. These meetings have sought to try and establish an agreed position for dealing with current planning applications and to consider how the issue can be taken forward in the longer term.

In respect of current planning applications, it is estimated that some 22 applications are currently affected by this issue. Natural England is preparing a matrix to indicate what type of applications are likely to have an impact and hence require that they be consulted. This will be agreed with officers and can then provide the basis for future applications.

Discussions are also continuing in respect of longer term planning. These have largely focussed upon the commissioning of a detailed Water Cycle Study following on from the work of the earlier Outline and Scoping Report which was published in March 2010. The intention of a detailed study would be to seek to identify, assess and cost potential solutions for resolving the current issues with a view to then developing a longer term strategy for enabling development to take place in a way which does not compromise the River Mease SAC. Officers have asked the other organisations to contribute towards the cost of commissioning this work. Whilst nothing has been agreed at this time, it should be appreciated that irrespective of what other contributions are agreed, that there will be some financial implications for the Council. The exact scale of this is not known at the present time.

As part of these discussions, a recent meeting heard a presentation from a local individual with some years experience in the water industry about a potential way forward. This would involve the use of a reed bed system to act as a natural filter to remove the harmful phosphates and nitrates. The initial view of the Natural England and the Environment Agency is that the idea may have some merit, but that further research would be required to ascertain whether such a proposals would deliver what is required technically. In addition, there are also a range of other technical issues regarding how such a proposal could be delivered, including issues about financing, both initially

and in the longer term. As part of the presentation it was suggested that one way to deliver such a proposal would be via a Social Enterprise Company (a not for profit organisation). These types of issues could potentially be addressed as part of a Detailed Water Cycle Study.

Further discussions are planned, but at the present time it is not possible to give a firm indication as to when a definitive solution may be agreed upon. Members will be kept informed via regular updates to future meetings of the Environment Scrutiny Committee.

#### **4 Recommendation**

That the Working Party note progress and that further updates be provided to the Environment Scrutiny Committee.