



17<sup>th</sup> June 2020    **Petition no P-05-815**  
Submission to Petitions Committee for meeting 23<sup>rd</sup> June 2020  
Response to NRW: ED for Evidence, Policy and Permitting (28.2.20)  
and Welsh Minister for EERA (17.3.20)  
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Dear Petitions Committee,

Thank you for inviting our further comments on the responses from the ED for Evidence, Policy & Permitting NRW and the Welsh Minister for EERA. We welcome this opportunity.

We are extremely grateful to the Committee for continuing to pursue our case. In spite of the welcome good intentions emerging during our petition, the situation on the ground has deteriorated drastically. The authorities will have seen the recent press reports about the green Wye. The concentration of IPU's is contributing to the accelerated dying of our rivers but instead of urgent action, more are being approved.

The Covid-19 viral pandemic is causing scientists all over the world to question our increasing dependence on intensive poultry and pig-farming but Wales is blindly stumbling on without data or evidence.

The respondents have not addressed the basic statistics and distribution of IPU's. We do not have the personal resources to monitor the whole of Wales but have supplied comprehensive evidence from Powys Planning Application data showing that there are more intensively farmed chickens in Powys alone than the 7.2 million shown by the 2019 National Statistics for both intensively and non-intensively farmed broilers and egg-layers in the whole of Wales.<sup>1</sup> We have also produced a distribution map.<sup>2</sup>

By contrast, **NRW** only records bird numbers for units requiring Environmental Permit (over 40,000 birds) and **Powys LPA** "*has no responsibility for monitoring numbers*" (Professional Planning Lead letter 12/6/20).

### **The Role of NRW**

If there is no adequate basic statutory evidence about bird numbers and distribution of IPU's in Wales, how can **NRW** comply with the Env(Wales) Act which requires it to:

*"promote sustainable management of natural resources", "manage adaptively, by planning, monitoring, reviewing and, where appropriate, changing action", "consider the appropriate spatial scale for action", "take account of all relevant evidence and gather evidence in respect of uncertainties"*

We warmly support the **NRW** initiative to strengthen the GN20 ammonia guidance and extend the scope beyond nationally and internationally designated areas and we accept that this does provide LPAs with "*advice on potential cumulative and in-combination effects*" but only with respect to ammonia/nitrogen emissions from rearing sheds and parts of free-ranges. We will respond to the Consultation.

At present, where an Environmental Permit is required, the **NRW** evidence base and planning advice are fixed to the permit application date and do not always reflect the guidelines current for the Planning Application. We trust this indefensible institutional lag will not persist with the new guidelines

We do not understand the ambition of "aligning" Environmental Permit thresholds with EIA thresholds (85,000 for broilers and 60,000 for hens - the current EP threshold is 40,000). The newly exempt units would be mainly, but not exclusively, free-range egg-layer units which have been regarded by **NRW** evidence as the most potentially polluting<sup>3</sup>. In Powys, this would remove a dozen units containing 1 million birds out of regulation by Environmental Permit, when both **NRW** and **WG** have been extolling the control attained though permitting in their previous responses. It is also in direct contradiction to para 3.3 of the current (28/2/20) **NRW** response which suggests the WG could usefully lower the Permitting thresholds below 40,000.

**NRW GN21** says: (planning) "*Applications need to include a manure management plan. The plan needs to include:*

- *Calculation of total Nitrogen and Phosphate produced from proposed poultry unit and all other sources of nutrient imported or produced on the holding."*

In spite of the critical importance of phosphates for rivers, including SACs, we are not aware of ever seeing phosphate calculations mentioned in an application, Officer's Report or in **NRW** advice.

Where SACs, SPAs, RAMSARs are concerned, **LPAs** appear to rely on **NRW** ammonia/nitrogen and hydrological advice to "cover" their Habitats Regulation Assessment duties. **Powys CC** says "*Natural Resources Wales (NRW) is able to draw on monitoring data for the water quality of rivers in order to assess the contributions that an additional development would make in order to inform its consultation responses on planning applications.*" (Professional Planning Lead letter 12/6/20). In approving P/2015/0955, Wern Llanyre free range egg development on land draining ultimately into the Wye SAC, an objection from the Wye and Usk Foundation was withheld from the public website (third party representations were still published at this date) and no LPA Habitats Regulation Assessment was completed.

### **The role of the WG**

The Minister says of her agriculture pollution measures announced in December 2018, due in January 2020 but still nowhere to be seen, "*The effect would be to prevent over-intensification in localised areas.*"

It is much too late for prevention. **WG**, **NRW** and **Powys CC** have sat back, in full knowledge of our evidence for over-intensification, watching it get steadily worse. Powys has had **54** more applications since our petition submission on 24/1/18. Only **2** have been refused and both these have been resubmitted.

Powys LPA has seen **156** applications in the past 5 years (since 1/7/15). Altogether, there are currently **27** applications awaiting determination and the record suggests they will virtually all be approved. By contrast, neighbouring Ceredigion LPA (half the area of Powys) has seen **5** and only **1** is awaiting determination. It is time for urgent action.

The proposed whole-Wales measure for tackling nitrate pollution demonstrates that the Minister recognises there is a problem but Wales is lagging behind the rest of the UK.

### **Scotland 2011**

Activities likely to cause diffuse pollution are regulated by the [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011](#) (more commonly known as the Controlled Activity Regulations (CAR)) and their [further amendments](#).

<https://www.sepa.org.uk/regulations/water/diffuse-pollution/>

### **England 2018**

We published detailed [guidance on the rules](#) on 2 April 2018. The formal rules, the [Reduction and Prevention of Agricultural Diffuse Pollution \(England\) Regulations 2018](#) came into effect on that date.

<https://www.gov.uk/government/publications/farming-rules-for-water-in-england>

### **Northern Ireland 2017?**

Slightly less clear but implemented 'programme of measures' (guidance) in 2015 followed by The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017.

<https://www.legislation.gov.uk/nisr/2017/81/contents> <https://www.daera-ni.gov.uk/publications/programme-measures-diffuse-and-point-source-pollution-agriculture-2015>

We dispute that the proposed WG nutrient management plans would prevent over-intensification. In practice, an intention to export manure to both Welsh and English destinations, where spreading cannot be effectively monitored, is enough to allow a farm without sufficient spreading land to gain both an Environmental Permit and planning consent. Besides, how could spreading regimes reduced from 250kg to 170kg total nitrogen per hectare per year in nitrogen-vulnerable zones be implemented when there are so many intensive units approved on the basis of the 250kg calculations? We also believe that extreme weather conditions and rapid weather swings will make it difficult for farmers, even with the best will in the world, to organise minimal-risk manure management. Although these improved anti-pollution strategies are sorely needed, they will have trouble keeping up with climate change and will be partial mitigation, not a magic cure. We anticipate a long transition period which our deteriorating environment cannot afford. Rather than excusing the further proliferation of intensive farms, these measures should be used to address existing problems and go hand in hand with an immediate moratorium on further development where over-intensification already threatens their successful implementation.

## Relations between LPAs WG and NRW

As we have repeatedly pointed out the three levels of control are not working together, each showing a readiness to pass the buck without always acknowledging the statutory duties and remit of the others.

**NRW** has demonstrated in various responses that it is acutely aware of the negative environmental impacts of IPU's and is *"supportive of identifying areas where tighter controls would be required due to local sensitivities"*. **NRW** says there *"appears to be opportunities for WG to review evidence, thresholds and controls, which apply to Environmental Permitting Regulations, and also through the development planning and management processes."*

NRW refers to its limited planning remit and says *"The planning authority is responsible for determining planning applications and in so doing will decide which and how in-combination and cumulative effects will influence their planning decision on a development, and they will also decide on the information to be submitted by an applicant."*

Nevertheless, **NRW** has not acted decisively on the "Dutch Case", ruling to guide LPAs like its English counterparts. Given the state of the Wye, the adequacy of NRW river quality monitoring program must be questioned.

**WG** has set up the T&CPIAWG and announced agricultural pollution regulation. Neither initiative has produced any results yet. If and when they do, implementation will inevitably be subject to a long transition. We note **WG** says the evidence base for Area Statements will be a Material Planning Consideration, at odds with the **NRW** description.

**Powys LPA (this is the only LPA we know well enough to comment on)** believes PPW and its own recent LDP, in which it repeatedly refused to incorporate a section on intensive livestock farming, supports consent so long as **NRW** has no concerns. The Professional Planning Lead response (12/6/20) to a consortium of concerned residents sets out the way in which decisions are made. The public is effectively shut off from contributing to decision making: third party representations are not made available on the planning website, EIA applications are now decided under delegated powers but, if they are called in to the Planning Committee by the local Councillor, Committee Members are told they must not read any letters to them from the public.

## Our Questions

Our submissions are inevitably becoming more detailed and technical in keeping with the NRW and WG responses but we have some basic questions.

1. Will the **WG** explain whether they are satisfied with the planning process which leads to approval of such an environmentally damaging density of IPU's in one LPA. If not, how will they intervene?
2. Can **NRW** provide a position statement on the "Dutch Case" advising LPAs of their independent duties to undertake proper, full HRA procedure to protect designated rivers.
3. Can NRW explain the "alignment" of Permitting with EIA thresholds.
4. Will the **WG** tell us about the constitution, ToR and proceedings of the Health Working Group announced by Mark Drakeford in early 2019. Is this group considering pandemic risks, anti-microbial resistance and health risks to neighbours arising from IPU's.

In view of the urgency of the situation and wide-spread public concern, we also have three **Requests** which we hope the committee will consider and convey to the **WG & NRW** respondents.

## Our Requests

1. In 2018 Wales Environment Link called for *"NRW and Local Authorities pausing any granting of permissions (planning applications and permits) and NRW undertaking an assessment of in-combination effects on water and air quality (including compliance checks) for each catchment with Intensive Livestock Units (ILU)"* . **We want this to happen now for appropriately targeted areas which must include all Powys LPA. We want NRW action to be supported by WG.**

2. **WG and NRW, should map intensive livestock units through Wales, match their density to river catchments, to background ammonia and nitrogen deposition levels/loads and to sensitive habitats. This should form an evidence base essential to ensure SMNR in livestock farming.**
3. **NRW must have the resources to research and implement a river recovery plan which targets the more distant sources of pollution as well as the immediate water-body environment. In as much as climate change is resulting in low water volumes in rivers, water extraction must be more firmly regulated than the current permit threshold (20cu.m/day). Water extraction and phosphate management should be included as a material planning consideration in planning determination.**

Attached

Powys Professional Lead Planning Response (12/6/20)

Wye & Usk Foundation objection to IPU P/2015/0955

WEL "Restoring our Freshwaters" (2018)

BRB-CPRW IPU Applications awaiting determination in Powys

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<sup>1</sup> <https://gov.wales/sites/default/files/statistics-and-research/2019-11/survey-agriculture-and-horticulture-june-2019-730.pdf>

<sup>2</sup> <https://www.google.com/maps/d/viewer?mid=19k4NDqAtNeG8MbNbGu-9yd9bQBc&ll=52.495291891220724,-3.766346143718799&z=9>

<sup>3</sup> <https://cdn.naturalresources.wales/media/686008/eng-report-218-powys-poultry-pilot-study.pdf>