

Planning Position Statement: SAC Designated Rivers & Phosphates

Purpose of the Position Statement

This Statement sets out NRW's position on new developments which may lead to further deterioration in the condition of the Wye riverine Special Area of Conservation (SAC) due to the potential to increase phosphate levels within the SAC. This is required to respond to the compliance assessment undertaken which highlight the failures to achieve the standards required to meet the water quality condition for this designated river.

This position statement relates only to those developments that require screening and assessment through the Habitats Regulations Assessment (HRA) process, where the potential effects on the River Wye SAC are due to increased amounts or concentration of phosphate. Other types of issues arising from any development in the Wye catchment with the potential to affect any site previously designated pursuant to EU retained law, need to continue to be properly addressed through HRA processes .

It applies to all waterbodies within the Wye catchment north of Bigsweir Bridge, Monmouthshire.

Background

The River Wye is a SAC and is protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

Natural Resources Wales has set new phosphate standards for the river Wye SAC following the revised [Common Standards Monitoring guidance](#) updated in 2016 by the Joint Nature Conservation Committee (JNCC). A compliance assessment, conducted by NRW, against these standards found widespread failures on the river Wye.

New development within any part of the catchment which will increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies.

Whilst a third of the waterbodies within the catchment satisfied the standards, the headroom within these waterbodies to accommodate increased levels of phosphates is limited. If phosphate levels are allowed to rise, the water bodies are at risk of failing the standard.

Additionally, for failing sections of the catchment there is no headroom and further increases in phosphate will further worsen the condition of the SAC.

Habitats Regulations Assessment

Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously (designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. In light of the conclusions of the compliance assessment, the competent authority may normally only approve the plan or project having ascertained that it will not adversely affect the integrity of a site (previously designated pursuant to EU retained law) if necessary taking into account any conditions or restriction which will mitigate any negative impacts of the plan or project.

Any proposed development within the Wye catchment that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals should be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition. Once issued by NRW, this position statement in combination with the Compliance Assessment Report, applies to all development that is yet to be determined by the relevant planning authority

NRW's Role

We are a statutory or specialist consultee within the planning system, both during the development plan making process, and during the planning application process. Our main role is to provide advice on how planning policies and development proposals should protect and enhance the environment and allow for our natural resources to be sustainably managed. Our advice is informed by the information submitted by the applicant, our expertise, and the Welsh Government's aspirations and policies for the environment as set out in national planning policy, and relevant legislation.

It is the role of planning authorities to determine planning applications and in so doing they will consider our advice alongside information submitted to them from the applicant, and other parties including other advisors and the public. The Local Planning Authority (LPA) is the competent authority under the Habitats Directive requirements for HRA and decides when an appropriate assessment is required. In its role as a Statutory Nature Conservation Body (SNCB) NRW must be consulted by the competent authority during an appropriate assessment. The competent authority must for the purposes of the appropriate assessment have regard to any representations made by the SNCB within such reasonable time as the authority may specify.

Summary of Natural Resources Wales's current position

A large number of water bodies on the Wye are failing their phosphate targets. Even where they are passing, there is generally little headroom. For this reason we are unable to rule out the possibility that additional phosphate input on any part of the River Wye SAC will further damage the SAC. We therefore recommend that any proposed new development that might otherwise result in increasing the amount of phosphate within the SAC either by direct or indirect discharges must be able to demonstrate phosphate neutrality or betterment.

Next steps

We will collaborate with partners to support the development of further advice to assist in assessing development proposals in relation to phosphates. We intend to mirror this approach for the other water quality indicators in the river and will set out clear timescales for this in the New Year.