

# Natural Resources Wales (NRW) interim advice for planning applications that have the potential to increase phosphate levels in river Special Areas of Conservation (SACs)

This document provides interim advice for local planning authorities. It relates only to those developments that are subject to Habitats Regulations Assessment (HRA) owing to potential effects on river SACs due to increased amounts or concentration of phosphate. Other types of impact arising from any development with the potential to affect any European site need to continue to be properly addressed as required through the HRA process. This document will be subject to review and periodic update.

## How do I know if a proposal might increase phosphate levels within the SAC?

Each development should be considered on a case by case basis. Developments should first be screened to determine whether they are likely to have a significant effect.

With no pathway for impacts, the development can be screened out as not likely to have a significant effect on the SAC in relation to phosphate inputs. Therefore, there is no need to progress further with the HRA, unless there are other potential impact pathways associated with the development which need to be considered.

The following types of development are unlikely to increase phosphate inputs:

- Any development that does not increase the volume or concentration of wastewater;
- Any development which improves existing water quality discharges by reducing the phosphate load of wastewater, or by decreasing the volume of wastewater produced (e.g. by improvements to existing wastewater treatment infrastructure);
- Any development connecting to a public wastewater treatment works where the permit has phosphate conditions in place and the sewerage undertaker has confirmed that there is capacity to treat the additional wastewater and the additional phosphate from the proposed development;
- Private sewage treatment systems discharging domestic wastewater to ground which are located more than 50m from a SAC boundary, and which have a maximum daily discharge rate of less than 2 cubic metres (m<sup>3</sup>);
- Development to an existing residential property (e.g. extensions) that does not increase the volume of foul drainage (e.g. as a result of increased occupancy).

## What does this mean for development proposals involving connection to public wastewater treatment works?

Any development connecting to an existing public wastewater treatment works that has the capacity and associated phosphate stripping to accommodate the additional wastewater and additional phosphate from the proposed development, is unlikely to increase phosphate inputs into a SAC beyond what has already been assessed and permitted by NRW. There is a presumption that all rainwater is kept separated from polluted water and disposed of separately in line with Planning Guidance on rainwater disposal.

For such development proposals, we would seek the following information in support of any planning application consultation:

- Confirmation of how any foul or surface water will be managed;
- Clear scale plan showing the location of nearest mains sewer and proposed connection point; and
- Evidence that an application has been made to the sewerage undertaker for connection to a mains sewer, and a copy of their formal response confirming either:
  - (a) that there is treatment capacity to treat the additional wastewater and any additional phosphate from the proposed development (in combination with other planned development) within the existing discharge permit limits, or
  - (b) that the necessary treatment capacity to remain within existing discharge permit limits will be implemented within the current Asset Management Plan (AMP) period.
- Confirmation that any development complies with the Flood and Water Management Act 2010 (Schedule 3), effective in Wales from 7 January 2019, requiring new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards.

## What does this mean for development proposals involving private sewage treatment systems?

[Circular 008/2018](#) (Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants) states when drawing up sewerage proposals for any development, the first presumption must always be to provide a system of foul drainage discharging into a public sewer, where available. Additional guidance on the use of private sewage treatment in an area with a public sewer is available [from the Natural Resources Wales website](#).

If, by taking into account the cost and/or practicability, it can be shown to the satisfaction of the planning authority and Natural Resources Wales that connection to a public sewer is not feasible, a package sewage treatment plant should be considered.

Only if it can be clearly demonstrated by the developer that connection to the sewer, or the use of a package treatment plant is not feasible should a system incorporating septic tank(s) be considered.

When proposing private sewage treatment systems we encourage applicants to make use of Natural Resources Wales's [environmental permitting pre-application advice service](#) to discuss any constraints which may apply.

We do not consider that schemes involving private sewage treatment systems or changes to existing systems which:

- discharge to ground into a drainage field constructed to the relevant [British Standards](#); and
  - are located more than 50m from a river SAC boundary; and
  - have a maximum daily discharge rate of less than 2 cubic metres (m<sup>3</sup>)
- are likely to have a significant effect on the SAC.

We advise that all other forms of development involving private sewage treatment systems within SAC catchments should be subject to HRA.

We would seek the following information in support of any planning application or appropriate assessment consultation for a scheme involving a private sewage treatment system:

- Confirmation of how foul and surface water will be managed;
- Clear scale plan showing location of proposed private sewage treatment system and discharge location;
- Where a private sewage treatment system is proposed within a sewered area, evidence to justify why a connection to mains sewer is not feasible [in line with the requirements published on our website](#);
- For all other private sewage treatment systems, evidence that [Circular 008/2018](#) (Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants) has been followed;
- For schemes located within 50m of a SAC boundary or which have a daily discharge rate of 2 cubic metres (m<sup>3</sup>) or more: Confirmation of the volume of wastewater to be discharged, and evidence that demonstrates if and how the level of treatment ensures no likely significant effect on the SAC;
- Where discharges to ground are proposed, provide the results of infiltration testing with calculations to demonstrate that the drainage field size and design is appropriate for the volume of discharge proposed and follows the relevant [British Standard](#).

It would also be useful to receive, where available, copies of any Natural Resources Wales environmental permit or registered exemption to discharge to ground or to a watercourse.

## **What does this mean for development proposals involving agricultural development?**

New development involving the storage, management and spreading of organic material within the catchment of a river SAC has the potential to contribute towards the level of phosphates entering the SAC, and should be screened to determine if they are likely to have a significant effect on a SAC.

### **Avoidance and Mitigation measures**

In order to determine whether it is necessary to carry out an appropriate assessment it is unacceptable, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of a plan or project on the SAC. The efficacy and reliability of any mitigation measures should be established through the appropriate assessment.

In relation to developments to which this document applies, we would expect that any measures relied upon to avoid or mitigate potential impacts on a SAC due to increased amounts or concentration of phosphates, are supported by evidence from the developer which demonstrates that those measures are guaranteed and maintained for the lifetime of the development, and are effective, reliable, and timely. We would also seek confirmation by the local planning authority that the measures can be legally enforced to ensure they will be implemented as proposed.

For each measure, we would therefore expect details on:

- How the measure would avoid or reduce adverse effects on the SAC (considering the predicted duration of the effects);
- How the measure will be implemented, and by whom;
- How the measure will be maintained, the duration of any maintenance, and details of who will be responsible for its maintenance;

### **Interim advice for the review of local development plans (LDPs)**

All local development plans should first be screened to determine whether any policies are likely to have a significant effect on any European site.

Policies can be screened out as not likely have a significant effect in relation to phosphate contributions if there are no pathways for impacts, unless there are other potential impact pathways associated with the policy which need to be considered.

Allocations for development which are proposed to be connected to a mains waste water treatment works with capacity to accommodate the additional waste-water and any additional phosphate from the proposed development (in-combination with other planned development) within discharge permit limits, can be screened out in relation to phosphate contributions. Similarly, allocations for development can be screened out in relation to phosphate impacts where sufficient treatment capacity does not currently exist but will be implemented within the current Asset Management Plan

(AMP) period and will be in place in time to ensure the treatment works stay within permitted discharge levels.

Allocations for development that are proposed to be connected to mains waste water treatment works where there is no capacity in place, or planned within the current AMP period, to treat the additional phosphate should be subject to an appropriate assessment.

We also advise that any LDP policies relating to schemes for private sewage treatment systems which would:

- Discharge directly to surface waters; or
- Discharge more than 2 cubic metres (m<sup>3</sup>) in any one day to ground

should ensure no adverse effects on the integrity of any SACs.

## Permitted Development Rights

Several classes of development, including agricultural development, benefit from permitted development rights under Article 3 of the *Town and Country Planning (General Permitted Development) Order 1995* (the GPDO) subject to conditions and limitations specified in the Order.

The Habitats Regulations impose controls on permissions granted by the GPDO to prevent any development which is likely significantly to affect a European site or European offshore marine site, either alone or in combination with other plans or projects, and is not directly connected with or necessary to the management of the site, from benefiting from permitted development rights, unless the local planning authority has determined, after consulting Natural Resources Wales, that it would not adversely affect the integrity of the site.

This does not automatically withdraw permitted development rights for such developments, but instead requires them to be subject to a prior approval.

We consider that any development proposal within the catchment of a river SAC, which benefits from permitted development rights under the GPDO and involves increasing the amount or concentration of wastewater discharge should be subject to prior approval.

The procedures for seeking approval are described in Annex 5 of [Technical Advice Note 5: Nature Conservation and Planning](#) (2009).