

# Planning Position Statement

## Purpose of the Position Statement

This Statement sets out Natural Resources Wales' (NRW's) position on new developments which may lead to further deterioration in the condition of riverine Special Areas of Conservation (SACs) due to the potential to increase phosphate levels within the SAC. This is required to respond to NRW's SAC Compliance Assessment which highlights the failures to achieve the phosphate standards of the water quality conditions for SAC designated rivers.

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 a river SAC are due to increased amounts or concentration of phosphate. Other types of issues 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 position statement applies to all identified potentially affected waterbodies within a SAC catchment.

## Background

All SACs are protected under the Conservation of Habitats and Species Regulations 2017, as amended (the Habitats Regulations).

NRW has set new phosphate standards for the riverine SACs 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 a failure to meet the targets in the Dee, Cleddau, Wye, Teifi and most significantly, in the Usk. Overall, of 106 waterbodies assessed, 42 (39%) passed their SAC phosphate targets and 65 (61%) failed.

Rivers	Evidence	Failure rate
Cleddau	Widespread or severe	67%
Usk	Widespread or severe	88%
Wye	Widespread or severe	67%
Teifi	Lower reaches	50%
Dee	Localised	38%
Glasylyn	Passed	0
Gwyrfai a Llyn Cwellyn	Passed	0
Tywi	Passed	0
Eden / Cors Goch	Passed	0

Whilst 39% of the waterbodies in Wales satisfied the standards set for a SAC, the headroom within these waterbodies to accommodate increased levels of phosphates may be limited. If phosphate levels are allowed to rise, the waterbodies could be at risk of failing the standard.

Additionally, in waterbodies which already fail to meet the target there is no headroom, and so 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, 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 the European site 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 catchment or waterbody that might increase the amount of phosphate within the catchment or waterbody could lead to additional damaging effects to the SAC therefore such proposals should be screened through a HRA to determine whether they are likely to have a significant effect on the site's qualifying features. Once issued by NRW, this position statement in combination with the Compliance Assessment Report (Compliance Assessment Report of Welsh River SACs against Phosphorous Targets - NRW Report No: 489), applies to all development proposals 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 NRW's advice alongside information submitted to them from the applicant, and other parties including other advisors and the public.

Under the requirements of the Habitats Regulations 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 the Appropriate Nature Conservation Body (ANCB) for Wales 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 ANCB within such reasonable time as the authority may specify.

## **Next steps**

We are currently working towards supplying further detail in relation to each riverine SAC and will collaborate with you and the other Planning Authorities to 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 of the SACs in the rivers and will set out clear timescales for this in due course.