



Eich cyf/Your ref  
Ein cyf/Our ref MA/RE/00340/25

Llywodraeth Cymru  
Welsh Government

5 August 2025

Dear Heads of Planning,

## **Interim Planning Policy Statement on Development in SAC Rivers and Reminder of Restrictions on Permitted Development Rights in SAC Rivers**

In 2021 NRW published updated water quality targets for rivers designated as Special Areas of Conservation (SACs). The strengthened targets, particularly in relation to phosphorous, continue to have implications for determining planning applications in affected catchments. Rivers may be affected by a range of threats and pressures and their designation as SACs affords specific legal protection under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("the Habitats Directive") and the Conservation of Habitats and Species Regulations 2017/1012 ("the Habitats Regulations").

A series of River Pollution Summits, aimed at capturing the scope of the challenges presented by nutrient pollution and driving forward coordinated action in SAC catchments, have taken place between 2022 and 2024.

The purpose of this letter is two-fold:

- to publish an interim planning policy statement on Development in Special Areas of Conservation (SAC) affected by Phosphorous and signpost the DTA Ecology practical planning guidance; and,
- to remind stakeholders and decision makers of the interaction between permitted development rights and the Habitats Directive and Habitats Regulations outlined in TAN 5 Nature Conservation and Planning (2009).

## **Interim Planning Policy Statement and Planning Guidance**

An action plan, '*Relieving pressures on Special Areas of Conservation (SAC) river catchments to support the delivery of affordable housing: Action Plan* [River pollution summit action plan](#) | [GOV.WALES](#) was agreed at the second summit in March 2023 and included the requirement to prepare practical planning guidance to consolidate initial training on habitats regulations and water quality which had been provided in June and October of

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Correspondence.Rebecca.Evans@gov.wales](mailto:Correspondence.Rebecca.Evans@gov.wales)  
[Gohebiaeth.Rebecca.Evans@llyw.cymru](mailto:Gohebiaeth.Rebecca.Evans@llyw.cymru)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2022. In particular, the First Minister was keen to establish a pathway through which affordable housing could come forward in compliance with the Directive and Habitats Regulations.

DTA Ecology, as the leading expert in all matters relating to the application of the Directive and Habitats Regulations, was commissioned to prepare the guidance on behalf of Welsh Ministers. The guidance can be accessed here: [Development in special areas of conservation \(SAC\) rivers: planning guidance | GOV.WALES](#)

The guidance contains three policy positions (WG1, 2 and 3) and following comments received as part of a targeted stakeholder engagement exercise it was acknowledged that these positions should form part of policy and be contained in Planning Policy Wales (PPW). The following text represents an interim planning policy statement. It is intended that this be inserted as a new section in Chapter 6 when PPW is next updated.

### ***Development in Special Areas of Conservation affected by Phosphorous***

- 6.6.30 *Phosphorus enters rivers from a wide range of sources which include sewage treatment work discharges, farmland and farming systems and private drainage discharges. Reductions in nutrients entering rivers need to be sought from a wide range of sectors across SAC river catchments. It is necessary that all sectors play their part in contributing to the steps necessary to reduce phosphorous levels in Welsh river SACs in order to safeguard the natural river environment.*
- 6.6.31 *The achievement of conservation objective targets within SAC rivers is central to achieving sustainable development. The Welsh Government requires public bodies, including statutory agencies, to work together to ensure that action to reduce nutrient loading to SAC river catchments under a fair share approach is identified and delivered in accordance with the sustainable development principle. In the interests of future generations, public bodies must make proportionate use of statutory powers to deliver necessary actions as soon as reasonably practicable. A fair share approach can be relied upon by local planning authorities and developers where this can be demonstrated.*
- 6.6.31 *A fair share approach relies on effective co-operation taking place in practice across sectors. This in turn broadens the restoration and mitigation options available across catchments to address water quality and conservation objectives whilst at the same time enabling the wider needs of communities to be met. The Nutrient Management Boards will have an invaluable role in setting out the necessary measures and options which have been demonstrated under a fair share approach and are necessary to meet conservation objectives. In turn, this will assist local planning authorities when preparing development plans and in making decision on applications, as well as those proposing development.*
- 6.6.32 *In affected areas there are a number of pathways through which development may be possible <sup>FN to guidance will be added</sup>. The preference is for an integrated approach to management, restoration and mitigation to be taken, where Article 6 of the Habitats Directive works together as a coherent whole. However, it is recognised that some flexibility may be necessary when considering development proposals to reflect circumstances which may be present in any given catchment. In all cases, however, it will be necessary to demonstrate why an integrated approach, as outlined in paragraph 6.6.34-36, should not be taken. Relying on short term measures when proposing development will not be an effective way to manage and restore SAC rivers and meet conservation objectives.*
- 6.6.33 *Where new development is dependent upon an existing permit that represents a risk of deterioration, and a decision-maker is satisfied that appropriate steps (other action) to avoid deterioration under Article 6(2) of the Habitats Directive have been secured, a decision-maker can rely upon the action to be taken when applying the integrity test under Article 6(3) of the Directive (regulation 63 of the Habitats Regulations) in respect of the new proposal. The action to be taken (appropriate steps) can be regarded as 'secure' if:*

- *The scale of further improvements necessary to avoid deterioration from existing/ongoing activities has been estimated (as far as reasonably possible on the basis of information currently available);*
- *The ‘appropriate steps’ to be taken have been clearly identified and associated with an appropriate delivery mechanism, making proportionate use of statutory powers as necessary to facilitate delivery as soon as reasonably practicable;*
- *There is a clear timeframe for implementation of ‘appropriate steps’ to be taken with associated delivery progress milestones towards achievement of the conservation objective phosphorus targets;*

*6.6.34 Where new development relies upon action to be taken, interdependence must be established to ensure that decision-making for new development is conditional upon associated delivery progress milestones being achieved.*

*6.6.35 When considering effects associated with nutrient pollution a degree of overlap exists between measures to deliver management/restoration and those which might be relied upon to deliver mitigation. Developer-led mitigation must not involve the delivery of measures which are already identified as management/restoration measures and associated with an appropriate delivery mechanism or which may compromise future management / restoration by eroding the catchment capacity for future interventions. Mitigation can be integrated with management and restoration where developer contributions:*

- *increase the scale, magnitude, or scope of planned management/restoration measures; or*
- *speed up delivery of planned management/restoration measures beyond what would be normally delivered, where the current implementation timescales risk meaningful ecological deterioration in the interim.*

*6.6.37 Taking an integrated approach does not allow for the positive effects of restoration measures under article 6(1) or steps to avoid deterioration under article 6(2) to be traded to offset or mitigate for effects from proposed development under article 6(3). Instead, further mitigation is required to ensure that new development does not undermine the delivery or effectiveness of such measures and steps.*

*6.6.38 In some circumstances imperative reasons of overriding public interest may arise in relation to a development proposal. Such cases will need to be considered on their merits and it will be necessary to weigh the public interest being served against the conservation interest being putting at risk.*

*6.6.39. Whilst this policy and related guidance specifically relates to phosphorous, the broad approach is likely to be applicable to other nutrients.*

## **Restrictions on Permitted Development Rights**

Permitted development rights (PDRs) are affected by nutrient levels in SAC river catchments. Developers may not be able to use some PDRs granted by the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) because of the restrictions imposed by regulations 61-65 of Conservation of Habitats and Species Regulations 2017. Developers are responsible for checking whether their developments will adversely affect the integrity of the European site before they commence the development. Permitted development rights of particular concern are:

- Agriculture, which may enable a change in the type of livestock or an increase in numbers;

- Camping, caravans, schools, colleges, universities and hospitals where the development may involve use by more people from outside the SAC river catchment.

In river catchments where the nutrient neutrality principle applies, developers must check with NRW that the use of PDRs for these type of developments would not adversely affect the integrity of the site. If a conclusion of no likely significant effect is drawn, then NRW's opinion on the issue can be considered conclusive. Unless NRW rules out there being a likely significant effect, then developers must obtain prior approval to proceed with that development from the local planning authority who must complete an Appropriate Assessment and consult further with NRW.

The procedures for consulting NRW and seeking prior approval are described in Annex 5 of TAN 5 Nature Conservation and Planning.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The script is cursive and fluid, with the first name "Rebecca" and the last name "Evans" clearly distinguishable.

**Rebecca Evans AS/MS**

Cabinet Secretary for Economy, Energy and Planning  
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio