

Via email

Date 1st November 2024

Dear Sir / Madam,

We last wrote to you formally in relation to SAC Rivers when we published the Compliance Report on Phosphorous in January 2021. There has been significant discussion subsequently in respect of intensive poultry developments and the control of impacts of spreading manures associated with these units onto land. I am writing to you to set out NRW position with regards to roles and responsibilities which I hope will assist and provide clarity.

The Welsh Government has holding directions in place currently for 12 planning applications for poultry-related developments in Wales. NRW is the regulator in Wales for the Environmental Permitting (England and Wales) Regulations 2016. These regulations do not control the impacts of spreading manure/digestate on land outside the parameters of the intensive poultry installations that are permitted. Within these regulations, NRW cannot revoke or vary a permit based on a concern about the potential environmental effects of an activity that is not, and cannot be, controlled by the permit. The Welsh Government has recently confirmed it will now conduct a review into how the spreading of organic materials on land in Wales is regulated and enforced against.

NRW has commissioned a Rapid Evidence Assessment. The principal aim of this assessment is to improve our understanding of the link between organic manures (particularly from the poultry sector) and poor water quality. The assessment will consider the mechanisms by which manure spread on land can elevate the nutrient status of rivers and increase the likelihood of eutrophication.

It is NRW's view that the evidence is already sufficient to meet the low threshold of a "generalised risk" for the purposes of Art. 6(2) of the Habitats Directive such that the duty to take "appropriate steps" to avoid deterioration of SACs is triggered without needing the best evidence on "mechanisms" at this point. This is consistent with the precautionary principle.

It is NRW's position that the duty of a local planning authority, as competent authority, to have regard to Art. 6(2) when exercising its planning functions (Reg. 9(3) of the Conservation of Habitats and Species Regulations 2017), provides the legal basis for local planning authorities to take appropriate steps, including any additional precautionary measures, to avoid protected habitats and species in a SAC deteriorating; this includes taking appropriate steps in relation to existing planning permissions as well as outstanding planning applications for intensive poultry units.

We shared our intention to send out this letter with the SAC Rivers Planning Sub Group at its meeting last week – of which your organisation have representatives attending – so hopefully this will not be a complete surprise to you. We have offered an opportunity to further discuss this with the Planning Sub Group once you have had the opportunity to consider this correspondence.

Yours sincerely,

Ruth Jenkins

Head of Natural Resource Management Policy

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi.

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.