

Habitats Regulation Assessment (HRA)

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Date of last update/review	September 2025
Responsibility of	Subject Lead for EIA & HRA Procedures
Latest changes	<p>10 September 2025 – Refreshed language in section on failing SACs to match NRW's current guidance.</p> <p>11 July 2025 – Added reference to R (on the application of Alison Caffyn) v Shropshire County Council [2025] EWHC 1497 (Admin) in para 11</p> <p>09 June 2025 – WG released an Interim Policy Statement and new guidance prepared by DTA Ecology (see links to iShare in 'National policy and guidance box below). SLT have reviewed and confirm this does not change advice to Inspectors.</p> <p>Added reference to 'Nutrient Budget Calculator for Wales' which launched 02 June 2025 (para 49).</p> <p>Supersedes 'HRA Screening Duties for Riverine SACs' chapter. Section on Riverine SACs now at the back of this Chapter.</p> <p>Supersedes 'Interim Bulletin 1: HRA in Casework', relevant material incorporated to this chapter.</p>

Key legislation and policy

Legislation	<ul style="list-style-type: none"> • Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) • Conservation of Habitats and Species Regulations 2010 (Regulation 73 applicable to Wales) • Conservation of Offshore Marine Habitats and Species Regulations 2017
National policy and guidance	<ul style="list-style-type: none"> • Technical Advice Note 5: Nature Conservation and Planning • Interim Planning Policy Statement on Development in SAC Rivers and Reminder of Restrictions on Permitted Development Rights in SAC Rivers • Practical planning guidance to support development, particularly the delivery of affordable housing, in Special Areas of Conservation river catchments

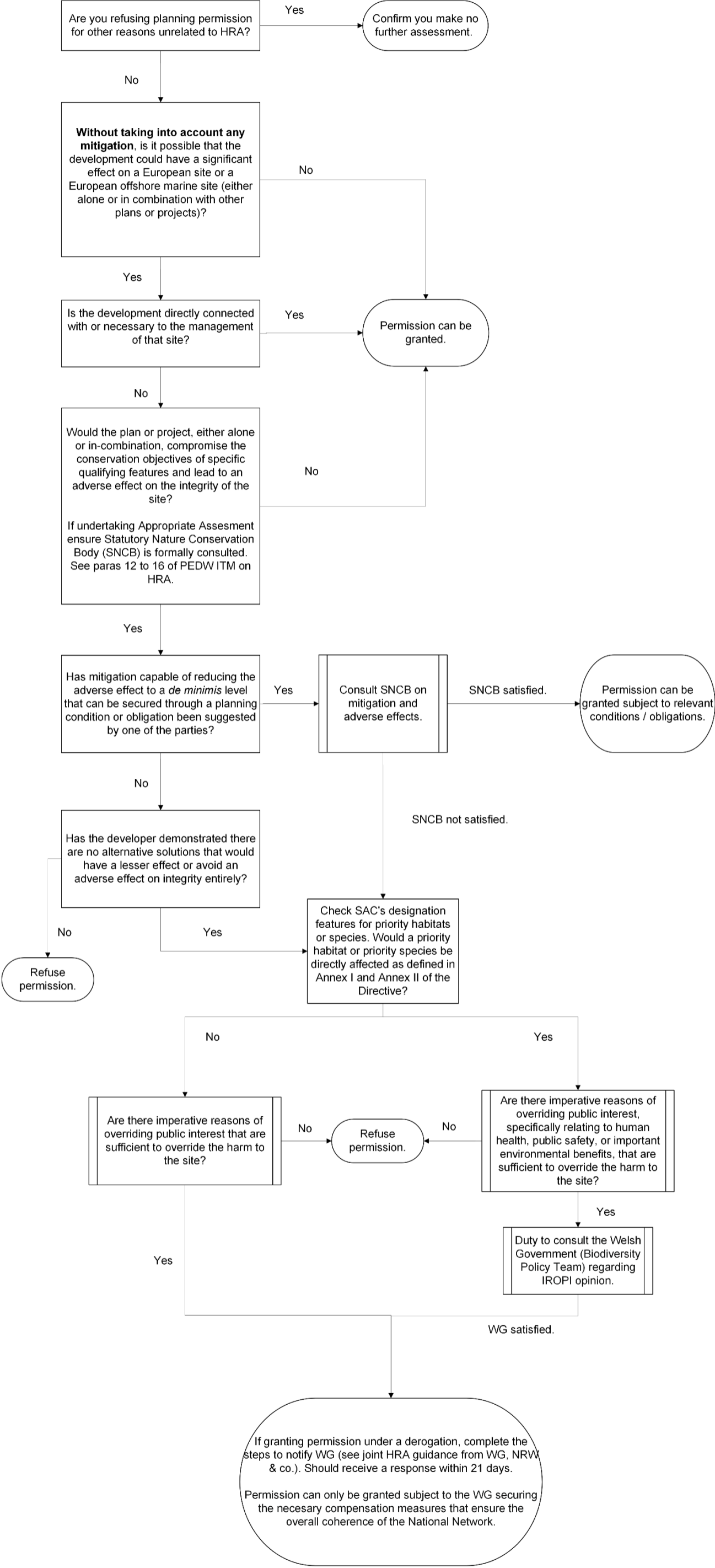
	affected by phosphorus (DTA Ecology for Welsh Government)
Judgements	<ul style="list-style-type: none"> • The Dutch Nitrogen Cases (Joined Cases C-293/17 and C-294/17) • People over Wind (C-323/17) • The Compton Case (Compton Parish Council and others v Guildford Borough Council and another [2019] EWHC 3242 (Admin)) • The Wyatt Case (R (Brook Avenue RAD) v Fareham BC) • R (on the application of Alison Caffyn) v Shropshire County Council [2025] EWHC 1497 (Admin)
Other guidance	<ul style="list-style-type: none"> • Natural Environment Chapter of the England ITM – Detailed advice on HRA to be read alongside this chapter. • ‘Habitats regulations assessments: protecting a European site’ – joint guidance from NRW & Defra on the HRA process for competent authorities. • Advice to planning authorities for planning applications affecting nutrient sensitive Special Areas of Conservation • Principles of nutrient neutrality in relation to development or water discharge permit proposals (NRW) • Nutrient Budget Calculator for Wales and associated guidance (Welsh Government) • Welsh Government Circular 008/2018 – Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants (July 2018) • The HRA Handbook (DTA Publications, subscription provided by the Welsh Government) • HRA Refresher Training (organised by Welsh Government, delivered June 2022) • HRA Phosphates Training (organised by Welsh Government, delivered October 2022)

1. NRW and Defra have produced joint guidance on the HRA process for competent authorities in both Wales and England, which provides a helpful overview of the steps required in undertaking HRA and is recommended as initial reading:

<https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

2. In our work the 'competent authority' is the Inspector other than report cases where Welsh Ministers are the competent authority.
3. For an Inspector decision, if you are dismissing the case for other reasons, you do not need to undertake the HRA process.
4. However, when reporting to Welsh Ministers, whatever the recommendation, Inspectors should set out their conclusions regarding HRA and, if necessary, include an AA in an Appendix.
5. The HRA Refresher Training and the HRA Handbook linked to above contain further detailed advice.
6. It is important to note that in HRA 'likely significant effect' should be treated as 'possible significant effect'. The bar is lower than the language suggests.

HRA Process Flowchart



Screening

7. Plans and projects not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site.
8. It is important to refer to the detailed advice regarding the HRA process given in the England ITM chapter on the Natural Environment and the joint advice from NRW and DEFRA when undertaking HRA; caselaw has established that measures intended to avoid or reduce the harmful effects of a plan or project cannot be considered at the screening stage for likely significant effect. Such measures may include planning conditions.

Appropriate Assessment

9. If a proposal cannot be 'screened out' and the Inspector is minded to approve / grant permission an AA must be undertaken. AA is required for all reports to Welsh Ministers, including recommendations to refuse / dismiss as the Minister may take a different view to the Inspector.
10. A template AA is included as an Appendix to this document.
11. This exercise must take into account the potential effects both of the plan or project itself and in combination with other plans or projects. As confirmed in [R \(on the application of Alison Caffyn\) v Shropshire County Council \[2025\] EWHC 1497 \(Admin\)](#), this should not be restricted to plans or projects which require planning permission.
12. The competent authority may only permit or approve the plan or project if adverse effects on the integrity of the habitats site can be ruled out with or without mitigation measures in place. If mitigation relies on conditions, this should be achievable within the life of the permission. Where adverse effect cannot be ruled out, and there are no alternative solutions, the plan or project should only be permitted or approved if there are imperative reasons of overriding public interest (IROPI) and the necessary compensatory measures can be secured.
13. It is a statutory requirement to consult any relevant Statutory Nature Conservation Bodies (SNCB) for the purposes of AA under Regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, NRW must be consulted in their capacity as an SNCB before completing an AA. This may be necessary even if NRW have previously provided a response on the case, as their response regarding AA is potentially provided by a different part of NRW in their role as SNCB. Whilst it is our policy to not share a draft AA with the SNCB, consultation regarding AA should be undertaken after all evidence and comments have been submitted on the case and published to the planning casework portal (if any evidence is environmentally sensitive information such as bird nest locations, this will have to

be provided directly to NRW), to ensure that NRW has seen everything the decision maker has seen.

14. Notwithstanding the above, if you are satisfied that NRW has clearly commented on the AA in their SNCB capacity (e.g. if it has been openly discussed at a hearing), it may be possible to forego the final separate consultation. If in doubt it would be better to explicitly consult regarding AA.
15. It is possible that other SNCBs may also fall to be consulted, e.g. for marine projects or projects that could affect a site in England. This should be undertaken at the end of the process for the case, once all evidence is available on the planning casework portal. The Inspector should refer to the Joint Guidance for competent authorities from NRW & Defra - 'Habitats regulations assessments: protecting a European site' to establish if any other SNCB falls to be consulted.
16. Standard letters for consulting SNCBs for the purposes of AA are available in iShare. It is our policy not to consult SNCBs on the completed AA.



Template letter for consulting on AA - C



Template letter for consulting on AA - C

Onshore only: <https://documents.hf.wales.gov.uk/id:A36876036/document/versions/published>

Off and on shore: <https://documents.hf.wales.gov.uk/id:A36876030/document/versions/published>

17. NRW have requested that, where possible, Inspectors highlight the matters the AA is likely to focus on. The Inspector must for the purposes of the appropriate assessment have regard to any representations made by the SNCB within such reasonable time as the Inspector may specify.

Avoidance and Mitigation Measures

18. NRW draw attention to 'People over Wind', reminding decision makers that such measures cannot be considered when screening for likely significant effect.
19. At Appropriate Assessment when considering avoidance and mitigation measures, decision makers should seek information demonstrating those measures are guaranteed, effective, reliable, timely and will be maintained for the lifetime of the development

Cases where consent has previously been granted

20. 'Habitats regulations assessments: protecting a European site' and caselaw show that it is possible to rely on a previous AA conducted by another competent authority. However, it is the Inspector's responsibility to satisfy themselves that the previous HRA was properly undertaken and that there has been no change in circumstances. If there is a 'mere probability' (see [Waddenzee Case C-127/02](#)) that the development could have a significant effect on a National

Network Site (NNS), **HRA should be undertaken by the Inspector** as the Competent Authority on the case before them. See the section 'Use the HRA of another competent authority' in 'Habitats regulations assessments: protecting a European site' for further guidance.

21. The issue of possibly relying on a previous AA may arise on appeals involving conditions, approval of reserved matters and any other case where a consent has been previously granted. In such cases, it will be necessary to establish whether the original proposal had the potential to have a significant effect on a NNS and if so, whether HRA was undertaken at the time the consent was granted. If HRA was undertaken when the original consent was granted it will then be necessary for the Inspector to consider whether there has been a change in circumstances that would necessitate undertaking HRA in relation to the subsequent approval before them.
22. This principle extends to appeals under Section 73 of the Town and Country Planning Act 1990 as although they can result in a new planning permission, it is possible that a previous HRA may be relied upon if a grant subject to the altered conditions sought by the appellant would not change the potential effects of the development in relation to the NNS that were considered earlier.

Listed Building Consent

23. Listed Building Consent (LBC) is a form of consent for a project and therefore falls within the scope of HRA, if the works proposed are likely to have a significant effect on a NNS. In that situation, HRA must be undertaken for the LBC itself, unless there is an accompanying planning appeal for the same development that will require the Inspector to undertake HRA, or an existing consent where HRA was carried out appropriately at the application stage, and the Inspector is satisfied that there has been no change in circumstances to necessitate a new HRA.

HRA Prior Approval

24. Any permitted development (PD) which would be likely to have a significant effect on a NNS is subject to a form of HRA prior approval. This will be relevant in cases where lawfulness based on PD rights, or PD-based fallback positions are argued.
25. There is a mechanism for applicants to apply to NRW for its view on whether the permitted development would be likely to have a significant effect on a NNS. If NRW confirms that it would not, that is conclusive and the applicant does not need any further approval (unless required by other conditions imposed by the GPDO).
26. If NRW confirms that a significant effect is likely, or if the applicant has come to that view themselves, they must apply to the LPA for its written approval and cannot begin development without it. On receipt of an application, the LPA is required to consult NRW, to take account of its views and to carry out an appropriate assessment where necessary.

27. If Inspectors are dealing with cases where it is claimed that a particular development was or would be permitted by the GPDO and the information available suggests that it could affect a NNS, it will be necessary to establish whether the applicant has confirmation from NRW that a significant effect is not likely or has the written approval of the LPA. If they cannot provide either it would undermine any reliance on the GPDO, as the ability to implement the development would be dependent on obtaining one or the other, which would not be guaranteed.
28. The need for HRA prior approval does not cross into appeals against the refusal to grant other forms of prior approval, as in those instances the matters before the Inspector are limited to the issues that require approval, rather than the question of whether the development as a whole would be lawful. Obtaining prior approval of, for example, siting and design, would not remove the need to for applicant to also obtain HRA prior approval where it is required.

HRA in nutrient sensitive Special Areas of Conservation

30. NRW has a duty to monitor compliance with Common Standards Monitoring (CSM) targets. In Wales, water related SACs have conservation objectives and also have Water Framework Directive (WFD) targets. In line with WFD, NRW applies the most stringent targets (either SAC conservation objective or WFD targets). NRW sets phosphate standards for riverine SACs and reports on compliance: <https://naturalresources.wales/evidence-and-data/research-and-reports/water-reports/water-quality/compliance-assessment-of-welsh-river-sacs-against-phosphorus-targets/?lang=en> .
31. [Condition assessments](#) of Welsh Marine SACs published in June 2025 identified water bodies within Marine SACs where features are in unfavourable condition due to current evidence of both chemical and biological failure due to nitrogen enrichment. Development leading to an increase in nitrogen discharges directly to, or catchments draining to these sites may therefore contribute to the unfavourable condition of or undermine measures to restore those features.
32. NRW's advice on development affecting nutrient sensitive SACs can be found [here: https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-planning-authorities/advice-to-planning-authorities-for-planning-applications-affecting-phosphorus-sensitive-special-areas-of-conservation/?lang=en](https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-planning-authorities/advice-to-planning-authorities-for-planning-applications-affecting-phosphorus-sensitive-special-areas-of-conservation/?lang=en) The advice includes guidance for competent authorities regarding Appropriate Assessments (AA) under the Habitats Regulations (HRA).
33. Specific PEDW advice on Marine SACs, including details of those SACs which have features in unfavourable condition, is contained in PEDW Advice Note 4 – Marine Special Areas of Conservation:



2025-08-14 - PEDW
Advice Note 4 2025 .

Consequences for the work of PEDW

34. Inspectors will need to be aware that additional consideration is required in all cases where a plan or project could lead to increased amounts of phosphorous entering a riverine SAC catchment or nitrogen entering a Marine SAC catchment.
35. Any developments within a relevant catchment that might increase the amount of nutrients discharged into a sensitive SAC must be screened through a HRA screening process to determine whether they are likely to have a significant effect on the site's qualifying features.

Site Location of riverine SACs

36. The following Local Planning Authorities have riverine SAC catchments within their area:

Table 1 – Affected LPAs
Blaenau Gwent
Brecon Beacons NPA
Carmarthenshire
Ceredigion
Conwy
Denbighshire
Flintshire
Gwynedd
Monmouthshire
Pembrokeshire Coast NPA
Pembrokeshire
Powys
Snowdonia NPA
Torfaen
Wrexham

37. The mapping data which shows riverine SAC catchments is available on [DataMap Wales](#), searchable by postcode. Note that when you open the map browser to check a site, the colours shown on the layers are NOT the relevant thing to check. If the site falls within one of the catchment areas shown by a black line then the proposal must be screened.
38. As of 10 September 2025 there is also a publicly available layer for ‘Marine SAC Freshwater Catchments Requiring Nitrogen Neutrality’:
https://datamap.gov.wales/layers/geonode:nrw_marice_sac_req_nit_neut
39. If the site is within catchment, or it is not clear if it falls within catchment, the Inspector should consider the type of development and whether they need to request information from the parties to inform their HRA screening.

PEDW Approach

40. The PET will undertake initial identification of appeals where the development seems capable of increasing phosphate or nitrogen levels and is located within a nutrient sensitive SAC catchment.
41. If the project falls within one of the categories that NRW consider to be unlikely to cause a significant effect, the PET will record their findings for the Inspector's attention but take no further action. Responsibility for HRA lies with the decision maker and Inspectors will need to satisfy themselves as to whether the development needs HRA Screening, based on all the available evidence and accounting for the differences between the mitigation measures that can be implemented in relation to phosphate and nitrogen discharges.
42. If the project has the potential to cause significant effects, the PET issue standard 'triage' letters to the appellant and LPA to provide additional information to allow the Inspector to conduct an Appropriate Assessment.



Letter to Parties RE
HRA on Riverine SAC

- [Letter for general developments](#)



Letter to parties RE
HRA on Riverine SAC

- [Letter for agricultural developments](#)

The HRA Process: Screening

43. Sections 5, 11 and 12 of NRW's [advice](#) lists the types of developments they consider can be screened out as not likely to have a significant effect in terms of nutrient sensitive riverine SACs, which are set out below.
44. NRW states that this advice can also be applied to nitrogen sensitive Marine SACs. However, this should be treated with caution. Factors such as phosphate stripping at wastewater treatment works, which may be relevant to riverine SACs, may not be relevant to nitrogen discharges to a Marine SAC. Inspectors will need to factor the existence and potential efficacy of such measures into their assessment of a given project depending on the issues involved.

- Domestic Extensions (Section 7)

NRW are of the view that such proposals can normally be screened out. However, it is not clear what the rationale would be for screening a proposal out where the decision maker is aware that the extension will lead to an increase in the number of occupants. Inspectors should consult the NRW guidance and satisfy themselves of the approach they adopt based on the evidence before them.

- Development proposals involving connection to public wastewater treatment works (Section 8)

The Inspector should check with the parties whether the relevant environmental permit has been reviewed and whether there is capacity for additional wastewater under revised permit limits.

This section also lists other things the decision maker should seek.

- Advice on whether chemical pre-treatment be used to enable connection to a public sewer where phosphorus constraints apply (Section 9)

This approach can have adverse effects. The views of the water company should be sought.

- Development proposals involving private sewage treatment systems (Section 10)

NRW's detailed advice reinforces that 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, in accordance with PPW and WG Circular 008/2018.

- Whether additional wastewater can be discharged to existing private sewage treatment systems (Section 11)

NRW sets criteria for developments which are unlikely to lead to a significant effect.

- Compost toilets (Section 12)

Compost toilets that are well designed and maintained and which separate urine and sanitary waste from solids are seen by NRW as unlikely to increase phosphate discharge. A proposal that does not separate solids and liquids should be considered a cesspool and collection by a registered waste carrier will be necessary.

- Use of phosphorus reduction technology in private sewage treatment systems (Section 13)

NRW's stance appears to be that there are risks to this approach in small private treatment systems; please refer to the detailed advice for the things and Inspector will need to consider.

- How to consider the disposal of sludge from private wastewater treatment systems in a Habitats Regulations Assessment (Section 14)

NRW state that decision makers should be able to conclude that disposal of sludge from new, private sewage treatment systems is unlikely to have a significant effect on a river SAC due to the regulatory framework in place. Sealed cesspits are not a sustainable drainage solution. WG Circular 008/2018 refers, and NRW indicates that decision makers should carry out an Appropriate Assessment for any proposals involving use of sealed cesspits as a likely significant effect cannot be ruled out.

45. All other developments need to be assessed on a case by case basis, bearing in mind the potential for some developments to discharge phosphates into waterbodies through a direct link (for examples agricultural buildings storing fertiliser). Inspectors should read the relevant section of NRW's guidance in full to satisfy themselves they have considered all relevant aspects of the case before them.

The approach to determining likely significant effect

46. To conclude that a plan or project would not have a likely significant effect on the integrity of a SAC it is necessary to find it would not result in an increase in phosphates entering the SAC. This will either be because the proposal itself would not result in additional phosphate entering the sewage system or measures are in place to ensure any phosphorous produced does not reach the SAC.
47. In the latter case, measures to prevent phosphates reaching the SAC must be in place before development takes place or connects to the sewage system. This includes any measures proposed to address phosphates produced by other sectors including agriculture.
48. The NRW Review of Permits is being undertaken as an appropriate step to avoid deterioration under Article 6(2) of the Habitats Directive. NRW is taking a 'fair share' approach to issuing new permits. You can check which water treatment works have received a new permit [here](#)
49. This approach recognises development is not the only source of phosphorous and the permit takes into account the measures that have or may be put in place to prevent or reduce the discharge of phosphates from these other sources.
50. Where a SAC is failing even where the permit has been reviewed and revised, in order to find there would be no likely significant effect on the integrity of a SAC we need to be certain that either there will be 100% phosphate stripping at a WWTW of the loading produced by the development, or where the stripping will be less than 100% effective such a measure has or will be secured and the improvements in the agricultural sector have or will be delivered within the life of a permission (if a Grampian condition is appropriate). Furthermore, in the latter scenario we need to be assured that those improvements are expected to ensure that the SAC would no longer be failing.
51. To assess whether a development may have a likely significant effect in a failing SAC you will need to know:

- i. Improvements to phosphate stripping (and the percentage efficiency of such stripping) have taken place or,
 - ii. Any pending improvements to phosphate stripping (and the percentage efficiency of such stripping) are secured and you could impose a Grampian condition and,
 - iii. Improvements in the agricultural sector have or will be delivered within the life of a permission (if a Grampian condition is appropriate).
 - iv. In the event of additional phosphates loadings arising from the development (i.e. less than 100% stripping) that they would not enter a failing SAC
52. The relevant water company should have the answer to 1 and 2. NRW has people visiting farms with the aim of securing improvement/reduction of phosphates and should be asked for their progress in securing improvements.

Appropriate Assessment

53. NRW have requested that, where possible, Inspectors highlight the matters the AA is likely to focus on. In phosphate cases this is likely to be or include the impact of the development / proposed method of foul drainage on the integrity of the SAC. The Inspector must for the purposes of the appropriate assessment have regard to any representations made by the SNCB within such reasonable time as the Inspector may specify. The Inspector should refer to the Joint Guidance for competent authorities from NRW & Defra - 'Habitats regulations assessments: protecting a European site' to establish if any other SNCB falls to be consulted.
54. [Nutrient Neutrality](#) and the [Nutrient Budget Calculator for Wales](#). In June 2025 the Welsh Government launched a calculator that can be used to 'calculate phosphorus and nitrogen mitigation requirements for development within the catchment for rivers that are SAC's'. Inspectors may receive completed calculators in relation to cases before them, and should familiarise themselves with the associated guidance regarding the principles of Nutrient Neutrality from NRW and the user guidance for the Calculator produced by ARUP and Ricardo for the Welsh Government.

Avoidance and Mitigation Measures

55. NRW draw attention to 'People over Wind', reminding decision makers that such measures **cannot** be considered when screening for likely significant effect.
56. At Appropriate Assessment when considering avoidance and mitigation measures, decision makers should seek information demonstrating those measures are guaranteed, effective, reliable, timely and will be maintained for the lifetime of the development:
- detailing how the measure(s) would avoid or reduce adverse effects on the SAC (considering the predicted duration of the effects)
 - demonstrating how the measure(s) would achieve nutrient neutrality
 - confirming how the measure(s) will be implemented, and by whom

- detailing how the measure will be maintained and who will be responsible for maintenance.
- showing how the measure will be monitored to ensure it is effective.
- Confirming the measures can be legally enforced.

Advice for Local Development Plans (Section 16 & 17)

57. See NRW's advice to LPAs. Any LDPs submitted for examination after October 2022 will presumably have grappled with this issue during plan preparation. The Inspector may wish to review the submitted HRA and if Appropriate Assessment was necessary, ensure they are satisfied with NRW's response as the SNCB.

Permitted Development

58. Any development proposal within the catchment of a failing riverine SAC which benefits from permitted development rights under article 3 of the GPDO 1995 and involves increasing the amount or concentration of wastewater discharge should be subject to Habitats Regulations Prior Approval, as detailed in [TAN 5: Nature Conservation & Planning](#) (paragraphs 5.3.8 – 5.3.10 and Annex 5). This has the potential to affect any cases where questions of PD rights or lawfulness arise, most likely Enforcement, Lawful Development Certificates and cases where reference is made to PD-based fallback positions.

Enforcement

59. Ground (c) appeals, Inspectors will need to satisfy themselves as to whether developments that would be lawful subject to prior approval as detailed above did benefit from such prior approval.
60. Ground (a) appeals, the planning decision maker should undertake HRA screening and appropriate assessment as necessary.

Appendix

AA Template to be used in conjunction with '[Habitats regulations assessments: protecting a European site](#)' – joint guidance from NRW & Defra on the HRA process for competent authorities and the [HRA Handbook](#).

Introduction

1. The need for Habitats Regulations Assessment (HRA) is set out within Article 6 of the EC Habitats Directive 1992, which is transposed into British Law by the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require decision makers, in this case the Welsh Ministers, to undertake an Appropriate Assessment (AA) where significant effects on a national network site are likely and only to give consent if there are no adverse effects on the integrity of a national network site unless other legal tests have been met.

The Site

- 2.

The proposed development

3. For large and complex schemes this need only be a brief description. It is acceptable to refer the reader to the decision or report for a full description.

Screening

4. A screening assessment considered the impact on the following Special Areas of Conservation (SAC)/Special Protection Areas (SPA). List
 - a.
 - b.

The special features of the SACs/SPAs

Appropriate Assessment

5. Potential cause/s of harm arising from the proposed development.
6. Measures proposed to avoid likely significant effects, for example a Construction Environmental Management Plan or a Strategic Green Infrastructure Management Scheme.

Conclusion

7. A review of the conservation objectives and potential threats to site integrity for the SACs/SPAs was undertaken to identify whether they would be impacted by the proposed development. I have taken into account all the available evidence and have adopted the precautionary principle in carrying out this AA. I have considered the potential impacts on the integrity of the sites that have been identified by the applicant and others.

8. I conclude that it is beyond reasonable scientific doubt that the scheme, neither alone nor in combination with other projects, would/would not have an adverse effect on the integrity of the SAC/SPA. This conclusion is based on the circumstances of this case and subject to securing the mitigation measures through the imposition of and compliance with the recommended planning conditions and Section 106.

Recommendation

Inspector