



**BRECON AND RADNOR
BRANCH**

**Comments on responses requested by Welsh Assembly Petitions Committee
from:**

Welsh Minister for Energy, Planning and Rural Affairs

Natural Resources Wales

Please address any correspondence to:

Dr Christine Hugh-Jones

Secretary,

Brecon and Radnor Branch,

Campaign for the Protection of Rural Wales.

<mailto:secretary@brecon-and-radnor-cprw.wales>

18th September 2018

1. THE LESLIE GRIFFITHS AND NRW RESPONSES to BRB-CPRW Petition to the Welsh Assembly

1.1 Our short response focuses on the WG and NRW replies. Much of the information we have submitted already is pertinent to these issues. Our petition calls for action on a pan-Wales basis. Our experience is in Powys. We know of no quantitative data similar to ours for the rest of Wales.

1.2. We warmly welcome CPO letter (12/6/18) from the Chief Planner to LPAs mentioned in Leslie Griffiths' response to our Petition. The Minister says that LPAs are reminded to take cumulative impacts of similar nearby developments into account. However, we see no measures in place to "***ensure***" LPAs heed the advice in the CPO letter. We have seen no evidence that either the spirit or the letter of the advice is being heeded in Powys in IPU planning application outcomes. In order to assess cumulative impacts on natural assets and neighbours, LPAs need to provide all interested parties with transparent guidelines, methodology and thresholds. These do not exist in PPW 9 or Powys LDP. There is still the opportunity to improve PPW 10 in this respect and encourage LPA SPG.

1.3. We warmly welcome the NRW guidance (GN20) but we note that the NRW regulatory role is limited to IPUs over 40,000 birds and, even for these larger units, ammonia and nitrogen assessment is limited to impacts on internationally and nationally designated sites.

2. DIVERGENCE BETWEEN THE WG RESPONSE AND NRW RESPONSE

2.1 This is highly significant since the Minister does not seem to be aware of the current situation as set out in the NRW response.

2.2 The NRW permitting regime applies to under 100 farms (poultry and other livestock) throughout Wales. CPRW evidence shows that in Powys alone, there have been 116 new intensive poultry applications since July 2015 and only 20 have been for units with over 40,000 birds.¹ Therefore this regulatory regime covers a very small proportion of the problem.

2.3 The NRW role in planning is that of statutory consultee and responses concerning ammonia and nitrogen are limited to impacts on internationally and nationally designated sites only. Impacts on undesignated '*sensitive habitats*' and the wider environment (WG response) are not assessed by NRW. LPAs are the responsible authority for planning applications. NRW responses do not address risks to local nature assets such as Nature Reserves or priority habitats, including ancient woodland, or priority species. Ancient woodland is a particular issue – see 3.2 below.

2.4 NRW states "*land-spreading of manure is not currently included in legislation as part of the regulatory activities of IPUs*" and "***manures and slurries, where these are directly applied to land are currently not sufficiently covered by the environmental regulatory framework or via the planning system***". Therefore the risks of nitrogen excess and pollution of soils and watercourses from poultry waste are **not** controlled by existing regulation of IPUs. Proper regulation of IPU manure spreading and IPU waste (including anaerobic digestate) is urgently required.

3. CURRENT PLANNING DECISION OUTCOMES

3.1 NRW says that the recently-strengthened NRW guidance in GN20, besides supporting the NRW regulatory role, is aimed at supporting LPA planners in determining planning applications. This guidance has been applicable for 16 months (since 1/4/17) but, so far, has not resulted in any planning refusals in Powys. The only IPU refusal since this date was on grounds of "*insufficient information*" rather than identified risk to natural assets (P/2018/0393 Tynyrwtra, Caersws). It seems that Powys lacks both the will and sufficient in-house expertise to carry out environmental assessments, including cumulative assessments of emissions, as required by the WG Chief Planner.

3.2 Similarly, NRW, in its role as statutory consultee, has not made any response sufficient to persuade Powys LPA to refuse any IPU application since 1/4/17. There are various reasons for this:

- NRW allowed "preapplication consultations", which would exempt the subsequent application from the tighter guidelines, to be made before 1/4/17 when these guidelines would come into

force. The result was a rush of pre-application consultations so that (September 2018) there are still very few cases in which NRW has been applying the new guidance in its statutory responses to Powys.

- NRW staff compiling statutory responses work within a culture of “making development possible” and may overlook considerable environmental risk because they are afraid of contributing to any planning refusals.
- Powys continues to act as if NRW is the authority for determining the environmental impacts of IPU planning applications, in spite of repeated NRW advice to the contrary, and employs no clear criteria for addressing impact on local natural assets or on local residents.
- Ancient Woodland is an exemplary case of disregard for local natural assets since developers insist that a proposed IPU only has to demonstrate that the unit contribution will result in less than 100% of the critical level (ammonia emissions) or critical load (nitrogen deposition). This assessment method, which has not been contested by LPAs (or NRW), does not take background levels or contributions from other IPUs into consideration. This means that LPAs have approved applications which result in many of our Welsh ancient woodlands receiving ammonia/nitrogen far in excess of the quantities known to cause direct harm to lower plants such as bryophytes or lichens.

4. INTERIM SHROPSHIRE GUIDANCEⁱⁱ

4.1 Shropshire LPA is liaising closely with NRW and has produced interim guidance for intensive livestock units to meet the English Government requirement to seek biodiversity net gain and to address a number of concerns. Among these concerns are the high number of permitted livestock units in Shropshire compared with other English Counties, the increase in applications, and clusters in proximity to wildlife sites. The Shropshire LPA guidance draws on NRW guidance on assessment of ammonia emissions and nitrogen deposition on internationally and nationally designated sites.

4.2 This LPA guidance is innovatory in extending the NRW assessment method to Natural Assets, listed as “*Local Nature Reserves, Local Wildlife Sites, Ancient Woodland or other irreplaceable habitats, priority habitats, priority species, important woodlands and ecological networks*”.

4.3. We note that Shropshire had “*over 100 intensive livestock units in 2017*” whereas, by mid-2018, Powys had double this: an estimated 200 intensive poultry units (and an unknown number of other intensive livestock units). This pressure on the environment was considered sufficient for Shropshire to enhance protection for Natural Assets outside internationally and nationally designated sites.

4.4 In Wales, there is a disastrous “planning gap” for the protection of natural assets outside internationally and nationally designated sites. This is particularly regrettable because NRW’s pioneering new guidance on internationally and nationally designated sites was clearly the inspiration for the Shropshire initiative. Neither NRW, nor the Welsh Government, nor (to our knowledge) any Welsh LPAs have considered better protection for natural assets outside internationally or nationally designated sites. We would welcome such a move by Welsh LPAs and believe that, with the political will to implement the Environment (Wales) Act, the Welsh Government and NRW could collaborate to achieve this through PPW10, targeted CPO advice and training of LPA planning and ecology officers.

5. RESEARCH AND FUNDING

5.1 Ceri Davies, NRW Director for Evidence, Policy and Permitting, has advised us that NRW has “*limited resources to develop our own evidence base and to fund relevant research*” and that there is “*a joint Welsh Government/NRW Strategic Evidence Group that reviews and coordinates shared evidence activities across policy and operational areas*” (14/6/18: letter to BRB-CPRW Secretary).

5.2 The NRW response to our petition explains that the current impacts of IPUs that may be occurring across Wales **have not yet been quantified** and therefore we conclude that the Joint Strategic Evidence Group has not researched or considered this crucial issue. NRW says they could contribute

to research to improve the understanding of manure disposal alternatives but that this would require appropriate additional resource. NRW also says they would welcome empowerment to look at the cumulative effect of multiple developments within an area together with LPAs to improve future planning decisions but they would need more resources and a system of cost recovery.

5.3 CPRW is concerned about the ammonia emission and nitrogen deposition data-bases. Wales is one tenth of the UK area and yet has only 4 national ammonia monitoring sites of the 85 UK total. It seems that site-relevant Critical Load tools (nitrogen deposition) are now based on a 3-year mean for 2011-2013.ⁱⁱⁱ We question whether the system is able to accurately profile today's local hot-spots.

5.4 CPRW is concerned about the mounting evidence (much of it from the Netherlands) that living within 1km of an ILU increases the risk of respiratory diseases, particularly community-acquired pneumonia.^{iv} ILUs are regularly approved very close to non-involved residents and, irrationally, the need to consider proximity to existing ILUs in siting new development (TAN 6 6.6.3) does not apply reciprocally when new ILUs are sited near to existing residential development, schools etc.

5.4. CPRW also considers the effectiveness of commonly proposed mitigation measures, such as planting tree belts, needs to be evaluated and incorporated into guidelines so that NRW staff and LPAs can assess whether proposed mitigation actually does reduce emissions below critical thresholds. At present, such decisions are apparently arbitrary and not transparently evidence-based.

5.3 It is clear from their response that NRW, in accord with a vast international body of environmental experts, considers that ILUs pose a serious risk to the environment. NRW asserts that the damage currently occurring has not been evaluated. Their own current role is limited and does not address the greater part of the risk. However any legislative or regulatory change should be evidence-based and would require appropriate funding and resources.

6. CONCLUSION

Our petition requested that, in order to ensure a sustainable industry complying with EU and Welsh environmental legislation, ***the WG must use its powers to control the industry:***

1. *Provide proper resources for NRW to do urgent research, regulate and monitor IPUs and give better planning help to Local Planning Authorities (LPAs).*
2. *Issue planning policy and guidance to LPAs to improve decisions, ensure cumulative impacts are considered and monitor and enforce planning conditions.*
3. *Make the industry contribute towards the costs of regulation and monitoring and hold it to account for breach of environmental responsibility.*
4. *Publish transparent public reports on progress.*

We consider that the Minister's response does recognise the need for environmental protection but our Powys example shows that there is no proper control through the planning process.

The NRW response supports our position, confirming that current NRW permitting does not address

- the majority of the industry, including the most polluting units
- the impacts of manure disposal on water and soils
- the protection of natural assets outside internationally and nationally designated sites.

It also confirms that neither the extent and distribution of the industry in Wales nor the environmental damage currently occurring from ILUs has been researched or assessed. NRW recognises the need for research, improved evidence-led legislation and planning control and is keen to contribute if suitably resourced.

The Welsh Government is, perhaps unwittingly, allowing the IP industry to cause irreversible environmental destruction, despite warnings by many environmental organisations^v, and now, by NRW. We call upon the Welsh Government to exercise the precautionary principle and use its powers to curb further expansion while the facts and risks are established and better control is designed and implemented with the assistance of NRW and other environmental experts. Action is urgently needed.

ⁱ Brecon and Radnor CPRW website

http://www.brecon-and-radnor-cprw.wales/?page_id=872

ⁱⁱ Shropshire Council Interim Guidance Note GN2

<mailto:https://shropshire.gov.uk/media/9752/interim-guidance-note-on-ammonia-emitting-developments-v1april2018-web-version.pdf>

ⁱⁱⁱ UKEAP National Ammonia Monitoring Network

<https://uk-air.defra.gov.uk/networks/network-info?view=nh3>

^{iv} Increased risk of pneumonia in residents living near poultry farms (open access article)

<https://pneumonia.biomedcentral.com/articles/10.1186/s41479-017-0027-0>

^v Wales Environment Link_restoring_our_freshwaters_-_pollution_final_30_april.pdf

http://www.waleslink.org/sites/default/files/restoring_our_freshwaters_-_pollution_final_30_april.pdf