Cyswllt Amgylchedd Cymru | Wales Environment Link

NRW updated guidance on ammonia and nitrogen assessments

November 2020

Summary

WEL members are increasingly concerned about the impacts of agricultural pollution in Wales, and welcome this review and updates to the guidance. Overall, whilst we think this new guidance represents a step in the right direction and an improvement on previous iterations, there are a number of areas where the proposals in the consultation are not clear enough. To summarise, the biggest issues with the guidance from WEL members' perspectives are:

1. There are still some areas that require clearer explanation, particularly in relation to screening distances and critical thresholds, and rules surrounding anaerobic digesters and manure/slurry stores;
2. Need for clarity on how "sensitive areas" will be identified via mapping;
3. Need for clarity on division of responsibilities between NRW and Local Planning Authorities (LPAs);
4. Some of the external tools need to be made simpler and more intuitive for applicants to use, and/or training provided; and
5. Omission of emissions from manure/slurry spreading and digestate and wider nitrogen deposition.

1. Is the guidance clear, do you know what is required?

The guidance is clearer than previous iterations and we can see steps to simplify the guidance, which we believe are helpful. The layout and flow of the guidance could be improved to make it more accessible and user-friendly.

There are aspects of the proposals that we think warrant further consideration and provision of detail in the guidance. We go through these below:

Screening distances and critical thresholds

In principle we agree with a scale of screening distances and particularly with increased distances for larger operations, but we consider there are problems and inconsistencies with the scale provided. For instance the actual sizes of standard poultry units are invariably over 500 m^2, even for 16,000 birds, and so this does not provide a useful threshold. Although we have not seen the evidence underlying the new screening-distance decisions, we believe that there may be many unintended

practical consequences. Why, for instance, should 30,000 broilers require a more extensive screening area than 30,000 layers? We believe the screening distance scale needs careful revision.

We are pleased to see the inclusion of anaerobic digesters and manure and slurry stores within the guidance. We think it is likely that all parties will require more information about these.

We are not certain about the status of the 100% critical threshold, currently used when considering impacts on ancient woodlands, local and national nature reserves and local wildlife sites. Our members have been extremely concerned about this threshold for a number of years. We believe the guidance should clarify this point, e.g. can a single application contribute 100% of the critical level of 1µg/m3 or 3µg/m3 to an ancient woodland or local nature reserve and receive approval?

We also agree that the removal of the 1% threshold for in-combination assessments accords with legal precedent. However our members tell us that one of the biggest issues with these assessments is erroneous or incomplete information being included in the assessment and therefore being considered as part of the planning process. It appears that contributing factors to this poor information may be:

- Complexity of the external sites that need to be used to determine the background levels, emission factors, critical loads and process contributions of each application. Are farmers sufficiently trained on using these sites? What assistance is available to help them use these?
- Lack of clear, accessible, transparent information on other possible emissions sources in the area.
- Lack of information available to the experts checking applications to see that information submitted is indeed correct.

Protection of species and habitats

We welcome the move towards protecting all ammonia sensitive species and habitats, whether or not they are present on a designated site. However, our members are concerned about how this might be mapped out and whether sufficient resources exist to do so. We would value more information on how sensitive species will be mapped when we know that there are already significant issues with resources, even for monitoring of protected sites. We are concerned that species that are not easily visible, such as mycorrhizal fungi, could be missed from mapping and that poor mapping and identification of areas that contain sensitive species and habitats could make this guidance ineffective.

At present, only ammonia-sensitive SSSIs and ancient woodlands are included in the mapping and this is insufficient to protect sensitive species and habitats in Wales. Local Wildlife Sites and other semi-natural habitats such as species-rich grasslands, rivers, heathland, peatland and sand dune systems must also be included. The SSSI network was designed as a selection of the best sites for

biological and geological interest in the country but there are many other sites and populations which are nitrogen-sensitive and require protection from atmospheric pollution.

The guidance must make the impacts of ammonia on **all** sensitive species clearer: vascular plants and lower plants (such as bryophytes), lichens and non-lichenised fungi must be taken into account and the relevant species data used from local records centre and national recording schemes.

We are also concerned at the suggestion that protected sites that do not contain sensitive species will be removed from mapping. Whilst these may not trigger the need for assessment, we feel removing them for this reason could cause confusion and a mismatch with current databases such as APIS. Many protected sites contain sensitive species which are not a designated feature of the site but which still require protection, such as a geological SSSI which contains ancient woodland.

Furthermore, the focus on ammonia risks neglecting total nitrogen deposition to a site (including nitrogen oxides) and the existing levels of nutrient nitrogen present on a site. This must be taken into account to provide a full picture of the existing pressures on a site and potential impacts of additional nitrogen deposition.

2. Does the draft document link to the required information sources, is all the information accessible from the draft document?

The internal document links work well, but some of the guidance requires more detailed explanation, for example in relation to the inclusion of anaerobic digesters or in relation to the application of the 100% critical threshold. Not all information is accessible and some of the external tools appear overly-complicated for many applicants to use. For example, in the list of "What do you need to include when looking for other sources of Nitrogen" on the final page of the glossary – it is not clear how to access this information and what is meant by "projects", "proposals" or "plans". For many applicants, this is likely to be confusing and inaccessible.

In the map instructions in the glossary, it states "In the layer list select 'designations and access' then select 'Habitat Air Quality' and select all the layers within that section." These options are not clearly available on the map – the 'Air Quality' tab appears to be most relevant and this brings up layers entitled "SSSI NH3 Critical Levels" and "NH3 sensitive Ancient Woodlands". It would be helpful to update and clarify the instructions. Training on these external tools may be helpful to applicants.

3. Is aligning the guidance to assist both EPR / Town & Country Planning / EIA helpful?

We do not understand how the guidance has been aligned because neither the thresholds for Environmental Permitting nor the Environmental Impact Assessment Schedule 1 thresholds appear in the screening distance scale. Our members have also highlighted concerns about the way planning assessments work in practice, which may not be addressed by the new guidance. In particular,

applications for agricultural sheds have not always revealed the intention of installing intensive livestock operations, thereby avoiding further scrutiny by NRW. Also, provided projects are below the livestock number thresholds which make Environmental Impact Assessments compulsory, LPAs rarely require EIA for intensive livestock units exceeding a floorspace of 500 m^2.

Roles and responsibilities for assessing planning applications are also of concern to our members. According to LPAs, NRW refuses to comment on planning applications that involve ancient woodland. This is despite NRW being listed as the statutory consultee on planning applications involving ancient woodland. PPW10 states that "In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW." There has instead been an expectation that LPAs must make these decisions, yet many lack the expertise to evaluate complex modelling reports and a lack of response from NRW is seen as a lack of concern, so planning decisions often get made in favour of development where NRW does not comment.

Even in cases not involving ancient woodland, our members have examples of approved applications that they feel should have merited an objection or more significant comment and advice from NRW. Furthermore, where applications are approved with conditions attached, there appears to be no consistent monitoring or enforcement of those conditions, either from NRW or the LPA, with both citing the other party as the responsible body.

Furthermore, the wider process and guidance for approving environmental permits in Wales must also be updated and made more accessible on the NRW website and in public communications to support this new guidance.

For the guidance to be fully aligned, roles and responsibilities need to be clearly laid out so that environmental protection does not keep falling through the cracks created by this lack of clear allocation of responsibilities. I**ncreased resources and expertise are needed for LPAs and NRW** to ensure that policy and legislation is properly implemented through the planning and permitting processes. We would like to see NRW's Development Planning Advisory Service given the resources, expertise and authority to comment on all planning applications involving nitrogen-sensitive species and sites.

4. Is any additional information needed?

As mentioned in the answer to question 3, clear allocation of the responsibilities of NRW compared with LPAs is missing from the guidance. WEL members are also concerned that the assessment process completely misses emissions from manure/slurry/digestate spreading, which we understand could vastly increase the total levels of ammonia and nitrogen emitted. If this is the case, then damaging planning applications could continue to be approved. We ask for this to be included in future assessments.

5. Any further comments?

We are aware that the last time this guidance was updated there was a rash of premature planning applications submitted in order to avoid the more stringent new guidance on environmental permitting applications. This meant that old applications were able to avoid the more stringent assessments, even though negative environmental impacts were clearly increasing. To avoid this happening again, we ask for a specific grace period of no more than 6 months to be included in the guidance. After this period of time, planning permissions that were approved before the new guidance was published should be required to submit any subsequent environmental permitting applications based on the new guidance.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

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