

# CONSULTATION

## Response Document



43 Southgate Street, Winchester, Hampshire, SO23 9EH, UK  
Tel: +44 (0)1962 868 626 | [enquiries@cieem.net](mailto:enquiries@cieem.net) | [www.cieem.net](http://www.cieem.net)

### **Changes to guidance for assessing the impact of ammonia and nitrogen from agricultural developments**

**(Natural Resources Wales)**

**30 November 2020**

## Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 6,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- Greener UK
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- The Environmental Science Association of Ireland

CIEEM has approximately 420 members in Wales who are drawn from across the private consultancy sector, NGOs, government and SNCOs, local authorities, academia and industry. They are practising ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general. This response was coordinated by our Wales Policy Group.

We welcome the opportunity to participate in the consultation and we would be happy to provide further information on this topic. Please contact Jason Reeves (CIEEM Head of Policy and Communications) at [JasonReeves@cieem.net](mailto:JasonReeves@cieem.net) with any queries.

# Comments from CIEEM

## General Comments

We welcome the update of this guidance and the approach of assessing sensitive habitats outside, as well as within, the protected site network. We also welcome the move towards a 1% screening threshold for all ecosystems.

We believe the changes made will have a positive impact on nitrogen and ammonia emissions arising from regulated agricultural developments; however, we would like to see further ambition as to how NRW will support active recovery and restoration of sensitive habitats, in line with the Environment (Wales) Act 2016. For example, by working with landowners to achieve a net-reduction in emissions.

We would like to see further clarification on the modelling process and the use of data and ecological expertise. This is discussed in further detail below.

## Consultation Questions

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

The guidance is clear and it is understood what is required of applicants. However, we would like further clarity on the detailed monitoring process; namely, what evidence will be gathered to demonstrate that the development will not harm the sensitive species, and who will assess the impacts based on the model outputs? In our opinion, analysis should be undertaken by a competent professional ecologist, either by NRW or the Local Planning Authority, and it is essential that this capacity is in place.

Detailed monitoring should also consider the wider impacts of total nitrogen deposition, as well as critical load, to avoid missing serious impacts on ecosystems that depend on nitrogen-sensitive species.

Also, we would like clarity on how sites will be considered where there are insufficient data to rule out the presence of sensitive species. Biological data are limited in many locations due to lack of expertise and/or access. We would like clarification as to whether these data deficient areas will require further survey if they fall within the screening distances of proposed development. If this is not a requirement, a precautionary approach should be adopted.

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

Yes - there are some instances where links do not work, but it is presumed this will be checked before publication.

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

Yes, it is considered that aligning the guidance will simplify the planning process to an extent, avoiding confusion amongst applicants as to the requirements of an assessment,

whilst further avoiding duplication of inputs and, thus, the associated costs to both applicants and competent authorities.

Although this will not apply to all potential applications, there is no guidance regarding the regulatory process to be followed in those instances where a Habitat's Regulations Screening Assessment (HRA) will be required to assess likely impacts upon international/European designated sites. Screening of a development may rule out the requirement for a detailed assessment from an Environmental Impact Assessment (EIA)/Town and Country Planning point of view, but it may be required, still, as evidence to inform a HRA. It would be useful for guidance to establish those potential inputs that the applicant may be required to provide, should an initial screening assessment identify sensitive international/European designated sites.

#### **4. Is any additional information needed?**

In addition to the concerns raised around surveying and modelling, the guidance makes reference to 'in-combination' assessments, but does not clarify when an in-combination assessment is required. In aligning the guidance to assist both EPR/Town & Country Planning/EIA, is it anticipated that an in-combination assessment will be considered for all applications or only for those which meet EIA criteria? In order to ensure the guidance meets the needs of all its potential users, clarification within the document would be welcome.

'In combination' assessments are required as part of a HRA, for any development where international/European designated sites are identified. Will there be a requirement for the applicant to provide this information, or will this remain the responsibility of the competent authority assessing the application, as a separate exercise to the planning application? As mentioned above, it would be useful for the guidance to establish the inputs that the applicant may be required to provide, should an initial screening identify sensitive designated sites.

Also, we would welcome further consideration of how the impacts on sensitive designated sites will be monitored and mitigated post-development, for example, by the maintenance of emission-reducing machinery and processes.

#### **5. Any further comments?**

We agree with the removal of the 1% screening threshold for in combination assessments, in accordance with new case law. However, for those instances where a HRA will be required, the continued inclusion of this threshold for assessing the impacts of development alone would appear to be redundant. Under HRA, any development assessed as resulting in 'no significant effects' upon designated sites alone, would require an 'in-combination' assessment.

We support the revision of screening distances to ensure impacts upon sensitive sites at greater distances are not overlooked, whilst not been overly conservative when assessing smaller developments. However, we would recommend that the screening distances stipulated should not rule out the need for further assessment or consultation, if the need for such is identified and required by the competent authority, based on local area knowledge.

Screening distances have been based upon the size and nature of a development alone, but do not consider the connectivity, sensitivity or ecological 'importance' of a habitat. For example, a small development with a 3km buffer may still have impacts upon a designated site beyond this distance where there is some functional connectivity. e.g. where a salmonid watercourse adjacent to the site converges with the River Wye SAC 3.5km downstream. As such, we would encourage that future applications and screening requirements are considered in the context of the surrounding environment, as opposed to just the nature and size of a development. Applications should then be adjusted accordingly, where there is a justifiable need for the development, to ensure protection of the environment and compliance with relevant legislation at all levels.

We welcome this updated guidance which takes some positive steps for regulated developments. However, wider, proactive engagement with landowners is required from NRW, to actively reduce ammonia emissions across Wales, as many habitats are already exceeding critical loads.