

Compliance Assessment Report CAR_NRW0041165

Licence being assessed: WA/067/0005/001.

For: Vivod Estate, held by William Best, Robert John Best, Juliet Best.

At: River Cyflymen, LL20 7LS.

Type of assessment: Site Inspection, Reason: Other.

On 26/01/2023, between 14:00 and 15:00.

Parts of licence assessed: 9.1, 9.2 and 9.7

NRW Lead Officer: Philip Barrett, accompanied by Rebecca Redmond.

Report sent to: William Best, Robert John Best and Juliet Best, Licence Holders, on 16/02/2023.

1. Summary of our findings (full details in section 4)

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-C1 - Surface/groundwater level and protected flow - Minimum hands-off flow/level requirements	C3 Minor	9.2 operate and maintain the hydropower scheme
WR-F1 - Discharge - Point of discharge	C4 No impact	9.1 - bars on outfall

Result types are explained in more detail in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
WR-C1	Remove gravel to ensure correct flow through the structure	03/03/2023
WR-F1	Fit bars with correct spacing or vary the licence to have this condition removed	30/09/2023

Action criteria codes are listed in the 'Important Information' section below.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution or civil sanctions being imposed depending on the circumstances of the offence.

You are non-compliant with your licence.

At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment

A compliance inspection was carried out on the 26th January 2023 of licence WA/067/0005/001. The reason for the inspection was to follow up on the non-compliances identified in the previous inspection on the 9th August 2022, as shown in CAR_NRW0040266.

These were:

- Gravel accumulating behind the structure, causing the incorrect flow split
- incorrect weir plate fitted to ensure the correct flow split.
- No screening bars fitted to the outfall.

It was explained via email following the previous visit that the gravel accumulation behind the impoundment changes after each flood event and that this has been removed in the past. It was also mentioned in the email that the incorrect weir plate was changed so that the correct plate was fitted. The rationale for not having screening bars fitted on the outfall was explained. The reason for this was given as the water drops from the turbine housing into the council owned drain resulting in no fish being able to enter it from this point.

During the recent visit, an abstraction was seen to be taking place from the impoundment structure, with a flow observed coming from the outfall below the turbine housing.

Gravel

The gravel build up behind the structure must be maintained to ensure that it does not alter the water level between the screen box and the weir plate. The reason for this is that the hard engineering of the impoundment structure ensures the correct flow split is maintained on the level above the hands off flow notch. When gravel accumulates above the structure, this can alter the flow split to reduce or increase the flow through the screen box. During the recent visit, the gravel accumulation behind the structure appeared to have been reduced since the previous visit, but not to a point to allow for the correct flow split to be maintained.

Flow split

A measurement of the weir plate during the recent visit was taken and found that the correct weir plate (70/30% split) was fitted for the time of year (1st January - 31st March). To remain compliant, this must be changed to the correct weir plate (50/50%) by 1st April.

Screening at outfall

A visit to the outfall found that there was no screen bars fitted. Following the previous visit, the screening bars condition was discussed via email. An option that was suggested by you was to have a hinged set of bars that would prevent any debris building up behind this in the council owned drain. The requirement for this condition was raised with the fisheries technical specialist. As the discharge enters the drain from height, there were no objections to this condition being removed from the licence as there is no risk to fish. To become compliant with the licence, either the screening condition must become compliant by installing screen bars at the outfall, or an application must be submitted to vary the licence by having this condition removed.

Actions required:

- Remove gravel from behind the impoundment structure to ensure the correct flow split is

maintained. To be carried out by 03/03/2023

-install screen at the outfall or apply to vary the licence to have this conditions removed. To be carried out by 30/09/2023.

Condition 8 of the licence covers the requirement to record and submit abstraction returns. The system to submit returns is currently changing to a web based programme. You will be notified shortly to submit current and backdated returns onto the new system. In the meantime, please ensure you are registered on the returns service. This can be done by clicking 'sign up to submit your returns online' on the following link

<https://naturalresources.wales/permits-and-permissions/water-abstraction-and-impoundment/submit-your-water-abstraction-returns/?lang=en>

If you would like to discuss the points above or arrange a visit to the site, please do not hesitate to contact me on the details below.

Phil Barrett
0300 065 3670.

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report

Your licence is issued to you under the Water Resources Act 1991 as amended by the Water Act 2003. You have a responsibility to comply with the conditions of your licence and prevent pollution/harm to the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property

If your assessment result in Section 1 is suspended, what does this mean?

In line with our guidance, we may suspend non-compliance for up to six months to allow time for remedial action to be taken. These will be re-instated if the action is not completed.

Full list of Water resource action criteria (used in section 1 and 2):**WR A: Abstraction specified by Licence**

- WR-A1 Source of supply
- WR-A2 Points of abstraction
- WR-A3 Means of abstraction
- WR-A4 Purposes of abstraction
- WR-A5 Period of abstraction
- WR-A6 Quantities
- WR-A7 Land
- WR-A8 Other specified on licence

WR B: Abstraction measurement and records

- WR-B1 Means of measurement
- WR-B2 Recording
- WR-B3 Reporting

WR C: Surface / Groundwater level and protected flow

- WR-C1 Minimum hands-off flow/level requirements
- WR-C2 Flow/level measurement devices
- WR-C3 Recording
- WR-C4 Reporting

WR D: Environmental monitoring and information

- WR-D1 Recording
- WR-D2 Reporting
- WR-D3 Notifications

WR E: Fish and eel passage

- WR-E1 Infrastructure specified by licence
- WR-E2 Maintenance and records

WR F: Discharge

- WR-F1 Point of discharge
- WR-F2 Infrastructure
- WR-F3 Measurement
- WR-F4 Recording
- WR-F5 Reporting

WR G: Impoundment specified by licence

- WR-G1 Inland water to be impounded
- WR-G2 Manner and extent of impoundment
- WR-G3 Point(s) of impoundment
- WR-G4 Construction and removal requirements
- WR-G5 Other specified on licence

WR H: Borehole infrastructure

- WR-H1 Infrastructure and accessibility
- WR-H2 Maintenance and calibration

Enforcement response

Any licence condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution or civil sanctions. See our Enforcement and Sanctions Guidance for further information.

Data protection notice

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Mon to Fri 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.