

Compliance Assessment Report CAR_NRW0045712

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: Routine.

On 30/10/2024, between 11:00 and 12:00.

Parts of licence assessed: 6.1 maximum quantities, 9 further conditions

NRW Lead Officer: Philip Barrett, accompanied by Julian Whitehead.

Report sent to: Licence Contact, Licence Holder, on 28/01/2025.

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

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-C1 - Water Abstraction - Surface/groundwater level and protected flow - Minimum hands-off flow/level requirements	C2 Significant	Condition 9.7 (i) No abstraction of water shall take place unless the rate of flow in the River Cyflymen immediately downstream of the authorised point of abstraction, marked as 'Point A' as specified in Condition 2.1, is equal to or greater than 8 litres per second and the abstraction shall not cause the flow immediately downstream of said abstraction point to fall below that rate.
WR-A6 - Water Abstraction - Abstraction specified by licence - Quantities	Assessed (A)	
WR-B3 - Water Abstraction - Abstraction measurement and records - Reporting	Assessed (A)	

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 is achieved. This must be carried out in a controlled manner to prevent mobilising a	08/11/2024

Criteria	Action needed	Complete by
	large amount of sediment. The gravel must be reintroduced downstream.	

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.

We are currently considering taking enforcement action against you for the non-compliance recorded above. We will contact you in due course.

4. Details of our assessment

A visit was carried out on the 30th October 2024 to the abstraction that takes place on the Afon Cyflymen under licence WA/067/0005/001.

A visual inspection carried out of the site found that a large amount of gravel had accumulated behind the impoundment.

Condition 9.7 (i) of the licence stipulates:

No abstraction of water shall take place unless the rate of flow in the River Cyflymen immediately downstream of the authorised point of abstraction, marked as 'Point A' as specified in Condition 2.1, is equal to or greater than 8 litres per second and the abstraction shall not cause the flow immediately downstream of said abstraction point to fall below that rate.

The hands off flow notch is hard engineered to ensure the above condition is achieved.

The gravel built up behind the structure was seen to be causing an incorrect flow split as the level of water going through the HoF notch was below where it should be before an abstraction takes place. It was evident that an abstraction was taking place at the time as there was a flow of water going into the intake screen with nothing flowing out from the bottom of it.

An email was sent and a call was made to the licence holder within 24 hours to make them aware of the gravel issue. During the call, it was mentioned that heavy rain had caused increased flow to move gravel that had collected behind the structure.

A response was received from the licence holder to explain that work had been carried out to clear the gravel build up.

It was explained that gravel will build up after torrential weather which can only be removed once the level is below a certain amount, which is normally around spring/summer time. It was noted that the levels were low enough to enable the clearance work mentioned above

to take place.

There were concerns raised that the licence requires compliance 100 percent of the time, but this isn't possible as this would require attendance 100 percent of the time. There is potential for the screens and weir plate to block not long after inspections have been carried out following heavy rainfall, which can't be cleared until levels drop again.

The following flow readings were supplied:

Nant y Bache was abstracting 4.7 litres/sec and Cyflymen Bridge 11.3 l/s. Total output 10.2kwh before the clearance work was carried out.

Nant y Bache increased to 6.2 l/s and Cyflymen Bridge decreased to 10.6 l/s with total output increasing to 11.6kwh following the clearance work being carried out.

Indicating that the abstraction was 0.7 l/s more than the license allows on Cyflymen Bridge and an under abstraction was taking place at Nant y Bache, so the clearance increased production.

When carrying out compliance inspections, a common-sense approach is adopted.

Downstream movement of gravel is a natural occurrence that takes place in most watercourses, which can increase during heavy rainfall events. The volume of gravel movement varies by catchment, depending on a number of factors such as the substrate, flows etc.

The construction of an impoundment can reduce or prevent this movement of gravel, so it is important that the gravel is managed to avoid causing a depleted stretch of gravel movement downstream, or the incorrect flow split from taking place through the structure.

During high flow events, the increased flows will generally be in excess of the maximum abstraction possible through the structure, so the main flow will continue downstream, preventing any environmental impact occurring during these events.

Following high flow events, when flows are dropping and downstream environmental impact is more likely, a decision must be taken on whether a suitable method of gravel removal can be carried out, or if the abstraction needs to be stopped until a point that maintenance can be carried out. This is in order to remain compliant with the licence conditions that are set in place to prevent harm being caused to the environment. The flows during the visit were found to be favourable for gravel management to take place.

The flow calculations provided are not likely to be correct for what was observed during the visit. As can be seen in the pictures below of before and after the moving of gravel by NRW. There is a significant higher flow of water flowing downstream of the structure following a short period of gravel clearance by hand.

Before Picture - Less than half of the Hand off flow notch level being achieved while an abstraction is taking place.



After - Full hands off flow notch level being achieved, with additional flow split through the compensation notch.



The prompt action mentioned in the email to ensure the correct flow split is achieved is welcomed.

Condition 9.7 (iii) stipulates:

From 1 April to 31 December each year, the quantity of water abstracted shall not exceed 50% of the available flow in the River Cyflymen in excess of 8 litres per second.

Measurements taken of the hands off flow notch and residual flow notch found the HoF to be the correct size (as per the drawings), and the weir plate to be the 50/50% plate, which is correct for this time of year.

Condition 9.9 (i) states:

No abstraction shall take place unless the Licence Holder has installed a screen with spacing no greater than 50 millimetres to the outlet structure to prevent the entrapment, entrainment or impingement of fish.

This has been raised following a previous inspection, which is covered in compliance inspection form CAR_NRW0040264. Following the previous visit, a screen was installed on the outfall pipe. As the pipe serves the local authority drains from the track above, the screen was placed on a hinge to allow debris to pass through the pipe without causing a

blockage. During the recent visit, it was found that the screen has broken away from the hinge holding it in place and is now on the bed below the outfall pipe.

Work must be carried out to ensure the screen is in place while abstracting. This has been scored in Compliance inspection form CAR_NRW0045566.

Condition 6.1 states the maximum quantity limits as:

226.8 cubic metres per hour

5,443.2 cubic metres per day

650,966.0 cubic metres per year

At an instantaneous rate not exceeding 63 litres a second.

Returns have been submitted on the web based portal for April 2019 - March 2024. The returns data submitted is in weekly and annual quantities (April - March) for these periods. The daily quantity (5,443.2) multiplied by 7 (days) is 38,102.4 cubic metres.

The 2019 - 2020 data show the annual abstraction quantity to be 211,112 cubic metres, with a highest weekly quantity of 25,803 cubic metres.

The 2020 - 2021 data show the annual abstraction quantity to be 326,586 cubic metres, with a highest weekly quantity of 23,540 cubic metres.

The 2021 - 2022 data show the annual abstraction quantity to be 280,225 cubic metres, with a highest weekly quantity of 17,070 cubic metres.

The 2022 - 2023 data show the annual abstraction quantity to be 282,016 cubic metres, with a highest weekly quantity of 17,070 cubic metres.

The 2023 - 2024 data show the annual abstraction quantity to be 449,198 cubic metres, with a highest weekly quantity of 28,314 cubic metres.

All returns are within the annual and weekly quantity limits.

The distance from the point of abstraction to the discharge pipe from the turbine housing is approximately 1.9km, resulting in a category 2 - significant for impact. A previous warning letter has been issued surrounding gravel accumulation and the impact this is having on the flow split and downstream flows. Enforcement action is now being considered for this further non-compliance.

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.