

Welsh Government Bathing Waters Review 2024

Consultation on the identification of The Warren, Hay-on-Wye [REDACTED] as Designated Bathing Waters

Natural Resources Wales' response

This consultation seeks our views on the Welsh Government proposal to identify The Warren (River Wye, Hay on Wye) [REDACTED] as designated bathing waters under the Bathing Water Regulations 2013, for the 2024 bathing season.

Natural Resources Wales' purpose is to pursue the sustainable management of natural resources in all of its work. Our roles and responsibilities include advising Welsh Government on water quality, conservation, fisheries, recreation and access.

In relation to designated bathing waters NRW's role is defined in the Bathing Water Regulations 2013, and includes undertaking monitoring of water quality at sites during the bathing season, publishing bathing water profiles, and exercising our functions in line with the legislation.

NRW recognises the importance of Wales' bathing waters to local communities and the recreational, health and economic opportunities that these sustain. We are proud of the role we play in ensuring that the public have up to date information on water quality and the actions we take to protect and improve that water quality. The designation of any new bathing waters requires NRW to commit additional resources to our programme of work. If as an outcome of this consultation further sites are designated, to maintain our current level of service an associated increase in funding or a decrease in other services would be required.

We welcome the opportunity to respond to the consultation, and are committed to supporting Welsh Government on the implementation of the Bathing Water Regulations, including development of bathing water policy and any future review of the designation process.

Question 1 - Do you agree or disagree with our proposal to designate The Warren, Hay on Wye as a bathing water for the 2024 bathing season?

What is your view on the proposal and your reason/evidence to support your view?

For the reasons set out below, based on the available evidence, NRW recommend that The Warren is not designated as a bathing water for the 2024 season.

The Warren site is within the Upper Wye Site of Special Scientific interest (SSSI) and River Wye Special Area of Conservation (SAC), which are designated for riverine habitat and species features. There is potential for recreational activities such as bathing to damage the protected features of the SSSI and SAC, including impacts on fish (i.e. lamprey, shad, Atlantic salmon, bullhead, and brown/sea trout) that use the main stem of the Wye for spawning between October and June.

As the Warren is designated as a SSSI and SAC, Welsh Government should consider the implications for SSSI consenting/licensing and for Habitats Risk Assessment as part of the bathing waters designation process. These processes provide the mechanisms for assessing potential impacts and ensuring that they are effectively managed.

The landowner has been advised by the NRW Environment Team Officer for the Upper Wye SSSI they must obtain a consent under Section 28E of The Wildlife and Countryside Act 1981, before allowing recreational activities to be undertaken at the site. To date no notice has been received by NRW and therefore we have not assessed the potential impacts to the site.

In addition, the proposal for designation as a bathing water does not include any evidence of landowner agreement for public access to the river for bathing. Without this agreement in place there is no right to swim at the site and designation could be considered incitement to trespass.

Further information is provided in Annex 1 under our response to Question 5.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

Question 3 - We would like to know your views on the effects the proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

NRW are not providing a response to this question as it is outside of our area of expertise and statutory remit.

Question 4 - Please also explain how you believe the proposed actions could be formulated or changed to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

NRW are not providing a response to this question as it is outside of our area of expertise and statutory remit.

Question 5 - We have asked several specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Annex 1 – further information in relation to The Warren.

Conservation

The Wildlife and Countryside Act 1981, Section 28E, requires a landowner to notify NRW and obtain consent before undertaking certain activities that are likely to damage a site's special interest (i.e. Potentially Damaging Operations or Operations Likely to Damage).

The process is set out on our website: [Natural Resources Wales / Sites of special scientific interest \(SSSI\): responsibilities of owners and occupiers](#)

Following notification from a landowner, NRW will assess the potential impact of the activity and grant consent if the features of the site are adequately protected. A consent may include conditions such as when, where or how the activity is carried out, in order to mitigate potential impacts. If NRW considers a proposal is likely to damage the site and it cannot be mitigated by conditions, consent will be refused.

The Warren site is within the Upper Wye Site of Special Scientific interest (SSSI) and River Wye Special area of Conservation (SAC). Both of which are designated for riverine features. The site management statement for the [Upper Wye SSSI](#) states that increased recreational pressure could affect the river plants and animals through physical damage to habitats and increased disturbance. The list of [Potentially Damaging Operations](#) for the Upper Wye includes '*Recreational activities likely to damage riparian features or disturb species of interest*', this includes canoeing, rafting, fishing, swimming, and walking.

The Trustees of the Warren (site owners) have been approached by NRW regarding the need for a consent for recreation at this site. However, no notice has been received by NRW and so we have not yet assessed the potential impact of recreation on the SSSI or determined whether a consent can be granted.

NRW recommend that a consent should be in place before any proposal for designation is considered. This is because each SSSI has a list of activities which NRW think are likely to damage the site's special interest. Recreation is considered potentially damaging to the Upper Wye SSSI. Before recreation takes place or is allowed to take place within the Upper Wye SSSI NRW must be notified in writing and consent obtained. This notification and consenting process allows NRW to assess if recreation is likely to damage the SSSI, and, if damage is likely whether conditions such as when, where or how the recreation takes place could safeguard features of the SSSI.

As the Warren is designated as a SSSI and SAC, Welsh Government should consider the implications for SSSI consenting/licensing and for Habitats Risk Assessment as part of the bathing waters designation process. These processes provide the mechanisms for assessing potential impacts and ensuring that they are effectively managed.

Fisheries

This stretch of the River Wye is used for spawning by lamprey species as well as Shad, Atlantic salmon, bullhead, and brown/sea trout. Under the Salmon and Freshwater Fisheries Act 1975, it is a criminal offence for anyone to wilfully disturb spawn or spawning fish. Several fish species (bullhead, Atlantic salmon, shad and lamprey) are also protected here by the Wye SAC designation.

Salmonids, lamprey and shad spawn and lay their eggs in gravel substrate, where they are held in the interstitial spaces and oxygenated by the flowing water. Therefore, activity causing potential disturbances to gravel beds in spawning periods should be avoided and assessed for impact.

A fisheries embargo period can be applied to those looking to undertake in-river works (such as the use of plant or machinery near or within the river channel) in this part of the

Wye between 15 October and 30 June inclusive. Although swimming is not considered as 'in-river works', the embargo period highlights the sensitive time of year for these protected species and this may coincide with the bathing season.

An impact assessment of swimming as a recreational activity at this location should occur prior to consideration of designation. This would be in line with Welsh Ministers commitment to take all reasonable steps to maintain and enhance the living organisms and types of habitat included in Section 7 of the Environment (Wales) Act, 2016. The assessment would consider habitat type and sensitivity, to understand the degree to which disturbance may occur.

The rights of the fishery owner(s) should also be considered.

Rights of access

At every location where bathing takes place NRW recommend that a right of access for bathing is agreed with the landowner prior to any bathing. This is set out in the NRW Wild Swimming Code. In general coastal bathing sites benefit from higher rights of access, whilst rivers in Wales are private property with no higher rights of public access.

There should be an awareness of the potential charge from landowners of inciting trespass should a right of access not be agreed with the landowners.

Bathing Water Quality

NRW also highlight the presence of Glasbury Sewage Treatment works, Lowes Sewage Treatment works, and inputs from small sewage discharges to Dgedi Brook. There are also some local properties which are on private rather than mains sewage treatment. NRW undertook some trial preliminary bathing water sampling testing at the Warren during August and September 2023. This data has been shared with Welsh Government.