

Cyngor Sir Penfro
Cynllun Datblygu Lleol Diwygiedig 2017-2033
ARHOLIAD
Pembrokeshire County Council
Revised Local Development Plan 2017-2033
EXAMINATION

Arolygwyr / Inspectors:
Ian Stevens BA (Hons) MCD MRTPI
Paul Selby BEng (Hons) MSc MRTPI

Swyddog Rhaglen / Programme Officer:
Deborah Williamson

ff/t: 01437 775545 e: programmeofficer@pembrokeshire.gov.uk

Harriet Lavender
Head of Planning
Pembrokeshire County Council/Cyngor Sir Penfro
County Hall/ Neuadd y Sir
Haverfordwest/Hwlfordd
Pembrokeshire/Sir Benfro
SA61 1TP

8 May 2026

Dear Ms Lavender

Pembrokeshire Local Development Plan 2 – nutrient-sensitive Special Areas of Conservation

Thank you for your response to our initial letter, which we received on 25 March 2026. Having reviewed the information provided, we have prepared a note which covers nutrient-sensitive Special Areas of Conservation. The note, which is appended to this letter, sets out our concerns and includes details of the next steps for this examination.

We have copied this letter and note to the Welsh Government and Natural Resources Wales.

We will liaise with the Programme Officer to make the necessary arrangements.

Sincerely

Ian Stevens and Paul Selby
Inspectors

Cc Welsh Government Planning Directorate
Natural Resources Wales

Inspectors’ Note: Pembrokeshire Local Development Plan 2 – nutrient-sensitive Special Areas of Conservation

1. The potential impacts of the Pembrokeshire Local Development Plan (LDP) 2 on marine and river SACs within the County was identified as a potential soundness matter at a pre-submission advisory meeting held between the Local Planning authority (LPA) and Planning and Environment Decisions Wales (PEDW) on 3 September 2025, and in our initial letter of 2 December 2025.
2. We have now had the opportunity to review your response to our initial letter, which we received on 25 March 2026. Based on the information provided to date, we continue to have significant concerns about how this matter may affect the soundness of LDP2. These concerns are set out in this note, centred around three key issues, along with details of the next steps.

Background

3. For context, below is summary data which we have extracted from the further information submitted by the Council on 25 March 2026.
4. Around 70% of allocated housing units therefore have the potential to result in additional nitrogen and/or phosphorus discharging into nutrient-sensitive SACs. Tables 33 and 49 of the Council’s Habitats Regulations Assessment (HRA) [ED09a] further estimate that, when factoring in expected windfalls in addition to housing allocations and commitments, there would be loadings of around 280kg of phosphorus and 8,000kg of nitrogen in nutrient-sensitive SAC catchments over the Plan period.

Residential allocations	Units	Percentage	TP (kg)	TN (kg)
Residential units (all LDP sites)	2375	100.0	-	-
Affected by P only	56	2.4	36.84	-
Affected by N only	934	39.3	-	3277.43
Affected by both N & P	681	28.7	176.72	2605.52
Affected by one or both nutrients	1671	70.4	213.56	5882.95

(Total of 41 allocations affected by nutrients)

Residential commitments	Units	Percentage	TP (kg)	TN (kg)
Residential units (all LDP sites)	1131	100.0	-	-
Affected by P only	20	1.8	16.07	-
Affected by N only	114	10.1	-	449.48
Affected by both N & P	17	1.5	10.69	116.29
Affected by one or both nutrients	151	13.4	26.76	565.77

(Total of 20 commitments affected by nutrients)

Sources: LDP2 (amended by focussed changes) [SD14] and HRA tables 30, 31, 42, 44 and 45 [ED09a]

5. For illustration, the HRA notes that offsetting these loadings would equate to:
 - For nitrogen – 154 hectares of dairy, or 515 hectares of lowland grazing, to be changed to woodland, and
 - For phosphorus – 828 hectares of dairy on freely draining soil, or 129 hectares of dairy on impeded drainage, to be changed to woodland.
6. Other potential mitigation measures are indicated in the HRA, drawing on Natural Resources Wales (NRW) advice on a ‘mitigation measures menu’.

Legal and policy context

7. Our initial letter drew attention to the Welsh Government (WG) Interim Planning Policy Statement on Development in SAC Rivers (IPPS). This indicates that a fair share approach can be relied upon where it can be demonstrated that actions by public bodies and statutory agencies to reduce nutrient loading to SAC catchments are being taken. We noted how this is an inherent component of Article 6(2) of the Habitats Directive, which requires Member States to take ‘appropriate steps’ to avoid the deterioration of SACs.
8. The IPPS is accompanied by DTA Ecology’s ‘Practical planning guidance to support development, particularly the delivery of affordable housing, in SAC river catchments affected by phosphorus’. This provides advice on how an ‘integrated approach’ to the restoration, management and mitigation of SAC river networks can be relied upon to secure compliance with the Habitats Directive. Para 11.3.1 says that “a first step is...to identify and secure restoration and management measures”. It also provides commentary and practical guidance on ‘The Dutch Nitrogen Ruling’ (cases C-293/17 and C-294/17), including that:
 - The integrated approach to mitigation requires interdependence between the delivery of development and the delivery of restoration measures or steps to avoid deterioration; and
 - It is only when it is sufficiently certain that a [mitigation] measure will make an effective contribution to avoiding harm to the integrity of the site concerned...that such a measure may be taken into consideration in the appropriate assessment.
9. A Dear CPO letter issued by WG on 27 March 2026 introduced:
 - A clarification note on applying the tests of soundness to LDPs (‘the clarification note’); and
 - A new ‘Stage 3 report’ by DTA Ecology, which confirms that earlier guidance is applicable to all uses including all nutrient-sensitive SACs.
10. Whilst the Dear CPO letter and accompanying documents were formally issued shortly after the LPA had submitted its response to us on these issues, this new information does not fundamentally change our position in relation to concerns raised previously but instead reinforces them. The formal response from NRW on your HRA, dated 24 April 2026, does not fundamentally change our concerns.

11. Para 10 of the clarification note draws a distinction between ‘secured’ management or restoration measures associated with delivery milestones and those which are ‘aspirational’. Para 11 confirms that an element of uncertainty is acceptable in understanding future improvements, noting that a level of precaution is needed but should not be excessive given that interdependency is being sought to be demonstrated between Plan policies and proposals and ongoing measures under Article 6(2). Para 20 states that the level of information required must be appropriate to concluding that the principle of development can be achieved, leaving detail assessment to the planning application stage.
12. Para 23 of the clarification note states that the delivery of growth contained within the Plan will be inherently linked to progress being made on the steps to be taken and measures identified to improve the SAC, and that an interdependency between the contribution of development mitigation with these steps and measures will need to be demonstrated. Para 24 notes that this should be in the form of an ‘indicative [mitigation action] plan’. Para 30 sets out what such plans should contain.
13. Paras 31 and 33 of the clarification note observe that mitigation measures may have financial impacts on the viability of development and, where possible, an estimate should be made of the likely cost of mitigation, with these costs factored into modelling to demonstrate deliverability.

Issue 1: Given the extent to which Plan allocations are affected, is it feasible for the Council to produce an indicative mitigation action plan retrospectively?

14. In our initial letter to the Council, we asked for an ‘indicative mitigation action plan’ to be submitted to address the deficiencies in the evidence. Indeed, the clarification note reinforces that LDPs should be supported by such a plan which includes:
 - An estimate of the impacts arising from Plan proposals
 - An estimate of the improvements from existing and future measures necessary to avoid future deterioration of the SAC, including from Plan proposals
 - The securing of appropriate steps to be taken – clearly identified and associated with an appropriate delivery mechanism and agreed milestones, either on-going, medium or longer term and phased in an adaptive management framework
 - Identifying integrated mitigation where this can be secured and appropriate developers contributions identified, interdependent with on-going steps and measures; and
 - A clear monitoring framework for implementing policies and proposals relative to the adaptive management framework of identified appropriate steps and measures.
15. Much of the information we expected to be in this action plan has been provided in other documents, but the actions which may need to be taken to avoid significant effects on SACs, and associated targets and milestones, have not been clearly identified. Without this clarity there is no ability for future decision-makers to establish whether progress on interdependent mitigation, management and improvement measures is sufficient to allow new development to come forward.

Instead, a case-by-case approach would need to be taken based on advice from NRW for phosphorus as well as nitrogen. In this regard, in our view proposed LDP policy SP 12A falls some way short of the ‘policy caveat’ wording recommended in DTA Ecology’s ‘Stage 3 report’.

16. A significant proportion of the Plan’s allocated housing supply is affected by the nutrient issue. The Council has been asked to provide an indicative mitigation action plan but has not done so. We are now over 6 months since the Plan’s submission. Providing the Council with a further opportunity to produce an indicative action plan would lead to further delay, not least as this is likely to involve multiple partners and, if targets are agreed, may need to address impacts from nitrogen as well as phosphorus as part of an ‘integrated approach’.
17. For the avoidance of doubt, at this point we are not questioning the soundness of the Council’s chosen spatial and growth strategy. Rather, we are concerned that the evidence supporting the strategy remains lacking or unclear, and that key constraints have not been considered ‘in the round’. There could also be wider implications arising from further delays with the examination to other Plan evidence, which risks becoming dated whilst it takes time to resolve the issues raised in this letter. This is all in the context of a Plan with fewer than 10 years remaining to deliver its objectives.

Issue 2: Are allocations within nutrient-sensitive SAC catchments – and therefore the Plan as a whole – deliverable?

18. The clarification note is clear that the indicative costs of appropriate mitigation should be estimated and factored into financial viability modelling. The Council is to be commended for re-engaging its viability consultant to produce an ‘addendum’ report [ED10a] in response to the matters raised in our initial letter. The conclusion of the addendum is, however, unambiguous – it says that for sites which discharge to the marine SAC (which we estimate to be around 68% of allocated units) there is little in the way of a ‘viability buffer’ capable of absorbing costs associated with nutrient neutrality. It then draws the conclusion that if the associated costs are significant (in the context of land values), the viability of some sites, and/or the proportion of affordable homes or other community benefits sought by the Plan, might be prejudiced.
19. Our concerns in this regard are reinforced by the admission in your substantive response [ED08] that “if significant additional costs do have to be met, when a solution for dealing with this issue has been established, it is likely that the 2024 Viability Assessments will have to be reviewed”.
20. The joint Council ‘Marine and Estuarine DIN Mitigation Strategy – Developer Mitigation Handbook’ will undoubtedly help applicants to design measures to mitigate the effects of nitrogen in marine and estuarine waters but if the associated costs of that mitigation make development unviable it will not come forward. In your substantive response [ED08] you provide a narrative of the costs of potential mitigation solutions, drawing on information from elsewhere, but there is little evidence that the £1,500 allowance for sustainable drainage systems is sufficient.

21. Whilst we accept that nutrient mitigation may be considered as a 'fixed' cost in a viability appraisal, it seems to us that the absence of an indicative action plan and associated high level costings for mitigating nitrogen and phosphorus loads, benchmark land values are unlikely to reflect a realistic baseline. This in turn potentially undermines viability appraisals of Plan objectives such as affordable housing targets and thresholds, and other infrastructure and policy aims, including the mitigation requirements of policy SP 12A and contributions outlined in Policy GN 3.
22. Para 3.29 of the financial viability addendum warns that landowners (and developers to an extent) may take a view that sites will not/cannot come forward voluntarily, if costs related to achieving nutrient neutrality, coupled with affordable housing and/or community infrastructure requirements, render proposed developments unviable. We share this concern that the Plan risks stymying the very development that it hopes to facilitate.

Issue 3: Are the mitigation measures sufficiently 'secure' or logical as to be relied upon in the Appropriate Assessment?

23. For nutrient-sensitive SACs, the conclusion of the Appropriate Assessment is that mitigation, management and improvement measures are needed to offset effects as part of an integrated approach. This includes wastewater treatment works upgrades (for phosphorus), site-based mitigation measures and catchment-wide measures.
24. Whilst a level of uncertainty is acceptable, indeed inevitable, the evidence provides little confidence that the potential measures are achievable. The Nutrient Management Plan catchment tables (p125-147 of the HRA) provide useful overviews of affected sites and possible phosphorus mitigation, but there is little to indicate which measures are preferred, the likelihood of delivery (including high level cost estimates) or whether they could be delivered via a planning condition or obligation. Consequently, it seems to us that potential measures which may be required to mitigate the effects of nutrients are unknown at this stage – i.e. they are aspirational rather than secured. This is acknowledged in para 5.62 of the HRA and is a particular concern given the anticipated level of delivery in the 2026-27 phasing period onwards and the proportion of sites with potential nitrogen impacts.
25. In line with the technical reports, the WG clarification note says that “an appropriate policy should...be included in the LDP indicating that planning permission will only be granted...where any necessary mitigation can be secured, preferably through an integrated approach”. The Appropriate Assessment makes it clear that this is intended to be achieved principally through proposed LDP policy SP 12A. Although such an approach may be acceptable in principle, the proposed policy is case-specific and highly reliant on wastewater treatment works upgrades rather than tied to more strategic delivery milestones which relate to a broader range of mitigation measures (as advocated in the 'policy caveat' approach in DTA Ecology's 'Stage 3 report'); or, in the case of nitrogen, nutrient neutrality. In a practical sense, having regard to the conclusions of the viability addendum report [ED10a], there is therefore a significant risk that policy SP 12A represents no more than a 'backstop' which would need to be employed with such frequency that it would prejudice the delivery of the Plan, with no

certainty that the flexibility allowance for residential development would provide sufficient scope to ensure timely delivery. This seems an illogical outcome for a mitigation measure.

26. An HRA supporting a Plan is the responsibility of the Council. Nonetheless, we are concerned that as the Appropriate Assessment is based on measures which are aspirational rather than 'secured', with the only certain mitigation measure (a policy 'backstop') having the potential to prejudice the Plan's delivery, there is insufficient reasoning to support the conclusion that likely significant effects can be ruled out. This is compounded by a lack of clarity or detail on the effects of development sites on qualifying features within downstream waterbodies, or whether such effects would exceed a *de minimis* threshold, in the context of the relevant conservation objectives.
27. NRW's formal response of 24 April 2026 confirms its view that the provisions of the LDP are sufficient to avoid adverse effects on site integrity. However, particularly in view of the new financial viability evidence and the expectation of Planning Policy Wales that planning applications which comply with up-to-date development plan policies should be assumed to be viable we question whether the HRA is complete as there is no discussion of derogations which may be needed under Article 6(4) to secure the delivery of the Plan. The clarification note makes it clear that this is a legitimate course of action for a Council to take, albeit as a last resort which would require careful consideration.

Exploratory meeting

28. Given the significance of our concerns, we consider it necessary to hold an exploratory meeting to discuss these matters and explore a way forward. The exploratory meeting will be held at County Hall, Haverfordwest, SA61 1TP at **10.00 on Tuesday 16 June 2026**. In addition to the LPA and WG, we are inviting NRW to the meeting. As a public meeting, any person may also observe.
29. PEDW's LDP Examinations Procedural Guidance (2022) provides advice on holding exploratory meetings after Inspectors have not been able to resolve likely problems of soundness and/or procedural compliance through written correspondence with the LPA. The guidance identifies the potential outcomes of an exploratory meeting as being:
 - The Inspectors recommend that the Plan is withdrawn by the LPA, and that recommendation is not overruled by WG.
 - The issues are resolved to the satisfaction of the Inspectors and the examination proceeds.
 - The Inspectors agree to a short-term suspension of the examination for the LPA to do more work.
 - The issues remain unaddressed until the hearings, and the Inspectors reconsider the matter at that point.
30. We are open to exploring all options at the meeting.

31. The three issues identified earlier in this note are intended to inform discussions at the meeting. Specific questions to prompt the discussion are set out below.

- What additional work would the Council need to do, and be realistically able to produce, to address the identified issues (factoring in any consequential amendments)? How long a suspension would be needed? Would this have implications for other Plan evidence? How much of the Plan period would be remaining at the potential point of adoption?
- What are the potential implications of withdrawing the Plan, in terms of both the delivery of development to meet social and economic needs, and on the SACs in question? Would the withdrawal of the Plan lead to a significant delay in securing the resubmission of a revised Plan?

32. The LPA should consider these options and questions prior to the meeting. We are not inviting written statements from any party in advance of the meeting.

33. We will report on our recommended course of action in writing after the meeting, after hearing and considering the views of the invited parties.

Ian Stevens & Paul Selby
08.05.26