



Grebe House  
St Michael's Street  
St Albans  
AL3 4SN

01727 858 901  
info@hmwt.org  
www.hertswildlifetrust.org.uk

10 May 2024

**Submission to Defra Board (for Water) and EA CEO and Directors (of Land and Business, Ops and South East) by Herts and Middlesex Wildlife Trust as Catchment Host for the Upper and Lower Lea Catchment Partnerships.**

Herts & Middlesex Wildlife Trust (HMWT) is the Catchment Host for the Upper Lea and Lower Lea Catchment Partnerships ([website](#)). Since 2012, funded by the Environment Agency, we have been bringing together a range of partners and stakeholders across Hertfordshire with the aim of helping to coordinate action to improve priority chalk rivers and their wider catchments.

The partnerships comprise of over 370+ members including eNGOs, water companies, local authorities, farmers and rural estates managers, statutory organisations, community interest groups, parish councils and neighbourhood planning groups, businesses, individuals and a variety of landowners. Many are actively participating in catchment management and river restoration activities and have a major interest in protecting the unique and globally rare chalk stream habitats of Hertfordshire.

Despite ongoing, committed efforts of partners across this 11-year period we have seen minimal progress towards achieving Good Ecological Status (GES) under the Water Framework Directive (WFD) and achieving the trinity of ecological health, as set out in the CaBA Chalk Streams Strategy 2021. Currently, none of the 23 waterbodies meet GES target in our catchment, with 1 bad, 9 poor and 13 moderate.

Coupled with this, a number of classification elements (notably fish and morphology) have not been assessed or included as part of the RMBP Cycle 3 classifications (2019 and 2022); we understand this is due Environmental Monitoring Team resources having being cut significantly since Cycle 1, however this leaves an incomplete assessment for 7 individual waterbodies whose status may decrease further if these unassessed elements were included. A lack of classification also prevents the Partnership from unlocking investment opportunities into addressing the reasons for failure relating to these elements.

We have also raised queries around some of the classifications that have been made, based on other available partnership data and evidence. For example, morphology classifications where they are shown to "support good", in some instances, we have additional MORPH Pro / River Condition Assessment data that challenges this classification and have questioned whether the WFD sampling points are in representative locations to reflect the pressures impacting this element. Additionally, Invasive Non-Native Species are notably missing from 22 out of 23 water body classifications, when they are in fact present on all 23. We understand this element does not necessarily induce a classification change, however we are concerned at the failure to capture this



Creating a wilder Hertfordshire and Middlesex

information within the RBMP3 and Catchment Data Explorer, especially on water bodies where it may be causing a reason for failure across other WFD elements.

We have encouraged partnership members to engage in DEFRA and water company consultations since 2012 and submitted responses as Host on behalf of the partnership during that time – both highlighting issues, bottlenecks, additional supporting information and opportunities for partnership working towards improving the catchments. This has been done in good faith that the Environment Agency (and other major partners) would recognise and act upon collective concerns and opportunities that the partnership has highlighted, in a structured and timely way, through specific, measurable, ambitious but realistic and time-bound (SMART) RBMP actions.

As Host, we recognise that there are concerted efforts being put into improving our catchments by the EA, water companies and others, however there are still issues being overlooked or not fully addressed at both a local (often due to under-resourcing) and national decision-making level.

The wider partnership is becoming increasingly fatigued and there are misgivings developing about the role that authorities / companies are playing, in overseeing and leading our collective progress towards an aspirational step-change from zero rivers currently meeting Good Status to 17 by 2027; which seems highly unrealistic given this is now just a 3-year window.

At the request of the partnership, an extraordinary meeting of the River Lea Catchment Partnerships was held on 29<sup>th</sup> November 2023, which sought to review the EA's plans for developing RBMP4 and Thames Water and Affinity Water draft Business Plans and draft Water Resource Management Plans for AMP8. This usefully raised again fundamental issues that require remedial actions at a high level by EA, Defra and Ofwat, if our catchment along with others, are to meet the legally binding EU Water Environment (WFD) Regulations Targets by 2027.

We continue to advocate for and support working in partnership with our regulators, water companies, local authorities and other key players involved in progressing towards Good Status; however, there are fundamental gaps in national policy, major resourcing issues at a local level and diluted authority given to decision-making authorities, that require addressing to truly meet the targets of Good Status for our catchment and continue to generate support towards this from the wider partnership.

We would like to see our Regional EA team (Herts & North London), County Council and Local Authorities, WINEP delivery teams at the water companies and others, better supported by Central Government, DEFRA and OFWAT, so they can fully help meet our collective ambitions for our priority chalk streams and their wider catchments.

We would urge you to consider the following points (overleaf) in more detail and start a more constructive dialogue between our/other catchment partnerships, local regulators and decision-making authorities and national policy-making teams.

We would welcome an opportunity to discuss these key issues with you in more detail and find a way forward, such that the work of our Catchment Partnership will be able to more robustly improve our water bodies going forwards.

Yours sincerely,

**Sarah Perry**, River Catchment Coordinator – [sarah.perry@hmwt.org](mailto:sarah.perry@hmwt.org)

**Chloe Edwards**, Director of Nature Recovery – [chloe.edwards@hmwt.org](mailto:chloe.edwards@hmwt.org)

Problem	Remedial action needed
---------	------------------------

<p>1. Experience with RBMP3's shortcomings highlight clearly that the key problem is EA not being adequately resourced to deliver the inputs to the RBMP process that is urgently and essentially needed. Unfortunately, the EA's staffing levels due to retention, recruitment and resourcing problems now appear to be even worse than ever – making it very difficult to deliver efficient integrated measures that are desperately needed for RBMP4 to succeed.</p>	<p>We would welcome EA Directors and Defra providing additional resources at catchment level to develop and deliver RBMP4.</p> <p>We also ask that they give a clear positive signal about the importance of this work to encourage new recruits and existing committed staff. The costs of such proper catchment management are a small % of the high £bns costs of tackling current water problems which make seeking most efficient solutions at catchment level particularly important.</p>
<p>2. We all live in a highly constrained world. The Autumn Statement's tight constraints on Departmental spending makes this even more challenging for Regional EA teams. At present Defra are reverting to setting ad hoc silo based national targets for specific problems that lead to prioritisation by default with little or no consideration of local concerns or of environmental outcomes – see point 3 below concerning situation for Thames Water's environmental expenditures in their draft Business Plan.</p>	<p>Defra and EA need a coherent, systematic and evidence-based prioritisation process for addressing reasons for failure. This needs to be bottom up through EA's catchment management for RBMP4 – not the current top down process. Thus, we would ask that EA systematically report WFD reasons for failure to identify and assess the cost-effectiveness of options to tackle them. Partnership hosts could then lead a consultation on EA's draft findings on 3 categories of options: those that are evidently worthwhile to be pursued; those that are evidently too costly; and a middle rump of critical contentious options on which EA and the partnership should focus on appraising in RBMP4.</p>
<p>3. Thames Water's environmental expenditures in their draft Business Plan are dominated by reductions in their current unacceptably high level of sewage overflows. This is crowding out other necessary improvements that are required to achieve good status related to water sector operations, for example phosphate reductions at smaller sewage treatment works in headwaters or use of nature-based solutions to address issues resulting from sewage treatment works which are often excluded in place of traditional built solutions.</p>	<p>We would urge OFWAT and Defra to reconsider how it sets priorities and sanctions investment through Business Plans to ensure that a more integrated approach to catchment management is delivered through RBMP4.</p> <p>Solutions to address reasons for failure in headwaters <u>must</u> be prioritised and steer given by DEFRA and OFWAT to developing water company plans in AMP8 and AMP9, if we are to achieve good status. These waterbodies are overlooked re. phosphate limit setting, as the critical threshold of connected domestic properties is not often reached at rural sewage works. In our region, these works are located in the most ecologically sensitive reaches of our chalk streams.</p> <p>We also ask that nature-based solutions are pushed for and prioritised in Business Plans,</p>

	<p>based on the added social, climate and environmental benefits they bring (over and above traditional built solutions). We recognise they may not always be the cheapest option upfront but urge you to appraise and consider the savings the offer in other ways e.g. flood prevention or carbon sequestration.</p>
<p>4. Justice Holgate, in his review of the application by Wild Fish, Marine Conservation Society, Richard Haward’s Oysters Ltd (Mersea) and Hugo Tagholm (<a href="https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2023/2285.html&amp;query=(WILD)+AND+(FISH)">https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2023/2285.html&amp;query=(WILD)+AND+(FISH)</a>), reported that 60% of investigated sewage overflows were caused by lack of hydraulic capacity (para 15) notably due to increase in population and use of impermeable paving (para 17).</p> <p>TW’s evident unacceptable sewage overflow discharges are due in part to TW’s failure to provide adequate extra infrastructure to cater for the recent large housing developments.</p> <p>TW’s draft Business Plan includes £355m for the costs of additional STW capacity to cater for increased population. Similarly, recent housing developments have caused significant increased water supply costs – as Affinity Water alluded to.</p>	<p>TW and Affinity should engage in schedule 13 discussions with the developers to recoup these additional costs for STW and water supplies through charges for major housing developments in their areas – as the recent revised NPPF encourages LPAs to enable water companies to do (<a href="https://www.gov.uk/government/publications/national-planning-policy-framework--2">https://www.gov.uk/government/publications/national-planning-policy-framework--2</a> Paras 34 and 174e)</p> <p>For TW’s additional STW costs, this would amount to about £8,800 per new house, which is not excessive. We would welcome Defra and Department for Levelling Up, Housing &amp; Communities making a clear policy commitment that these costs should be borne by developers not water customers (as at present).</p> <p>We would encourage DEFRA, OFWAT and EA to urge Government to revise Planning Policy, such that it closes the gap that currently exists between Local Planning Authorities and Water Authorities being able to effectively manage development in relation to water security within closed catchment systems. This should be through clauses to ensure development bears the cost of additional <u>sustainable</u> water supply/treatment, ideally incorporating NbS, and policy which ensures no net-loss to aquifer recharge in chalk based catchments, for example through mandating “permeable” developments.</p>
<p>5. OEP stated that “there may have been failures to comply with environmental law by all three of the public authorities” (Defra, EA and Ofwat). Therefore, Wild Fish has written formally asserting that the Environment Agency must urgently review pollution permits and that OFWAT must enforce the 1994 law against failing water</p>	<p>As a result of this inquiry, EA’s regional staff will now need to revise TW’s discharge permits where there are high levels of sewage overflows. They need to be adequately resourced for this additional work, including associated monitoring and proper analysis of reasons for failures. We feel this can and should be funded separately by cost recovery charges on TW.</p>

<p>companies (<a href="https://wildfish.org/latest-news/wildfish-puts-ofwat-and-the-environment-agency-on-notice/">https://wildfish.org/latest-news/wildfish-puts-ofwat-and-the-environment-agency-on-notice/</a>)</p> <p>TW and Affinity said at our meeting that they could not devote money to tackling a problem if it was not in their permit, but the WINEP process should essentially be designed to ensure that EA's (proposed) changes to permits address effectively and efficiently the key environmental problems, such that investment to address failures can be enabled.</p>	<p>We would welcome Defra and EA Directors to allow area staff to levy such increased charges to cover this additional essential work to sort out the permits. This will also require Ofwat agreeing that these costs should be treated as allowable expenditures in TW's Business Plan.</p>
<p>6. WFD classifications are often based on one or two point-scale assessments that we feel do not always fully reflect the true condition of the waterbody at the reach scale, as with morphology classifications for example (described in our letter above).</p> <p>Additionally, some WFD element classifications are missing entirely so the partnership cannot track progress against these or unlock investment opportunities if indeed these elements are also failing.</p> <p>The assessment for hydrological regime only takes account of the water sector impacts to flow (via discharge / abstraction) and gives a classification based solely on this activity. Whilst we agree with the need to quantify the impacts of abstraction on waterbodies, the way in which this is currently measured misses the interaction of other factors such as, crucially, land use and climate change on aquifer fed systems. For example, 2 of our waterbodies are classed as "supporting good" hydrology regimes, when there is minimal flow for the majority of the year, simply because abstraction is not deemed as an impact in that reach. This misses the ability to drive change in other sectors impacting flow and crucially recharge,</p>	<p>Following calls within the Chalk Stream Strategy (2021) and subsequent working group conversations, we urge DEFRA and EA Directors to <u>undertake a review of the methodologies behind WFD classification</u> setting, in partnership with the Chalk Stream Strategy working groups, to ensure that methods / locations for monitoring and the targets set to drive change and investment are still relevant, accurate and where possible, can take account of verified third party data to help inform classification setting.</p> <p>We especially ask that hydrology indicators in chalk catchments are reviewed to support a move towards permitting abstraction licenses as a % of aquifer recharge, and environmental flow indicators are revised, such that abstraction is moderated and our chalk streams can flex in response to climate change and land use challenges that aren't taken account of in current WFD assessments for flow.</p> <p>We urge EA and DEFRA Directors to help unlock additional investment into local EA teams, especially Integrated Environmental Planning and Environmental Monitoring teams, to be able to undertake WFD data reviews and catchment monitoring more frequently and systematically cover each element in every waterbody.</p>

<p>for example Local Planning that reduces catchment permeability.</p>	
<p>7. Whilst we welcomed the EAs attempt to make the RBMP3 cycle classifications data more readily available online through the Catchment Data Explorer, for the Partnership's non-specialist audience, it is still very difficult to interpret the state of the rivers using this resource.</p> <p>There is much nuance between the overall WFD classification for a waterbody and how the individual elements are performing, that is not always easy to pull out or compare due to inconsistent classification of elements (some missing, others not truly reflective of real-world scenarios, see point 6). Linked to this, EA do not currently accept robust third-party data from partners which could assist in generating WFD classifications that are reflective of true conditions at a reach scale and which are easy to interpret, though we appreciate there is a move towards incorporating this data to improve confidences in reasons for not achieving good in our region.</p>	<p>We encourage DEFRA / EA to engage with catchment partnerships and at a national level to find an easier way of displaying clear, interpretable and comparable data, that can be used for public engagement and generating buy-in easily. This should include a means of showing progress with improving the status of underlying elements, such as fish or phosphate, in order to demonstrate that despite limited improvements in overall status, there is a positive direction of travel in the status of individual elements. Without this, there is a risk of stakeholder disengagement, as the overall picture will appear to be one of massive investment and effort but no ecological improvement.</p> <p>An opportunity to explore how this can work in practice could be via working with the Catchment Systems Thinking Co-Operative project (hosted by Rivers Trust and delivered locally across 11 pilot catchments, including ours) to find a way to configure EA systems and processes to accept third party data and evidence that can be used to better develop SMART RBMPs and support overall classification setting in future.</p>