

Supplementary Planning Guidance Note 5: Nature and Development

Post Consultation Version – May 2015

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Objective

'Maintaining and restoring the natural environment will play a fundamental role in sustaining our collective future. People's connection with nature can increase their health and well being, one of the ranges of social, economic and environmental services provided by the natural environment without which society could not function. Planning for new and existing communities provides real opportunities to protect and enhance the intrinsic and practical value of the natural environment whilst responding to specific challenges posed by climate change. Thinking about nature should be the starting point of good planning, and is an essential component of delivering sustainable development.

It is important to recognise the value of the natural environment in planning for our future, not least because of the crucial role it plays in sustaining human life. The natural environment delivers essential 'ecosystem services' (life support systems) such as the recycling of air and water; capturing and storing carbon in peat, woodland and soil; flood protection; and waste purification – along with many others.

The natural environment underpins our economy, providing an enormous range of products and services worth many billions of pounds to local, regional and national economies. In addition, a well-planned and managed natural environment is key in shaping the character and quality of places in which people live and work.

Finally, the natural environment is fundamental to human well being. Contact with nature and active recreational use of natural green spaces contributes to people's psychological well being and physical health – and so helps to reduce sick days, increasing business productivity and staff retention. Nature is a valuable resource for the whole community, providing opportunities for learning, artistic expression, spiritual refreshment, research, outdoor education, exploration, recreation, exercise and play.'

Taken from Planning for a healthy environment – good practice guidance for green infrastructure and biodiversity (July 2012), Town & Country Planning Association & The Wildlife Trust.

1. INTRODUCTION

- 1.1 This Supplementary Planning Guidance (SPG) is intended to provide clear guidance on how ecology and biodiversity should be assessed within the planning process.
- 1.2 It provides advice as to how the ecology and biodiversity of a site can be conserved and enhanced through the development process addressing statutory duties and social responsibilities.
- 1.3 This Supplementary Planning Guidance (SPG) is a material consideration to be used by applicants, developers and the Town Planning Division to assess whether planning applications comply with national policy and the Merthyr Tydfil Local Development Plan (2006 – 2021). Merthyr Tydfil County Borough Council actively promotes the consideration of biodiversity by all relevant planning proposals.
- 1.4 The aim of this SPG is to:
 - 🦇 Provide clarity to developers, statutory consultees, local residents and other stakeholders involved with ecology/ biodiversity and the planning and development process.
 - 🦇 Minimise the cost to development and streamline the application process by ensuring nature conservation implications are factored in at the earliest stages, are as predictable as possible, and that only relevant development proposals are affected;
 - 🦇 Ensure that local planning decisions maintain, restore and enhance biodiversity in Merthyr Tydfil;
 - 🦇 Ensure that the key principles of national planning guidance on biodiversity and nature conservation are fully met at the local level;
 - 🦇 Ensure best practice is followed consistently and openly;
 - 🦇 Integrate Merthyr Tydfil's Local Biodiversity Action Plan into the planning process and identify pathways for delivery.



2. WHAT IS BIODIVERSITY?

- 2.1 “‘Biodiversity’ is the term applied to the variety of life on earth and is short for biological diversity. It describes the richness and variety of all living things, from the smallest microscopic organism to the largest tree....’ (Welsh Government Planning Policy Guidance, Technical Advice Note 5: Nature Conservation and Planning, Para. 1.4.2)
- 2.2 ‘Biodiversity is important in its own right and essential to maintain the life support systems that allow life, including human life, to exist on the planet. Wildlife and its habitats are of fundamental importance to our future well-being and prosperity because a rich and diverse environment supports a long-term sustainable economy and contributes to a healthier and happier society. Biodiversity is an important indicator of sustainable development.’ (Welsh Government Planning Policy Guidance, Technical Advice Note 5: Nature Conservation and Planning, Para. 1.4.2 & 1.5.1).
- 2.3 The Welsh Government (WG) has selected the status of priority habitats and species as a headline indicator, providing a measure of national progress towards sustainable development. Future development in Merthyr Tydfil County Borough will play a key role in ensuring that the range, quality and distribution of habitats and species will increase.



3. POLICY CONTEXT

3.1 National policy, guidance and legal requirements directly influence the biodiversity and nature conservation policy within Merthyr Tydfil. The key principles to consider are:

- The local planning authority has a statutory duty to have regard to biodiversity conservation (NERC Act 2006)
- The local planning authority is expected to promote approaches to development that create new opportunities to enhance biodiversity, prevent losses and compensate for those losses that are unavoidable (Planning Policy Wales, 2014)
- Certain sites, habitats and species are afforded legal protection. The Council has an obligation to protect and promote their long-term conservation as part of the planning process.

3.2 The key legislation within which the Council undertakes its responsibilities as a local planning authority in respect of biodiversity issues can be found in Appendix 1 of this document.

National Planning Policy

Planning Policy Wales, Edition 7 (July 2014)

3.3 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TAN) and Circulars which together comprise national planning policy which should be taken into account by local planning authorities in Wales in the preparation of development plans and assessment of planning applications. <http://wales.gov.uk/docs/desh/publications/140303planning-policy-wales-edition-6-en.pdf>)

Technical Advice Note 5: Nature Conservation and Planning (2009)

3.4 This Supplementary Planning Guidance should be read in conjunction with TAN 5 (available on WG website - <http://wales.gov.uk/docs/desh/policy/100730tan5en.pdf>). It provides further advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.

Merthyr Tydfil Local Development Plan, 2006 – 2021 (Adopted May 2011)

3.5 Local planning policy context for ecology and biodiversity is provided in the Council's adopted Local Development Plan (LDP) of most relevance are LDP policies BW5: Nature conservation, and AS6: Local nature conservation designations. These relevant policies read as follows:

LDP Policy BW5: Natural heritage

The Council will protect and support the enhancement of the County Borough's distinctive natural heritage. Development proposals will only be permitted where they maintain, enhance or do not cause harm to:-

- *the landscape character of the countryside;*
- *national and local nature conservation designations;*

- *trees, woodlands and hedgerows that have natural heritage value or contribute to the character and amenity of an area; and*
- *other biodiversity interests, including protected and priority species and ecological networks.*

LDP Policy AS6: Local nature conservation designations

Using published scientific criteria, Sites of Importance for Nature Conservation have been designated as shown on the LDP Proposals Map. Applications for development affecting these sites and /or the Cwm Taf Fechan Local Nature Reserve, will not be permitted unless full account has been taken of the relevant features so as to prevent damage to their conservation value. Where appropriate, planning conditions or a planning agreement will be employed to safeguard and /or enhance features, or to provide appropriate mitigation and /or compensatory measures.

Supplementary Planning Guidance Note, No 4: Sustainable Design (Adopted July 2013)

- 3.6 Although biodiversity is not the main focus of the sustainable design SPG, it recognises that Sustainable Urban Drainage Systems (SUDS), green roofs and green infrastructure support the enhancement of biodiversity and that such provision is an important consideration in achieving sustainability, through good design, whilst promoting biodiversity.

<http://www.merthyr.gov.uk/English/EnvironmentAndPlanning/Planning/Pages/PlanningPolicy.aspx>



4. PRE APPLICATION DISCUSSIONS & PROTECTED SPECIES / HABITATS

Building nature into developments – The Five Point Approach

- 4.1 The Royal Town Planning Institute (RTPI) has produced a *Planning for Biodiversity Good Practice Guide*, which contains a useful 5 point systematic approach to planning decisions that would help to contribute to biodiversity conservation and enhancement. This five point approach by the RTPI, incorporates the mitigation hierarchy endorsed by the Chartered Institute of Ecology and Environmental Management (CIEEM), of avoidance, mitigation, compensation and enhancement. Both approaches ensure that biodiversity is fully considered during the development process so that positive gains can be made.

RTPI Five Point Approach to Planning Decisions for Biodiversity

- i. **Adequate Information** – Is more information about the site's biological resource needed? Is more detail about the development and its potential effects needed? Is the significance of the effects clear? Is there internal or external expertise that can help to inform the decision?
- ii. **Avoidance of Harm** – Have all adverse effects on wildlife species and habitats been avoided wherever possible?
- iii. **Mitigation (to minimise unavoidable harm)** – Where adverse effects are unavoidable, can they be minimised by appropriate mitigation measures that can be included in conditions or planning obligations / agreements?
- iv. **Compensation (to offset residual harm)** – Where, despite mitigation, there will be residual adverse effects that mitigation cannot reduce further, have they been or can they be compensated by measures that try at least to offset the harm? Can the compensatory measures be guaranteed by condition or planning obligation/agreement?
- v. **New Benefits** – Are there opportunities to provide new benefits for wildlife, in addition to those proposals for mitigation or compensation measures, such as habitat creation or enhancement, and can these measures be secured through planning obligations/agreement?

An additional stage not included within the RTPI approach, but worthy of consideration within the development process (although it only comes into effect once planning permission has been granted, and enforced through condition) is:

- vi. **Management, Monitoring and Compliance** – The developer may be required to monitor the effectiveness of the agreed measures to enhance, maintain or compensate for biodiversity at the site or elsewhere, and to demonstrate how the management of the site will take place.

- 4.2 The above points should be evidenced as having been approached in a sequential order, with a point only being discounted once extensively researched, before the next point can be considered. If all potential negative impacts are designed out or avoided at an early stage of the

process then there is no need to proceed further along the five point approach. This will avoid unnecessary additional costs and time delays.

Adequate Information

- 4.3 For planning applications to be properly considered by the Council, applicants are required to submit sufficiently detailed information to enable the developments' impact on biodiversity interests to be assessed.
- 4.4 The level and detail of information required will depend on the nature and scale of the proposal and characteristics of the natural resource. At an early stage in the process it is recommended that discussions take place between the applicant and the Council's ecologist prior to an application being submitted.
- 4.5 Historical information may be obtained, where relevant, via the Local Records Centre for the area, currently the South East Wales Biodiversity Records Centre (SEWBReC) – www.sewbrec.org.uk
- 4.6 An applicant will be requested to supply additional information such as survey work if the initial information supplied with the application is insufficient. Where a survey highlights the need for more detailed information, the information will either be requested as part of the application or secured by condition. Assessments should be carried out by a qualified, suitably experienced environmental consultant using recognised methodology and at an appropriate time of the year. Additionally, some survey work and assessments may require protected species licenses from NRW, e.g. bats survey work.
- 4.7 Where an Environmental Statement is required under the Environmental Impact Assessment (EIA) Regulations 1999 or Habitats Regulations Appraisal is required under the Conservation of Habitats and Species Regulations 2010, Merthyr Tydfil CBC will, when requested, provide a scoping opinion as to the information required to determine the application. Natural Resources Wales must also be consulted regarding international and national statutory protected sites and protected species.

Q. Do I need environmental information? Yes. However, if you feel that this is unreasonable you should explain why.

Q. What happens if I don't give any environmental information that is necessary to determine the application? You will be asked to submit the relevant information and the application may be refused if this information is not received.

Avoidance

- 4.8 The primary objective of a scheme should be to **avoid negative impacts or harm** to important species and habitats, including designated sites, protected species and biodiversity priority

species during construction as well as operation. For example, if the development site includes a pond or existing hedgerow, try to incorporate these features into the proposed layout.



- 4.9 Consideration should also be given to maintaining and enhancing corridors and links between and to adjacent habitats, to prevent species becoming isolated and vulnerable.

Q. What if something can't be avoided? It is quite rare that all negative aspects cannot be avoided; where this is the case evidence that all alternative options have been explored will need to be submitted.

Mitigation

- 4.10 Where it has been evidenced that avoidance is not at all possible, then the design should aim to **mitigate** any negative impacts. Applicants should ensure that they take account of all the potential effects of a development and make sure that mitigation is appropriate to the situation.
- 4.11 Applicants should be aware that impacts can also extend beyond the site boundary, e.g. light pollution, noise pollution or impacts upon local water sources or the water table.
- 4.12 Negative impacts from a development have the potential to be disproportionately large compared to the scale of a proposed development, e.g. removing a hedgerow or line of trees could break up a bat feeding corridor, negatively affecting a breeding colony some distance from the development site.
- 4.13 The translocation of certain species, habitat or features can legally often only be considered when no other options exist; moving it from another part of the development site or to a receptor site in another area. This option should only be considered as a last resort and is not a preferred option due to the complexity of finding a suitable alternative site with similar characteristics and likelihood of unsuccessful attempts.

Q. What is mitigation? *Mitigation is minimising the impact of development, which can be achieved through carefully timing when works can take place, changing methods of construction or processes, or amending the design of development.*

Q. What if mitigation is not possible? *It is very rare that no mitigation is possible. The advice of a relevant professional should be sought or relevant guidance referred to. Mitigation normally consists of a mixture of development timing and low cost solutions.*



Compensation

4.14 When it is not possible to avoid or mitigate the loss or damage to natural habitats or species either on or off site **compensation** is required.

4.15 Before the option of compensation is considered, the Council will expect the applicant to demonstrate that all avoidance and mitigation options have been considered, and why these options are not achievable. It will be necessary to establish compensatory features *before* development itself begins.





Q. What is compensation? *Compensation either restores or recreates the wildlife feature damaged by a development, resulting in no net loss of habitat or species.*

4.16 Compensation is not considered by the Council to be an alternative to avoidance or mitigation, and where a habitat or feature is lost to development, a greater quantity of replacement 'like for like' compensation will be required at a minimum replacement ratio of 1:1.5 or 50% above the area to be replaced. This is because compensation is almost always not 100% successful.

4.17 On rare occasions compensation does not need to be provided on a 'like for like' basis, this being where the post-development site may not be appropriate for the habitat type. In these cases the replacement ratio may need to be much greater than 1:1.5 so as to guarantee net biodiversity gain. If you think 'non like for like' replacement is relevant to your planning application please contact the Council's ecologist to discuss the project on a case by case basis.

4.18 It takes time for new habitats and features to establish and become functional, with no certainty that it will ever achieve the nature conservation value of the original (e.g. hedgerows and ponds take time to establish). Compensation must be achievable within a reasonable timescale, typically less than 20 years.

4.19 There are primarily four types of habitat compensation:

-  **Habitat re-creation:** The recreation of an existing habitat lost to development.
-  **Habitat creation:** the creation of a new habitat.
-  **Habitat enhancement:** the enhancement of an existing habitat.
-  **Social / community enhancement measures:** improving the conservation value of a site through measures such as improved access, provision of interpretative facilities and encouraging wider community involvement.



An example of habitat compensation.

(Photo taken from www.wildlifetrusts.org)

4.20 The circumstances of each case will vary and warrant different forms or combination of compensatory treatment. Early discussion with the Council is recommended concerning the acceptability of possible compensatory packages.

4.21 **It should be noted that some habitats and features, such as ancient woodland, cannot be compensated for due to the uniqueness, richness and diversity of habitat and/or species within the area and the very long periods of time and uncertainties for establishment.**

4.22 The Council encourage the provision of new habitats and social/ community enhancement measures on new developments which do not adversely affect nature conservation interests.

Q. How do I know if my compensation proposal is enough? *The advice of a relevant professional should be sought and/or relevant guidance referred to. Compensation must be achieved within a reasonable timescale, be sustainable and reflect what has been unavoidably lost; not a replacement of one feature for a different one.*

New Benefits and Enhancement

4.23 Some development proposals also offer an opportunity to create new benefits, which will be included in a planning condition or obligation.

4.24 Enhancement and the addition of new benefits is additional to any mitigation / compensation measures required as a result of the impact of development. Enhancements that contribute to the targets set out by Merthyr Tydfil CBC in its Local Biodiversity Action Plan (LBAP) will be welcomed.



4.25 Suitable enhancement measures will vary in scale and from site to site; and will therefore be considered on a case by case basis. Examples of enhancement measures include:

- 🌿 Bird boxes for protected or priority species such as barn owls, swifts or house sparrows;
- 🌿 Provision for bats, such as open soffit boxes or access to loft spaces;
- 🌿 A reptile and amphibian hibernaculum;
- 🌿 Planting of native species hedgerow;
- 🌿 Landscaping your garden to include native hedgerows, trees and wildflower areas;
- 🌿 Creation of a wildlife pond or bog garden;
- 🌿 Establishment of a wildflower meadow area;
- 🌿 Creation of a log pile or rock pile;
- 🌿 Planting a native woodland area or copse;
- 🌿 Creation of a connecting wildlife corridor or linear feature for wildlife movement; or
- 🌿 Creation of buffer zones along water courses planted with native species of local provenance.

Q. What new benefits could I offer? *New benefits should be sustainable and assist in delivering the Merthyr Tydfil Biodiversity Action Plan (MTBAP) where possible. Contact the Council's Ecologist or an independent consultant.*

Management, Monitoring and Compliance

4.26 In some instances a management plan will need to be produced and submitted as part of the conditions attached to the planning permission. As a minimum, a management plan should

cover at least the five years following completion of a development and ideally plan for longer term management and maintenance of the site.

Use of the five point approach

4.27 Planning applications clearly evidencing the use of the ‘five point approach’ are more likely to proceed through the planning process more efficiently than those which do not provide such evidence.

4.28 In the first instance, priority should be given to the avoidance of impacts at source, whether through the redesign of a project or by regulating the timing or location of activities. If it is not possible to avoid significant negative impacts, consideration should be given to ways of minimising the impacts by change of design, timing or working practices, ideally to the point that they are no longer **significant**. If this is not possible, but the project is permitted, offsetting measures involving some form of habitat compensation will be appropriate, but it should be designed to meet ecological objectives that will deliver measures that specifically address the negative impacts that are predicted.






“To facilitate the efficient and timely processing of planning applications developers should ensure that applications are carefully prepared with all relevant information included and all material considerations addressed in the layout, design and related access, drainage and infrastructure. Landscaping proposals should be included together with any measures designated to avoid, mitigate or compensate for potential adverse effects on nature conservation. Any proposals for enhancement of nature conservation interests should also be included. These matters should not normally be left for later submission under conditions imposed on any permission given, because they will be material to the determination of whether planning permission should be granted.” (TAN 5, Para. 4.3.2)

5. SURVEY REQUIREMENTS


- 5.1 Where it is reasonably likely for proposals to impact on a designated site, a protected or priority habitat or species, an ecological survey and impact assessment must be provided together with the standard application forms and information (please note further surveys may be requested as part of the process):

Report Requirements - all reports must provide sufficient information for the local planning authority to fully consider the impacts of a proposed development. A report must address two requirements:

1. An assessment of the site through ecological survey(s) and assessment of ecological impacts, including:

-  A description of the proposed development – together with a plan; stating existing wildlife features and site history (e.g. ownership, general land use at present and any planning history for the site).
-  Whether there are any statutory or non statutory nature conservation designations that could be affected by the proposal, potential impacts and proposed mitigation measures;
-  Information as to the extent, scope and methodology of the survey(s) being undertaken;
-  A description of the natural resource, including:
 - Protected species;
 - Any statutory / non statutory nature conservation designations/ UK and Local BAP habitats;
 - Survey material showing the location and type of trees, hedgerow, water features, streams and drainage ditches;
 - The timing of any surveys required for key species.
-  Where appropriate, a statement and plans indicating the name and location of species and / or habitats identified on site (and where necessary those identified adjacent or close to the site – indirect effects).

2. Measures to avoid, mitigate, compensate, enhance and manage wildlife features.

-  A report evidencing why avoidance of negative impacts is not possible before providing a strategy that details mitigation and compensation proposals.
 - A work schedule (preferably to include maps and a diagram showing phasing / timing or works);
 - Where appropriate, a statement and plans indicating details of protection measures during site construction – for example reference to British Standard Specifications;
 - Where appropriate, a statement and plans indicating compensatory or mitigating measures proposed – including details and timing of proposed habitat creation or habitat enhancement works;
 - A statement outlining the future management plan (and where appropriate, monitoring arrangements) for the natural resource – including details of ownership and proposed maintenance regime. This may be in the form of a standalone 'Management Plan'.

- 5.2 Guidelines for Ecological Impact Assessment in the United should be followed, particularly on larger or complex planning applications and those with large environmental impacts including those requiring EIA. Where CIEEM methodologies or other methodologies are used in part or mixed with other methodologies this is generally unacceptable and significant delays may occur due to inconsistency of approach. Any such newly developed methodologies should be explained including reasoning and impacts.
- 5.3 If there is a need to carry out surveys, impact assessments, method statements and mitigation or enhancement strategies to be included with the application and suitably qualified person must be employed to do so.
- 5.4 Ecological surveys are seasonal, so should be carried out at an appropriate month of the year and time of day – please refer to the table at Appendix 2 which shows the best times of year to conduct survey work relevant to specific species.

Q. What is CIEEM? This acronym stands for the 'Chartered Institute of Ecology and Environmental Management'.

6. PROTECTED SPECIES, DESIGNATED SITES & HABITATS

Protected Species

- 6.1 Legislation in the United Kingdom provides for the protection of certain species of wild plants, birds and animals at all times; some species of bird are only protected at certain times of the year, while certain methods of capturing and killing wild animals and birds are prohibited.

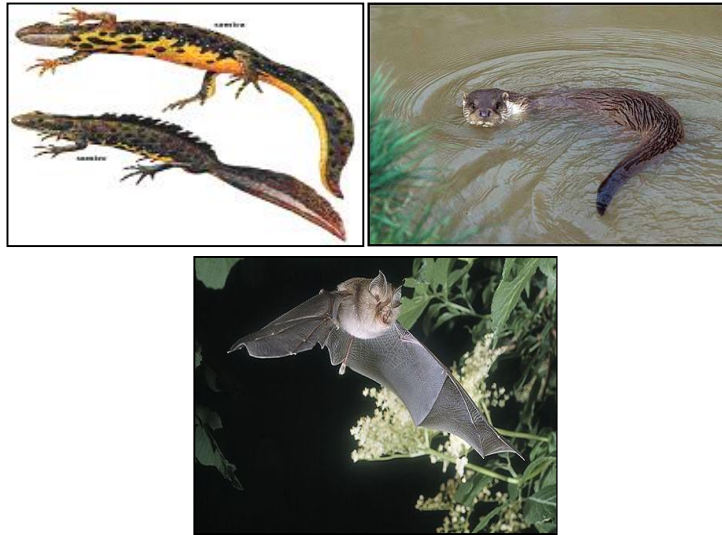
Certain species are afforded special protection because of their “*vulnerable conservation status, for example because they are endangered or are suffering decline in numbers or range, either within the context of the UK or the European Community, or because they can be the victims of persecution or cruelty (such as that inflicted on badgers or the collection of eggs of birds). The species are protected under legislation that is independent of, but closely related to, the town planning legislation in Wales*”. TAN 5, Para. 6.1.1.

- 6.2 It is important to consider that mobile species frequently range beyond designated sites or sites where they are known to breed, roost, rest or hibernate. These species may equally be dependent upon more extensive foraging, hunting or feeding areas (for example barn owls and greater horseshoe bats).

European Protected Species (EPS)

- 6.3 European Protected Species are animals and plants that receive protection under the EU Habitats Directive, 1992, transposed into UK law via the Conservation of Habitats and Species Regulations 2010 (as amended); additional protection is afforded via the Wildlife and Countryside Act 1981 (as amended). For an up to date list of European Protected species please refer to the above regulations which are amended every few years.
- 6.4 There are a number of European protected species present in Merthyr Tydfil. If a proposal is reasonably likely to affect a European protected species, the developer will need to submit a survey and then may need to apply to Natural Resources Wales (NRW) for a ‘development or derogation licence’ before any work on site can begin. The application for a license must be made by the developer after planning permission has been granted. However the LPA must consider whether such a license will be granted and must consult with NRW at an early stage. Where a license is unlikely to be granted planning permission will be refused.
- 6.5 Where guidance exists on the need, extent and quality of surveys or any subsequent recommendations the Local Authority will use these to inform decision making; e.g. Bat Surveys Good Practice Guidelines; Bat Conservation Trust 2012
- 6.6 European Protected Species which are historically occurring in Merthyr Tydfil are:
- Great Crested Newt
 - Otter
 - Several species of bats.

The local ecology and the known distribution of these species in Merthyr Tydfil can be found by contacting the Ecology officer.



TL – Great Crested Newt; TR – Otter. B - Bat

Q. How will I know if protected species are likely to live on, or use my site?

The Ecologist or Biodiversity Officer at the local authority will be able to inform you of the likelihood of the presence of protected species in your area. It is in your interest, as the applicant, to make enquiries with the Council before a planning application is submitted; this way, if protected species are likely to be present on site, you can commission specialist surveys and reports, which can be submitted with your planning application.

Q. If bats or newts are found on site will it stop development? *It is possible that the discovery of protected species on a site could temporarily delay planning permission being granted or halt development whilst the appropriate surveys, reports and mitigation solutions are produced and submitted to the Council for approval.*

6.7 Whilst a Licensed Ecologist is a useful guide, submitted reports must also be of sufficient quality and contain sufficient evidence for the Local Authority Ecologist to make scientific judgments or provide further guidance.

6.8 The statutory duty regarding European Protected Species is stricter than for locally protected species, so the Council expects guidance to be closely followed, providing not just survey work, but also an explanation/ plan of mitigation and compensation measures. The process as set out in Section 5 of this report should be adhered to.

6.9 Where it is reasonably likely that indirect impacts of development will affect European Protected Species off site, an assessment of indirect impacts will be required to be submitted with the application.

UK Protected Species

- 6.10 A number of species of plants and animals that are not protected by EU legislation are protected under UK / Welsh legislation. The 'List of the Species and Habitats of Principal Importance in Wales' comprises the list of species and habitats identified by the National Assembly for Wales as being of principal importance for the purposes of conserving biological diversity, also known as the 'Section 42 List for Wales'. This list can be found at the following link: <http://www.biodiversitywales.org.uk/en-GB/Section-42-Lists>
- 6.11 The Wildlife and Countryside Act, 1981 (as amended) contains several schedules which give varying levels of protection to certain species of plants and animals:
- Schedule 1 lists certain species of birds which it is an offence to disturb, damage or destroy
 - Schedule 5 affords differing degrees of protection to other animals.
 - Schedule 8 affords protection to certain species of plants.
- 6.12 Offences range from the sale of certain animals and plants to intentionally killing or injuring some species.

Planning Applications and Protected Species

- 6.13 The presence of a protected species does not necessarily prohibit development, but proposals for development must be carefully assessed for their effect on those protected species at that location or within close proximity. It will be necessary for these applications to be accompanied by appropriate specialist reports / ecological surveys confirming whether a protected species is present, an assessment of its distribution across the site, and an assessment of the likely impact of development on the protected species.
- 6.14 The consideration of the presence of protected species (under European or UK Legislation) is a material consideration in every planning decision that may result in disturbance or harm to the species or its habitat. This type of activity must be carried out under an NRW Derogation License. **Further information on protected species can be found within PPW (Chapter 5, para. 5.5.11-5.5.12) and TAN 5 (Chapter 6 and Annex 7).**

"For all planning applications likely to result in disturbance or harm to a protected species or likely to have a significant adverse effect on sites of more than local importance, or on a designated area, local planning authorities should seek the advice of Natural Resources Wales and should always consult them before granting permission." PPW, Para. 5.5.4

- 6.15 Local planning authorities must always consider whether environmental issues could be adequately addressed by modifying the development proposal or by attaching appropriate planning conditions or obligations. Where this is not possible and the adverse effect on the environment clearly outweighs other material considerations the development should be refused.' (PPW. Para. 5.5.3).

Planning Applications and Other Plant / Animal Species

- 6.16 There are some species of plants and animals that are not protected species but are still afforded some protection and should be given consideration during development.

Q. How do I find out which plants and animals are protected or require consideration during the planning process? Appendix 1, of this document, provides a series of links to relevant documents that contain up-to date lists of plant and animal species that are afforded protection. The lists are subject to change on a regular basis; therefore, it is important to refer to these documents every time you are planning a development that has potential to effect biodiversity and ecology.

European Protected Sites

- 6.17 Merthyr Tydfil does not have any European Protected Sites (EPS), such as 'Special Protection Areas' (SPA's), 'Special Areas of Conservation' (SAC's) or Ramsar sites.
- 6.18 Despite no European Protected Sites being present in the County Borough, the Authority has a duty, under the Habitats Regulations (Part IV), to consider all potential impacts of a development on an EPS, even if the development is not within the protected area. Whilst this scenario is unlikely, certain developments due to their scale and/ or type may negatively impact these protected sites, either directly or in combination with other factors; therefore, it should be clearly demonstrated that adequate consideration has been given to the potential for indirect impacts.

Nationally Designated Sites

- 6.19 Sites of Special Scientific Interest (SSSI's) are a *Statutory Nature Conservation Designation* and are of national importance. A duty is placed upon all public bodies, (by the Wildlife & Countryside Act, 1981, as amended by the Countryside & Rights of Way Act 2000) to *'take reasonable steps... to further the conservation and enhancement of the features by reason of which a SSSI is of special interest.'* (PPW, Para 5.5.8).

"... There is a **presumption against development** likely to damage a SSSI. Before authorising operations likely to damage any of the notified features on a SSSI, local planning authorities must give notice of the proposed operations to Natural Resources Wales, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions." (PPW, Para. 5.5.8)

F.A.Q's

Q. How do I know if my property or land is within a SSSI?

All SSSI's within the County Borough are illustrated on the Council's Local Development Plan Proposals Map. This map can be viewed by visiting the Council's Planning Department, or can be viewed on-line via the Council's website at the following link:

<http://www.merthyr.gov.uk/English/EnvironmentAndPlanning/Planning/Pages/LocalDevelopmentFramework.aspx>

- 6.20 Within Wales there are two *Statutory Landscape Designations* – National Parks and Areas of Outstanding Natural Beauty (AONB's).
- 6.21 Approximately one fifth of Merthyr Tydfil County Borough lies within the Brecon Beacons National Park, (this area being within the planning control of the Brecon Beacons National Park Authority), leaving some 8,668 hectares of land under the planning control of Merthyr Tydfil County Borough Council.
- 6.22 At present, there are no AONB's within Merthyr Tydfil CBC.
- 6.23 Although there are no *Statutory Landscape Designations* within the County Borough there is a duty to have regard to the potential effect an activity or development could have on National Parks and/ or AONB's, whether those activities lie within or outside the designated areas.

Locally Designated Sites

- 6.24 Non statutory designations are often referred to as locally designated sites. Within Merthyr Tydfil the most commonly found local designation is a 'Site of Interest for Nature Conservation', (SINC).
- 6.25 Although, non statutory, "these sites have an important role to play in meeting biodiversity targets and contributing to the quality of life and well-being of the community. ..." (TAN 5: Nature Conservation & Planning, 2009).
- 6.26 The impact of development on locally designated sites is a material consideration in planning decisions, with the nature conservation interests for which they have been designated taken into account.

Locally designated sites 'should not unduly restrict acceptable development.'
(PPW, Para. 5.3.11)

Q. What if my development site contains a SINC, or has the potential to affect a neighbouring SINC? Where locally designated sites, such as a SINC, may be affected, developers should consult the local planning authority and Wildlife Trust and / or Local Records Centre to agree the information that will be required to assess the implications of the development and any mitigation and compensatory measures necessary. It is important to remember that these sites can potentially be affected in a positive way by developments contributing to the wider ecological network or habitat mosaics.

Q. How do I find out if my land is within a SINC? All SINC's within the County Borough are illustrated on the Council's Local Development Plan Proposals Map. This map can be viewed by visiting the Council's planning department, or on-line via:
<http://www.merthyr.gov.uk/English/EnvironmentAndPlanning/Planning/Pages/LocalDevelopmentFramework.aspx>

Indirect Impacts

6.27 Both protected species and protected sites, of all levels, can be affected either in a negative or positive manner.

6.28 The potential harm of indirect impacts should not be under-estimated; particularly the negative impacts upon SSSI's can be significant, with the potential for irreversible damage to be high. Developers must demonstrate consideration and provide sufficient evidence to show that a proposal will not have a significant indirect impact upon a SSSI, other protected sites, or species.

"Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. New developments for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitat Directive... ." PPW, Para. 5.5.12

6.29 TAN 5: Nature Conservation and Planning, Para. 4.2.1, provides the following guidance:

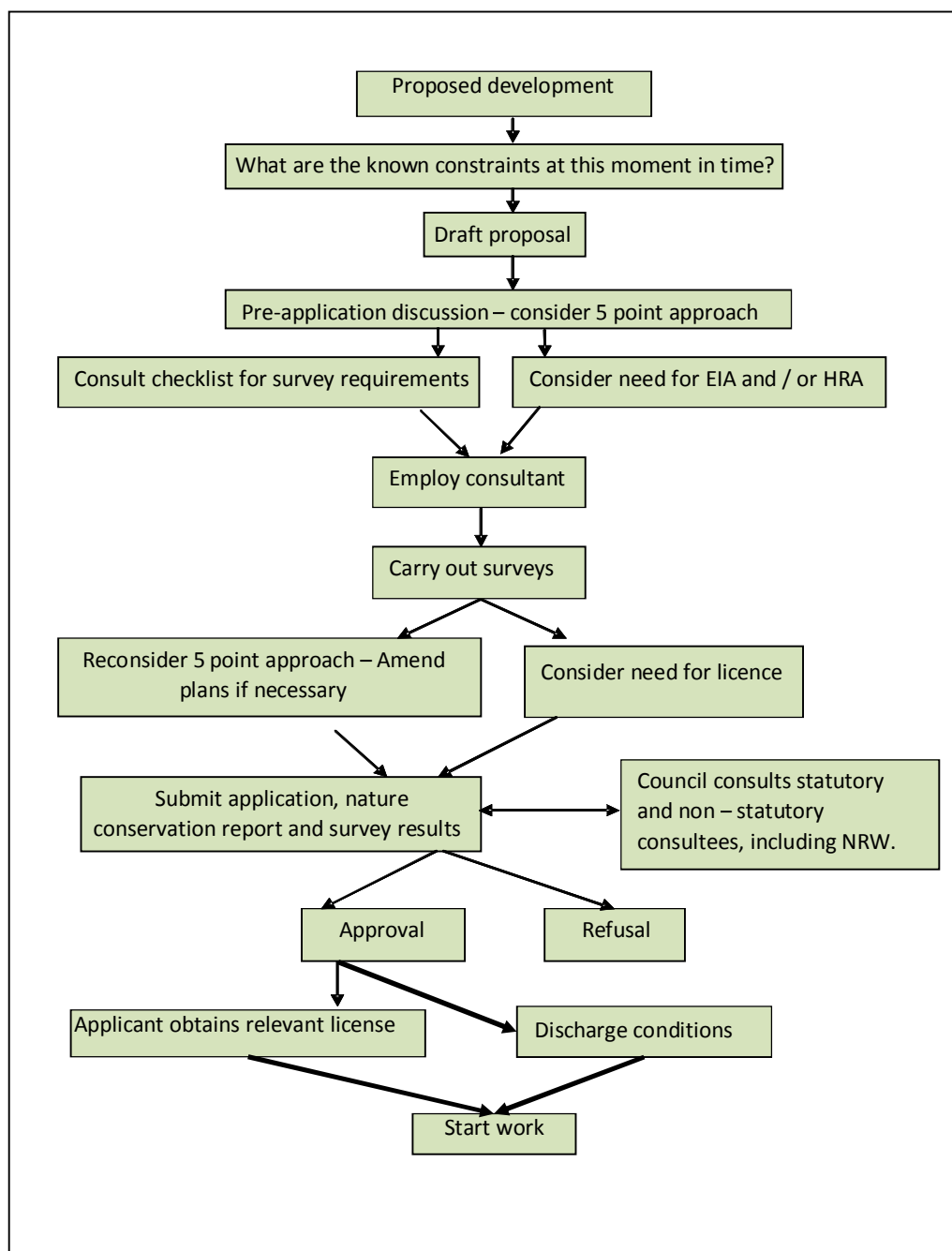
'... It is essential that all potentially important nature conservation issues (including effects on international, national and local sites, European and other protected species, organisms and habitats listed under section 42 of the Natural Environment and Rural Communities Act, UK BAP habitats and species, and coastal and inland waters and other wetlands) are identified and fully addressed at the earliest stages of preparing a planning application. Ignoring or inadequately addressing the potential of a development to affect important wildlife habitats or species could lead to

delay in the processing of the application or refusal of permission. In some cases it could delay or even prevent implementation of a planning permission, for example, where a protected species is found on a development site after work has started.'

7. GOOD PRACTICE FLOW CHART.

7.1 The flow chart outlines the most time-efficient and cost-effective method of ensuring that a planning application will proceed as smoothly as possible.

7.2 It should be used as a 'quick reference' check list by applicants submitting planning applications that have the potential to affect ecology to ensure that consideration has been given to biodiversity and ecology.



8. INVASIVE SPECIES

What are (non native) invasive species?

- 8.1 Non native invasive species (animal or plant) are those that occur outside their natural range due to direct or indirect introduction by humans, with ability to spread causing damage to the environment, the economy, our health and the way we live.
- 8.2 On a global level non-native species are considered to be one of the main threats to biodiversity, second only to habitat destruction. Invasive plants have few animals that feed upon them in their new homes, they provide little or no food to the local fauna, and this gives them a competitive advantage over native flora. As a result invasive plants can rapidly out-compete native flora in a variety of habitats and impact adversely on biodiversity.
- 8.3 Some examples of invasive species are listed below, along with links to other sources of information for each species:

This list is not exclusive and only provides examples of various invasive species that exist.

Japanese Knotweed (*Fallopia japonica*) -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296930/LIT_2695_df1209.pdf

Himalayan Balsam (*Impatiens glandulifera*) -

<http://rhs.org.uk/advice/profile?pid=480>

Giant Hogweed (*Heracleum mantegazzianum*) -

<http://www.rhs.org.uk/advice/profile?PID=458>




What to do if non native invasive species are found on site?

- 8.4 It is important to identify the presence of invasive species on a development site as early as possible, as some species such as Japanese Knotweed can take time to successfully eradicate.
- 8.5 Where invasive species have been identified on site, the applicant will be required to provide information on how they will be treated; invasive species are known to significantly impact upon biodiversity and some can be damaging to the built development on a site.

It is an offence to allow certain invasive species to spread into the wild under the Wildlife and Countryside Act 1981 and waste containing Japanese knotweed is controlled under Section 34 of the Environment Protection Act 1990.

- 8.6 Invasive species listed under Part II of the Schedule 9 Wildlife and Countryside Act 1981 are also subject to Section 34 of Environmental Protection Act (1990) and are classified as 'controlled waste'. Consequently they should be disposed of at a licensed landfill site under the EPA (Duty of Care) Regulations (1991).

Summary table of the three most common invasive species found in Merthyr Tydfil.

	Japanese Knotweed	Himalayan Balsam	Giant Hogweed
Original Native Habitat	Japan & south east Asia	Western & Central Himalayas	Caucasus Mountains – Southern Russia and Georgia
Picture of species			
Introduced to the UK	Introduced to the UK in the nineteenth century- has been growing wild in Wales for approximately 20 years.	First introduced to the UK by plant collectors in the early nineteenth century.	First introduced to the UK in the late nineteenth century as an ornamental plant.
Preferred habitats in UK	Widespread throughout the SE Wales region; particularly found on riverbanks, roadside verges and wasteland.	Widespread throughout the SE Wales region; particularly on riverbanks; common on road verges & waste ground.	Widespread throughout the SE Wales region; particularly common on river banks.
Key Identification features	<p>Stems – Approx 2-3 metres in length, hollow and green / purple / red in colour, with regular nodes. New growth appears in early spring.</p> <p>Leaves – Green in colour and appear in an alternative zig-zag pattern along the stem.</p> <p>Flowers – Produced between late July/ August until October with creamy white flowers that form drooping clusters.</p> <p>Rhizome – Extensive rhizome network extending as far as 3m in depth and 7m laterally.</p>	<p>Stems – Joined, green/ red in appearance.</p> <p>Leaves – Dark green in colour with reddish mid rib along the centre and a fine serrated edge.</p> <p>Flowers – Trumpet shaped, sweet scented pink / white flowers, produced between July – October.</p> <p>Seeds – Seed pods hang on stalks, when ripe they burst.</p>	<p>Stems – Approx 5m in length with green, red or purple blotches with fine sharp bristles.</p> <p>Leaves – Dark green rosette pattern with jiggered / serrated edges, and fine bristles on the underside.</p> <p>Flowers – Produced in mid-summer in a large umbrella shaped flower head with several hundred flowers per head.</p> <p>Seeds – Each plant is capable of producing 80,000 seeds, dispersed by water or wind and remain viable for up to 15 years.</p>
Aim of Controls	The aim of all forms of control is to prevent the spread and eradication of Japanese Knotweed.	The aim of all controls is to prevent the plant flowering and setting seed.	The aim of all controls is to prevent the plant flowering and setting seed.
Mechanical control	*Please see footnote. Mechanical methods of controlling Japanese Knotweed are not the most effective, as they can take in excess of 10yrs for control to be achieved.	Cutting or pulling up the plant, before flowering, can be an effective form of control. This must be done year after year until no new growth is present.	Cutting stems with a sharp object to prevent flowering can be effective. Strimming is NOT advised to prevent contamination from the sap. Plants can be dug up providing care is

	When cutting or pulling, consideration should be given to its disposal. Alternatively, large scale on-site excavations to remove all rhizome material then appropriate treatment applied – can be costly and not always feasible.		taken not to come into contact with the sap.
Chemical control	<i>* Please see footnote.</i> Herbicide treatment generally takes 3 seasons to be successful. Following treatment rhizomes can remain dormant for significant period of time. If treatment is near a water course then NRW need to be contacted for approval.	Herbicide application is very effective - if treatment is near a water course then NRW need to be contacted for approval. As with cutting or pulling, it is vital that herbicide treatment is completed before the plant has formed seeds and continues until no new growth is present.	Spraying is very effective when sprayed from March onwards. Annual treatments / monitoring may be needed due to the large number of seeds produced to avoid re-infestation. If treatment is near a water course then NRW need to be contacted for approval.
Legislation	It is an offense under the Wildlife Countryside Act 1981 to plant or cause to grow wild any plant listed in schedule nine, part two of the act. Japanese Knotweed, Himalayan Balsam and Giant hogweed are on this list.		
CAUTION	-	-	Contact with any part of this plant must be avoided as even a small amount of sap on the skin will result in severe blistering occurring between 12-48hrs after exposure.

Source: 'A guide to identifying, locating & controlling invasive species' - WG

****All waste from Knotweed including plant and root material must be disposed of as special or controlled waste under the Environmental Protection Act, 1990, and the Environmental Protection Act Duty of Care Regulations, 1991.***

Q. Where can you dispose of invasive species in Merthyr Tydfil?

Invasive (plant) species can be disposed by Biffa Waste Services at the Trecatti Site, Merthyr Tydfil. A minimum 24hr notice is required to arrange disposal.

Q. Why do I have to dispose of Japanese Knotweed at controlled sites?

Japanese Knotweed is easily spread from small sections of rhizome. It is an offence to cause it to spread and grow in the wild so it must be disposed of responsibly at a Council approved site; the overall aim is to eradicate it completely.

Q. What do I need to do if I think there is Japanese Knotweed on my development site? *Before any works are undertaken on site, including moving any earth, the site needs to be surveyed to confirm the presence of the knotweed and the distribution of it. A copy of this survey then needs to be sent to the Local Planning Authority (LPA). Should Japanese Knotweed be confirmed on site then a management plan for its eradication should be submitted to, and approved by the LPA prior to the commencement of work on site, and the approved scheme shall be implemented prior to the occupation of the building(s).*

9. FURTHER INFORMATION AND ADVICE

9.1 Copies of this guidance and other relevant documents can be downloaded from the Council's website at www.merthyr.gov.uk

9.2 Further information and advice on the content of this SPG or the Local Development Plan is available from:

Planning Policy and Implementation

Merthyr Tydfil County Borough Council

Unit 5 Triangle Business Park

Pentrebach

Merthyr Tydfil

CF48 4TQ

Tel: 01685 725278

E-mail: devplanning@merthyr.gov.uk

9.3 For information on national guidance please contact Welsh Government (WG):

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Tel: 0845 010 3300

E-mail: planning.division@wales.gsi.gov.uk

Or visit the WG website where all documents will be available in electronic form:

<http://wales.gov.uk/topics/planning/policy/?lang=en>

Appendices

Appendix 1 – Detailed Legislative Framework

Appendix 2 – Table illustrating the most appropriate time of year for Ecological Surveys

Appendix 3 – Glossary of Terms / Index of Abbreviations

Appendix 4 – Summary of Consultation Comments

Appendix 1 – Detailed Legislative Framework

Merthyr Tydfil Local Development Plan, 2006 – 2021 – Adopted May 2011

<http://www.merthyr.gov.uk/English/EnvironmentAndPlanning/Planning/Documents/MTCBC%20Adopted%20LDP%20-%20May%202011.pdf>

Designated Sites & Habitats

Many sites that are important for nature conservation have been designated under international conventions and national legislation; the UK is bound by the terms of the EC Birds and Habitats Directives and the Ramsar Convention. The Conservation (Natural Habitats &c.) Regulations 1994 (the Habitats Regulations) and the Offshore Marine Conservation (natural Habitats &c.) Regulations 2007 refer to 'European sites' and 'European Offshore Marine Sites'.

The key legislation within which the Council undertakes its responsibilities as local planning authority in respect of ecology and biodiversity issues are as follows:

-  **EU Habitats Directive 1992**
http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
-  **The Conservation of Habitats and Species Regulations 2010("The Habitat Regulations")(as amended)** <http://jncc.defra.gov.uk/page-1379>
-  **Wildlife and Countryside Act 1981 (as amended)**
<http://www.legislation.gov.uk/ukpga/1981/69>
-  **Natural Environment and Rural Communities Act 2006**
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
-  **Protection of Badgers Act 1992**
<http://www.legislation.gov.uk/ukpga/1992/51/contents>
-  **The Hedgerow Regulations 1997**
<http://www.legislation.gov.uk/uksi/1997/1160/contents/made>
-  **The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999.**
<http://www.legislation.gov.uk/uksi/1999/293/regulation/35/made>
-  **The Countryside and Rights of Way Act 2000**
<http://www.legislation.gov.uk/ukpga/2000/37/contents>

Natural Environment White Paper (Wales) – Towards the Sustainable Management of Wales Natural Resources (Consultation Draft 2014)

'The purpose of the Environment Bill is to provide a modern legislative framework that will enable a joined-up approach to managing our natural resources, as well as recognising their value and the opportunity they provide.' WG Environmental Bill White Paper Factsheet.

Ultimately, the aim is to manage Wales' natural resources for lasting economic and social benefits as well as environmental benefits, whilst stripping away any unnecessary complexity and simplifying the process.

The White Paper looks at four key themes:

- 🏡 Theme 1 – looks at joining up the existing statutory framework for natural resource planning and management in Wales.
- 🏡 Theme 2 – Considers proposals to ensure Natural Resources Wales has the right legislative tools to enable them to implement a joined up approach to natural resource management.
- 🏡 Theme 3 – sets out actions to ensure Wales’ natural resources are used to best effect and reduce waste.
- 🏡 Theme 4 - sets out proposals to simplify, streamline and clarify the law for a number of existing environmental regulatory regimes.
(Taken from WG Environmental Bill White Paper Factsheet)

British Standard Guidance: BS42020: 2013 (Biodiversity) – Code of Practice for Planning & Development.

The BS42020 is a standard developed by BSI in association with biodiversity experts and stakeholders from across all sectors. This British Standard gives recommendations and guidance for those in the planning and development and land use sectors whose work might affect or have implications for the conservation or enhancement of biodiversity. As such it is applicable to professionals working in the fields of ecology, land use planning, land management, architecture, civil engineering, landscape architecture, forestry, arboriculture, surveying, building and construction. It is not envisaged that all the recommendations of this standard will be applicable to every planning application in each jurisdiction, so a judgement has to be made as to which (sub) clauses of the standard apply in each case.

The standard seeks to promote transparency and consistency in the quality and appropriateness of ecological information submitted with planning applications and applications for other regulatory approvals; to give authorities and other regulatory bodies greater confidence in information when they consider proposals for development that potentially affects biodiversity; and promotes a good environmental legacy following development.

The Section 42 list of habitats and species of principal importance in Wales is the definitive list and is a key requirement of the NERC Biodiversity Duty. The list is a key reference for all statutory and non-statutory bodies involved in operations that affect biodiversity in Wales. The S42 list will be used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40 of the Natural Environment and Rural Communities Act 2006 “to have regard” to the conservation of biodiversity in all their activities.

Other useful documents:

Section 42 NERC Act 2006 <http://www.biodiversitywales.org.uk/en-GB/Section-42-lists>

Wildlife and Countryside Act, 1981 <http://www.legislation.gov.uk/ukpga/1981/69/contents> and amended by CROW Act 2000 <http://www.legislation.gov.uk/ukpga/2000/37/contents>

UK BAP Priority Species <http://incc.defra.gov.uk/page-5717>

UK BAP Priority Habitats <http://incc.defra.gov.uk/page-5718>

Merthyr Tydfil BAP 2014-2019

<http://www.merthyr.gov.uk/English/EnvironmentAndPlanning/Countryside/Documents/LBAP%202014-19%20final.pdf>

Useful summaries of multiple legislation protecting species are provided at: <http://jncc.defra.gov.uk/page-3408>

Appendix 2 - Table illustrating the most appropriate time of year for Ecological Surveys.

Ecology Survey Seasons												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Badger												
Bats (Hibernation Roosts)												
Bats (Summer Roosts)												
Bats (Foraging/ Commuting)												
Birds (Breeding)												
Birds (Over wintering)												
Dormice												
Great crested newts Terrestrial												
Great crested newts Aquatic												
Invertebrates												
Otters												
Reptiles												
Water voles												
White clawed crayfish												
Habitats/Vegetation												
		Optimal Survey time			Sub Optimal Survey time				Surveys not possible			

Appendix 3 - Glossary of Terms / Index of Abbreviations

BIODIVERSITY ACTION PLAN / LOCAL BIODIVERSITY ACTION PLAN (BAP/ LBAP)

BIODIVERSITY	Biodiversity is a term that describes the number and variety of species of plants, animals and other organisms within a habitat and also the diversity within an ecosystem.
BIODIVERSITY ACTION PLAN / LOCAL BIODIVERSITY ACTION PLAN (BAP / LBAP)	The UK's Biodiversity Action Plan recognises priority habitats and species and plans and works towards their conservation. Local biodiversity action plans are the mechanism for local delivery.
DEVELOPMENT LICENSE	Term used to refer to a protected species license (European or UK protected species) which needs to be obtained by the developer for the purposes of undertaking a development.
ENVIRONMENTAL IMPACT ASSESSMENT (EIA)	An EIA is an assessment undertaken by the developer which will identify the likely effects of new development on the environment (Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999).
EUROPEAN PROTECTED SPECIES (EPS)	Animals and plants that receive protection under the Conservation of Habitats and Species Regulations 2010, in addition to the Wildlife and Countryside Act 1981 (as amended)
HABITAT	A place in which a particular plant or animal lives. Often used in the wider sense referring to major assemblages of plants or animals together; the place or type of site where an organism or population naturally occurs.
INSTITUTE OF ECOLOGY & ENVIRONMENTAL MANAGEMENT (IEEM)	IEEM is the non- profit professional body which represents and supports ecologists and environmental managers in the UK and abroad.
NATURAL RESOURCES WALES (NRW)	NRW has taken over the functions of the former Countryside Council for Wales, Environment Agency and the Forestry Commission Wales. NRW act as the principal adviser to the Welsh Government on the environment.
PLANNING POLICY WALES (PPW)	Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs).
RAMSAR SITE	RAMSAR sites are wetlands of international importance designated under the Ramsar Convention.
SECTION 42 'PRIORITY HABITATS & SPECIES'	Habitats and species on this list have been identified by WG to be of principal importance for nature conservation in Wales. These are listed on S42 of the Natural Environment and Rural Communities Act 2006. The list is a key reference for all statutory and no statutory bodies involved in operations that affect biodiversity in Wales.
LOCAL NATURE RESERVE	Local Nature Reserves are non statutory, can only be designated by a local authority and are designated for their natural features that are of specific interest to their local area, and offer opportunities for conservation and education, quiet enjoyment and public appreciation of nature.
LOCAL PLANNING AUTHORITY	A local planning authority (LPA) is responsible for determining planning applications. An LPA is usually the city or borough council.

HABITAT REGULATIONS ASSESSMENT (HRA)	An assessment undertaken by a competent authority where a development proposal (alone or in combination with another plan or project) is likely to have a significant effect on a Natura 2000 site.
MITIGATION	Measures taken to avoid, cancel or reduce negative impacts.
NATURA 2000 SITE	Sites that are part of the Natura 2000 network have been designated to promote the long term survival of Europe's most vulnerable and threatened species and habitats. Special Areas of Conservation and Special Protection Areas form part of the Natura network.
SITE OF IMPORTANCE FOR NATURE CONSERVATION (SINC)	A locally designated, non statutory site of substantive nature conservation value. They are the most important places for wildlife outside legally protected land such as a site of Special Scientific Interest (SSSI), and their importance is significant in a more localised context than internationally or nationally designated sites.
SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)	A nationally designated site. A site identified under the Wildlife and Countryside Act 1981 as an area of special interest for wildlife or geological features.
SPECIAL AREA OF CONSERVATION (SAC)	An internationally designated site, designated under the EC Habitats Directive, to protect internationally important natural habitats and species.
SPECIAL PROTECTION AREA (SPA)	An internationally designated site, designated under the EC Habitats Directive on Wild Birds, to protect internationally important bird species.
SUPPLEMENTARY PLANNING GUIDANCE (SPG)	These documents reinforce the policies of the Local Development plan and provide clear in-depth guidance on planning and development issues.
TECHNICAL ADVICE NOTE 5 (TAN 5)	Technical Advice Note (TAN) 5 provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. (TAN 5, Para. 1.2.1)
UK BIODIVERSITY ACTION PLAN (UKBAP)	The UKBAP describes the biological resources of the UK and provides detailed plans for conservation of these resources, at national and devolved levels. The UKBAP was established by the UK Government to conserve biological diversity.
WELSH GOVERNMENT (WG)	The Welsh Government is the devolved Government for Wales. The Welsh Government consists of: The First Minister; Welsh Ministers; The Counsel General; and Deputy Ministers. They are supported by Civil Servants who work across devolved areas.

Appendix 4 - SUMMARY OF COMMENTS RECEIVED TO SPG CONSULTATION WITH COUNCIL'S RESPONSE IN EACH CASE

Representor: The Coal Authority

Issue: No specific comments to make on the document.

Council response: The Council welcomes The Coal Authority's consideration of the SPG.

Recommended changes: None.

Representor: Glamorgan Gwent Archaeological Trust (GGAT)

Issue: Consideration should be given to the potential harm to archaeological resources, including historical buildings that could be caused by ecological/ biodiversity enhancement or compensatory measures. The construction of ponds or wetlands could also negatively affect archaeological sites.

Council response: Whilst it is acknowledged that certain works have the potential to affect archaeological resources it is not deemed necessary to amend the SPG to reflect this specific topic area. Such matters would more appropriately be addressed in an SPG relating to archaeology and the historic environment, which would provide guidance on the way which local development plan policy *BW6: Townscape and built heritage* would be applied. It should also be noted that the presence of archaeologically sensitive areas or listed buildings would be identified during the application process and the appropriate measures taken.

Recommended changes: None.

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Paragraph 4.1 (vi Management, Monitoring and Compliance) – Delete '*The developer may ...*' and replace with '*The developer will ...*'.

Council response: The Council do not consider it appropriate to substitute 'may' for 'will' in this instance as the need to monitor enhancement and/or compensatory measures depends on the measures themselves, and needs to be considered on a case-by case basis.

Recommended changes: None

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Insert new heading entitled 'Pre-application Discussions' prior to Paragraph 4.4.

Council response: The insertion of a new heading would not be appropriate as this section of the SPG is following the format set out in the 'RTPI Five Point Approach' at Paragraph 4.1, of which pre-application discussions is not one of the five sequential points.

Recommended changes: None

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Paragraph 4.6 – Delete '*The applicant may ...*' and replace with '*The applicant will ...*'.

Council response: It is agreed that in this instance 'may' should be changed to 'will' in order to provide certainty to the applicant. It is also considered appropriate to amend the text of the sentence to clarify the approach that will be taken if survey work indicates a need for more detailed information.

Recommended changes: Amend paragraph 4.6 to read as follows: 'An applicant ~~may~~ **will** be requested to supply additional information such as survey work if the initial information supplied with the application is insufficient. ~~or if this~~ **Where a** survey highlights the need for more detailed information, **the information will either be requested as part of the application or secured by condition.** Assessment should be carried out by a qualified, suitably experienced environmental consultant using recognised methodology and at an appropriate time of the year. Additionally, some survey work and assessments may require protected species licenses from NRW, e.g. bat survey work.'

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: First sentence of Paragraph 4.7 - Delete '*MTCBC may ...*' and replace with '*MTCBC will ...*'.

Council response: To provide clarity and better reflect the statutory process in which a scoping opinion is provided by the Council, it is agreed that the sentence should be amended.

Recommended changes: Amend sentence to read as follows, 'Where an Environmental Statement is required under the Environmental Impact Assessment (EIA) Regulations 1999, or Habitats Regulations Appraisal is required under the Conservation of Habitats and Species Regulations 2010, Merthyr Tydfil CBC ~~may~~ **will, when requested**, provide a scoping opinion as to the information required to determine the application. Natural Resources Wales must also be consulted regarding international statutory protected sites and protected species.'

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: The answer to the second question within the box on page 8 should be amended from 'may not' to 'will not' be registered.

Council response: The Council has further reviewed this question and associated answer, and considered it necessary to amend both to provide greater clarity.

Recommended changes: Reword the question and answer as follows:

Q . What happens if I don't give any **environmental** information **that is necessary to determine the application?**

~~Your application may not be registered~~ You ~~will are likely to~~ be asked to submit the relevant information and the application may be refused if this information is not received.

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Paragraph 4.15, amend second sentence so that it reads 'It will be necessary to....' instead of 'It may be necessary to'.

Council response: The Council accepts the proposed change to the sentence as it will provide greater certainty.

Recommended changes: Amend second sentence as follows: '... It ~~may~~ **will** be necessary to establish compensatory features before development itself begins.'

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Consider replacing all other instances of 'may' with 'will' throughout the document, further to those specified above, to take a more assertive approach to nature conservation.

Council response: The SPG document was analysed for all occurrences of the word 'may' and consideration was given to the use of 'will' as a replacement. As a result, the Council considers it appropriate to amend the wording of the following paragraphs.

Recommended changes:

Amend paragraph 4.23 to read as follows: 'Some development proposals also offer an opportunity to create new benefits, which ~~may~~ **will** be included in a planning condition or obligation.'

Amend first sentence of paragraph 4.26 to read as follows: 'In some instances a management plan ~~may~~ **will** need to be produced and submitted as part of the conditions attached to the planning permission.'

Amend third sentence of paragraph 4.28 to read as follows: 'If this is not possible, but the project is permitted, offsetting measures involving some form of habitat ~~restoration or creation may~~ **compensation will** be appropriate, but it should be designed to meet ecological objectives that will deliver measures that specifically address the negative impacts that are predicted.'

Delete and reword paragraph 6.9 as follows: ~~'The indirect impacts of development that may affect European Protected Species off site, must also be a consideration; an Indirect Impacts Assessment may be required to be submitted with the application.'~~ **'Where it is reasonably likely that indirect**

impacts of development will affect European Protected Species off site, an assessment of indirect impacts will be required to be submitted with the application.'

Amend paragraph 8.5 to read as follows: 'Where invasive species have been identified on site, the applicant ~~may~~ will be required to provide information on how they will be treated; invasive species are known to significantly impact upon biodiversity and some can be damaging to the built development on a site.'

Representor: Cllr Tony Chaplin (Biodiversity Champion)

Issue: Consider replacing all instances of 'could' with 'should' throughout the document as to take a more assertive approach to nature conservation.

Council response: The SPG document was analysed for all occurrences of the word 'could' and consideration was given to the use of 'should' as a replacement; however, the Council does not consider it appropriate to change the wording of the document.

Recommended changes: None
