

Vale of Glamorgan **Local Development Plan** 2011 - 2026

# Biodiversity and Development



## Supplementary Planning Guidance

April 2018





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## **1. Introduction**

- 1.1. The Supplementary Planning Guidance (SPG) has been prepared to provide guidance and on how biodiversity in the Vale of Glamorgan will be conserved and enhanced throughout the planning and development process. The guidance will assist developers to meet the Council's proactive approach towards achieving a high quality natural environment and to address statutory duties and social responsibilities as required by statutory legislation and national policy.
- 1.2. The SPG draws on national planning policy in Planning Policy Wales (PPW) and other policy documents and the policies contained within the Adopted Vale of Glamorgan Local Development Plan 2011 – 2026 (LDP) which was adopted by the Council on the 28th June 2017. The SPG supports policies MG19, MG20, MG21 and MD9 of the LDP and supersedes the Council's previous Biodiversity and Development SPG (2010).



- 1.3. Specifically, the SPG aims to:

- Ensure that the key principles of national planning guidance on biodiversity and nature conservation are fully met at the local level and specifically that local planning decisions ensure that new developments maintain, enhance, restore or increase biodiversity in the Vale of Glamorgan;
- Ensure that best practice is followed in a consistent and open manner;
- Provide clarity to developers, statutory consultees, local residents and other stakeholders and interested parties involved with ecology / biodiversity and the planning and development process;
- Minimise delays and cost to developers by ensuring that nature conservation is incorporated into the planning process at the earliest

- stages so that impacts are predictable and only relevant development proposals are affected; and
- Ensure that any adverse impacts of developments undertaken today will not only protect biodiversity today, but will still be delivering environmental benefits in the future. Mitigation shall ensure that the developments are future-proof.
- 1.4. “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 (Technical Advice Note 5: Nature Conservation and Planning (September 2009), Para. 1.4.2). This SPG uses the term wildlife features, which include:
- Sites designated for their nature conservation interest;
  - Priority habitats and Species (Environment (Wales) Act 2016 (EWA) – Section 6);
  - Sites identified as locally important for wildlife (Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNRs))
  - Habitats that provide corridors or stepping stones across the landscape, such as hedgerows or networks of ponds. Ecological connectivity allows species to forage, migrate, colonise new areas and respond to habitat and climate change.
- 1.5. The SPG will be a material consideration in the determination of future planning applications and appeals in the Vale of Glamorgan.
- 1.6. The conservation and enhancement of biodiversity are key elements of sustainable development. Plants and animals and the places where they live, provide direct and indirect economic, social, aesthetic, cultural and spiritual benefits to everyone. The planning system can play an important role in nature conservation as the use and development of land can pose threats to the natural environment contributing to a loss of integrity of habitat networks through land take, fragmentation, severance, disturbance or other adverse impacts. However, development can also create significant opportunities to enhance wildlife habitats and features and facilitate the enjoyment and understanding of the natural heritage.
- 1.7. Conserving and restoring the nature that we have in Wales is an essential investment for everyone's quality of life in Wales. Taking action now, working in partnership, we can achieve real lasting benefits for this and future generations. Future development in the Vale of Glamorgan will play

a key role in ensuring that the condition and concentration of habitats and species is improving.

- 1.8. In Wales, the Welsh Government recognises that our well-being and the well-being of future generations is dependent upon the health of our environment and that the state of our natural environment and the nature it supports is a key test of whether we are learning to live sustainably. Through the policies contained within the LDP and the guidance contained herein supporting these policies the Council will seek to protect the biodiversity of the Vale of Glamorgan against inappropriate development. The Welsh Government has produced policy documents and legislation which sets out their commitment to the natural environment.
- 1.9. Wildlife features within Wales are protected by an extensive array of acts, legislation and policy as detailed in Tables 1, 2, & 3 and Appendix 1. Failure to comply with any of the requirements of these and to conserve and where appropriate enhance biodiversity during development may be an offense and subject to a range of penalties dependent upon the severity of the infringement and the details of the act, legislation or policy.
- 1.10. Following the guidance contained within the SPG and the other references detailed will ensure that biodiversity within the Vale of Glamorgan is preserved and where appropriate enhanced and that European, national and local legislation and policy is complied with.
- 1.11. Biodiversity in all its forms is a material consideration in the planning process and must be integrated from an early stage into the timetabling, design and delivery of development proposals.



## **2. Status of the guidance**

- 2.1. Only the policies of the adopted LDP can have the special status afforded by Section 38(6) of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the LDP unless material considerations indicate otherwise. The Welsh Government advises that SPG may be a material consideration provided it is consistent with the LDP, the weight afforded to it being increased if it is consistent with LDP policies and has been the subject of consultation.
- 2.2. This SPG supplements the policies contained within the Vale of Glamorgan LDP 2011 – 2026 which was adopted on the 28th June 2017 and is the principle policy document for the determination of planning applications for new development within the Vale of Glamorgan.
- 2.3. The SPG provides further detail and guidance on the implementation of LDP policy in order to assist those involved in the development process in meeting statutory and policy requirements in relation to development proposals that may adversely impact upon biodiversity within the Vale of Glamorgan. Draft guidance was approved for public consultation by Cabinet on the 18th December 2017 and the Council undertook a six week consultation exercise between Monday 22nd January and Friday 2nd March 2018 with the relevant documentation being made available at the main Council offices and on the Council's web site. The Council considered the representations received during the consultation exercise before finalising this document, which was approved by Cabinet on 16th April 2018. This guidance will now be a material consideration in relevant planning decisions.

### **3. Legislation and Policy Context**

3.1.1. National policy, guidance and legislation provide the framework for biodiversity and nature conservation policy within Vale of Glamorgan. These are listed below with a summary of the more relevant sections at Appendix 1. This is not an exhaustive list of all relevant legislation and policy and is intended as a guide.

3.1.2. The key principles to consider are:

- The local planning authority has a statutory duty to conserve and enhance biodiversity (EWA 2016);
- The local planning authority should promote an approach to development that creates new opportunities to enhance biodiversity, prevent losses and compensate for those losses that are unavoidable (PPW);
- 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. Legislation**

3.2.1. The **Well-being of Future Generations (Wales) Act 2015 (WFGA)** came into force in April 2015, and places a duty on the Council to think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. We must do what we do in a sustainable way, making sure that when making decisions we take into account the impact they could have on people living their lives in Wales in the future. The Act introduces seven Well-being Goals, the second of which 'A resilient Wales' seeks to maintain and enhance a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).

- 3.2.2. The **Planning (Wales) Act 2015** introduced a requirement for any statutory body carrying out a planning function to exercise those functions in accordance with the principles of sustainable development as set out in the WFGA 2015. As such the planning system is considered to be a key component in the delivery of sustainable development in Wales and in positively contribution to the well-being goals.
- 3.2.3. The **Environment (Wales) Act 2016 (EWA)** received Royal Assent in March 2016 and puts in place the legislation needed to plan and manage Wales' natural resources in a more proactive, sustainable and joined-up way. The Act introduces new legislation for the environment including the sustainable management of natural resources and climate change.
- 3.2.4. Selected sites, habitats and species are protected by various legislation and policy. Appendix 1 provides a summary of the primary legislation affecting biodiversity and more detail on the relevant national legislation and local policy guidance. Tables 1, 2 and 3 below provide information on the sites, habitats and species of importance within the Vale of Glamorgan and the relevant legislation and policy that seeks to protect them.
- 3.2.5. Infringement of the legislation invariably results in delays, additional costs and in many cases prosecution. Following the guidance contained within this document, best practice guidance and the advice of a competent consultant ecologist will help reduce delays and unexpected costs. Developers should be aware that legislation is independent of the planning system and they (and any contractors) remain responsible for compliance with the legislation both outside of the planning system and once planning permission has been granted.

**Table 1: Protection Sites**

	Importance	Feature	Legislation & Policy	Development Implications	Legal / Policy Requirements	Sites Within the Vale of Glamorgan
International Importance (LDP Policy MG18 refers) (See Appendix 2)	Special Area of Conservation (SAC)	The Conservation of Habitats and Species Regulations (as amended) (2010) [The Habitat Regulations]	The Conservation of Habitats and Species Regulations (as amended) (2010) [The Habitat Regulations] Sites collectively known as "Natura 2000 sites"	Sites are protected against potentially damaging operations. Strong presumption against damaging development.	Habitats Regulations Assessment (HRA) to be undertaken prior to determination of planning.	Dunraven Bay Severn Estuary Kenfig (adjoining)
					Development may require Environmental Impact Assessment (EIA)	Severn Estuary
	Ramsar "Wetland of International Importance"	Ramsar Convention (1971)			Development may require Environmental Impact Assessment (EIA) *See Appendix 2.	Severn Estuary
Sites	National Importance (LDP Policy MG20 refers)	Sites of Special Scientific Interest (SSSI)	Wildlife and Countryside Act 1981 (as amended)	Sites protected against potentially damaging operations. Strong presumption against development	Works may require consent from Natural Resources Wales (NRW)	27 within the Vale of Glamorgan. (See Appendix 7)
	Local Importance (LDP Policy MG21 refers)	Local Nature Reserves (LNR)	National Parks and Access to the Countryside Act (1949) or Wildlife and Countryside Act 1981 (as amended)	Sites to be protected and enhanced	Sites are a material planning consideration	Birch Wood, Barry Cliff Wood, Porthkerry Cosmeston Lakes CP Cwm Talwg, Barry
		SINCs *	PPW Edition 9 (Nov 2016) Vale of Glamorgan LDP 2011-2026			360 in the Vale of Glamorgan (See Appendix 8).

\* SINCs – even though these are identified locally and are generally of local importance, they may actually be of national importance, for example where the site meets the criteria for a SSSI.

**Table 2: Protection of Habitats**

	Importance	Feature	Legislation & Policy	Development Implications	Legal / Policy Requirements
<b>Habitats</b>	National / Local Importance (LDP Policy MG19 refers)	Hedgerows.	Hedgerows Regulations 1997.	Certain hedgerows are protected from removal. Hedgerows are to be protected and enhanced See also LBAP habitat and SINCs.	Hedgerows may require screening for Hedgerow Regulations protection.
	National / Local Importance (LDP Policy MG20 & MG21 refers)	Vale of Glamorgan LBAP.	N/A	Environment (Wales) Act 2016 Section 6.	Not legally underpinned.
		Habitats of Principal Importance for Conservation.	Environment (Wales) Act 2016 Section 7.	Habitats that must be maintained and enhanced.	Mitigation / compensation measures may be required.

**Table 3: Protection of Species**

	<b>Importance</b>	<b>Feature</b>	<b>Legislation &amp; Policy</b>	<b>Development Implications</b>	<b>Legal / Policy Requirements</b>
<b>Species</b>	International Importance (LDP Policy MG 19 refers)	European Protected Species  E.g. Bats (all UK Species), Dormouse, Otter, Great Crested Newt	Species listed on Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (as amended) (See also species for which international sites are designated (Annex 2 Habitats Directive) [under Sites])	Species are protected from killing, injury, capture and disturbance. Protection extends to habitat used as a breeding site or resting place.  Planning officers to undertake the "3 tests" at planning determination stage (See section 6).	A European Protected Species Development Licence is required from NRW in addition to any planning permission. (See EPS section)  Where it is unlikely that a licence will be granted, the local authority is duty-bound to refuse planning permission.
	National Importance (LDP Policy MG20 refers)	Badger	Protection of Badgers Act 1992	Badgers and their setts are protected against killing, injury, disturbance and damage / destruction of the sett.	A licence may be required from NRW to close or to interfere with a sett, or to cause disturbance
		Protected animals (not including birds).	Wildlife and Countryside Act 1981 (as amended) Schedule 5 (See Appendix 1)	Species have varying levels of protection.	This will depend on the level of protection and the level of impact of the development.
		Protected plants.	Wildlife and Countryside Act 1981 (as amended) Schedule 8 (See Appendix 1)		
		Bird Species	Wildlife and Countryside Act 1981 (as amended) Schedule 1 (See Appendix 1)  Conservation of Habitats and Species Regulations 2010 (as amended) Regulation 9A	All birds are protected while on, at or near a nest with dependent young or eggs. Or whilst the nest is being built.  Specific obligations on the LPA under the Regulations. LPA to ensure no net loss of habitat for birds in the UK.	Avoidance and mitigation measures required.
	National/Local Importance	Species of Principal Importance for Conservation	Environment (Wales) Act 2016 Section 7	Species that must be taken into consideration	Mitigation / Compensation measures may be required in planning proposals.

- 3.2.6. Information to assist developers on the wildlife features/biodiversity present on/at/within a site is available from a range of local and national sources. The Vale of Glamorgan LDP Proposals and Constraints Maps (available on the planning pages of the Council's web site) include details on SINCS, Natura 2000 sites (SPA/SAC/RAMSAR sites) and ancient woodlands.
- 3.2.7. Other sources of information include Natural Resources Wales (NRW) whose web site host a range of resources and information on protected sites and species including an interactive map and the South East Wales Biological Records Centre SEWBREC which holds information of known records of species / habitats and protected sites (see Useful Publications Section).

### **3.3. National Planning Policy and Guidance**

- 3.3.1. The planning process operates in parallel with the relevant environmental legislation and the importance afforded to biodiversity within national planning policy is reflected in the range of Welsh Government legislation and guidance. The primary objective of Welsh Government policy is to maintain and enhance biodiversity in Wales to ensure that it remains healthy, resilient and capable of adapting to change.
- 3.3.2. The Welsh Government's Nature Recovery Plan seeks to address the underlying causes of biodiversity loss by putting nature at the heart of our decision-making, by increasing the resilience of our natural systems (ecosystems), and by taking specific action for habitats and species. It sets out how Wales will deliver the commitments of the EU Biodiversity Strategy and the UN Convention on Biological Diversity to halt the decline in our biodiversity by 2020 and then reverse that decline.
- 3.3.3. Planning Policy Wales (PPW) - PPW sets out the land use planning policies of the WG. It is supplemented by a series of Technical Advice Notes (TANs) 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 the assessment of planning applications.
- 3.3.4. PPW supports 'sustainable development' which must 'enhance the natural and cultural environment and respect its limits'. PPW defines this further through describing the key elements of good design for new developments. The environmental sustainability, character and community

safety components are particularly relevant to green infrastructure. Paragraph 5.1.2 of PPW details the Welsh Government's objectives for the conservation and improvement of the natural heritage in Wales which are to:

- promote the conservation of landscape and biodiversity, in particular the conservation of native wildlife and habitats;
- ensure that action in Wales contributes to meeting international responsibilities and obligations for the natural environment;
- ensure that statutorily designated sites are properly protected and managed;
- safeguard protected species, and to
- promote the functions and benefits of soils, and in particular their function as a carbon store.

- 3.3.5. Paragraph 5.2.8 identifies that the planning system has an important part to play in meeting biodiversity objectives by promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable. Local planning authorities must address biodiversity issues, insofar as they relate to land use planning, in both development plans and development management decisions.
- 3.3.6. Technical Advice Note 5: Nature Conservation and Planning (September 2009) - TAN 5 Nature Conservation and Planning (2009): defines how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.

### **3.4. Local Planning Policy**

- 3.4.1. The adopted Vale of Glamorgan LDP 2011 – 2026 expands upon the principles set out in PPW and the objectives and policies of the plan seek to ensure that in line with national policy development proposals within the Vale of Glamorgan conserve and enhance biodiversity. The primary LDP objective, strategic policy and development management policy in respect of biodiversity are set out in full below.

**Objective 4: To protect and enhance the Vale of Glamorgan's historic, built, and natural environment.**

- 3.4.2. The historic, built and natural environment of the Vale of Glamorgan is highly valued by residents and visitors and includes European, National

and Local designations which provide local identity and distinctiveness and present opportunities for recreation and tourism. The LDP will ensure that these natural and built environmental assets are protected, conserved and where appropriate enhanced as an important resource for local people and which attract visitors and contributes to the local economy.

## **POLICY SP10 - BUILT AND NATURAL ENVIRONMENT**

Development proposals must preserve and where appropriate enhance the rich and diverse built and natural environment and heritage of the Vale of Glamorgan including:

1. The architectural and / or historic qualities of buildings or conservation areas, including locally listed buildings;
2. Historic landscapes, parks and gardens;
3. Special landscape areas;
4. The Glamorgan Heritage Coast;
5. Sites designated for their local, national and European nature conservation importance; and
6. Important archaeological and geological features.

## **MANAGING GROWTH POLICIES**

### **MG19 – SITES AND SPECIES OF EUROPEAN IMPORTANCE**

Development proposals likely to have a significant effect on a european site, when considered alone or in combination with other projects or plans will only be permitted where:

1. The proposal is directly connected with or necessary for the protection, enhancement and positive management of the site for conservation purpose; or
2. The proposal will not adversely affect the integrity of the site;
3. There is no alternative solution;

4. There are reasons of overriding public interest; and
5. Appropriate compensatory measures are secured.

Development proposals likely to have an adverse effect on a European protected species will only be permitted where:

1. There are reasons of overriding public interest;
2. There is no satisfactory alternative; and

The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

#### **MG20 – NATIONALLY PROTECTED SITES AND SPECIES**

Development likely to have an adverse effect either directly or indirectly on the conservation value of a site of special scientific interest will only be permitted where it is demonstrated that:

1. There is no suitable alternative to the proposed development; and
2. It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site; and
3. Appropriate compensatory measures are secured; or
4. The proposal contributes to the protection, enhancement or positive management of the site.

Development proposals likely to affect protected species will only be permitted where it is demonstrated that:

1. The population range and distribution of the species will not be adversely impacted;
2. There is no suitable alternative to the proposed development;

3. The benefits of the development clearly outweigh the adverse impacts on the protected species; and
4. Appropriate avoidance, mitigation and compensation measures are provided.

### **MG21 - SITES OF IMPORTANCE FOR NATURE CONSERVATION, REGIONALLY IMPORTANT GEOLOGICAL AND GEOMORPHOLOGICAL SITES AND PRIORITY HABITATS AND SPECIES.**

Development proposals likely to have an adverse impact on sites of importance for nature conservation or priority habitats and species will only be permitted where it can be demonstrated that:

1. The need for the development clearly outweighs the nature conservation value of the site;
2. Adverse impacts on nature conservation and geological features can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development conserves and where possible enhances biodiversity interests.

### **MANAGING DEVELOPMENT POLICIES**

#### **MD9 – PROMOTING BIODIVERSITY**

New development proposals will be required to conserve and where appropriate enhance biodiversity interests unless it can be demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site; and
  2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.
- 3.4.3. It should be noted that the LDP policies detailed above comprise the primary policies of the Vale of Glamorgan LDP relating to biodiversity.

Other policies within the plan may also include considerations of biodiversity issues within their policy assessment criteria but are not primarily biodiversity/ecological policies e.g. MG23 - Mineral Working (Including Oil and Gas Extraction). Dependent upon the nature of the development proposal, such policies may form a part of the Council's consideration of future planning applications. Therefore this SPG should be read alongside the LDP.

### **3.5. Supplementary Planning Guidance**

- 3.5.1. Supplementary Planning Guidance can be a material consideration in the determination of future planning applications where it is consistent with the adopted LDP and has been prepared following public consultation. The Vale of Glamorgan Council has produced a suite of SPG that may be used by the Council in determining planning applications and the following are particularly pertinent to Biodiversity.
- 3.5.2. The Council's **Planning Obligations SPG** provides clarification of where, what, when and how planning obligations will be sought to assist the Council in creating sustainable communities that provide social, economic, and environmental benefits. Appendix 6 provides details of the Council's requirements where development proposals adversely impact upon biodiversity interests as detailed in the Planning Obligations SPG. However in respect of biodiversity matters, this will usually require a bespoke site specific solution to mitigate biodiversity impacts.
- 3.5.3. The Council's **Trees and Development SPG** provides guidance on how trees and hedgerows should be considered in the development management process. The SPG outlines the contributions that trees, woodlands and hedgerows make to visual amenity, social well-being and tackling climate change as well as their role in providing vital habitats and enabling species connectivity.
- 3.5.4. To accord with the planning policies set out above, development must avoid any adverse impact on wildlife or biodiversity features on (or in close proximity to) a development site. When this is not possible, developers must be able to justify any adverse impacts and illustrate how the development has been designed to minimise the impact on biodiversity.

#### **4. Natural Resources Wales**

- 4.1. Natural Resources Wales (NRW) was established in 2013 through the amalgamation of the Countryside Council for Wales, the Forestry Commission Wales and the Environment Agency in Wales.
- 4.2. NRW is the principal adviser to the Welsh Government, and adviser to industry and the wider public and the voluntary sector on issues relating to the environment and its natural resources. NRW will be consulted on planning applications where biodiversity is an issue and their comments carry significant weight in the determination of planning applications and appeals.
- 4.3. As well as acting in an advisory role, NRW is the authority responsible for designating Sites of Special Scientific Interest – areas of particular value for their wildlife or geology, Areas of Outstanding Natural Beauty (AONBs) and National Parks, as well declaring National Nature Reserves and functions as the primary regulator in Wales which protects people and the environment including marine, forest and waste industries, and prosecutes those that breach the regulations that they are responsible for.
- 4.4. Where development proposals are likely to impact upon a designated site i.e. a Special Area of Conservation (SAC), a Special Protection Area (SPA) a RAMSAR site or a Site of Special Scientific Interest (SSSI), a developer may require separate consent or permission from NRW for the proposed development if designated sites or, protected species are likely to be affected (see Appendix 2). Case law (R. (Morge) v Hampshire CC [2011] Env. L.R. 19) has established that where a proposed development adversely impacts a European Protected Species (EPS) and where it is likely that NRW will not issue a licence, the Local Planning Authority is duty-bound to refuse planning permission.

## **5. Building Nature into Development**

### **5.1. Introduction**

- 5.1.1. Development proposals can frequently impact upon wildlife features. With sensitive and appropriate design the adverse impact of development proposals can be minimised and may even provide enhancements that benefit biodiversity.
- 5.1.2. Wildlife features can be found in many locations and on many types of site. While some sites are easily recognised as being likely to support a high level of biodiversity e.g. ancient woodland, wetlands, rivers and ponds, the relative value of others such as brownfield sites and hedgerows is less obvious.
- 5.1.3. Brownfield land is often perceived as barren wasteland with little or no wildlife or ecological value. In reality, brownfield land, especially that which has been left unmanaged for an extended period of time, can provide important habitat for a wide range of plant and animal species. In addition, in many towns and cities, such areas provide a network of diverse habitats that provide essential feeding and stopping off points for many other species.
- 5.1.4. Similarly certain types of development are not seen as effecting biodiversity e.g. demolition, whereas in reality the demolition of many structures can have adverse impacts upon biodiversity e.g. where buildings support a bat roost.

### **5.2. Pre-application Discussions**

- 5.2.1. Paragraph 4.2.1 of TAN 5 Nature Conservation & Planning and paragraph 5.5.1 of PPW encourage early consultation between developers, the local planning authority and statutory undertakers. This will ensure that any nature conservation issues are addressed in the early stages of a development proposal. Such discussions can help to identify whether ecological surveys will be required to support a planning application. Consideration of biodiversity interests are therefore best undertaken at the pre-application stage and the Council welcomes early discussion of ecological issues and would encourage similar early consultation with statutory advisors such as NRW. Early consideration will help to prevent avoidable delays that may otherwise be caused by the need for additional survey work and/or redesign.

- 5.2.2. Further information on the pre-application services offered by the Council is available on the planning pages of the Council's web site.
- 5.2.3. The potential for wildlife features to be affected by a development must be considered by applicants at the initial stage of any development proposal. Failure to do so may prevent a planning application from being validated or lead to delays in the planning process or indeed to the refusal of planning consent.

### **5.3. Planning Application**

- 5.3.1. All planning applications received by the Council will be subject to a standardised administration process.
- 5.3.2. Once formally registered, an application will be allocated to a planning officer by the appropriate team leader prior to the application being validated. The validation officer will check that all relevant information required to determine the application e.g. biodiversity surveys, has been submitted and that the application form has been completed correctly.

### **5.4. Validation**

- 5.4.1. The local planning authority will validate an application when it determines that all of the information necessary to fully assess the planning application and make an informed decision has been received. There are certain validation requirements for planning applications that are set out in the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2017, such as a correctly completed application form and the appropriate planning application fee, plans to an appropriate scale to describe the proposed development, and other information necessary to describe the application. More detailed information is available on the planning pages of the Council's web site.
- 5.4.2. If the Council considers that an application for planning permission does not comply with a validation requirement they must give a notice to the applicant informing them that the application is invalid (see Section 62 of the 1990 Act). This notice must identify the particular requirements in question and explain why the application does not comply with the validation requirements. Following the receipt of a notice that an application is invalid an applicant has a period of two weeks from the date

of the notice to either submit the required additional information or to submit an appeal against the invalidation of their application to the Welsh Ministers. More detailed information on the appeals procedure is available on the planning pages on the Council's web pages.

- 5.4.3. Where necessary due to the nature of the development or the site specific circumstances, a biodiversity survey and assessment is needed to support the application. Any planning application not supported by an appropriate biodiversity survey where one is required, or where any report submitted in support of the application recommends further survey work and this has not been undertaken, the Council may not validate the application, or may refuse the application for insufficient information.

### **Determination Process**

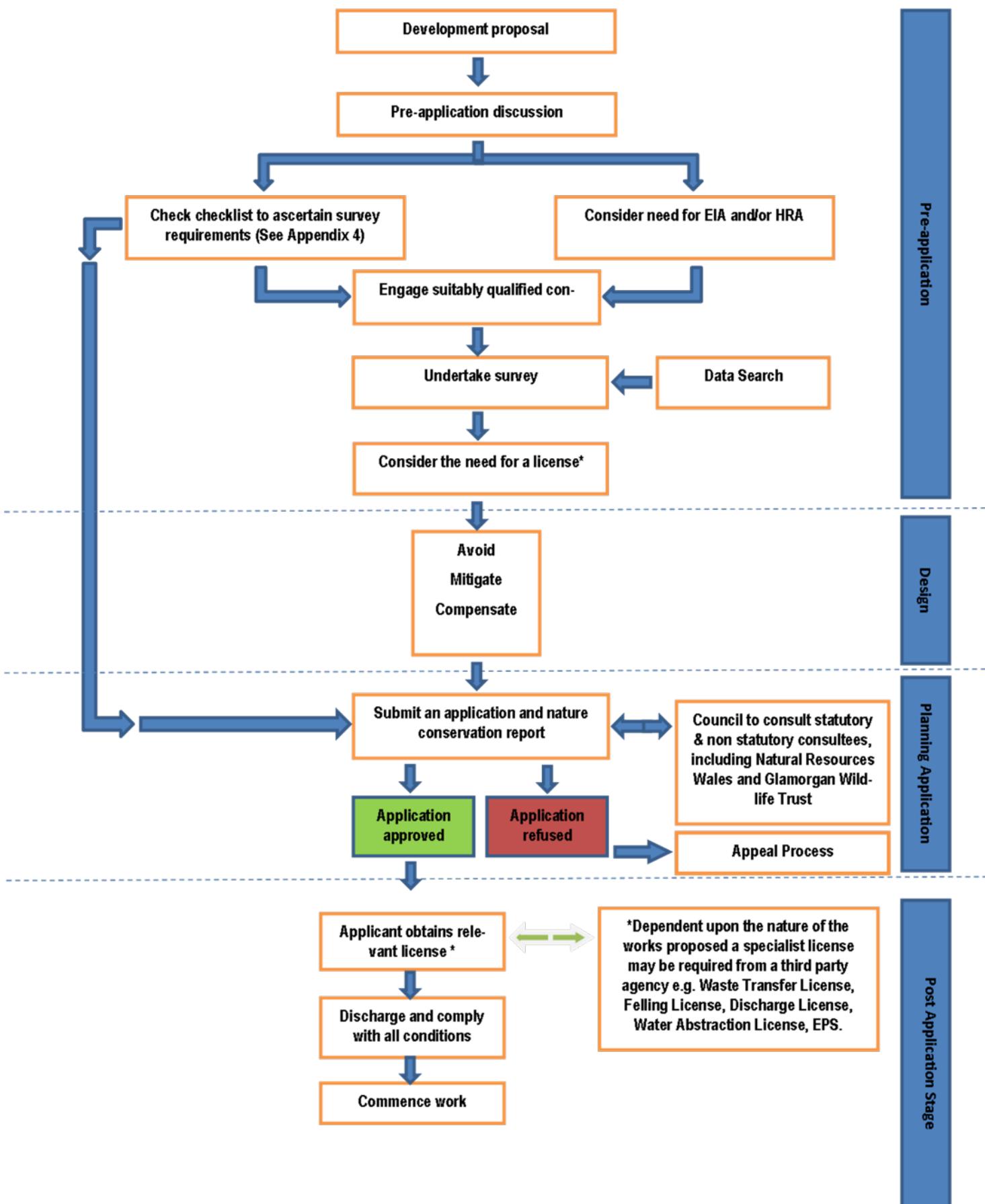
- 5.4.4. If, following consultation with the Council's ecologist and/or NRW, the Council identifies that further survey work is required or the reports submitted are considered to be inadequate, the Council will require further information to be submitted. If such an application is not supported by the necessary information or evidence to demonstrate that the LDP policies have been complied with and that biodiversity interest have been protected and where appropriate enhanced, it may be refused for lack of sufficient evidence. More information on the types of surveys that will be required is provided in Appendix 3.
- 5.4.5. Once the application has been validated it is then passed to the appointed planning case officer who will undertake all necessary consultations. In respect of biodiversity consultations will most likely include the Council ecologist, and where necessary statutory undertakers such as NRW, who will advise on whether the proposed works are likely to adversely impact on wildlife features.
- 5.4.6. Where issues are identified, the case officer and ecologist may seek amendments to the proposal or impose conditions on any approval to ensure the protection and continuation of the wildlife feature.
- 5.4.7. If planning conditions are attached to any approval, these will need to be fully complied with (discharged) if enforcement action is to be avoided. Planning conditions might include restrictions on certain operations to particular times of year, good practice during construction or enhancement or appropriate future management, maintenance and monitoring. If monitoring shows that management isn't being achieved then enforcement action may be taken to ensure appropriate measures are implemented.

- 5.4.8. If the Council considers that negative impacts on wildlife features outweigh other material considerations, the application will be refused.
- 5.4.9. Figure 1 outlines how ecological aspects should be incorporated into the planning application process from the outset.

## **5.5. Demolition**

- 5.5.1. Approval for the demolition of most buildings is required from the Local Planning Authority and is achieved by either indicating the demolition of a building(s) and gaining approval in conjunction with a planning application or by applying for 'prior notification'. Under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) a prior notification must be submitted to check whether the Council requires prior approval of the method of demolition and site restoration. This is in addition to any other forms of consent required for demolition such as Listed Building Consent, Conservation Area Consent or approval via a Demolition Notice.
- 5.5.2. Checks should be made prior to demolition to identify and define any biodiversity issues, such as the presence of protected species e.g. bats, the impact on which will need to be addressed prior to commencing demolition. In advance of any planned demolition of a building or structure, advice may be obtained from the Council's Ecologist on any requirements for surveys or precautions to be taken in respect of protected species. All UK bats are protected by European and UK legislation and it is an offence to disturb or destroy their habitat. Where protected species occur all of the statutory obligations and responsibilities relating to these, potentially including the need to obtain a licence from the NRW, will apply and must be resolved before demolition proceeds, otherwise a criminal offence may be committed (see EPS section below).

**Figure 1: Good Practice Guide**



## **6. Ecological Surveys and Supporting Information**

- 6.1. Where there is a reasonable likelihood for a development to impact on a wildlife feature, specific biodiversity surveys will need to be undertaken and provided in support of any planning application. There are a range of ecological surveys that could be undertaken however the survey type will generally depend upon the nature of the site and on what habitats or species may be found there. The survey information provided should be necessary, relevant and proportionate to the development and sufficient to enable the determination of the application.
- 6.2. The first survey undertaken will generally be a Preliminary Ecological Appraisal (PEA) or species specific survey for example for bats where a barn conversion is proposed; surveys for great crested newts where a development proposal might impact on an area of wetland or a badger survey where development might impinge on woodlands.
- 6.3. A PEA involves a desk based study and a general site walkover and can be undertaken throughout the year and identifies what further surveys may be required. However more detailed specific ecological surveys must be undertaken during certain times of the year as there are seasonal and time constraints to ecological surveying and Appendix 4 provides further information on when surveys should best be undertaken.
- 6.4. Appendix 3 provides a checklist of those applications that will generally require survey work and provides details of the information that will need to be considered during the design of the development and submitted with the planning application. Please note this is only guidance and it is recommended that the views of a professional ecologist are sought if you are in any doubt. Your ecologist will be able to advise whether ecological surveys are likely to be required.
- 6.5. If an ecological survey is required it will need to be undertaken and incorporated into the early stages of the project. This will enable design work to take full account of constraints and opportunities on-site. Survey information should include data from the Local Records Centre (SEWBREC) and use nationally recognised survey guidelines/methods where available. This information can be used to aid the decision of whether a species is likely to be present on a site however, it should be noted that an absence of proof is not a proof of absence and many species/records are not recorded or under recorded.

- 6.6. A suitably qualified ecological consultant will usually need to be employed to carry out any necessary survey(s). Although the Council is unable to provide specific recommendations on ecological consultants, the Chartered Institute of Ecology and Environmental Management (CIEEM, [www.cieem.org.uk](http://www.cieem.org.uk)) is one of the main bodies in the UK with a purpose to promote good practice and professionalism in ecology and membership of the organisation is a good indication that the person is suitably qualified to carry out ecological surveys to a high standard of competence. The CIEEM website has a directory of members which can be searched by region and specialism. In addition the Council's ecologist can provide details of consultants currently working in the area.
- 6.7. As for any work, you may wish to obtain quotes/advice from several companies before choosing one. It is also good practice to ensure that the ecologist you choose holds the appropriate licences for the work(s) in question. You are entitled to ask to see a copy of their licence before instructing them to work on your behalf. A good ecologist will be able to work with your architect/agent to streamline the process.
- 6.8. Surveys must be carried out to nationally accepted standards (this includes the correct methodology at the correct time of year, with appropriate equipment and qualified/experienced and, if necessary, licensed personnel). Any surveys that are not carried out to the appropriate standard, or are inadequate, or carried out at the wrong time of year will fail to demonstrate the likely presence or absence of a species or habitat at the site and the lack of appropriate information will not enable the LPA to make a fully informed decision against the relevant planning policies. It is also important to remember that ecological surveys have a 'shelf-life' and most ecological surveys will be considered to be out of date 2 years after they have been completed. Additional guidance on ecological surveys is available on the CIEEM website.
- 6.9. In some cases there may not be a reasonable likelihood for a wildlife feature to be affected by development. In these instances survey work will not be required – details of these exceptions, with caveats, are included in Appendix 3. Similarly in some instances the discussions between the local planning authority and the developer may lead to a requirement for additional or more detailed survey work.



## **7. Preparing an Ecological Report for a Planning Application**

7.1.1. All submitted 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:

- Assessment of the site through ecological survey(s) and assessment of ecological impacts of the proposed development; and
- Measures to avoid, mitigate, compensate, enhance and manage wildlife features.

7.1.2. It is recommended that ecological reports follow the guidelines prepared by the CIEEM which is available on their web site ([www.cieem.org.uk](http://www.cieem.org.uk)).

7.1.3. Reports should describe the methodology of the surveys, report factual results, and include a conclusion or discussion section. As a result of the findings, a 'Recommendations' section is often included within the report. However, if certain actions are required to mitigate or compensate the development, then these proposals should be written either separately or as part of the survey report in a new section. The actions being proposed (and committed to) must be written in the definitive form (i.e. the pond will be managed, the hedgerow will be retained....etc.). If this is not confirmed then the planning department are unable to accept this as mitigating the effects of the development. Writing in a definite form allows the commitments proposed by the developer to be unambiguous.

## **7.2. Report Requirements**

7.2.1. The Council considers the following to be the minimum reporting requirements. The report should:

- Include a summary of the proposed development, description of the site (including existing wildlife features), and site history (e.g. ownership, general land use, type of and need for the proposed development).
- Include a search for data from the South East Wales Biological Records Centre (SEWBREC) and/or any other relevant organisations. Information from SEWBREC is available by completing a Data Enquiry and Release Form which is available from the SEWBREC the web page.
- Include information on the extent, scope, and methodology of the survey(s) being undertaken.

- Be undertaken and prepared by competent persons with suitable qualifications, licenses and experience – and this information should be contained within the report.
- Be carried out to nationally accepted standards for survey, which will vary depending upon the species/habitat.
- Record species and/or habitats present on site, identifying their numbers/extent and location – both on site and within an appropriate buffer zone around the site boundary; and highlight any protected/priority species that are not surveyed for but are likely to be present.
- Map the species distribution and the use of the area, site, structure or feature (e.g. for feeding, shelter, breeding).
- Map of the habitat types present on site and/or in the surrounding area to be shown on an appropriate scale plan and record their extent, area or length. Habitat maps should conform to the standardised Phase I Habitat Mapping system and maps should indicate habitat and wildlife features, and any appropriate target notes, on and off site. See the Joint Nature Conservation Committee (JNCC) publication - Handbook for Phase 1 habitat surveys - a technique for environmental audit available on the JNCC web site.
- Include photographs of the relevant wildlife features.
- Briefly record species and habitats incidentally encountered as part of the survey as appropriate (for example, a bat survey should also include any evidence of nesting birds).
- Detail any limiting factors or constraints that may have affected survey work.
- Assess site status against SINC criteria (regardless of whether the site is a recognised SINC or not). Further information on SINC criteria is available in the Council's Identification of SINCs background Paper (SD44) submitted in support of the LDP examination which is available on the planning pages of the Council's web site.
- Identify ecological networks.
- Identify and describe development impacts likely to harm the species, features used and habitats.
- Take account of direct and indirect effects; short-term and long-term impacts; scale and nature of impacts (set within a local/national context); and impacts during construction and operation.

7.2.2. All biological survey data submitted to the local planning authority in support of the planning application may be made available to SEWBREC.

## **8. Assessing the impact of development**

- 8.1. This section provides guidance on how best to conserve and where appropriate enhance biodiversity throughout the development process. In essence, there are three primary objectives:
- To provide accurate information in support of the planning application on the existing status of any wildlife features which may be affected by the proposed development;
  - Assess the impact of the development on protected and priority habitats and species; and
  - Where such assessments demonstrate that species or habitats would be adversely affected by the development, ensuring that the development proposal is modified in order to avoid any damage or the destruction of the wildlife feature and/or to mitigate/compensate any potential adverse impact.
- 8.2. An assessment of the likely impact of the development must be made by the developer, working with their ecologist adviser and designers to enable appropriate and effective avoidance, mitigation or compensation measures to be considered, designed and incorporated into the development proposals. The assessment should be set out clearly in an Ecology Report to accompany the planning application.
- 8.3. The assessment of impact must include all biodiversity features identified during the survey, and any species (or occasionally habitats) not identified in the survey, or not surveyed for, that are likely to be present. Species to be considered must be those legally protected, or those that are priority species as set out in Section 7 of the Environment (Wales) Act 2016, for example hedgehogs, which are rarely surveyed for but are likely to be present on many sites.
- 8.4. A development may have adverse impacts on biodiversity either during the construction phase, or during the operational phase, or both and the assessment needs to fully consider the possible impacts of both stages.
- 8.5. Impacts may be caused by all stages and processes of the development. Impacts can extend beyond site boundaries in unexpected ways for example through light pollution or predation of nearby habitats by domestic pets. Relatively small developments can also have larger impacts on the wider landscape for example, removing a hedgerow or line of trees could break up a bat feeding route, negatively affecting a breeding colony some distance from the development site. Appendix 9

provides some fictional case studies that illustrate that the scale and type of development is not always commensurate with the level of the impact on biodiversity.

- 8.6. Sites should be assessed to be of international, national, local or site-level importance based on the findings of the survey and irrespective of any formal designation/identification. The 2 main reasons for this are:-



- There is not a comprehensive database of all known habitats and species. Therefore previously unknown features may be recorded during a survey.
- SSSI are designated using minimum criteria thresholds. The suite of SSSI is not comprised of all sites/species that meet the criteria, but instead, selected examples of habitat type or species populations. For example, a roof space may support a Lesser Horseshoe bat breeding roost of 100 bats, while this may meet the criteria for SSSI; it is not designated, but instead has been identified as a SINC. However it is still considered to be of national (not local) importance.

## 9. Householder Applications

- 9.1.1. Although of a generally smaller scale householder applications can still have an adverse impact on biodiversity and have harmful effects on a range of species including bats and birds which regularly use loft spaces and will often go un-noticed by property owners.
- 9.1.2. Therefore dependent upon a number of factors, householders will need to consider species such as bats, nesting birds, barn owls and great crested newts which are all species that regularly use residential buildings to nest or roost in or in the case of great crested newts, which may be found in garden ponds and ditches. As a householder applicant, the ecological issues you are most likely to encounter when undertaking additional development are outlined below and Table 4 indicates the likely survey requirements for various types of works. It should be noted however that the requirements shown below are intended merely as a guide and is not exhaustive.

**Table 4: Householder Applications Survey Requirements**

Type of Works	Definition	Type of Building	Includes	Excludes	Survey Required
Conversion, modification, demolition, repairs/renovation.	Works to any domestic dwelling e.g. two storey extensions, loft conversions, re-roofing.	Domestic Built pre-1914	All buildings built pre-1914	Single storey extensions, conservatories, change of windows/doors.  All works to bungalows. Works exclusively within the habitable area of the property.	Bat and breeding bird survey (of the building only).
		Domestic Built 1914-1980	All buildings built 1914 - 1980		County Ecologist may request bat and/or breeding bird survey if building is deemed suitable e.g. if the building is within 200m of woodland or water. Otherwise no survey required.
		Domestic Built 1980 onwards	All post 1980 buildings		None.
Change of use.	No material change to the building (e.g. residential to child minding, new windows etc.)	Domestic (all)	All domestic buildings	All works within the habitable area and do not involve closing up openings.	None.
External works (in grounds)	Works within a garden curtilage	Domestic (all)	Where ponds or ditches present	None.	Great Crested Newt.

## **9.2. Bats**

- 9.2.1. All UK species of bats are 'European Protected Species' and are protected by UK and European Legislation (LDP Policy MG19 refers). Their use of man-made structures means that they are frequently encountered as a part of small scale development proposals. Survey information for bats should always be provided up-front as part of your planning application as development proposals that could impact on bats cannot be determined until you provide all the necessary information. The survey report and any mitigation proposals should always be undertaken and prepared by a licenced bat surveyor (Bat survey licences in Wales are supplied by Natural Resources Wales).

## **9.3. Nesting Birds**

- 9.3.1. The Wildlife and Countryside Act 1981 (as amended) protects all wild birds from being killed, injured or taken. This protection also extends to birds' eggs, young and nests (whilst in use). Bird species such as house martins, house sparrows, swallows and swifts all use buildings to nest in/on (LDP Policy MG20 refers). Areas of dense vegetation (e.g. hedgerows) are also important for nesting birds. Works which might affect nesting birds should avoid the bird breeding season, which is considered to be March - August inclusive. In addition, Section 9A of the Habitats Regulations places a statutory duty on local authorities to preserve, maintain and re-establish habitat for birds in the UK through the exercise of their functions.

## **9.4. Great Crested Newts**

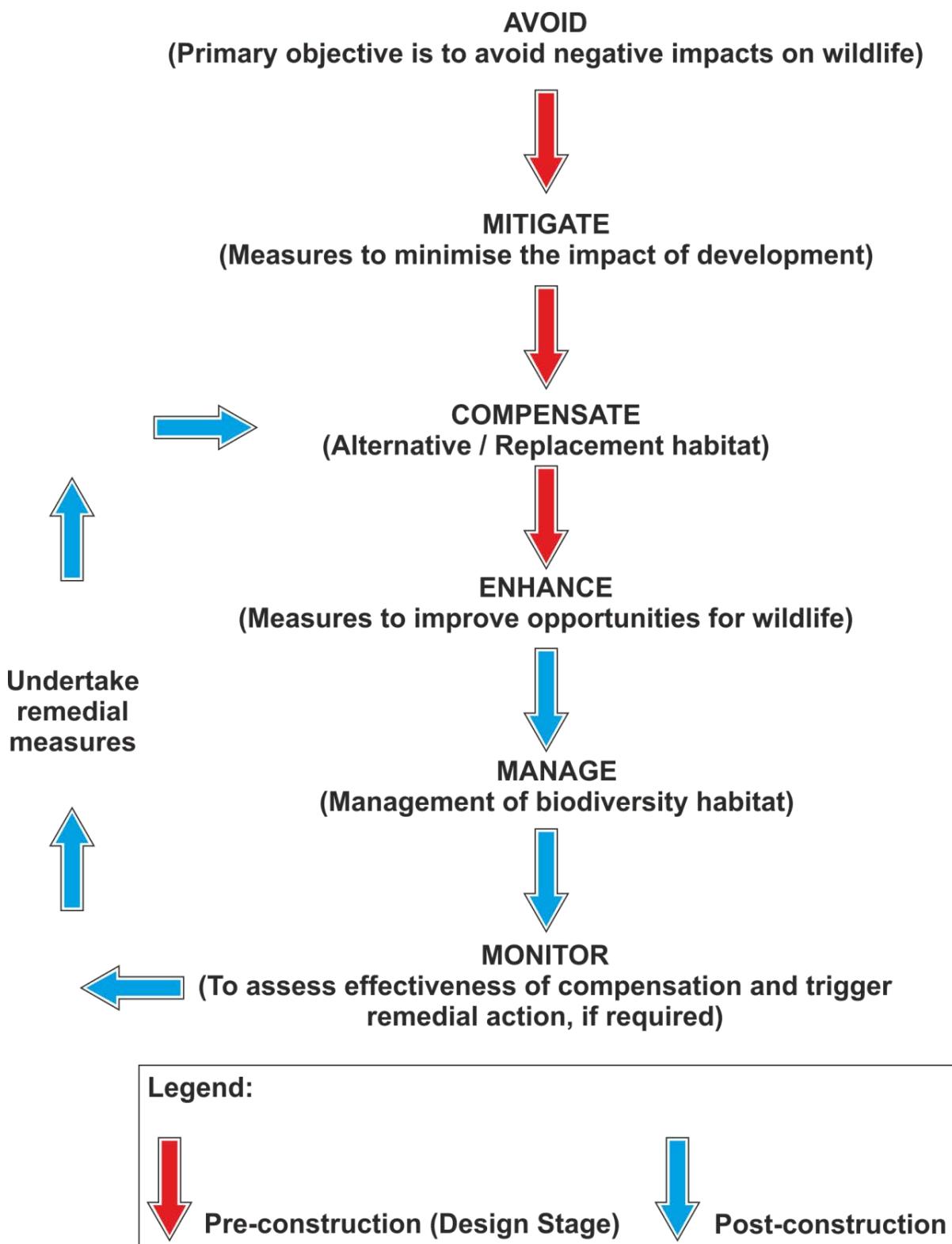
- 9.4.1. Great crested newts use ponds and ditches for breeding. If your planning application is likely to directly impact on a pond, canal or ditch, you will need to consider whether a great crested newt survey is required. Great crested newts are 'European Protected Species' (LDP Policy MG19 refers) and survey information for great crested newts should always be provided up-front as part of your planning application
- 9.4.2. If you have any queries you can contact the Council's ecologist who can provide ecological guidance and advice to members of the public.

## **9.5. Permitted development**

- 9.5.1. Some types of development, such as extensions and alterations, may be permitted development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) which means that there is no need to apply for planning permission. Even if a proposal is permitted development, the work may still disturb a protected species or damage an important habitat. It is therefore important to ensure that an appropriate survey is undertaken to avoid an offence being committed.
- 9.5.2. If it is uncertain whether or not the proposal is permitted development, please contact the Council's Development Management team for advice. To ascertain the potential impact of a proposal or establish if a licence would be required contact the Council's Planning Ecologist or NRW. The presence (or potential presence) of protected species will require compliance with all of the relevant statutory obligations and responsibilities, and may involve obtaining a licence from the NRW, if criminal offences are to be avoided.

## 10. Minimising Development Impact

10.1.1. It is important that the findings of any survey work are taken into careful consideration during the design stage. Survey reports will give you the details of both constraints and opportunities on your site and allow you to:



## **10.2. Design Stage**

10.2.1. In finalising development proposals, developers should, wherever possible, seek to future proof developments by considering not only the species and habitats present but what the site (post development) could potentially support in the future. Consideration of each planning application should therefore consider the 'in combination' effects of other known and/or predicted developments. Future-proofing developments will help to ensure a healthier and more resilient Wales that has the capacity to adapt to Climate Change.

## **10.3. Avoid**

10.3.1. The primary objective of any development proposal should be the avoidance of any adverse impacts on habitats and/or species as a direct or indirect result of the development. Avoiding adverse impacts is usually the easiest, cheapest and most effective way of minimising adverse impacts of biodiversity.

10.3.2. It is often possible to avoid negative impacts by designing the site around the wildlife features or undertaking works at a time of year when vulnerable species are least likely to be present. For example, if the development site includes a pond, mature trees or existing hedgerow you should try to incorporate these into the site layout; this may involve repositioning a house or driveway within the site to remove any adverse impacts that might occur. However, in many cases it is also necessary to design specific mitigation measures that will significantly reduce the impacts to the habitats in or next to the site and the wildlife species that they support.



Paul Dunn

## **10.4. Mitigate**

10.4.1. Where it is not possible to avoid any negative impacts on a wildlife feature the design should aim to mitigate any negative impacts i.e. minimise as

far as is practically possible the severity of the impacts upon the wildlife feature(s) located at the site. Applicants should ensure that they take account of all the potential effects of a development and make sure that avoidance and mitigation are appropriate to the situation. For example, designing a scheme around an existing pond will not be sufficient if that pond is then completely isolated from nearby terrestrial habitats.

- 10.4.2. Where mitigation/compensation is not possible or viable on site it may be appropriate for compensation measures to be provided off-site and secured through an s106 agreement, however this will be considered to be a last resort and will be determined on a case by case basis. Appendix 8 illustrates an extract from the Council's Planning Obligations SPG which outlines those measures that may be required.
- 10.4.3. Any mitigation measures proposed must be realistic and effective and it is recommended that developers engage the services of a suitably qualified ecologist to advise and assist with the design of the mitigation measures proposed. Mitigation measures should seek to maintain the environmental conditions that exist at the site that are essential to the existence of the habitat and/or species e.g. temperature, slope aspect, availability of natural light, prevailing winds etc.
- 10.4.4. Mitigation schemes should be submitted as an integral part of the planning application for consideration by the Council's ecologist and planning officers. A monitoring schedule should be built into the design of any mitigation measures, that details how often and for how long the mitigation will be monitored. It must include prescriptions for review of monitoring data and a mechanism by which the mitigation measures can be altered if they are found to be ineffective in any way.
- 10.4.5. The developer must ensure that the necessary funding is made available to address any necessary alteration to mitigation measures, if found by monitoring to be ineffective.
- 10.4.6. Approved mitigation and monitoring schemes will be made conditional of any permission granted and will be enforceable through normal planning enforcement procedures.
- 10.4.7. Where European protected species are present at a proposed site, the consultant ecologist should advise the developer on the requirement to obtain development licences for the relevant species and the criteria that must be met to satisfy the granting of a licence. The Council's ecologist will review and approve mitigation designs for all proposals. If the mitigation is unlikely to satisfy the licensing criteria (i.e. a licence for

development is likely to be refused), then amendments must be made or planning permission is likely to be refused.

10.4.8. Incorporating movement corridors or stepping stones, will allow species to move, migrate and adapt to climate change, and the incorporation of such features ensures that the development is future-proof.

## **10.5. Compensate**

10.5.1. Compensation involves the provision of alternative habitat or other resources required for the continuation of a species or habitat. Compensation will only be considered after all other options have been explored without finding an appropriate solution. Compensation In some cases it will not possible to avoid or mitigate for certain wildlife features on a site. In such circumstances, compensation either on-site or off-site will be required. All options for on-site compensation should be investigated and given preference over off-site compensation options.

10.5.2. Compensation either restores or recreates the wildlife feature damaged by a development, ensuring no net loss overall resulting from the proposal. The basis of ecological compensation will be to produce “like for like” compensation measures. It will not be acceptable, for instance, to create an area of chalk grassland as compensation for an area of woodland lost to a development. While some habitats, such as ponds and native hedgerows can be re-created and can provide valuable habitats within a relatively short period of time e.g. 10 years, other habitats and features, such as ancient woodland, cannot be compensated for as this habitat is effectively irreplaceable and proposals which would result in harm or the loss of such habitats will usually not be permitted.

10.5.3. Very occasionally, translocation of a certain species, habitat or feature can be considered when no other options exist – moving it to another part of the development site or to a receptor site in another area. The translocation of animal species should only be considered as a last resort, and where undertaken should be within range of the original population. The receptor site will require a full survey to determine the extent and size of the resident population in order to calculate how many additional animals can be safely added to the receptor site. We will not accept translocation proposals where the receptor site has not been assessed. For plant species a survey to determine the suitability of the receptor site will be required.

- 10.5.4. Management and monitoring are mandatory requirements of any translocation scheme. The translocation scheme should always be designed in such a way as to allow natural movement of animals back onto the donor site after completion of development.
- 10.5.5. Compensation will not be regarded as an alternative to avoidance or mitigation and where a habitat or feature is lost to development a greater quantity of the replacement will be required in order to ensure that the impact of the development is properly compensated. It takes time for new habitats and features such as hedgerows and ponds to establish and become functional and there is no certainty that such new features will ever achieve the nature conservation value of the original.
- 10.5.6. A **replacement ratio** for 'like for like' compensation is set at 1:1.5 or 50% above the area to be replaced. This is the minimum that would be accepted and the ratio may be increased in some instances where, for example, fragmentation of important existing habitats needs to be avoided.

## 10.6. Enhance

- 10.6.1. PPW and the Environment (Wales) Act 2016 require that the planning system promotes approaches to development which maintain biodiversity and create new opportunities to enhance biodiversity.
- 10.6.2. Paragraph 5.4.5 of PPW states that inter alia, development plans should: "provide for the conservation and, where appropriate, enhancement of biodiversity and landscape outside designated areas, in particular identifying opportunities to conserve important local habitats and species, and to safeguard and manage landscape features of major importance for nature conservation or amenity".
- 10.6.3. Section 6 of the EAW places a duty on local authorities to seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in doing so promote the resilience of ecosystems, so far as is consistent with the proper exercise of those function.
- 10.6.4. One of the primary ways the Council can achieve this duty is through encouraging action by others through the development management process and therefore in accordance with the requirements of LDP Policy MD9 – Promoting Biodiversity, where it is appropriate, measures to enhance biodiversity should be incorporated into new development proposals.

10.6.5. The ways in which enhancement can be achieved will vary from site to site and the extent of enhancement required will also vary depending on the specific nature of the development. For example, smaller developments could enhance local biodiversity through simple measures such as the installation of bird or bat boxes while larger developments could look to enhance biodiversity through maintaining species passage through under-passes and green engineering. As such it will be considered on a case by case basis by the local planning authority.

10.6.6. General examples of how enhancement could be achieved are provided below and more detailed information on how such measures can be incorporated into development proposals is available in Appendix 5.

- Underpasses to enable animals movement e.g. newt/toad passes.
- Vegetated dark flight corridors.
- Wildlife kerbs and wildlife friendly drainage.
- Gaps under fences e.g. garden fences, boundary fences.
- Alternative or green solutions to engineering issues e.g. soakaways, silt traps, oil interceptors.
- Retaining or planting of a native species hedgerow.
- Creation of a wildlife pond and scrapes.
- Invasive Non-Native Species (INNS) i.e. removal of non-native invasive species to the benefit of native species.

## **10.7. Manage**

10.7.1. Where wildlife features are retained or new habitats and features are created on-site or off-site, appropriate ongoing management regimes must be put in place to ensure long lasting benefits.

10.7.2. Management needs will vary from site to site - in some cases a habitat will largely manage itself if the initial design is appropriate, and some features require no management at all. However, for other sites there may be a need for specific management regimes for many years e.g. creation of a wildlife meadow. This can be achieved through a S106 agreement or planning obligations. In these cases a management plan will need to be produced and submitted as part of the report. As a minimum, a management plan should cover at least the 5 years following completion of a development and ideally plan for longer term management/maintenance of a site to ensure maximum ecological benefit. While 5 year management plans are normally adequate and align with landscaping management contracts, longer time periods may be

conditioned where rarer species are likely to be affected and where greater assurances are required that features will be adequately maintained.

10.7.3. Criteria should be included in the management plan in order to enable measurement of success, such as a population of an indicator species reaching a certain size. The management plan should identify specific actions and timeframes required for good management as well as details of those organisations or individuals with responsibility for the specified actions. A management plan should also include details of the monitoring regime proposed.

## **10.8. Monitor**

10.8.1. Monitoring should be included to measure success (and where appropriate, to trigger remedial actions) should be included in the management plan. Monitoring could include surveys to count the population of an indicator species, or testing water quality to ensure the pond is suitable for Great Crested Newts. The monitoring plan will include attributes to be assessed and the time-frame over which this is taken. It could identify specific actions required for good management, remedial actions and phasing. The organisation and personnel responsible for implementing the plan also needs to be identified the monitoring plan should also include a forward projection of costs, and the means by which this money will be secured for the future.

**Figure 2: Pre and Post-development: How wildlife features can be avoided, mitigated, compensated, enhanced and managed**



- 1 – Mature tree (AVOID)
- 2 – Reptile fencing during construction (MITIGATE)
- 3 – Wildlife pond (COMPENSATE)
- 4 – Species rich hedgerow (COMPENSATE)
- 5 – Scrub management and semi-improved grassland expanded (COMPENSATE/MANAGE)
- 6 – New community wildlife garden (ENHANCE)
- 7 – 20% of new homes include integral bird nest and bat roost bricks (ENHANCE)

## **11. European Protected Species (Licensing)**

- 11.1. Any activity that is likely to cause harm or disturbance to a European Protected Species (EPS) or its habitat (Article 16 Habitats Directive) must be carried out under license.
- 11.2. In some cases appropriate avoidance and mitigation will avoid the need for a licence and the appropriate management of work(s) can ensure that it does not cause harm or disturbance. In other cases mitigation will not remove the need for a license but will form a part of the license conditions as well as any planning conditions imposed. Mitigation measures for many development licenses may involve significant lead in times for example; mitigation habitat for dormice may take several years to establish before it is suitable for dormice.
- 11.3. For development proposals where a EPS is present i.e. those listed under Schedule 2 of the Conservation of Habitats and Species Regulations **2017** (as amended), a license will often be required from NRW. Further information and license application details are available on the NRW web site.
- 11.4. While there are many EPS detailed within the Habitats Regulations, those most likely to be encountered within the Vale of Glamorgan are:
  - All species of Bats
  - Great Crested Newts
  - Dormouse
  - Otters
- 11.5. In Wales, licenses are issued by NRW under Regulation **55** of the Habitats Regulations and licenses are issued for specific purposes stated in the Regulations provided the following three tests are met:
  - It is 'in the interests of public health and public safety, or for other Imperative Reasons of Overriding Public Interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment' [The IROPI test].
  - There is 'No Satisfactory Alternative' [NSA test].
  - It is 'not detrimental to the maintenance of the populations of the species concerned at Favourable Conservation Status in their natural range' [FCS test].

- 11.6. Before planning permission is granted, the Council will address three tests during its decision on the application. If it is likely that an EPS licence will be required, it is also recommend that the submitted information includes an assessment of the “three tests”. You are not obliged to do this, but it may help to speed up your planning application if it is included.
- 11.7. A licence can only be granted with support of an adequate survey. Mitigation and monitoring are almost always required. Where there is insufficient survey information, NRW are unlikely to grant a licence. Licences can only be granted after planning permission has been granted. Licences are required in addition to planning permission. Planning permission (or permitted development rights) does not negate the requirement for a licence. Working without a licence could lead to a wildlife crime being committed and prosecution.
- 11.8. Where a EPS is likely to be adversely affected, and where NRW have stated that they will not issue a licence then Case law has established that the LPA are duty-bound to refuse planning permission. This is to prevent occurrences where a site has planning permission that cannot be implemented because a licence will not be granted by NRW.
- 11.9. Where NRW are likely to grant, or where the decision is unclear at the planning determination stage, then the LPA may grant planning permission.
- 11.10. Where it is likely that a EPS licence will be required e.g. barn conversion that could disturb bats, it is recommended that the application documents include a 'Method Statement' for the proposed works. The method statement will set out how the EPS will be protected before (in the planning of the development), during (through protection on site) and following (operation and management) the development.
- 11.11. The Method Statement is required by the Council to assess whether the works are likely to be granted a licence by NRW. The Method Statement can be prepared in any format, but we recommend that the EPS licence application format is used, as this Method Statement will also be required for a EPS licence application, and using the same format will allow the Method Statement to be used for both licence application and planning application and will therefore avoid duplication or additional work.

## **12. Useful Contacts**

### **The Vale of Glamorgan Council**

Dock Office,

Barry,

CF63 4RT

**Planning Duty Officer (01446) 704681**

[planning@valeofglamorgan.gov.uk](mailto:planning@valeofglamorgan.gov.uk)

**Council Ecologist (01446) 704855**

[ecology@valeofglamorgan.gov.uk](mailto:ecology@valeofglamorgan.gov.uk)

### **Natural Resources Wales**

Rivers House

St Mellons Business Park

St Mellons

Cardiff

CF3 0EY

Phone: 0300 065 3000

[enquiries@naturalresourceswales.gov.uk](mailto:enquiries@naturalresourceswales.gov.uk)

### **South East Wales Biodiversity Records Centre (SEWBREC)**

13 St Andrews Crescent

Cardiff

CF10 3DB

Phone: 029 2064 1110

<http://www.sewbrec.org.uk/>

### **13. Useful Publications And Additional Information**

- Vale of Glamorgan Council Planning Web Pages:  
[http://www.valeofglamorgan.gov.uk/en/living/planning\\_and\\_building\\_control/Planning.aspx](http://www.valeofglamorgan.gov.uk/en/living/planning_and_building_control/Planning.aspx)
- Joint Nature Conservation Committee (JNCC) - Handbook for Phase 1 habitat surveys - a technique for environmental audit:  
[http://jncc.defra.gov.uk/PDF/pub10\\_handbookforphase1habitatsurvey.pdf](http://jncc.defra.gov.uk/PDF/pub10_handbookforphase1habitatsurvey.pdf)
- Bat Survey Guidelines for UK Homeowners 2015 - Chartered Institute of Ecology and Environmental Management:  
<http://www.cieem.net/bat-survey-guidelines-for-uk-homeowners-2015>
- A Householder's Guide to Engaging an Ecologist - Chartered Institute of Ecology and Environmental Management:  
<http://www.cieem.net/a-householders-guide-to-engaging-an-ecologist>
- The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016:  
<http://www.legislation.gov.uk/wsi/2016/58/schedule/4/made>
- Chartered Institute of Ecology and Environmental Management:  
[www.cieem.org.uk](http://www.cieem.org.uk)
- Buglife (2009) Planning for Brownfield Biodiversity: A best practice guide:  
<https://www.buglife.org.uk/sites/default/files/Planning%20for%20Brownfield%20Biodiversity.pdf>
- The Biodiversity Planning Toolkit  
<http://www.biodiversityplanningtoolkit.com/default.aspx>

## **14. Abbreviations used**

- **CIEEM:** Chartered Institute of Ecology and Environmental Management
- **EIA:** Environmental Impact Assessment
- **EPS:** European Protected Species
- **EWA:** Environment (Wales) Act 2015
- **HRA:** Habitats Regulations Assessment
- **JNCC:** Joint Nature Conservation Committee
- **LBAP:** Local Biodiversity Action Plan
- **LDP:** Local Development Plan
- **NRW:** Natural Resources Wales
- **PPW:** Planning Policy Wales
- **PWA:** Planning (Wales) Act 2015
- **Ramsar:** An international site of nature conservation importance designated under the Ramsar Convention
- **SAC:** Special Area of Conservation
- **SEWBREC:** South East Wales Biological Records Centre
- **SINC:** Sites of Importance for Nature Conservation
- **SPA:** Special Protection Area
- **SPG:** Supplementary Planning Guidance
- **SSSI:** Site of Special Scientific Interest
- **WBFGA:** Well-Being of Future Generations (Wales) Act 2015

## 15. Glossary

- **Appropriate Assessment:** A statutory assessment which is undertaken by a ‘competent authority’ in respect of plans or projects which are likely to have a significant effect on a Natura 2000 site (see HRA definition). The ‘competent authority’ is normally the planning authority.
- **Biodiversity:** Is defined in the Environment (Wales) Act as the diversity of living organisms, whether at the genetic, species or ecosystem level. Biodiversity drives the functioning and resilience of our ecosystems.
- **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) obtained by a developer for the purposes or undertaking a development.
- **Ecosystems:** Are defined by the UN Convention on Biological Diversity (CBD) as a dynamic complex of plant, animal and micro-organisms and their non-living environment interacting as a functional unit.
- **Ecosystem Approach:** Is defined by CBD as a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. This is widely recognised as international best practice for addressing the decline in biodiversity.
- **European Protected Species (EPS):** Species protected by the Conservation of Habitats and Species Regulations 2010 (as amended)
- **Green Infrastructure:** The network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect villages, towns and cities. When appropriately planned, designed and managed, green infrastructure has the potential to deliver a wide range of benefits for people and wildlife.
- **Habitat:** The place in which a particular plant or animal lives. Often used in the wider sense referring to major assemblages of plants and animals together. Also a description of the flora present which will form one of more recognised habitat types (e.g. woodland, grassland, running water)

- **Habitat Regulations Assessment (HRA):** HRA is required under the European Directive 92/43/EEC and is an assessment of the impacts of implementing a plan or project on a Natura 2000 site. Its purpose is to consider the impacts of a land use plan against conservation objectives of the site and to ascertain whether it would adversely affect the integrity and features of the site. Where significant negative effects are identified, alternative options should be examined to avoid any potential damaging effects. Appropriate Assessment (AA) is one part of the HRA process. It is only required where the plan-making body determines that the plan is likely to have a significant effect on European Designated sites, either alone or in combination with other plans or projects. It considers whether the impacts of a plan or project assessed against conservation objectives of a European Site, are likely to cause adverse effects on site integrity and site features.
- **Local Development Plan:** The Statutory Development Plan for each Local Planning Authority area in Wales, as required under Part 6 of the Planning and Compulsory Purchase Act 2004.
- **Local Nature Reserve:** Non-statutory sites of local significance that are designated by the local authority to offer protection and encourage public engagement with wildlife.
- **Local Planning Authority:** A planning authority responsible for the preparation of the Local Development Plan and for determining planning applications.
- **Mitigation:** Actions or works which offset and minimise potential impacts on any identified wildlife features.
- **Natura 2000 site:** Sites protected under the Conservation of Habitats and Species Regulations 2010 (as amended), including Special Areas of Conservation, Special Protection Areas and Ramsar sites.
- **Natural Resources:** These are defined in the Environment Act as
  - Animals, plants and other organisms
  - Air, water and soil
  - Minerals
  - Geological features and processes
  - Physiographical features (Physical-geography features)
  - Climatic features and processes

These individual components defined in the Act combine and work together in many ways and at many scales, from which humans use and obtain benefits.

These components and processes work together and are referred to as ecosystems.

- **Natural Resources Wales (NRW):** The Statutory Nature Conservation Organisation for the Welsh Government. Its purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.
- **Planning obligation:** A commitment made by a developer under Section 106 of the Town and Country Planning Act to undertake certain actions or payments either on or off-site that are considered necessary to make a development acceptable.
- **Priority habitats and species - (Section 7):** Those habitats and species that have been identified by the Welsh Government (WG) to be of principal importance for nature conservation in Wales. These are listed on Section 7 of the Environment Act (Wales) 2016.
- **Ramsar Site:** Sites designated under the Ramsar Convention (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations 1994), to protect wetlands that are of international importance, particularly as waterfowl habitats.
- **Resilience:** Ecosystems are considered Resilient if they are able to cope with disturbance or change so that they maintain their ability to function and deliver benefits. The Environment Act recognises a number of attributes of ecosystems that support resilience, including their scale and extent, how well connected they are, their condition, diversity and ability to adapt.
- **Site of Importance for Nature Conservation (SINC):** Locally important sites for nature conservation. These are currently identified against criteria in Wildlife Sites Guidance Wales.
- **Site of Special Scientific Interest (SSSI):** A site identified under the Wildlife and Countryside Act 1981 (as amended) as an area of special interest for wildlife or geological features.
- **Special Area of Conservation (SAC):** A site designated under the European Community Habitats Directive (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations 1994), to protect internationally important natural habitats and species.
- **Special Protection Areas (SPA):** Sites classified under the European Community Directive on Wild Birds (enacted in the UK through the

Conservation (Natural Habitats, &c.) Regulations 1994), 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.
- **Welsh Government (WG):** The elected body in Wales that develops and implement policy via the Civil Service and a Range of sponsored bodies.

## **16. Appendices**

### **16.1. Appendix 1: Legislation and Policy Context**

The primary legislation affecting biodiversity is detailed below.

#### **European and UK Legislation**

The following international and national legislation provides statutory protection to many of the species and habitats in the Vale of Glamorgan.

**The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations)** - The regulations transpose the EU directive on the Conservation of Wild Fauna and Flora (92/43/EEC), the “Habitats Directive” into UK law. This legislation required the establishment and protection of a network of sites including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and affords high levels protection to identified individual species e.g. otters, and species groups e.g. bats (European Protected Species).

**The Birds Directive 2009** - The 2010 Habitats Regulations were amended in 2012 in order to transpose Article 2D of the Birds Directive 2009 into UK law, Regulation 9A places a statutory duty on public bodies for the provision of sufficient diversity and area of habitats for wild birds. The Birds Directive provides a legal framework, binding for all Member States, for the protection, conservation and management of all wild birds in the EU, including their eggs, nests and habitats. The Welsh Government issued joint guidance with the Department for Environment Food and Rural Affairs (DEFRA) on the interpretation and implementation of Regulation 9A in 2016.

**Wildlife and Countryside Act 1981 (as amended)** - The Wildlife and Countryside Act 1981 is important in providing detail on a range of protection and offences relating to wild birds, other animals, and plants. The level of protection depends on under which Schedule of the Act the species is listed. Licences are available for specific purposes to permit actions that would otherwise constitute an offence in relation to species. The legislation does not currently allow licences to be granted to permit such actions for the purpose of development.

**Section 1 – breeding birds.** The basic protection afforded to all birds is:

- Protection from killing, injury or taking any wild bird.
- Protection from taking, damaging or destroying the nest of any wild bird.

- Protection from taking or destroying the egg of any wild bird.

Further, some species, specifically those listed on **Schedule 1** of the Act are afforded extra levels of protection to include:

- Protection from disturbance whilst it is nest building; or is at or near a nest with eggs or young, or disturb the dependent young of such a birds.

There are exemptions from this basic protection for, for example sale, control of pest species and sporting e.g. game birds outside of the close season.

Section 9 (**Schedule 5**) – protected animals (other than birds). All animals listed on Schedule 5 are protected against killing, injury or taking. Any structure/place used for shelter or protection is protected against damage, destruction or obstructing access to. And it is an offence to disturb an animal whilst using such a structure / place. Some species are afforded “Part Protection” meaning that they enjoy only some of the protection outlined above – e.g. the animals may be protected, but not their structure used for shelter/protection (such as slow worm).

Section 13 (**Schedule 8**) – protected plants. Protected plants are afforded protection against: being picked, uprooted or destroyed. They are also protected against sale (or advertising for sale) – this is particularly relevant with respect to bluebells.

**The Protection of Badgers Act 1992** - The Protection of Badgers Act 1992 protects badgers and their setts. Offences under the act include killing, injuring or taking a badger, or to damage or interfere with a sett unless a licence is obtained from the relevant statutory authority. In common with other legislation, it is possible to carryout actions that would otherwise be illegal under a licence.

**Countryside and Rights of Way (CROW) Act 2000** - Much of the CROW Act deals with legislation for Rights Of Way and Access to the Countryside. Section 3 of the Act deals with nature conservation and wildlife protection in England and Wales. Many of its provisions have been incorporated as amendments into the Wildlife and Countryside Act (1981) and some provisions have now been superseded by later legislation such as The Natural Environment and Rural Communities Act (2006) and the Environment (Wales) Act 2016.

**National Parks and Access to the Countryside Act 1949** - The National Parks and Access to the Countryside Act 1949 provided the framework for the creation of National Parks and Areas of Outstanding Natural Beauty. Section 21 also provides local authorities with the powers to declare Local Nature Reserves.

**Town and Country Planning (Environmental Impact Assessment (Wales) Regulations 2016** - For certain development proposals there may be a need for an Environmental Impact Assessment (EIA) and/or Habitat Regulations Assessment (HRA) before planning consent may be granted. Environmental Impact Assessment (EIA) aims to prevent, reduce or offset the significant adverse environmental effects of development proposals, and enhance positive ones. It ensures that planning decisions are made considering the environmental effects and with engagement from statutory bodies, local and national groups and the public.

**The Environment (Wales) Act 2016** - The Environment (Wales) Act puts in place the legislation needed to plan and manage Wales' natural resources in a more proactive, sustainable and joined-up way. Part 1 of the Act sets out Wales' approach to planning and managing natural resources at a national and local level with a general purpose linked to statutory 'principles of sustainable management of natural resources' defined within the Act. The Act has been carefully designed to help secure Wales' long term well-being so that current and future generations benefit from a prosperous economy, a healthy and resilient environment and vibrant, cohesive communities.

The key parts of the Act are:

Part 1: Sustainable management of natural resources – enables Wales' resources to be managed in a more proactive, sustainable and joined-up way. It also helps to tackle the challenges we face and is focused on the opportunities our resources provide. Within Part 1, sections 6 and 7 have specific implications for biodiversity.

#### Section 6 - Biodiversity and resilience of ecosystems duty

Section 6 of the Act places a duty on public authorities to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to 'promote the resilience of ecosystems'. The duty replaces the section 40 duty in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006), in relation to Wales, and applies to those authorities that fall within the previous duty. Public authorities will be required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience.

#### Section 7 - Biodiversity lists and duty to take steps to maintain and enhance biodiversity

This section replaces the duty in section 42 of the NERC Act 2006. The Welsh Ministers will publish, review and revise lists of living organisms and types of habitat

in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales. The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps.

**The 2010 Natural Living Framework** - “A Living Wales” further emphasises the importance of the natural environment, and commits Wales to adopting an ecosystems approach which will ‘focus on the value of the environment as a whole, delivering positive environmental, social and economic outcomes’.

**The Planning (Wales) Act 2015** - The Planning (Wales) Act 2015 seeks to deliver a planning system which is fair, resilient, enables development and helps create sustainable places. This will give citizens improved access to quality homes, jobs and infrastructure, whilst protecting important built and natural environments and supporting Welsh language and culture.

**Well-being of Future Generations (Wales) Act 2015** - The Well-being of Future Generations (Wales) Act became law in April 2015 and is concerned with improving the social, economic, environmental and cultural well-being of Wales. It will make the public bodies in Wales listed in the Act think more about the long-term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. To help public bodies achieve the same vision, the Act puts in place seven well-being goals. Linked to the goals a set of National Indicators are currently under development to help measure whether we are achieving the goals including the Resilient Wales goal. The Act places a duty on local authorities to prepare a Well-Being plan.

**Technical Advice Note 12: Design (March 2006)** - TAN 12 Design (2006) seeks to equip all those involved in the design of development with advice on how ‘Promoting sustainability through good design’ and ‘Planning for sustainable building’ may be facilitated through the planning system. The TAN includes details on site appraisals and advises that an appraisal of an area’s natural resources is a prerequisite to providing environmentally sustainable design solutions including ways in which new development will maintain and enhance opportunities for species to inhabit an area and improve habitat connectivity.

## **Local Policy**

**The Vale of Glamorgan Local Development Plan 2011 – 2026** - The LDP was adopted on 28th June 2017 and provides the local policy framework which reinforces

and expands upon the principles set out in national guidance through a suite of policies in respect of biodiversity and the natural environment.

Managing Development policies MG19 – Sites and Species of European Importance, MG19A – Nationally Protected Sites and Species, MG19B – Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species and Managing Development policy MD10 – Promoting Biodiversity which combined, seek to provide a framework through which the rich and diverse natural heritage of the Vale of Glamorgan is protected and where appropriate enhanced.

In addition to the above, the LDP contains additional policies which relate to the natural environment e.g. strategic policy SP10 – Built and Natural Environment and MD2: Design of New Development.

**Local Biodiversity Action Plan (LBAP)** - The Vale of Glamorgan Local Biodiversity Action Plan recognises the diversity of plants and animals and the places they live (habitats), identifying them as local priorities. It is run by the Vale's Biodiversity Partnership, whose aim to conserve and enhance these priorities by co-ordinating and carrying out actions to achieve favourable conservation status. The LBAP has recently been reviewed, changing from the substantial paper document that was published in 2002 to a flexible, living document. This can be used to co-ordinate work on the ground, report on progress and inform Welsh and UK targets.

## **16.2. Appendix 2: Environmental Impact Assessment and Habitat Regulations Assessment**

For certain application types there may be a need for an Environmental Impact Assessment (EIA) and/or Habitat Regulations Assessment (HRA).

### **Environmental Impact Assessment (EIA)**

Certain projects that are likely to have a significant effect on the environment need to undergo EIA (The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016).

Projects are listed on two schedules within the legislation:

Schedule One - includes large development such as airports and industrial works,

Schedule Two – lists other development types that only require EIA if the proposal is likely to have significant environmental effects.

The process of undertaking the assessment of environmental impacts is the ‘Environmental Impact Assessment’ and the submission of that information as a part of the planning application is called the ‘Environmental Statement’ (ES).

The preparation of an environmental statement in parallel with project design provides a useful framework within which environmental considerations and development design can interact. The responsibility for undertaking the EIA and compiling the ES rests with the developer.

The legislation provides a procedure which enables developers to apply to the LPA for an opinion on whether an EIA is required; this is called a ‘Screening Opinion’. A screening opinion must include a plan on which the site of the proposed development is identified and a brief description of the nature and purpose of the development and the possible impacts on the environment. This can be done well in advance of any formal planning application and the LPA must give its opinion within three weeks unless the developer agrees to an extended time frame.

The Regulations also enable a developer, before making a planning application to ask the LPA for its informal opinion on the information to be included in the ES and this is called the ‘Scoping Opinion’.

Developers and the LPA should discuss the scope of an ES before its preparation has commenced and statutory consultees such as NRW would be consulted at this stage. The formal requirements as to the content of ES are set out in Schedule 4 of the legislation however there is no prescribed form of ES provided that the requirements of the Regulations are met.

Contact the local planning authority for advice on whether your application will require EIA or visit the planning section at [www.communities.gov.uk](http://www.communities.gov.uk). The Chartered Institute for Ecology and Environmental Management (CIEEM) have produced detailed guidance for EIA (available from [www.cieem.net/ecia](http://www.cieem.net/ecia)).

### **Habitat Regulations Assessment (HRA)**

The protection given by the Habitats Directive is transposed into UK legislation through The Conservation of Habitats and Species Regulations (as amended) 2010 (the Habitats Regulations). Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs) are protected under the Habitats Regulations.

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, the Competent Authority<sup>1</sup> must undertake an appropriate assessment, which is required under the Habitat Regulations.

The applicant must provide details of all the aspects of the development and its potential impacts to the local planning authority to allow an Appropriate Assessment to be carried out.

This can take the form of an ecological report and be submitted along with the application – the scope and content of this assessment will vary depending on the proposal. Consent cannot be granted unless the results of the appropriate assessment show that the proposal will not have a significant negative effect.

The Natura 2000 sites relevant to the Vale of Glamorgan are:

Severn Estuary SAC SPA Ramsar

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<sup>1</sup> The Competent Authority is a body with the authority to grant consent (or with the authority to undertake projects themselves). Vale of Glamorgan Council, as a local planning authority, is the competent authority.

Dunraven SAC

Kenfig SAC (adjoining within Bridgend County Borough Council)

More details on these sites, including location plans and the activities which are likely to impact upon the status is available in the 2007 Screening Report (Ref SD41) which formed part of the submitted LDP evidence base and which is available on the Council's web page at:

[http://www.valeofglamorgan.gov.uk/en/living/planning\\_and\\_building\\_control/planning\\_policy/local\\_development\\_plan/Submission-Documents.aspx](http://www.valeofglamorgan.gov.uk/en/living/planning_and_building_control/planning_policy/local_development_plan/Submission-Documents.aspx)

### 16.3. Appendix 3: Planning Validation Checklist

This table endeavours to provide a general guide about the type of development proposals that impact upon biodiversity, and what type of survey information is likely to be required to support planning applications.

#### Abbreviations Used

PEA	Preliminary Ecological Appraisal (supersedes the Extended Phase 1 Habitats Survey)	An initial site assessment which maps the habitats and assesses what protected species may be present. Survey report may recommend further survey and will usually make recommendations. <i>Note that further recommended surveys must be undertaken and submitted in support of the planning application. Outstanding survey work will mean that the Vale of Glamorgan Planning Team is unable to determine your application.</i>
EIA	Environmental Impact Assessment	A full impact assessment of a plan or proposals where it is considered that there will be significant impacts on the natural environment as required by The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 – see Appendix 3.

Type of works	Example / Definition	Includes / Excludes	Survey required
New residential development	All new residential development of 1 dwelling or more	Excludes works wholly or primarily on existing hard standing / tarmac areas.	PEA (including all further recommended surveys)
Works to existing	Extensions, alterations,	Excludes: all internal works confined solely to habitable	Specific Bat and/or bird

residential properties	conversions, repointing, works to roof, chimneys, flashing, soffits, fascia's etc.	rooms	surveys as required.
Works within existing residential curtilages	Small infill developments, construction of garages / driveways, access works affecting boundary hedgerows.	Excludes: All other minor development in garden curtilages.	Potential mitigation for breeding birds.
New commercial / non-residential buildings	All new commercial / non-residential buildings e.g. light industrial, offices, retail, leisure, storage, distribution	Excludes: Works wholly or primarily on existing hard standing / tarmac areas.	PEA (including all further recommended surveys)
New Agricultural / Rural buildings	New barns, stables etc.	Excludes: Works wholly or primarily on existing hard standing / tarmac areas.	Survey(s) required will be dependent upon the position/location of existing habitats e.g. great crested newt survey where development is in close proximity to a pond.

Type of works	Example / Definition	Includes / Excludes	Survey required
Works to rural buildings	Conversion, modification, demolition, repairs /	Includes: Farm houses, barns, outbuildings or any building in a rural setting of traditional stone/brick construction with	Bat and breeding bird survey

including high risk buildings	renovation, Floodlighting	<p>an intact (or majority present) roof; roof made of any material. All churches and listed buildings.</p> <p>Excludes: Internal works within the habitable space (i.e.no works in the attic space). Entirely wooden small structures, e.g. domestic sheds. Agricultural buildings of corrugated metal sheets on metal frame; or walls of block/hit and miss wooden boards. Any building with roof entirely absent.</p>	
Works in grounds of existing building	Engineering operations or other operational development	<p>Excludes: Works wholly or primarily on existing hard standing / tarmac areas.</p>	PEA (including all further recommended surveys)
Works to trees and hedgerows	All works to hedgerows and trees	<p>Excludes: None.</p>	<p>Trees: Tree Assessment and Assessment of trees for use by bats.</p> <p>Hedgerow: biodiversity assessment, for the value of the hedgerow and the value to wildlife.</p>
Photo-voltaic (solar) panel	All photo-voltaic (solar) panel farms	<p>Excludes: Roof mounted solar panels or works wholly or primarily on existing hard standing / tarmac areas.</p>	PEA & breeding bird survey (specifically ground nesting

farms			bird survey)
Wind turbines	All developments of 2 turbines or less, regardless of size.	Excludes: Turbines sited more than 50m from hedgerows or watercourses	PEA (including all further recommended surveys)
	Developments of 3 or more turbines.	Excludes: None.	
Works to bridges, aqueducts, viaducts	Floodlighting  Modification, demolition, repairs / renovation.	Excludes: Entirely metal structures (e.g. footbridges).	Bat survey
Works to tunnels, mines, kilns, ice-houses, military fortifications, air raid shelters, cellars & similar underground sites.	Floodlighting,  Any development directly or indirectly affecting the structure (e.g. altering entrance, altering light levels, or disturbance from drilling etc.)	Excludes: Sealed structures, structures with no roof.	Bat survey
Type of works	Example / Definition	Includes / Excludes	Survey required
New road schemes	Construction of new road.	Excludes: Roads within a development which has been assessed under another category (e.g. residential	PEA and Full Ecological Assessment / EIA (dependent upon the initial findings of the

		development)	PEA)
Road improvement works	Upgrade of existing road which affects hedgerow, trees, watercourses	Excludes: Any development where works are restricted to existing carriageway, pavements, hardstandings and intensively mown verges	PEA (including all further recommended surveys)
Waste facilities	Recycling, waste handling, treatment, waste transfer and disposal	Excludes: None.	PEA and Full Ecological Assessment / EIA (dependent upon the initial findings of the PEA)
Development involving hazardous substances	All development involving hazardous substances	Excludes: None.	PEA and Full Ecological Assessment / EIA (dependent upon the initial findings of the PEA)
Works within and quarries, gravel pits, natural cliff faces, rock outcrops, caves and new minerals workings	Construction, removal, re-grading, floodlighting, obstructing, removing obstructions, stabilisation works, commencement of active quarrying.	Excludes: None.	PEA (including all further recommended surveys)

## **EXEMPTIONS**

### **Applications where ecology matters are unlikely to be relevant**

No site can ever be described as of zero biodiversity interest, and the following development types are considered to be low risk and it is unlikely that ecological information will be required for the determination of the application:

Advertisements

Lawful Development Certificates

Discharge / Variation of conditions

Other Consent Types (e.g. Prior Notifications)

Non Material Amendment

However, none of the development types will be considered exempt if any of the following apply:

- The development is in, or adjacent to a nature conservation protected area, e.g. SAC, SPA, Ramsar, SSSI, SINC.
- Development affecting Ancient semi-natural woodland.
- Development affecting a Main watercourse.
- Where a development will knowingly affect protected or priority habitats or species.

#### 16.4. Appendix 4: When should a survey be undertaken

The value of an ecological survey is largely dependent upon when it is undertaken. While a Preliminary Ecological Appraisal to provide an initial assessment of the value of a site could be carried out throughout the year if undertaken during the winter months, some species may be overlooked. It is therefore extremely important that the need for an ecological survey is established as early as possible in the development process as there are constraints on when certain surveys can be undertaken.

The following table provides guidance on when surveys should be undertaken:

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Badgers												
Bats (Hibernation Roosts)				X	X	X	X	X	X	X		
Bats (Summer Roosts)	X	X	X							X	X	X
Bats (Foraging/Commuting)	X	X	X								X	X
Birds (Breeding)	X	X								X	X	X
Birds (Over Wintering)			X	X	X	X	X	X	X			
Dormice	X	X	X	X						X	X	X
Great-Crested Newts	X	X						X	X	X	X	X
Invertebrates	X	X	X							X	X	X
Otters												
Reptiles	X	X	X							X	X	X
Water Voles	X										X	X
Habitats/Vegetation	X	X	X							X	X	X

#### Legend

<span style="background-color: #4f81bd; border: 1px solid black; display: inline-block; width: 15px; height: 15px;"></span>	Optimal survey period
<span style="background-color: #d9e1f2; border: 1px solid black; display: inline-block; width: 15px; height: 15px;"></span>	Sub-optimal survey period
<span style="background-color: #d3d3d3; border: 1px solid black; display: inline-block; width: 15px; height: 15px;"></span>	Survey not recommended

It is also important to remember that the value of an ecological survey is time dependent and most surveys will only have a relevant 'shelf life' of two years. After this time a new survey will need to be undertaken.

## 16.5. Appendix 5: Conservation and Enhancement Measures

The following are examples of conservation (mitigation) and enhancement measures that could be utilised to conserve and enhance on-site biodiversity features and to provide for off-site compensation. The provision of these features will not be dictated by the scale of the proposed development but by the opportunities for the enhancement of biodiversity that the proposed development affords. For example, a very small development adjacent to a Great Crested Newt pond would be expected to provide an amphibian underpass and all gulley pots will be expected to be protected with wildlife kerbs.

Where appropriate, such measures should be incorporated into development design and illustrated on plans submitted in support of planning applications. The following is not intended as an exhaustive list of measures which could be employed and not all measures detailed will be applicable to all sites. However, each development should incorporate as many features as feasibly possible and viable.

<b>Under-passes</b>	<p>Under-passes are particularly relevant to larger developments and major road improvements /new roads. The creation of underpasses on new or upgraded main roads can help to prevent wildlife casualties and may also help reduce road traffic accidents caused as drivers swerve or brake to avoid wildlife.</p> <p>Underpasses are usually suitable where the topography allows and can be targeted at smaller species e.g. newts and toads, to assist in the annual migration to breeding ponds, or they may provide access for larger animals such as hedgehog, otter or badger. The size of the proposed underpass will be dictated by the topography and the species present. For example, where badgers have been identified a 600mm underpass would be required whereas for hedgehog and amphibians, a 150mm underpass is sufficient. Where underpasses are installed alongside road drainage pipes, the animal underpass must be set at a higher level than the drainage pipe to avoid it becoming filled with water at times of high water flow. If Otters have been identified in an area then an otter bridge/ledge or a secondary pass above the culvert level may be required to ensure safe passage when the river is in spate. All underpasses need to be accompanied by appropriate fencing to restrict animal movement and to direct animals to the underpass. Examples of this can be found in the Design Manual for Roads and Bridges (DMRB).</p> <p>Exceptions: No new major roads. Road is in a cutting. No bridge works. Picture: 2017 · Froglife</p>	 <p>Avoid Mitigate</p>
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<b>Wildlife kerbs</b>	<p>Wildlife kerbs allow for the incorporation of drainage into the scheme, and are designed to minimum wildlife deaths through entrapment in gulley pots. The wildlife kerbs come in several designs,</p> <p>Gulley pots act as a death trap for small animals (frogs, newts, toads, mice, voles etc.) which fall in and are unable to climb out. As many small animals are not surveyed for in site assessments, and are widespread, there is a high chance that they are present on or adjacent to your development site.</p> <p>Even where Great Crested Newt have been surveyed for and the survey result is negative, this proves only that GCN are not currently present on your site.</p> <p>However, to future-proof developments, all developments should be designed in such a way as to allow animals to adapt and migrate in the future, either as a result of expanding / shifting populations or in response to climate change. The distribution of animal and plant species will not be same in 10 years' time as present.</p> <p>Therefore, all drainage must be designed to minimise unnecessary wildlife casualties, either through the use of Sustainable Urban Drainage Systems (SuDS) or through the inclusion of wildlife features in the design. Such features include amphibian ladders which allow animals to climb out of gulley pots, and/or through the use of wildlife kerbs to reduce the numbers of animals falling into gulley pots.</p> <p>Exceptions: None.</p>	Mitigate
<b>Wildlife-friendly drainage</b>	<p>Similar to wildlife kerbs (above), wildlife-friendly drainage is the use of standard gulley pots and kerbs, but with a climbable-membrane attached to the underside, allowing any wildlife that falls in, to climb out.</p> <p>Gulley pots act as a death trap for small animals (frogs, newts, toads, mice, voles etc.) which fall in and are unable to climb out. As many small animals are not surveyed for in site assessments, and are widespread, there is a high chance that they are present on or adjacent to your development site. Even where Great Crested Newt has been surveyed for and the survey result is negative, this proves only that GCN are not currently present on your site.</p> <p>However, to future-proof developments, all developments should be designed in such a way as to allow animals to adapt and migrate in the future, either as a result of expanding / shifting populations or in response to climate change. The distribution of animal and plant species will not be same in 10 years' time as present.</p> <p>Therefore, all drainage must be designed to minimise unnecessary wildlife casualties, either through the use of Sustainable</p>	Mitigate

	<p>Urban Drainage Systems (SuDS) or through the inclusion of wildlife features in the design. Such features include amphibian ladders which allow animals to climb out of gully pots, and/or through the use of wildlife kerbs to reduce the numbers of animals falling into gully pots.</p> <p>Exceptions: None.</p>	
<b>Bird boxes</b>  <b>Different figures quoted and different species referenced.</b>	<p>Bird boxes are a popular and highly effective means of biodiversity enhancement as bird boxes are inexpensive, easily installed and readily inhabited by a range of species. Target species within the Vale of Glamorgan include: Swift, Swallow, House Sparrow and House Martin and bird boxes used must be suitable for at least two species. Bird boxes must be erected with or under the guidance of an ecologist for maximum chance of uptake and the number of bird boxes will depend upon the size and nature of the development proposed.</p> <p>The following information is a guide to what should be provided within all new development.</p> <p><b>New Build</b></p> <p>Small development (&lt;10 new buildings) - Bird boxes on 50% of buildings.</p> <p>Medium development (11 - 100 new buildings) - Bird boxes on 33% of buildings.</p> <p>Large development (101 - 500 new buildings) - Bird boxes on 25% of buildings.</p> <p>Very large development (501+ new buildings) - Bird boxes on 20% of buildings.</p> <p><b>Conversion</b></p> <p>Barn/outbuilding conversion - 1 Barn Owl Box (unless survey data shows more use).</p> <p>Replacement swallow nesting opportunities - 1:1 (loss:gain) - this can be the provision of artificial swallow cups or access into a suitable nearby building.</p> <p>Note: the LPA has a legal duty to preserve, maintain and re-establish a sufficient diversity and area of habitat for wild birds in the UK; and to use all reasonable endeavours to avoid any pollution or deterioration of habitat for wild birds.</p> <p>New changes to the Habitats Regulations place a duty on the Local Authority to maintain a suitable habitat for birds.</p> <p>a) Barn/outbuilding conversion - Many species of birds use barns and outbuildings to nest in, but particularly barn owls and swallows and these nest sites are lost as a result of conversions. Alternative nesting sites must be provided either in another suitable building on site (swallows/barn owls) or as nest boxes on appropriate trees (barn owl).</p>	 Compensate Enhance

b) Barn Owl: replacement at 1:1 (number of nest sites lost: number of replacement nest sites). However, where only one nest sites is recorded, a minimum of 2 nest sites should be provided as compensation as a nest site is more likely to be used where there is another nearby nest site for use by the male.

c) Swallow: replacement at 1:1, regardless of age of nest at time of survey. Compensation may comprise modifications to another building (e.g. access into a metal agricultural building, with wood attached to allow swallows to build their own nests, or provision of purchased swallow cups, erected in a suitable covered location.

Exceptions: none

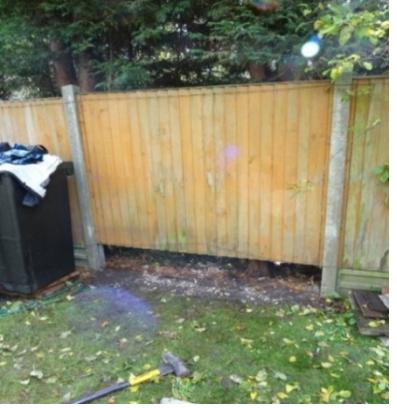
**a) New build**

All new build developments must include the following bird boxes as an enhancement measure. The boxes must be erected with or under the guidance of an ecologist for maximum chance of uptake. Boxes used must be suitable for at least 2 of the following species: House Sparrow, House Martin, Starling and Swift. Other boxes can be used e.g. hole nesting species, Great tit, blue tit. Other species including wren, robin etc. The number of boxes to be erected is dependent upon the size of the development.

- 1 - 4 buildings on 100% (1 in 1)
- 5 - 10 buildings on 50% (1 in 2)
- 11 - 50 buildings on 33% (1 in 3)
- 51+ buildings on 25 % (1 in 4)

Note: round number down for the purpose of the calculation e.g. 50 houses (1 in 4) = 12.5 = 12 boxes.

Where boxes are better used in groups, rather than spaced singularly (e.g. Sparrow), a commercially bought “sparrow terrace box” comprising 3 nesting chambers constitutes 3 No. nest boxes towards the total number of boxes.

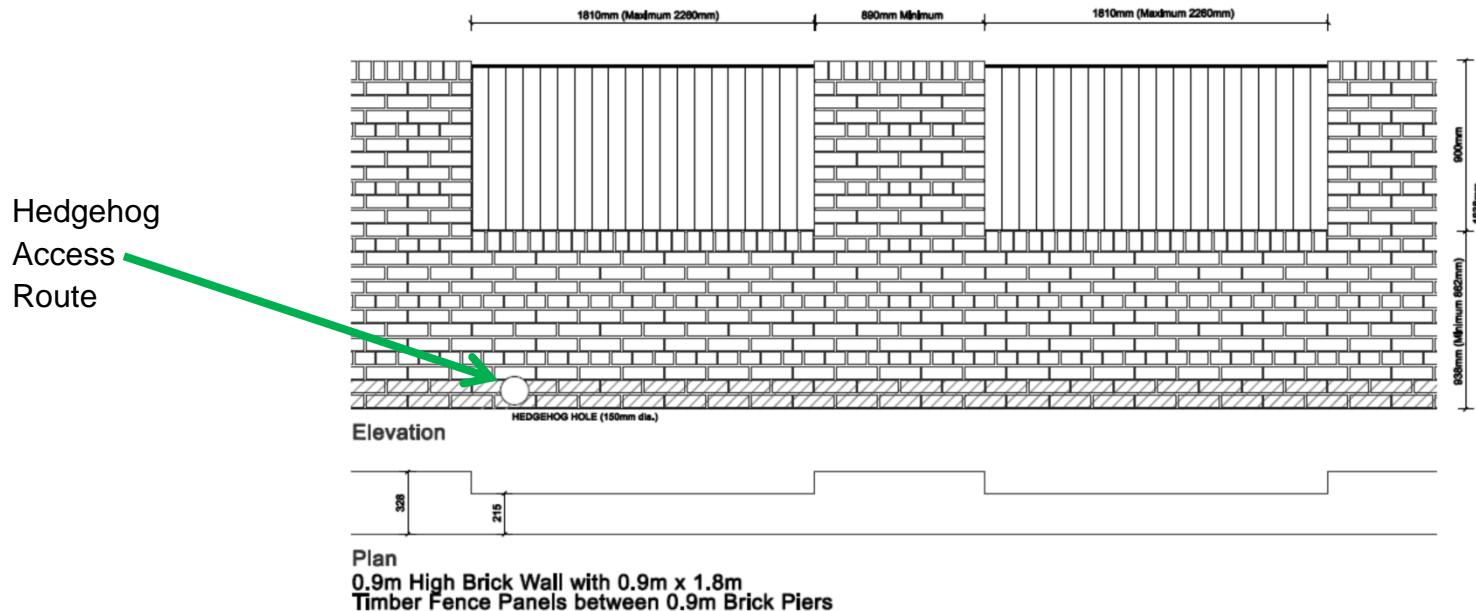
<b>Gaps under all fences</b>	<p>Hedgehog's numbers have seen a massive decline in recent years and current evidence suggests that population numbers are still decreasing. The decline is so severe that this iconic species is included on the Section 7 list as a Priority Species for Conservation in Wales.</p> <p>Not all development need be bad for the hedgehog. Domestic gardens are a valuable resource, but only if the hedgehog is able to access them and in this regard garden fences often present a permanent obstruction and restrict access. To help address the decline of the hedgehog, the SPG requires that all new development incorporate hedgehog-sized gaps at the bottom of all new garden fences.</p> <p>This can either be a continuous gap of 100 mm or squares of 130 mm x 130 mm at intervals which permit continued access and movement between adjacent gardens for foraging. More details provided in the specification drawings below.</p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>Where the proposed boundary is a hedgerow.</li> <li>Where the fence is comprised of fencing material with a mesh size of 100 mm x 100 mm or greater.</li> <li>Where the fencing is used in conjunction with underpasses to direct animals into an underpass, under a road.</li> </ul>		Avoid Mitigate Compensate Enhance
<b>Green solutions to engineering problems</b>	<p>Alternative solutions to engineering problems associated with development sites can provide opportunities for the enhancement of biodiversity. For example, 'green' or 'ecological' solutions such as the use of reed beds can act as silt traps and/or oil interceptors while at the same time providing valuable ecological habitat. Therefore where feasible, green solutions to engineering problems, e.g. planting to stabilise banks and the use of reed beds for silt traps / oil interceptors should be incorporated into development proposals.</p>		Mitigate (particularly with respect to flood schemes). Enhance.

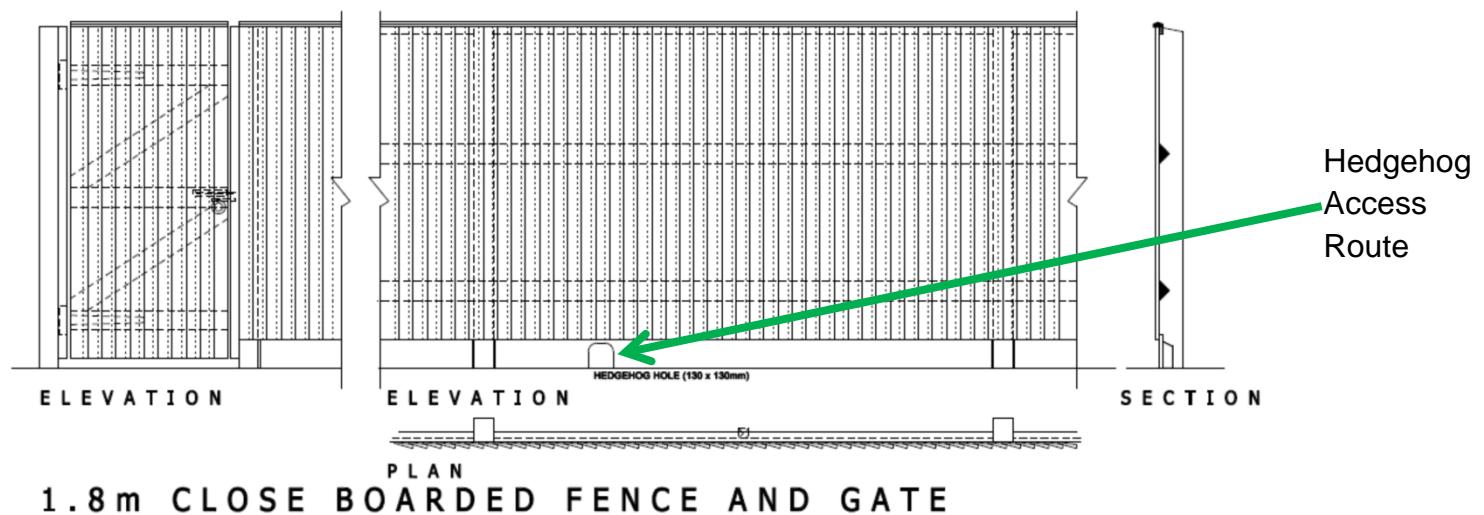
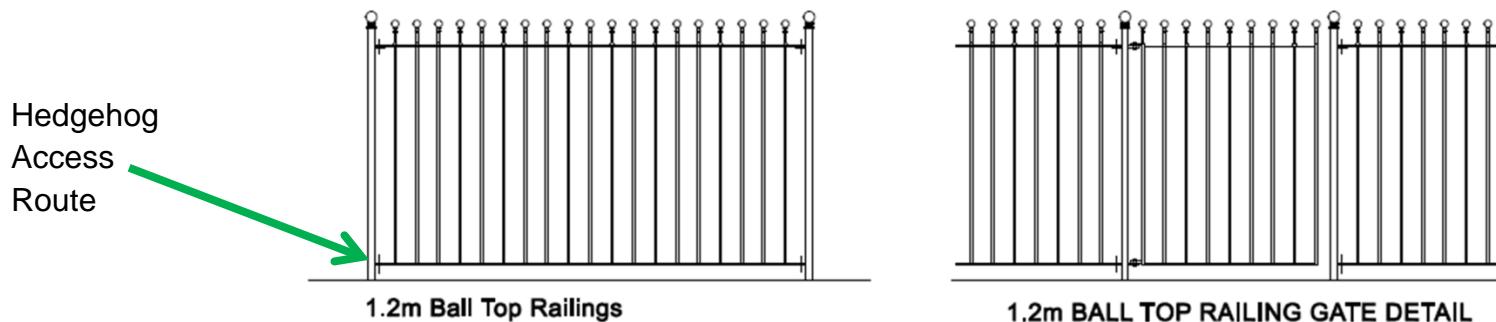
	<p>Exceptions: Not applicable.</p>		
<b>Retention or 1:1 (min) replacement of hedgerows</b>	<p>Hedgerows are a valuable resource for wildlife and are essential to maintain active populations of many animals. They act as habitats for nesting and feeding and also function as movement corridors that enable animals to migrate and travel. This connectivity allows populations to naturally expand and contract as environmental and/or climatic conditions dictate. Consequently, hedgerows are a priority habitat for conservation. However it should be remembered that hedgerows, while a vitally important aspect of our countryside, are a man-made habitat and in an intensively farmed landscape, they can be lost, created, enhanced and translocated.</p> <p>Therefore, hedgerows must be maintained on at least 1:1 basis (before : after development).</p> <p>When replanting is required, native species should always be used, ideally of local provenance. Where translocation or creation is being used in any compensation scheme, consideration should be given to using the soil bank from the base of the existing hedgerow that will be lost.</p> <p>Exceptions: None.</p>	Avoid Mitigate Enhance	
<b>Retention of irreplaceable habitat e.g. Ancient woodland and mature/veteran trees</b>  <b>Retention of woodland and</b>	<p>Certain ecological habitats and features are irreplaceable as they have developed over hundreds if not thousands of year's e.g. ancient woodlands, peat bogs, mature or veteran trees. The avoidance and protection of such features should therefore be the primary objective and this approach is endorsed by national guidance.</p> <p>Paragraph 5.2.9 of PPW states that 'Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty'. PPW further states that 'Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage' and that local planning authorities should, as appropriate, make full use of their powers to protect and plant trees to maintain and improve the appearance of the countryside and built up areas.</p>	Avoid Mitigate Enhance	

<b>mature trees</b>	<p>Technical Advice Note 5 Nature Conservation &amp; Planning directs that where relevant, local development plans should include policies which inter alia, 'Protect ancient woodlands, veteran trees and other trees of nature conservation value;' and the LDP therefore include policies MD2 and MD10 which seek to conserve and enhance biodiversity interest. Mature trees and woodland must be retained within developments,</p> <p>Exceptions: dying and dangerous trees, non-native trees and shrubs.</p> <p>Retention of (or avoidance of) irreplaceable habitat is an essential aspect of sustainable development. Habitats such as peat bog and ancient woodland, or mature/veteran trees are impossible to re-create (or would take so long to create that they are considered irreplaceable). PPW specifically mentions trees and woodlands and their protection (5.2.9, 5.4.4).</p> <p>Paragraph 5.2.9 of PPW states that 'Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty'. PPW further states that 'Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage' and that local planning authorities should, as appropriate, make full use of their powers to protect and plant trees to maintain and improve the appearance of the countryside and built up areas.</p> <p>Technical Advice Note 5 Nature Conservation &amp; Planning directs that where relevant, local development plans should include policies which inter alia, 'Protect ancient woodlands, veteran trees and other trees of nature conservation value;' and the LDP therefore include policies MD2 and MD10 which seek to conserve and enhance biodiversity interest. Mature trees and woodland must be retained within developments, Exceptions: dying and dangerous trees, non-native trees and shrubs.</p>	
<b>Vegetated dark flight corridors</b>	<p>Vegetated dark flight corridors are used by many species of bats to navigate their way around the countryside, to travel from breeding sites to foraging grounds, to water, to hibernation mating and to mating sites.</p> <p>Often "snap-shot" surveys are not detailed enough to identify the flight routes. Occasionally where flight data is obtained, the flight route may only be used at certain times of year, and therefore there is a high likelihood that surveys involving lower effort may miss these flight corridors. In addition, although the removal of a flight corridor from one development site may not singularly have an effect, the "in combination" effect of the removal of numerous flight routes may have a significant effect. Therefore, while the developer and his consultant will only survey the development site, the local authority has the overarching view of considering numerous proposed and predicted developments covering a wider area and it is therefore necessary that each development incorporates vegetated, dark flight routes to provide both north-south and west-east links across (or around) the site.</p>	Avoid Mitigate Enhance
<b>Creation of</b>	The creation of a pond will increase the wildlife value of a site in addition to providing a community feature. This can be in an	Enhance

wildlife ponds	area of public open space or in a “wildlife area”. Where an attenuation basin is created for drainage, consider the design of the basin so that it functions as an attenuation basin in times of high rainfall/high flow, but at other times retains a small area of standing water.	
Invasive Non-Native Species (INNS)	<p>INNS are a significant and growing problem within the UK, disrupting habitats and ecosystems, preying on or outcompeting native species, spreading disease, and interfering with the genetic integrity of native species. Some of the INNS are listed in the Wildlife and Countryside Act, and some require special permits for removal off-site. Examples include Japanese Knotweed, Himalayan Balsam, American Bullfrog, American Signal Crayfish, Crassula xxxx, Zebra Mussel.</p> <p>INNS must be dealt with, in accordance with legislation and national guidance (where this exists) for example, a programme of Japanese Knotweed eradication may require a specialist waste permit to remove material off-site for incineration or landfill, may need to commence several years prior to the start of development works and may require appropriate safeguards to be put in place e.g. the company guarantee, as a part of the development to protect the property and buildings.</p> <p>Exceptions: None.</p>	Mitigate Enhance

### Specification Drawings for Walls, Fences and Gates (Source: Barratt & David Wilson Homes):





## 16.6. Appendix 6: Planning Obligations

<b>Planning Obligations</b>	
<b>Justification</b>	The Council has a duty to ensure that the Vale's biodiversity assets (including Special Areas of Conservation, RAMSAR sites, Sites of Special Scientific Interest, Sites of Important for Nature Conservation, European Protected Species and Ancient and Semi Natural Woodlands) are protected and enhanced. Developers should seek to avoid developing on biodiversity assets, however if this is not possible appropriate mitigation and enhancements should be undertaken.
<b>Nature of Contribution</b>	<ul style="list-style-type: none"> <li>• Mitigation measures.</li> <li>• Habitat protection, enhancement, restoration and creation (off and on site).</li> <li>• Landscaping.</li> <li>• Site management.</li> <li>• Site interpretation.</li> </ul>
<b>Trigger for obligation</b>	<ul style="list-style-type: none"> <li>• All development which may have an impact on ecological, geological or landscape sensitive features.</li> <li>• Specific locations will need to be assessed individually.</li> <li>• An <b>Ecological Mitigation and Management Plan (EMMP)</b> is required for all appropriate developments.</li> </ul>
<b>Requirement</b>	There is no specific formula for contributions. Financial contributions will be calculated based on the recommendations in the EMMP.
<b>Payment types</b>	<ul style="list-style-type: none"> <li>• All capital costs of implementation, mitigation or compensation measures; and</li> <li>• Maintenance costs for a period to be agreed (for example, up to 10 years).</li> </ul>
<b>Implementation - Additional guidance Refer to section 7.5 for general advice</b>	<ul style="list-style-type: none"> <li>• Developer to implement appropriate mitigation, enhancement, restoration or creation on site where agreed and delivery specified in the S106 agreement.</li> <li>• If the developer makes financial contributions, they are likely to be required either prior to the commencement of the development or before the practical completion of buildings on site, depending on both the nature of the development and type of contribution required.</li> <li>• If the developer makes financial contributions for off-site enhancements, restorations or creations, the appropriate trigger point for payment of contributions to be negotiated with the developer as part of the S106 agreement. The Council will be responsible for the delivery of the specified work within the agreed</li> </ul>

	timescale.
<b>Current Guidance / Legislation</b>	<ul style="list-style-type: none"> <li>• Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006.</li> <li>• Planning Policy Wales (Edition 9, 2016).</li> <li>• TAN 5 Nature Conservation (2009).</li> <li>• Vale of Glamorgan LDP [SP10 Built and Natural Environment, MG19 Sites and Species of European Importance, MG20 Nationally Protected Sites and Species, MG21 Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, MD9 Promoting Biodiversity.</li> <li>• Biodiversity and Development SPG.</li> </ul>

## **16.7. Appendix 7: Designated and Defined Nature Conservation Sites within the Vale of Glamorgan**

### **International Designations\***

Dunraven Bay SAC  
Severn Estuary/Môr Hafren SAC/SPA/RAMSAR  
Kenfig/Cynffig (Adjoining) SAC

### **Local Nature Reserves**

Birchgrove Wood, Barry  
Cliff Wood, Porthkerry  
Cosmeston Lakes Country Park, Lavernock  
Cwm Talwg, Barry

### **Sites of Special Scientific Interest (SSSIs)**

Barry Island  
Breigam Moor  
Clementstone Meadows, Wick  
Cliff Wood / Golden Stairs, Porthkerry  
Cnap Twt, St. Brides  
Coed y Bwl, St Brides  
Coedydd Y Barri/Barry Woodlands  
Cog Moors  
Cors Aberthin  
Cwm Cydfin, Leckwith  
East Aberthaw Coast  
Ely Valley  
Ewenny and Pant Quarries  
Fferm Walters, Barry  
Hayes Point – Bendricks Road, Barry  
Larks Meadow  
Llynnoedd Cosmeston /Cosmeston Lakes  
Monknash Coast  
Nant Whitton Woodlands, Llancarfan  
Nash Lighthouse Meadows  
Old Castle Down, St Brides  
Penarth Coast  
Pysgodlyn Mawr, Welsh St Donats  
Severn Estuary  
Southerndown Coast  
Sully Island  
The Parish Field, Cae'r Rhedyn

### **Wildlife Trust of South and West Wales managed Sites**

Aberthaw Saltmarsh  
Coed Garnllwyd, Llancarfan  
Coed Llwyn Rhyddid, Hensol  
Coed y Bwl, Castle upon Alun  
Cwm Colhuw, Llantwit Major  
Gwern Rhyd, St Georges  
Lavernock Point

### **Regionally Important Geological Sites**

Argoed Isha Quarry  
Barry Harbour Coastal Cliffs  
Bendrick Rock  
Coast Section east of Barry  
Ewenny Quarry  
Friar's Point Coastal Cliffs  
Goldsland Gorge Quarry  
Langan Chimney  
Porthkerry to Cold Knap  
Sully Island  
Sully to Bendrick  
Wenvoe Quarry

\*See Natural Resources Wales:

<https://naturalresources.wales/guidance-and-advice/environmental-topics/wildlife-and-biodiversity/find-protected-areas-of-land-and-seas/designated-sites/?lang=en>

## 16.8. Appendix 8: Sites of Importance for Nature Conservation (SINCs)

SINC No.	SINC Name
1	Craig Tan-y-Lan
2	South of Tyla Gwyn
3	Cae Coed
4	North of Cae Coed
5	Ffynnon y Dera
6	Penymynydd
7	Ruthin Fach Farm
8	Coed Mawr
9	Land to East of Mynydd Ruthin
10	Mynydd Ruthin
11	Land South of Mynydd Ruthin
12	North West of Pant-y-Lliwydd Farm
13	Coed Breigam
14	Coed y Brynau
15	Gladstone Road Pond
16	Pond North of Cae-Rhys-Ddu
17	Coed Pant-Lliwydd
18	Land to the East of Llansannor & Llanharry Church in Wales Primary School
19	Land East of Tynytrach Farm
20	South of Forest Wood Quarry
21	Fforest Fach Farm
22	Land West of Llanfarach Farm
23	Land South West of Llanfarach Farm
24	Land between M4 and Industrial Estate
25	Land South of Llanfarach Farm
26	Land West of Ty Newydd Farm
27	North of Gwern-y-Gedrych
28	King's Wood
29	Long Wood
30	South of Long Wood
31	North of Corntown
32	Cottage Wood
33	Land South of Moor Mill
34	North West of Court Farm
35	Land North East of Newland
36	Land West of Langan
37	Land North of Langan
38	Coed Mansel
39	Land to East of Coed Pant-Lliwydd
40	Coed y Graig
41	Readers Way Pond

42	Coed y Stanby
43	Ham Wood
44	Land to North West of the Old Mill
45	Penllyn Fish Ponds
46	Llansannor Wood
47	Coed y Graig
48	South West of King Coed
49	Coed Pen-Cyrn
50	Mynydd y Fforest
51	North Ystradwen
52	Old Quarry, Cowbridge Road
53	Coed Wern-Fawr
54	Coed Cattwg-Glas
55	Llwyn-yoy Pond
56	Coed Llwyn-Rhyddid
57	South East of Llwyn-Rhyddid Cottages
58	North of Coed Leision
59	West of Newydd Stables
60	Land near Coed Pen-Brych
61	West of Clawdd-Coch Farm
62	Coed Waunn-Lloff
63	South West of Castell Bach
64	Land near Hensol Mill
65	Land South of Hafod Y Wennol
66	Land West of Hensol Mill
67	Hafod Y Wennol
68	Hensol Lake
69	Mill Ponds
70	Coed Fros-Ceibr
71	South West of Dyffryn Bach
72	North West of Dyffryn Mawr Farm
73	Coed Cadw
74	North of Pendoylan Moors
75	Land near Gwern y Gae Isaf
76	Land North of Brooklands Farm
77	West of Markswood
78	Land South of Oakfield
79	Land South of Glenholme
80	Maendy Farm
81	South West of Parc Coed Machen
82	South West of The Paddocks
83	North West of Hillfields Farm
84	Land by St y-Nyll Ponds
85	North of Palla Farm
86	South of Forty Farm
87	North Ogmore by Sea
88	Land by Ogmore River
89	Pant Norton

90	Craig Ddu	140	Land South of Pont Fach
91	Ogmore Down	141	Clemenstone Brook
92	Pant Mari Flanders	142	Land to the West of Tynewydd
94	Alun Valley	143	Church Farm
95	Cwm Alun	144	Franklen Farm
96	Ewenny Estuary Saltmarsh	145	Land South of Parcau Farm
97	Pwllwrach Farm	146	Land North West of Stembridge Farm
98	Slon Lane Grassland	147	Ty-Draw South of Colwinston
99	Gerddi	148	Wenvoe Castle Front Lawn Pond
100	Coed y Parc	149	Hilton Plantations
101	Land to South West of Coed y Stanby	150	Bears Wood
102	Violet Bed	151	South West of Llysworney
103	Coed y Castell	152	Pond 11 Biglis Moors
104	Beech Clump	153	Pwwl Erw-Naw
105	West of Trebettyn	154	North of Cog Moors
106	Amelia Trust Woodland Pond	155	Manor Gardens
107	Amelia Trust Dew Pond	156	West of Llysworney
108	Land at Trerhyngyll	157	Land North of Limefield House
109	North Caercady	158	Llanblethian Hill Down
110	South Caercady	159	Land to South West of Llanblethian
111	West of Ty Mynydd	160	Coed y Castell
112	North of Welsh St Donats	161	Coed Bach
113	Land North of Ty'r-Mynydd	162	Land West of Cowbridge Comprehensive School
114	Land adjacent to Ty'r-Mynydd	163	Llanquian Wood
115	East of Penfford	164	Land South of Whitefield Farm
116	Land West of Hensol Forest	165	Land along Nant Aberthin
117	Land adjacent to Forester's House	166	Long Grove
118	Mill Pond	167	Coed y Seler
119	Warren Mill Farm Park	168	Ravenswood
120	West of Warren Mill Farm Park	169	Gaer Wood
121	Coed Counsellor	170	Log Wood
122	Land at Pendoylan Moors	171	Cottrell Wood
123	East of Ty'n-y-Pwll	172	Coed y Lan
124	North West of Croes-y-Parc Baptist Chapel	173	Redland Wood
125	Gwern-y-Steeple	174	Betty Lucas Wood
126	Coed Pen-y-ffordd-fawr	175	Coed y Cwm
127	Kingsland	176	Land along River Waycock
128	East of Kingsland	177	Land at Winchpit
129	East of Homri Farm	178	Land North West of Coed Nant Bran
130	East of Glyncory Water Works	179	Coed Nant-Bran
131	Land South West of Ffordd Cottages	180	Beechwood
132	Coed Quinnet	181	West of White Hall
133	Land near Ffordd Cottages	182	Wenvoe Orchid Field
134	Land South East of Ffordd Cottages	183	East of Wenvoe Orchid Field
135	Land North of Coedarhydyglyn	184	The Downs
136	North of Castle Farm	185	Coed y Cymdda
137	Penlline Moor Wood	186	Coed y Ddyluan
138	Pant y Groes	187	West Hill Wood
139	Pwll y Mer	188	Factory Wood

189	Reservoir Wood	240	Land by Winstone Brook
190	Dunraven Park	241	Coed Ysgubor-Goch
191	Cwm Mawr	242	Coed Clwyd-Gwyn South West of Michaelston le Pit
192	Land at Sutton	243	Coed Twyncyn
193	Land North of Ty-Newydd Farm	244	Case Hill Wood
194	Factory Brook	245	Cwm Cewydd
195	Ruff Moor	246	Clawd y Mynach
196	Land South of Ruff Moor	247	Glan-y-mor Pond
197	Land South-East of Llanmihangel	248	Sealands Farm Pond
198	Coed y Pentre	249	Beacon Towers Field and Pond
199	South of Brookside Farm	250	East of Meadowvale Nursery
200	Land near Ffynnon Math Lwdd	251	Frampton Court Farm
201	Land to West of Coed y Pentre	252	East Flemingston
202	Crookland Gorse	253	Land North of Llanbydderi Moor
203	Land along Nant Llanmihangel	254	Land to the South of Treguff Cottage
204	Dinas Powys Castle Woodland	255	Coed y Colwn
205	Coed y Grabla	256	Land West of Llandbydderi Moor
206	Coed y Seler	257	North Pant y Coed
207	Coed yr Arglwydd	258	South Pant y Coed
208	Coed y Gellast	259	Land South West of Pant y Coed
209	Coed Francis	260	East Pant y Coed
210	Land to West of Pen-Matn	261	Land South West of Llanbethery
211	Coed Hills	262	West of Ty-to-Maen
212	Coed Arthur	263	Land West of Llancarfan
213	North of the Garn	264	Land North of Llancarfan
214	Land North of Llanvithyn Farm	265	Land North East of Llancarfan
215	North West of Garnllywd Farm	266	Land off Pancross Farm
216	Land along Nant Llancarfan	267	Land West of Pen Onn Farm
217	Land South of Ty'n-y-Coed	268	Land West of Pen-Doines
218	Coed Quinnet	269	Pen-Doines
219	West of Coed Quinnet	270	Land North of Penmark
220	Land South of Blackland Farm	271	Land to North East of Penmark
221	Land North of Whitton Rosser Farm	272	Land North of Pen Onn Farm
222	Land North West of Whitton Rosser Farm	273	South East Llancarfan
223	Brook Wood	274	Ford Farm
224	Coed Sion Hywel	275	Cwm Flaxland
225	Coed y Graig	276	Land North of Broomwell
226	Land North of Little Hamston Farm	277	Coed y Cwm
227	Land South of Little Hamston	278	Breach Wood
228	Land to West of Dyffryn	279	Land North of Coed y Cwm
229	East of Dyffryn Springs	280	Land North of Flaxlands
230	Great Hamston	281	Land to west of Northcliff Farm
231	Dyffryn Golwch	282	Coed Garw
232	Dyffryn Gardens	283	Sutton Wood
233	Land to North of Dyffryn	284	North West of Welsh Hawking Centre
234	Land along Nant Bran	285	West of Barry College
235	Coed Maesyfelin	286	North of Highlight Farm
236	Goldsland Farm Pond	287	Land at Nant Bryhill
237	Wenvoe Wood	288	Brynhill
238	East of Little Oaks	289	Fields at Merthyr Dyfan
239	Aberthin Field		

290	Land North of Port News
291	Land West of Windrush
292	North West of Pencoedtre Wood
293	West of Pencoedtre Wood
294	Dinas Powys Moors
295	Shortlands Wood
296	North of Pop Hill
297	Cross Common
298	Pop Hill
299	Cog Moors
300	Cogan Pond
301	Cosmeston Lakes
302	Cwm Marcroes
303	Wood at St Donat's
304	Cwm Tresilian
305	West of Cwm Colhuw
306	Cwm Colhuw
307	East Orchard Wood
308	Oxmoor Wood
309	Ox Moor
310	Coed Llancadle
311	Lower Thaw Valley
312	North of Aberthaw Cement Works
313	Land adjacent to Burton Plantation
314	Land South of Llancadle
315	Llancadle
316	East Aberthaw Former Quarry
317	Llancadle Gorse
318	Land adjacent to Kenson Wood
319	Kenson Wood
320	Castle Wood
321	Cliff Wood
322	Land South of Penmark
323	Land South West of Curnix Farm
324	Land South of Curnix Farm
325	Curnix Farm
326	Church Hill Wood

327	Land North of Blackton Farm
328	North West Bullhouse Brook
329	North Bullhouse Brook
330	West of The Old Rectory
331	Knock Man Down Wood
332	North East of Knock Man Down Wood
333	South of Cwm Ciddy Farm
335	North Cwm Barri
336	Walters Farm
337	Cadoxton Wetlands
338	Cadoxton River
339	North of North Road
341	Ty-r-Orsaf
342	Lavernock Point East
343	Water Lane Ponds
344	Highfield Farm Dew Pond 2
345	Summerhouse Bay West
346	Sutton Road Pond
347	Dyffryn Business Park Pond
348	Coast at Aberthaw Power Station
349	The Walls at Aberthaw
350	Land at East Aberthaw
351	Font-y-Gary
352	Rhoose Point
353	South West of Church Farm
354	East of Lower Porthkerry
355	Flaxland Pond
356	Welsh St Donats Village Pond
357	Friars Point
358	Nell's Point East
359	Coed Lawn
360	Leckwith Woods
361	Downs Wood
362	Goldsland Wood
363	Coed Uchaf

## 16.9. Appendix 9: Development Impact Fictional Case Studies

### Example 1 : Manytrees Woodland proposed campsite and classroom

**Proposed Development:** The application is the creation of 10 small open areas to allow camping in a small area of woodland for recreational (camping) purposes and the creation of an “outdoor classroom”.

#### Biodiversity of the Site

Ancient woodland (priority habitat), which supports a population of badgers (protected species), with numerous setts located throughout the woodland.

#### Site biodiversity value; High

#### Overall Development Impact: Low

**Commentary:** Although the proposed development is in an area of high biodiversity value, the actual impact of the creation of small open areas (construction impacts) is low with only a small number of trees proposed for removal and there will be very little impact on the woodland floor. The area for the camping is alongside existing footpaths and near the existing car park.

Although the woodland is well used it has suffered from a lack of appropriate management which has resulted in a decline in the overall condition of the woodland which has resulted in a dense canopy that restricts sunlight and prevent natural woodland regeneration and reduced the numbers of woodland flowering plants on the woodland floor. The lack of management means that the woodland is at risk.

The badgers in the woodland are sited well away from the areas used for informal recreation and can tolerate the current level of use which is largely generated by people from nearby villages for dog walking and other recreational purposes. While the proposed use of the woodland camping (operational impacts) would create additional pressure on the woodland, the area in which they would be located is already heavily used by dog walkers and other persons for recreational uses and the small numbers of tents would not represent a significant increase in disturbance levels.

In order to make the woodland more inviting to paying guests, the owners of the woodland, wish to instigate a programme of long overdue woodland management which will bring the woodland back into good condition and ensure its survival. The management of the woodland (through selective tree felling) and the benefits this will bring will clearly outweigh

the negative impacts of the proposed tree pods for the health of the woodland and the species it supports.

#### **Example 2 : Stoney Barn, proposed conversion**

**Proposed development:** The proposal is to convert the barn to form a residential dwelling.

**Biodiversity of the Site:** A small barn supporting four different species of bats (European Protected Species) which roost there.

**Biodiversity value:** High

**Overall Development Impact:** High

**Commentary:** The range of bat species present in the barn requires large voids in which to fly and roost. Although many barn conversions where bats are present can, with appropriate care and planning, be undertaken without disturbing the bats. In this case, the species of bat present, the number of species (4 species makes the barn an important roosting site) and the very small size of the barn meant that in order to achieve a useful residential conversion, all the space was required in the barn, with no possibility of space to be provided in mitigation to accommodate the bats. Conversion of the barn as initially proposed would result in the loss of the entire bat roost. Therefore the developer would not be likely to obtain the necessary licence.

In a slightly larger barn, there may have been the opportunity to use the roof void as mitigation, however in order to achieve the required minimum head height proposed in the conversion, the internal space was opened up, to the ridge beam and there was no roof void.

Early consultation with Natural Resources Wales (the licensing body) allowed the developer to find a solution which involved the creation of an alternative bat roost within another barn located within the boundary of the development site. The development plans for this barn were amended in consultation with the Council's ecologist and NRW to provide a space capable of being utilised as a bat roost.

#### **Example 3 : 6, High Street, Anytown**

**The Proposed Development:** The proposals are to put a single storey side extension on the house.

**Biodiversity of the Site:** The site is the side garden of the house which the owner knows has slow worms (part protected species) and hedgehog (priority species) regularly visiting.

**Biodiversity Value:** Low

**Overall Development Impact:** Low

**Commentary:** The area is currently set out as part patio and part a well maintained lawn. The slow worms are resident in the borders of the garden and the hedgehog although frequent visitors to the garden during the night are unlikely to use the more open areas of the lawn and patio as they mainly use the borders for foraging and to access other locations. Although the proposed extension will utilise a large area of the garden, the development will not adversely affect the species present or their activities and no habitats of any significant value will be lost.

#### **Example 4 : Housing Development Grazing Field, Anytown.**

**The Proposed Development:** The proposals are to build a housing development on an area currently used for grazing. A small grassy area with the existing pond will be retained as Public Open Space.

**Biodiversity of the Site:** The site is comprised of heavily grazed grassland field (no value). In the centre of the field is a small pond (Priority Habitat) which supports a population of Smooth Newt (declining but not a Priority Species) and the area is known to be used by hedgehog (Priority Species). The site is surrounded by hedgerows (Priority Habitat) which support common lizard (declining but not protected/priority).

**Biodiversity Value:** Relatively Low

**Overall Development Impact:** High

**Commentary:** Although the pond is to be retained, the residential development surrounding it will isolate the pond from the wider countryside and the severance of habitats will result in the pond becoming less and less suitable to support a healthy population of smooth newt. Although Smooth Newt is not protected nor a priority species, they are declining and are

locally rare within the South Wales region. Eventually, the population will be lost entirely. The gardens are to be surrounded by walls and fences and provided no access for hedgehog to the gardens, and as a result hedgehog will cease to use the site. Although hedgehog is not protected, they are a Priority Species for conservation. Common lizard (declining) in the boundary hedgerows will remain following this development but increased predation from domestic cats will significantly impact upon the local population.



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