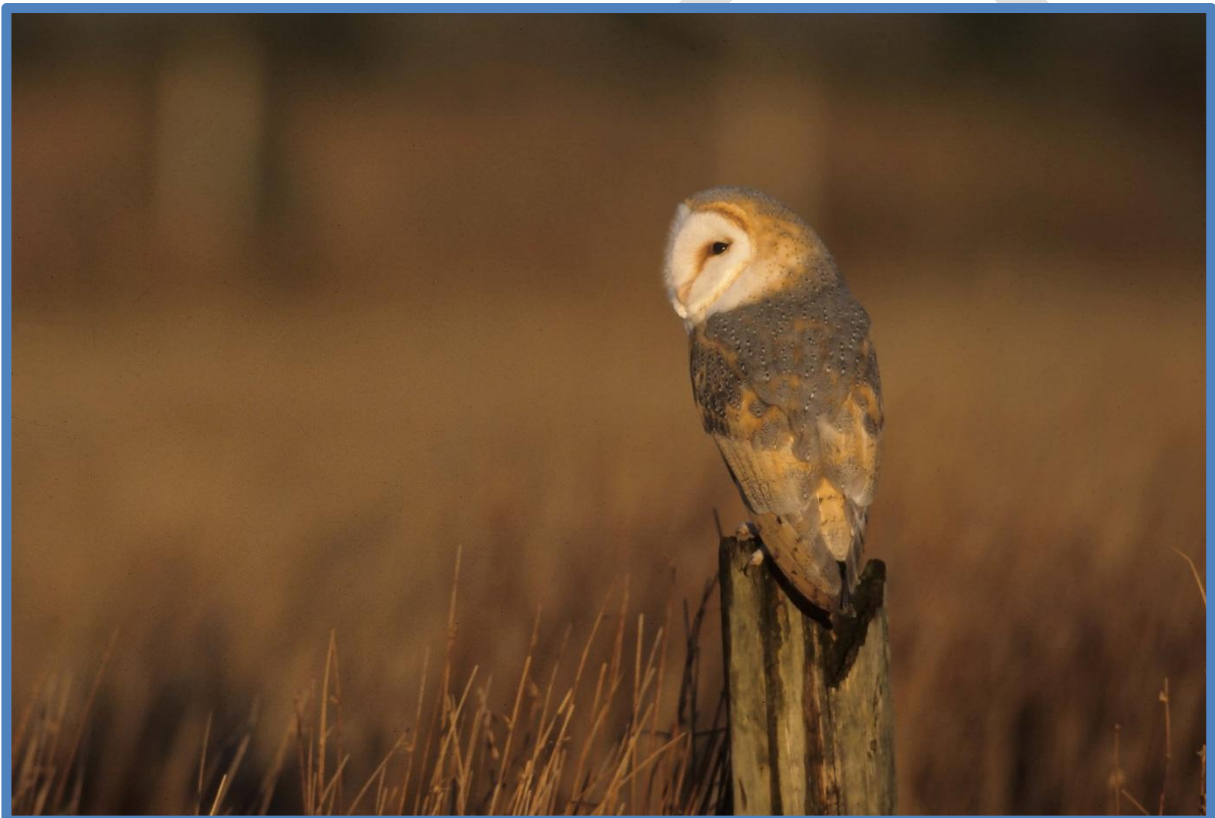


DRAFT Supplementary Planning
Guidance Note

Conservation and Enhancement of Biodiversity



Denbighshire County Council
Strategic Planning and Housing
April **July** 2016

Cyngor
sir ddinbych
denbighshire
County Council

The logo for Denbighshire County Council, featuring a stylized green and blue wave or leaf shape next to the text.

Content

Key Considerations for prospective applicants

1.	Document status and stages in preparation	04
2.	Introduction	04
3.	Planning Policy and other relevant legislation	05
4.	Pre-planning application	06
5.	Planning application registration	08
6.	Planning application determination	08
7.	Planning application implementation	11
8.	Environmental Impact Assessment and Habitat Regulations Assessment	11
9.	Contacts	12
	Appendix 1 - Local planning policies	
	Appendix 2 - Ecological reports and surveys	
	Appendix 3 - Protected sites and species in Denbighshire	
	Appendix 4 - Guidance on optimum survey times for selected habitats and species	
	Appendix 5 - Developments affecting Great Crested Newts and their habitats	

Please note that this document is also available in Welsh.
Cover Photo: Barn Owl (©Keith Offord)

Key Messages for prospective applicants

Biodiversity is a material planning consideration. Planning applications have to be accompanied by sufficient information to assess the ecological effect of the proposed development.

The presence of protected species, habitats or designated sites on or in the vicinity of the application site is unlikely to prevent development as long as adequate measures are in place to prevent adverse effects on them.

It is the responsibility of the applicant to check land/ buildings for the presence of protected species and their habitat and to take them into account at the design stage of a development and before planning permission is sought.

Applicants are obliged to provide all required information to allow the local planning authority to assess the impact of the proposed development on biodiversity. Planning applications may be delayed in registration ('validation') due to missing ecological surveys or assessment works.

Ecological surveys and assessments must be carried out by an independently trained ecologist. The submitted documents should not only present results but clearly show how the development proposal was informed by the outcomes and recommendations of ecological reports.

Should protected species be affected by the development proposal there may be a need for protected species licence prior to commencement of development. The licensing body is Natural Resources Wales.

1. Document status and stages in preparation

- 1.1 This document is one of a series of Supplementary Planning Guidance (SPG) notes amplifying Denbighshire Local Development Plan 2006 – 2021 (LDP) policies in a format which aims to guide the process, design and quality of new development. The Council's SPG notes are not part of the adopted LDP.
- 1.2 The Welsh Government (WG) has confirmed that following public consultation and subsequent Local Planning Authority (LPA) document adoption, SPGs can be treated as a material planning consideration when LPAs, Planning Inspectors and the WG determine planning applications and appeals.
- 1.3 The purpose of this document is to provide detailed guidance and advice to assist members of the public and the Council, prospective applicants and Officers in discussions prior to the submission of and, consequently, in determination of future planning applications. ~~It was formally approved for public consultation by Denbighshire County Council's Planning Committee on 16th April 2016.~~ This SPG was formally adopted by Denbighshire County Council's Planning Committee on XXX.
- 1.4 This document was produced in line with planning policy and guidance laid out Planning Policy Wales and Technical Advice Note (TAN) 5: Nature Conservation and Planning, the British Standards Institute publication BS42040:2013: Biodiversity – Code of practice for planning and development, and guidance documents provided by the Chartered Institute of Ecology and Environmental Management (CIEEM) and the Royal Town Planning Institute (RTPI).
- 1.5 The following sections do not replace policy or expertise from professional ecologist. It is a best practice guidance document. The document commonly refers to planning permission but the guidance will also apply to applications seeking listed building consent, works affecting conservation areas or works to trees covered by a Tree Preservation Order (TPO).

2. Introduction

- 2.1 The planning system plays a crucial role in nature conservation. Rising demand for development land and changes to land management practices have led to an increased loss and fragmentation of habitats, disturbance of species, hydrological changes and an increased

pressure on the natural environment.

- 2.2 Biodiversity is a material consideration in the formal planning system, irrespective of the fact that the affected habitats or species benefits from any statutory protection. Planning permission could be refused if significant harm resulting from the development cannot be avoided, adequately mitigated or compensated for. It must be noted that the failure to supply requested information and ecological surveys to the Council, which are required to determine the planning application, will also result in refusal of planning permission.
- 2.3 This document outlines the Council's expectations with regard to the biodiversity information to be submitted with a planning application, scope and standards of submitted ecological surveys; and briefly points out potential additional legal duties on developers as a result of obtaining planning consent.
- 2.4 The level of work and information required to assess a proposal's compliance with nature conservation legislation will depend on the type and scale of development. For example; a planning application seeking to modify roof space is likely to require less survey work and ecological details than an application for a new housing estate in light of the same legal responsibilities.

3. Planning Policy and other relevant legislation

- 3.1 Planning Policy Wales, paragraph 2.1.2, states that planning applications have to be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Denbighshire's LDP was adopted in June 2013, and contains local policies applicable to development proposals that are likely to require consideration of effects on biodiversity and the natural environment.
- 3.2 PPW subsequently stresses that material considerations must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest. It also states that material considerations must be fairly and reasonably related to the development concerned. For example, material considerations could include noise, pollution or disturbance of species present on or adjacent to the application site.
- 3.3 LDP Objective 16 'Areas of Protection' identifies the protection and enhancement of the natural environment in Denbighshire as a key

objective of the Plan. It is supported by LDP theme 'Valuing Our Environment' (VOE), and three principal policies: RD 1 'Sustainable Development and good standard design', VOE 1 'Key areas of importance' and VOE 5 'Conservation of natural resources'. A copy of all three policies is included in Appendix 1 to this document.

- 3.4 Besides planning legislation, the LPA is also bound to consider biodiversity as part of the determination process by obligations derived from other international and national legislation on nature conservation. Applicants must be aware that their proposals have also to comply with this legislation and that further duties may arise for them as a result of obtaining planning permission. For example;
- Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC);
 - Regulation 61 and 62 of 'The Conservation of Habitats and Species Regulations 2010';
 - Section 28G of the Wildlife and Countryside Act 1981;
 - Section 11 of the Countryside Act 1986;
- 3.5 Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (the GDPO) grants planning permission for certain types of development without submitting an application to the local planning authority. If developers wish to make use of these powers, they should be aware that compliance with nature conservation legislation outside the planning regime will still apply.
- 3.6 Where a breach of planning consent and/ or nature conservation legislation has been observed, the Council will make use of enforcement powers under planning legislation and wildlife crime under Section 25(2) of the Wildlife and Countryside Act 1981 (as amended), and report to the relevant regulatory body.
- 3.7 Appendix 3 provides a summary of legislative provisions afforded to designated sites and protected species in Denbighshire.

4. Pre-application

- 4.1 Ecological surveys and assessment work should be carried out at the early stages of project management to be able to amend the proposal's design, layout or plan in line with results and recommendations. The identification of biodiversity constraints at a later stage in the planning process could have significant cost and time implications.

4.2 Prospective applicants may wish to familiarise themselves with the 'Five Point Approach' developed by Tyldesley, D for the RTPi (see box below) when gathering ecological information in preparation of submitting a planning application, and, hence, support the decision-making at a later stage in the process. It provides a systematic approach to planning decisions that would help to contribute to biodiversity conservation.

4.3 (1) *Adequate information*

Is sufficient information provided to assess the development's impact on biodiversity? Will the impact on individual biodiversity features be significant, and what will be the effects? Are there alternative sources of information available to support the assessment?

(2) *Avoidance of harm*

Have all adverse effects on habitats and species been avoided wherever and whenever possible?

(3) *Mitigation to minimise unavoidable harm*

Should adverse effects on biodiversity features be unavoidable, would the application of planning conditions and/ or planning obligations contribute towards mitigation measures that seek to reduce or compensate for them?

(4) *Compensation to offset residual harm*

Where avoidance or mitigation measures cannot reduce further any residual harm, can the harm be offset by any compensation measures; which are always the last resort? Can the implementation of compensation measures be secured by planning conditions and/ or planning obligations, and are they enforceable?

(5) *Enforcement/ New Benefits*

Besides assessing adverse effects on biodiversity, have all opportunities been explored with regard to the proposal's contribution to biodiversity enhancement, for example, through habitat creation? Can proposed enhancement measures be secured through planning conditions and/ or planning obligations?

4.4 Whilst not every type and scale of development requires a pre-application discussion, prospective applicants may wish to seek professional advice from a qualified ecologist regarding the proposed development and potential biodiversity constraints and enhancement opportunities.

- 4.5 Before submitting a planning application, the prospective applicant should be able to:
- determine whether and how the proposed development is likely to affect biodiversity;
 - establish what information needs to be submitted with their application to ensure the LPA has sufficient information to make a determination; and
 - (where required) amend the project and accompanying plans to include the proposed mitigation measures identified in any ecological report or study.

5. Planning application registration

5.1 If the proposed development has the potential to affect biodiversity conservation interest, the planning application should be accompanied by environmental information to allow the local planning authority to assess the impact. Ecological information is required for proposals having the potential to affect:

- Internationally and nationally designated statutory sites;
- European and nationally protected species;
- Non-statutory designated sites, or priority habitats and species.

5.2 The following types of development proposal will almost certainly be accompanied by ecological information. The list is however not exhaustive:

- Conversion of barns and buildings;
- Demolition of buildings/ structures (including walls) and removal of roofs;
- Felling of trees (including woodland) hedgerows and other vegetation including the clearance of scrub land;
- Refurbishment of unoccupied dwellings;
- Alterations to roofs, including residential extensions;
- Affecting watercourses and ponds
- Infrastructure construction – roads, drainage schemes, electricity and telecommunications installations;
- Habitat creation or enhancement.

5.3 If it is found that the planning application is accompanied by inadequate or insufficient ecological information to make a decision, it will not be registered ('validated') with the local planning authority.

6. Planning application determination

6.1 Prospective applicants are reminded to have regard to the Council's

biodiversity aspirations for the conservation, restoration and enhancement of habitats and species; as laid out in the Denbighshire Local Biodiversity Action Plan, the relevant Management Plan for proposals in or in the vicinity of a European site (see Joint Nature Conservation Committee's [JNCC] website, www.jncc.defra.gov.uk), or information provided by Denbighshire Countryside Services for local wildlife sites or nature reserves.

6.2 All documentation will be looked at with regard to professional competence and applied methodologies, an assessment of the likely impacts on biodiversity, and, crucially, how recommendations and proposed actions have been addressed in design, layout, plan or management of the development. If the prospective applicant is of the opinion that the proposed development would not have an impact on biodiversity, for example, due to the nature of the proposal or location, this needs also to be explained in the biodiversity statement.

6.3 Ecological reports and documents should include as a minimum the following information:

- A brief description of the development proposal;
- Information on the application site: size, location, existing land use and structures;
- A description of how the biodiversity could be affected by the proposed development and the measures proposed to ensure adverse effects are addressed and that opportunities for enhancement are maximised;
- A summary of the results and findings of all submitted ecological surveys and other data gathering exercises; and
- Acknowledgement of how the recommendations of any ecological reports have been incorporated into the development proposal; if recommendations have not been taken forward this should be explained.

6.4 Further information on ecological surveys and reports, survey times, protected species and sites can be found in the Appendices.

6.5 After a planning application has been registered, the Council will make all submitted documents available to members of the public, statutory consultees, and other Council services for a period of 21 days. If ecological information has been submitted, the Council's Ecology and Biodiversity Officer and Natural Resources Wales are invited to comment at minimum. Responses could also be received from other

nature conservation interest groups depending on the habitat or species, for example The North Wales Wildlife Trust and the Royal Society for the Protection of Birds.

- 6.6 All development proposals will be assessed against planning policy and other relevant legislation (see Appendices 1 and 3).
- 6.7 The principal objective of determining a planning application is to test the development proposal's compliance with policy and other applicable statutory obligations. As part of the process it becomes crucial to scrutinise the evidence base, including supplied ecological information. The following issues will be examined:
- whether biodiversity is likely to be affected and whether all potential impacts are described adequately;
 - the proposal is based on adequate and up-to-date ecological field data that substantiate clearly the conclusions reached and recommendations made;
 - that the ecological methods are in accordance with good practice guidance, and departures are made clear, are valid, and can be justified;
 - with regard to proposed mitigation measures whether they are likely to be effective, appropriate to the identified adverse effects, technically feasible, certainty over deliverability, and the appropriateness of using planning conditions and / or planning obligations.
- 6.8 Planning permission may be refused where ecological information is found to be inadequate or insufficient.
- 6.9 If the local planning authority decides to grant planning consent, there are likely to be planning conditions or planning obligations contained in the decision note. They are required to ensure that the identified measures to conserve and/ or enhance biodiversity on or in the vicinity of the site are delivered and, where necessary, incorporated into the development. This could include, for example:
- seeking approval of further details or licenses as the scheme implementation progresses, perhaps in consultation with Natural Resources Wales;
 - required works to be carried out to proceed in line with prescribed working methods;
 - the production of an environmental management plan;
 - avoidance of harm, for example, noise, to the environment during the construction period;

- requiring the treatment of invasive species on the application site;
- installation of a monitoring systems with the potential need to adjust the development in line with newly obtained ecological data; or
- the creation and maintenance of any compensatory areas required.

6.10 In certain circumstances on sites with, or close to known populations of great crested newts, it may not be feasible to provide adequate compensation on site. In such cases, off-site compensation will be considered, which could be in form of a commuted sum. Further details on developments affecting Great Crested Newts and their habitats can be found in Appendix 5.

7. Planning application implementation

7.1 Before implementing a planning permission, it must be ensured that all pre-commencement conditions listed in the decision note are complied with. If the proposal is likely to affect a protected species, for example disturbance or capture, a species licence must be obtained from Natural Resources Wales or Welsh Government prior to carrying out works. Failure to have the licence in place may result in criminal proceedings.

7.2 Where a breach of planning consent and/ or nature conservation legislation has been observed, the Council will make use of enforcement powers under planning legislation and wildlife crime under Section 25(2) of the Wildlife and Countryside Act 1981 (as amended), and report to the relevant regulatory body.

8. Environmental Impact Assessment and Habitat Regulations Assessments

8.1 Environmental Impact Assessment (EIA) is a process intended to identify and assess the likely significant environmental effects of a proposed development to inform decision-making. The local planning authority is duty-bound by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

8.2 EIA will only apply to a small proportion of projects applying for planning permission. Under the EIA Regulations, developments fall into different categories: all development proposals that can be classed as 'Schedule 1' development must be subject to an EIA, whereas 'Schedule 2' development needs to be screened for likely significant

environmental effects. It is however at the Council's discretion to request an EIA with planning application for 'Schedule 2' development. An EIA screening opinion of the proposed development is available on request from the Council.

- 8.3 Habitat Regulations Assessment is a process to ensure there is no harm to sites of international importance as a result of plans and projects. Local planning authorities are under obligation to assess whether a development proposal is likely to have an adverse effect on the qualifying features of a European site, i.e. Special Protection Area (SPA) or Special Area of Conservation (SAC), in line with the requirements of Regulation 61 and 62 of 'The Conservation of Habitats and Species Regulations 2010'. Ramsar sites, designated under the Ramsar Convention on Wetlands 1971, are required to be assessed in the same way.
- 8.4 The Council undertook a Habitats Regulations Appraisal for the Local Development Plan. The document does not only screen all allocated sites in the Plan but contains useful information on European protected sites and species, including conservation objectives, in or in the vicinity of Denbighshire. However, this does not negate the need for planning proposals to be subject to HRA separately.

9. Contacts

Denbighshire County Council
Planning and Public Protection
Development Management
Caledfryn
Smithfield Road Denbigh
LL16 3RJ
Tel: 01824 706727
Email: planning@denbighshire.gov.uk

Natural Resources Wales
Llwyn Brain, Ffordd Penlan
Parc Menai
Bangor, Gwynedd
LL57 4DE
Tel: 03000653000
Email: enquiries@naturalresourceswales.gov.uk

Royal Society for the Protection of Birds
North Wales Office
Uned 14, Llys Castan
Ffordd Y Parc, Parc Menai
Bangor
Gwynedd

Denbighshire County Council
County Ecologist
Denbighshire Countryside Service
Loggerheads Country Park
NR Mold
CH7 5LH
Tel: 01352 811029
Email: countryside@denbighshire.gov.uk

North Wales Wildlife Trust
Head Office
376 High Street
Bangor, Gwynedd
LL57 1YE
Tel: 01248 351541
Email: nwt@wildlifetrustswales.org

Appendix 1 – Local planning policies

A1.1 Denbighshire Local Development Plan 2006 – 2021 (LDP) contains the following policies that contain criteria explicitly referring to natural environment and/ or biodiversity considerations.

A1.2 Policy RD 1 - Sustainable development and good standard design

Development proposals will be supported within development boundaries provided that all the following criteria are met:

- i) Respects the site and surroundings in terms of the siting, layout, scale, form, character, design, materials, aspect, micro-climate and intensity of use of land/buildings and spaces around and between buildings; and
- ii) Makes most efficient use of land by achieving densities of a minimum of 35 dwellings per hectare for residential development (unless there are local circumstances that dictate a lower density).
- iii) Protects and where possible enhances the local natural and historic environment; and
- iv) Does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; and
- v) Incorporates existing landscape or other features, takes account of site contours and changes in levels and prominent skylines; and
- vi) Does not unacceptably affect the amenity of local residents, other land and property users or characteristics of the locality by virtue of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution etc., and provides satisfactory amenity standards itself; and
- vii) Provides safe and convenient access for disabled people, pedestrians, cyclists, vehicles and emergency vehicles together with adequate parking, services and manoeuvring space. Proposals should also consider impacts on the wider Rights of Way network surrounding the site; and
- viii) Does not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated and incorporates traffic management/calming measures where necessary and appropriate. A transport assessment and travel plan will be

- required where appropriate; and
- ix) Has regard to the adequacy of existing public facilities and services; and
 - x) Does not prejudice land or buildings safeguarded for other uses, or impair the development and use of adjoining land; and
 - xi) Satisfies physical or natural environmental considerations relating to land stability, drainage and liability to flooding, water supply and water abstraction from natural watercourse; and
 - xii) Takes account of personal and community safety and security in the design and layout of development and public/private spaces and has regard to implications for crime and disorder; and
 - xiii) Incorporates suitable landscaping measures, including where appropriate hard and soft landscaping treatment, the creation and/or protection of green and blue corridors, mature landscaping, and arrangements for subsequent maintenance. Landscaping should create a visually pleasant, sustainable and biodiversity rich environment that protects and enhances existing landscape features and also creates new features and areas of open space that reflect local character and sense of place; and
 - xiv) Has regard to the generation, treatment and disposal of waste.

A1.3

Policy VOE 1 – Key Areas of importance

The following areas will be protected from development that would adversely affect them. Development proposals should maintain and, wherever possible, enhance these areas for their characteristics, local distinctiveness, and value to local communities in Denbighshire:

- Statutory designated sites for nature conservation;
- Local areas designated or identified because of their natural landscape or biodiversity value;
- Sites of built heritage; and
- Historic Landscape, Parks and Gardens.

A1.4

Policy VOE 5 – Conservation of natural resources.

Development proposals that may have an impact on protected species or designated sites of nature conservation will be required to be supported by a biodiversity statement which must have regard to the County biodiversity aspiration for conservation, enhancement and restoration of habitats and species.

Where the overall benefits of a development outweigh the conservation interest of a locally protected nature site, mitigation and enhancement measures in or adjacent to these sites should be an integral part of the scheme.

If necessary, measures required to mitigate likely adverse effects on the qualifying features of statutory designated sites should be put in place prior to the commencement of development. Measures required to offset any likely adverse effects will be secured by planning conditions and/ or planning obligations.

Planning permission will not be granted for development proposals that are likely to cause significant harm to the qualifying features of internationally and nationally designated sites of nature conservation, priority habitats, priority species, regionally important geodiversity sites, or to species that are under threat.

DRAFT

Appendix 2 – Ecological reports and survey

- A2.1 Ecological reports should be prepared in line with guidance laid out in the Chartered Institute of Ecology and Environmental Management (CIEEM) Technical Guidance Series ‘Guidelines for Ecological Report Writing (2015)’.
- A2.2 The type and the scope of any ecological survey will depend on the development proposal and the ecological features likely to be present on the application site and in the surrounding area. If prospective applicants are in doubt whether a desktop analysis or a field survey is adequate to address biodiversity, they are advised to contact a professional ecologist or wildlife interest group.
- A2.3 Field surveys should be carried out at an appropriate time of year. A guidance calendar showing optimal survey times is included in Appendix 4. The Council provides a list of competent ecological consultants on its webpage. You are not required to choose anyone from this list, however any ecological consultant employed needs to be suitably qualified, hold the required protected species licences (where applicable) and follow industry standards. Link to consultants:
<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/planning/biodiversity.aspx>
- A2.4 Survey data gathered in support of the planning application should be made available to Cofnod – The North Wales Environmental Information Service, which is the local record centre in North Wales. The not-for-profit organisation collects biodiversity information in a centralised database and provides them to interested parties on request (www.cofnod.org.uk).
- A2.5 Ecological survey information and reports should include
- A non-technical summary of findings;
 - Introduction describing the proposal with a scale plan or map including grid reference;
 - Purpose and objectives of preliminary ecological appraisal or detailed full-scale surveys;
 - Qualifications and competence of surveyor;
 - Date(s) when survey(s) were carried out and when the survey

- report was prepared;
- Exact areas of land and buildings covered by the survey on a plan;
 - Results of desk-top data trawl, including Cofnod data search where required, and application of these data to survey and assessment;
 - Field survey methods based on published good practice guidelines;
 - Survey results with details of habitat, species and features present (including non-native invasive species), showing current condition, distribution and abundance;
 - Analysis and interpretation of results;
 - Identification of any further survey work needed;
 - Recommendations and details for all avoidance, mitigation, compensation and enhancement measures;
 - Demonstration of compliance with, or deviation from, relevant development policies and statutory obligations;
 - Post-development site safeguards, such as long-term habitat/site monitoring, management and maintenance where necessary;
 - Identification of mechanisms for securing commitment and delivery;
 - Timetable and details of proposed work and their alignment with biodiversity measures.

Adapted from Annex H to BS 42042:2013

A2.6 To protect local habitat and species, ecological reports must contain information of any evidence found, including an explanation of the implications for the survey, that one of the following activities has taken place on the application site before or shortly after the field survey to support the development proposal has been carried out:

- Removal or management of vegetation, including tree;
- Alteration or loss of other biodiversity features, such as hedgerows, ponds, ditches or buildings and features of value to protected species;
- Control of weeds or other species;
- Cessation or reintroduction of grazing or mowing.

A2.7 The presence of non-native or invasive species (plants and animals) must be recorded in the ecological survey. If an invasive non-native species is present on a site, identify whether removing it will be important, based on the impact it is having and the trade-off between resources and effectiveness. Legal provisions are provided

in the Wildlife and Countryside Act 1981, as amended, and the Environmental Protection Act 1990, as amended. Some plants, such as, Japanese Knotweed, must be disposed of at licensed landfill sites. Biosecurity should also be considered.

- A2.8 The application of avoidance, mitigation or compensation measures to offset adverse effects on biodiversity has to be tested on a step by step basis – it is a sequential approach. Despite the fact that the principle aim is to avoid any adverse effects on biodiversity, prospective applicants may wish to consider the implementation of mitigation measures and how the implementation can be secured through the planning system. Compensation measures are the last resort to offset any residual harm derived from the proposed development.
- A2.9 If the prospective applicant is proposing the application of compensation measures, ecological information in support of the application should explicate why avoidance and mitigation measures aren't feasible and what the overriding reasons are for accepting residual harm to occur on the application site.
- A2.10 Content, scale and location of compensation measures to be provided will depend on the extent and scale of damage caused on the concerned biodiversity feature. All measures should be in place and operational before any expected adverse impacts take place. It is advisable to discuss details with the Council Ecology and Biodiversity Officer or, where required, Nature Resources Wales prior to submitting the planning application.
- A2.11 In certain circumstances on sites with, or close to known populations of great crested newts, it may not be feasible to provide adequate compensation on site. In such cases, off-site compensation will be considered, which could be in form of a commuted sum. Further details on developments affecting Great Crested Newts and their habitats can be found in Appendix 5.
- A2.12 Biodiversity enhancement measures should be sought from the beginning and throughout the project management and implementation stage.

Appendix 3 – Protected Sites and Species in Denbighshire

A3.1 The following table summarises the protected sites wholly or partly within Denbighshire and the relevant legislation covering them.

Protection	Designation	Importance	Key Legislation	Sites
Statutory	Special Areas of Conservation (SAC)	International	Conservation of Habitats and Species Regulations (2010) transposes the EU Habitats and Birds Directive into UK law	Alyn Valley Woods
				Berwyn and South Clwyd Mountains
				Dee Estuary
	Elwy Valley Woods			
Special Protection Area (SPA)	International	Ramsar Convention on Wetlands of International Importance	Llwyn	
			River Dee and Bala Lake	
Statutory	Sites of Special Scientific Interest (SSSI)	National	Wildlife and Countryside Act 1981 (as amended)	Berwyn
				Bryn Alyn
				Caeau Pen y Coed
				Cefn Rofft
				Chwarel Pant Glas
				Cil-y-Groeslwyd Woods, Eyarth Woods and Rocks and Craigddwy-wynt
				Clogau Quarry
				Coed Nant Mawr
				Coedydd ac Ogofau Elwy a Meirchion
				Coedydd Dyffryn
				Alwen
				Crest Mawr Wood
				Cynwyd Forest Quarry
Dee Estuary				
Dinas Bran				
Ffynnon Bueno and Cae Gwyn Caves				

				Graig Fawr
--	--	--	--	------------

Protection	Designation	Importance	Key Legislation	Sites
Statutory	Sites of Special Scientific Interest (SSSI)	National	Wildlife and Countryside Act 1981 (as amended)	Graig Quarry Graig, Llanarmon-yn-Ial Gronant Dunes and Talacre Warren Hendre Bach Llandegla Moor Llwyn Maes Hiraddug Moel Hiraddug and Gop Hill Mwyngloddfa Pennant Mynydd Hiraethog Penarth Quarry Prestatyn Hillside Ruabon / Llantysilio Mountains and Minera
	National Nature Reserve (NNR)	National	National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981	Y Berwyn Hafod Elwy Moor
Statutory	Local Nature Reserve (LNR)	Local	National Parks and Access to the Countryside Act 1949)	Moel Findeg Gronant Dunes Brickfields Pond Rhuddlan Pond
Non-statutory	County Wildlife Site	Local	Not applicable	There are 248 sites in Denbighshire. Please contact the County Ecology and Biodiversity Officer or Cofnod for more details.

A3.2 The following table summarises the main protected species found in Denbighshire and the relevant legislation covering them. Further information on priority habitats and species can be found in the

Denbighshire Local Biodiversity Action Plan, which is available on the Biodiversity Action Reporting System at: ukbars.defra.gov.uk; further information is also available from Denbighshire Countryside Council's website: www.denbighshirecountryside.org.uk/biodiversity

Protection	Species	Importance	Key legislation	
Statutory	Great crested newt	International	EC Habitats Directive; The Conservation of Habitats and Species Regulations 2010; The Wildlife and Countryside Act 1981 (as amended)	
	Bats (all species)			
	Otter			
	Dormouse			
	Sand lizard			
	Natterjack toad			
	Floating-leaved water plantain (<i>Luronium natans</i>)			
	Dolphins (all species)			
	Porpoises (all species)			
Statutory	Water vole	National	Wildlife and Countryside Act 1981 (as amended)	
	Red squirrel			
	Pine marten			
	All reptiles (slow worm, adder, common lizard, grass snake)			
	All amphibians (sale only banned) (common frog, common toad, palmate newt, smooth newt)			
	Barn owl			
	All nesting birds			
	Badger			Protection of Badgers Act 1992
	Deer			Deer Act 1991
	Seals			Conservation of Seals Act 1970
Non-statutory	Species of principle importance for conservation (Section 42 List) - there are over 1,000. The full list can be viewed on the Wales Biodiversity Partnership website	National	Natural Environment and Rural Communities (NERC) Act 2006	
	Local Biodiversity Action Plan (LBAP) local priority species – see ukbars.defra.gov.uk	Local	Not applicable	

Appendix 4 - Guidance on optimum survey times for selected habitats and species

Habitats/ Regulations	January	February	March	April	May	June	July	August	September	October	November	December
Habitats/ Vegetation	Optimal Survey Period			Limited Survey Period						Optimal Survey Period		
Badgers	Limited Survey Period	No Survey			Limited Survey Period				No Survey		Limited Survey Period	No Survey
Bats	No Survey			Limited Survey Period	No Survey					Limited Survey Period	No Survey	
Birds	No Survey						Limited Survey Period		No Survey			
Dormice	Limited Survey Period		No Survey									
Great Crested Newts	No Survey		No Survey				Limited Survey Period				No Survey	
Fish	No Survey											
Natterjack Toad	No Survey			No Survey								No Survey
Otters	No Survey											
Pine Martins	No Survey											
Red Squirrel	No Survey											
Reptiles	No Survey		No Survey				Limited Survey Period		No Survey	Limited Survey Period	No Survey	
Water Voles	No Survey	Limited Survey Period	No Survey								Limited Survey Period	No Survey
Freshwater Pearl Mussel	No Survey			No Survey								No Survey

Key to colours:	No Survey	Limited Survey Period	Optimal Survey Period
------------------------	------------------	------------------------------	------------------------------

Adapted from Biodiversity Planning Toolkit (www.biodiversityplanningtoolkit.com, accessed 12.08.2015)

Appendix 5 – Developments affecting great crested newts and their habitats

Background

A5.1 Great crested newts are found in large parts of the County, particularly in the north. The animals themselves, as well as their breeding and resting places, are legally protected. On sites where great crested newts are identified or likely to be present, planning permission will only be granted if it can be demonstrated that the ‘Favourable Conservation Status’ of the local population will not be adversely affected. This means that applicants must be able to show that their development proposals will have an overall neutral or positive impact on great crested newts.

Avoidance, mitigation and compensation

A5.2 As described in the main document; paragraphs 4.5, 6.3; and Appendix 2 paragraph A2.8 avoidance, mitigation or compensation measures to offset adverse effects on biodiversity should be applied on a step by step basis.

A5.3 If developments affect a known breeding or resting site then appropriate new habitat will have to be created prior to the destruction of the original aquatic or terrestrial habitat under licence from Natural Resources Wales.

A5.4 Where developments do not affect known great crested newt sites, but rather habitats of varying quality adjacent or in proximity to known sites, a different approach may be required. The likelihood of a site being a known terrestrial great crested newt site is based on habitat quality and its proximity to a breeding pond. In certain circumstances it may not be possible or satisfactory to offset adverse effects on great crested newts on the development site. In such cases, a commuted sum for off-site provision of compensation habitat for great crested newts is an option.

Development Impact	Major Development	Minor Development
	Outline/Approved Matters/ Mineral & Waste/ etc.	Up to 10 dwellings Extension/ Conservatory/ Garage
Directly affects known GCN breeding/resting site	Need to provide like-for-like replacement habitat to fulfil the same purpose prior to destruction of existing habitat, e.g. breeding pond. This is to ensure that the ‘favourable conservation status’ of the population is maintained.	
Within 250m of known GCN breeding ponds	Mitigate for loss of habitat type on a like-for-like basis - <i>Refer to table of management costs</i>	Undertake Reasonable Avoidance Measures to prevent harm to GCN. This depends on suitability of site if poor e.g. hardstanding / amenity grassland

		then a note to applicant might suffice.
C1 - 250-500m <i>Refer to local knowledge, Cofnod and "likelihood maps"</i>	Mitigation relevant to loss of habitat type on a like for like/ 50% basis - <i>Refer to table of management costs</i>	Note to applicant will generally suffice
D1 - over 500m	Mitigation generally not required unless key connecting habitats affected	n/a

Commuted Sum for Off-Site Compensation and/or Habitat Management

A5.5 A commuted sum will be secured through a Section 106 Agreement. The value will be agreed between the Council and the developer. Please note that the tables below present indicative figures only. They have been included for illustrative purposes to provide guidance for developers.

A5.6 **STANDARD COSTS** Excluding preparation of licences, reasonable avoidance measures, compliance audit etc.*; Ongoing costs are "in perpetuity", defined as 25 years

* - Source: TEP Hafod Land Tribunal 2006 costs with built in interest for long term management and up to date management costs from Denbighshire Countryside Service

Component	One-off	Ongoing	Cost £/ha	Notes
1. Land Acquisition	✓		£3750 poor quality farmland £7500 high quality farmland	Land classification in line with Department for Environment, Food & Rural Affairs' categories
2. Habitat Creation	✓		£2500 (with liner) – two per hectare	(£1250 with liner TEP) (2 per ha)
2.1. Ponds 10x10m minimum size				
2.2. Planting	✓		£1.50 per plant (=£300/ha) +£100/day	Includes stake and maintenance (max 25% per ha = 200 plants) 200 planted per day
2.3. Grassland/ meadow planting	✓		£1000/ha £250/day	Wildflower seeds (not always appropriate) Tractor seeding/scarifying etc
2.4 Hibernaculum (50m ²)	✓		£100	1 per pond Reduced costs if materials available.
2.5 New Fencing	✓		£7/m	400m/ha (£2800)
3. Management		✓		£45/yr/pond – TEP
3.1 Pond management			£100/yr/pond	5 year cycle management of pond and pond edge (5m) eg scrub control.
3.2 Planted trees/shrubs		✓	£600/yr/ha	NRW maintenance costs is £1000/ha for years 2 and 3 only.
3.3 Grassland – mowing once per		✓	£480/yr	

annum				
3.4 Fence maintenance		✓	£1.30/m/yr or £112/yr	400m/ha – fencing replaced on 12-15 year cycle.
4. Monitoring & Surveillance		✓	£200/site/	2 visits per year
5. Wardening		✓	£150/day	1-4 days/month (depending on size/requirements of site). Includes overheads/vehicle/maintenance.
6. Contingency		✓	£2500/pond Cost as 2.1	Lump sum based on repeat pond construction and fish removal.

Long-term management options

Option	Type	Benefits	Drawbacks
1	Transfer land and resources to 3rd Sector (NWWT, NEWW, ARC)	Local or specialist expertise. Estate management skills.	Possible resource issue if adequate provision isn't provided.
2	Transfer land and resources to LA e.g. Countryside Service	Local or specialist expertise. Estate management skills.	Possible resource issue if adequate provision isn't provided. Risk of questioned regulation. Perceived dual funding (council tax and service charge).
3	Land retained by landowner (With resources?)	Estate management skills	May lack specialist skills. Risk of inappropriate management. No local accountability.
4	Transfer land to Commercial land manager with resources collected annually.	Estate management skills	May lack specialist skills. Risk of inappropriate management. No local accountability. Need to engage or third sector organisations and/or contractors in management.
5	Transfer resources (and land) to Independent Trust	Development of strategic conservation action.	Establishment of Independent Trustees. Need to engage or third sector organisations and/or contractors in management.