

Report to	Planning Committee
Date of meeting	24th May 2023
Lead Member	Cllr Win Mullen-James, Lead Member for Local Development and Planning
Report author	Karsten Brußk, Senior Planning Officer
Title	Welsh Government consultation on targeted changes to Chapter 6 of Planning Policy Wales (Edition 11)

1. What is the report about?

1.1. This report is about the Welsh Government (WG) consultation, which seeks views on draft policy changes to Planning Policy Wales (PPW) regarding net benefit for biodiversity and ecosystems resilience.

2. What is the reason for making this report?

2.1. Denbighshire County Council is invited to submit views on the proposed policy changes, and, therefore, a decision is required on the submission of the attached consultation response form, see Appendix 1.

3. What are the Recommendations?

3.1 Planning Committee approves the submission of the Council's consultation response form to WG by the 31st May 2023.

4. Report details

4.1. WG currently consults on draft policy changes to PPW on the subject of net benefit for biodiversity and ecosystems resilience; with consequential changes to policy on Sites of Special Scientific Interest (SSSIs), trees and woodlands, and green infrastructure (GI). Responses are invited by the 31st May 2023. Consultation documents and response forms are available on the WG website.

- 4.2. The proposed changes to Chapter 6 of PPW are driven by the objective to protect, maintain, and enhance biodiversity as well as to increase the resilience of ecosystems. The importance and role of Planning is acknowledged by including a new 'Desired Distinctive and Natural Outcome' in the introductory text of Chapter 6: *"...development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species is the most cost effective and robust option for biodiversity, taking into account the benefits of a preventative approach; ..."* (See draft introductory text to Chapter 6)
- 4.3. PPW, draft paragraph 6.4.3 sets out the following requirements for development plan strategies, policies and proposals that have to be reflected in the Council's replacement LDP. For example:
- *"support the maintenance and enhancement of biodiversity and the resilience of ecosystems;*
 - *ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats, including the most up to date targets;*
 - *ensure statutorily and non-statutorily designated sites are properly protected and managed and their role at the heart of resilient ecological networks safeguarded;*
 - *secure enhancement of and improvements to ecosystem resilience and safeguard resilient ecological networks by improving diversity, condition, extent and connectivity; and*
 - *development plans must include a criterion-based policy, where non-statutory site designations have not been shown on a proposals or constraints map."* (See draft/ additional paragraph 6.4.20).
- 4.4. PPW, draft paragraph 6.4.21 details a step-wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity. WG is explicit in the requirement that *"...where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission..."*
- 4.5. National policy wording is also going to be strengthened regarding the protection of Sites of Special Scientific Interest (SSSIs). *"There is a presumption against*

development in a SSSI and this presumption should be appropriately reflected in development plans and development management decisions.” (See draft paragraph 6.4.17)

- 4.6. Besides the requirement to protect trees, hedgerows, groups of trees and areas of woodland, national policy is surprisingly explicit in terms of retention, removal or any actions in terms of (Planning) breaches: *“Where trees, woodland and hedgerows are present, their retention should be identified within planning applications. The provision of services to the application site should also avoid the loss of trees, woodlands or hedges and should be considered as part of the development proposal. Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. (...) Where individual or groups of trees are removed as part of a proposed scheme, developers will be required to provide compensatory planting (reflecting the scale and species mix which has been lost), this must be onsite and at a minimum ratio of at least 3 trees of a similar type planted for every 1 lost.”* (See draft/ additional paragraph 6.4.25)
- 4.7. PPW, draft Section 6.2 sets out additional national policy on GI; for example, strengthening the relevance and importance of GI in Development Management decision making:
- Applicants have to prepare a green infrastructure statement that could be incorporated into the Design and Access Statement; with the purpose of demonstrating how the planning proposal addresses well-being priorities, nature and climate emergencies. (See draft/ additional paragraph 6.2.5)
- 4.8. The proposed amendments to PPW Chapter 6 necessitate consequential changes to paragraph 5.14.37 (*“Minerals proposals within or likely to significantly affect Sites of Special Scientific Interest and National Nature Reserves, potential and classified Special Protection Areas, designated, candidate or proposed Special Areas of Conservation or Ramsar sites should not take place except in exceptional circumstances.”*) and paragraphs 6.6.1, 6.6.5 - 6 (Water and Flood Risk: general recognition of nature based solutions and the benefit of taking complementary action to address pollution and the restoration of riverine habitats).

- 4.9. There is also a change proposed to paragraph 6.3.10 – National Parks/ AONBs – for the purpose of accuracy: *“In National Parks or AONBs, special considerations apply to major development proposals. Major developments should not take place in National Parks or AONBs except in exceptional circumstances.”* However, WG has to provide clarification on the use of the term ‘major development’ as the explanatory text to paragraph 6.3.11 sets out *“It is considered that NPAs need to be able to decide what constitutes ‘major’ depending on local context and the particular application in question...”* This is likely to cause confusion with the definition of ‘major development’ that is set out in Article 2 of the “Town and Country (Development Management Procedure) (Wales) Order 2012” for ‘Development Management’ purposes.
- 4.10. Officers query the additional requirement for LDP Annual Monitoring Reports *“...to monitor a set of key species and habitats, and incorporate these indicators into both their Annual Monitoring Reports (AMRs) and, where appropriate, into the appropriate Section 6 Plan and Report.”* (See draft paragraph 6.2.12) Besides duplicating reporting mechanisms, AMRs are a tool to set out how the objectives of the plan are being achieved every year. It’s not a Planning function to manage protected species or designated statutory sites of nature conservation but have regard to the conservation objectives.
- 4.11. While the proposed policy changes are principally supported by Officers, concern is raised regarding expectation (expertise, knowledge, standards etc.) and resource implication (monitoring, staff, time etc.) in light of decreasing financial means to the Council.

5. How does the decision contribute to the Corporate Priorities?

- 5.1. Document submission to WG does not contribute to the Corporate Priorities. However, the proposed changes to PPW will support the Council’s Corporate Priority “A greener Denbighshire” and the provisions contained in the “Climate and Ecological Change Strategy” (2021).

6. What will it cost and how will it affect other services?

- 6.1. There are no identified effects on other services or costs arising from submitting the consultation response form to WG. However, depending on the details of

implementing the proposed changes to PPW Chapter 11, additional support for Planning may be required in terms of knowledge and expertise in the fields of biodiversity, nature conservation, or enforcement.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. A Well-being Impact Assessment has not been carried out because the decision is related to the submission of a consultation response to WG. It's not about a Council policy, strategy, work procedure or programme.

8. What consultations have been carried out with Scrutiny and others?

8.1. Consultation documents, including a draft consultation response form, were subject to comprehensive discussion at the Strategic Planning Group meeting on the 26th April 2023. Members supported Officers' principal view that the thrust of the policy changes is welcomed but concern is raised with the available resources to implement and enforce the additional provisions.

8.2. The Council's response to the consultation was also informed by views from Officers in different sections of the "Planning, Public Protection and Countryside Services" department.

9. Chief Finance Officer Statement

9.1. It is welcome that there are no direct financial consequences of submitting this response. It is noted that there may be additional pressures in the medium term. These will need to be factored into the annual budget process when appropriate – however due to the large financial gap that the Council is saving it is likely that any pressures will require savings to be found in other areas.

10. What risks are there and is there anything we can do to reduce them?

10.1. There are no risks associated with submitting a consultation response to WG.

11. Power to make the decision

11.1. Appendix 2 to Section 13 of the Council's Constitution