

# Appendix 1

Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

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Local Authorities – Heads of Planning

11 October 2023

Dear Colleague,

I have previously highlighted the essential role that the planning system must play in meeting the challenges laid down by the Global Biodiversity Framework agreed at COP15, the Biodiversity Deep Dive recommendations developed in response to this and in continuing to fulfil our Section 6 duty to maintain and enhance biodiversity and the resilience of ecosystems in Wales [COP15, Biodiversity Deep Dive, Section 6 Duty and the Planning System \(gov.wales\)](#).

The proposed changes to planning policy, which I signalled then, were consulted on between 09 March and 31 May 2023. I very much welcomed the thoughtful and comprehensive responses made to this consultation exercise covering green infrastructure, net benefit for biodiversity, the protection afforded to Sites of Special Scientific Interest and trees and woodlands.

Taking these responses into account I have finalised policy for inclusion in the next iteration of Planning Policy Wales (version 12) programmed for later this year. Given the need to keep up momentum on fulfilling our COP15 obligations and Deep Dive aspirations, however, I am publishing updated chapter 6 policy with immediate effect as an annex to this letter.

The main changes to policy can be summarised as follows:

**Green Infrastructure:** stronger emphasis on taking a proactive approach to green infrastructure covering cross boundary considerations, identifying key outputs of green infrastructure assessments, the submission of proportionate green infrastructure statements with planning applications and signposting Building with Nature standards.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

**Net Benefit for Biodiversity and the Step-wise Approach:** further clarity is provided on securing net benefit for biodiversity through the application of the step-wise approach, including the acknowledgement of off-site compensation measures as a last resort, and, the need to consider enhancement and long-term management at each step. The use of the green infrastructure statement as a means of demonstrating the stepwise approach is made explicit. A simplified diagram of the policy approach has been developed (which will be further refined in the consolidated version of PPW12). The importance of strategic collaboration to identify and capture larger scale opportunities for securing a net benefit for biodiversity is recognised.

**Protection for Sites of Special Scientific Interest:** strengthened approach to the protection of SSSIs, with increased clarity on the position for site management and exemptions for minor development necessary to maintain a 'living landscape'. Other development is considered unacceptable as a matter of principle. Exceptionally, a planned approach may be appropriate where necessary safeguards can be secured through a development plan.

**Trees and Woodlands:** closer alignment with the stepwise approach, along with promoting new planting as part of development based on securing the right tree in the right place.

I intend to issue version 12 of Planning Policy Wales as soon as practicable and will continue to work with stakeholders to provide further guidance to enable the implementation of the vital policy contained in Chapter 6.

Yours sincerely,



**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

## **Annex to Heads of Planning Letter Dated 11 October 2023: Addressing the Nature Emergency through the Planning System: Updated National Planning Policy for Chapter 6 of Planning Policy Wales**

### **Distinctive and Natural Placemaking and Well-being**

The Distinctive and Natural theme covers environmental and cultural components of placemaking. These components are complementary to those of the Active and Social and Productive and Enterprising themes and collectively the three themes come together to contribute towards the national sustainable placemaking outcomes. The diagram below illustrates how these outcomes are linked and work together as a whole, with Natural and Distinctive outcomes emphasised.

Places which are Distinctive and Natural contribute to the seven goals of the Well-being of Future Generations Act in the following ways.

A Prosperous Wales can be realised by valuing the quality of our landscapes and historic environment as important for tourism, business, local employment, locally sourced building products, in attracting inward investment and to be accessed, used and enjoyed by local communities. By protecting, maintaining and enhancing biodiversity, increasing the resilience of ecosystems and our natural environment more generally, it will be possible to future proof economic assets in response to the challenges presented by the climate emergency, to promote low carbon and appropriate resource choices which address the causes of climate change and to provide cost effective ecosystems services such as clean air and water.

A Resilient Wales can be supported by protecting and providing sufficient scale, extent, diversity and connectivity within, and between, landscapes and habitats to maintain and enhance biodiversity and the resilience of ecosystems. This support will enable them to withstand the pressures of change, to tackle pollution, to protect and enhance water resources, to protect soils and to enable flood mitigation, the creation of carbon sinks (especially in urban areas), and to promote opportunities for social and economic activity based on valuing and enabling access to the natural, historic and built environment.

A Healthier Wales can be achieved by enabling opportunities for connecting with the natural and historic environment, enabling access to tranquil areas, tackling airborne pollution and other environmental risks and the promotion of active travel and encouragement of healthier lifestyles with the benefit of improving physical and mental well-being.

A More Equal Wales can be achieved through facilitating access to the natural and historic environment for physical and social benefits especially where inequalities exist. Regeneration should promote beneficial use of historical mining and industrial legacies in a sensitive way to allow communities and the natural environment to thrive and significant tourism generators such as the Wales Coastal Path are protected and accessible by all.

Cohesive Communities are sustained and created by providing spaces for people to interact and undertake community activities, including recreational spaces, play, food growing and opportunities to connect with nature. Pollution or risks such as flooding are mitigated or avoided and based on maximising opportunities for communities to flourish and undertake social, economic and cultural activities in healthy, attractive and pleasant surroundings.

A Vibrant Culture and Thriving Welsh Language will mean building on those unique and special characteristics which give places their distinct 'feel' and identity. Fostering and sustaining a sense of place through the protection and enhancement of the natural, historic and built environment and allowing for and supporting uses and activities which provide for creative and cultural experiences.

A Globally Responsive Wales will be promoted by reducing carbon emissions, addressing airborne

pollution and managing environmental risks. This must be achieved in a way which promotes a natural and historic environment which should be protected and enhanced for the sake of its special characteristics and nature conservation value as well as the way in which it contributes to wider social, economic and cultural objectives, grass roots music venues, theatres and religious or spiritual buildings.

Development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality. Problems should be prevented from occurring or getting worse. Biodiversity loss should be reversed, pollution reduced, environmental risks addressed and the overall resilience of ecosystems improved. When appropriate development is proposed, it must be taken forward in an integrated way, woven into its place/context alongside nature to ensure common issues are considered and accommodated in the early stages of plan-making or individual proposal and multiple benefits, such as green infrastructure are secured. Proposals should work creatively with nature and should demonstrate how decisions on design, siting, scale density and other key considerations have been informed by biodiversity and ecosystem resilience considerations.

Collaboration must occur strategically in planning for the protection and enhancement of landscapes, the historic environment, biodiversity, geodiversity, air quality and soundscapes as well as addressing environmental risks to ensure priorities align and opportunities, such as regeneration and the provision of homes, can be sustainably provided. There will be issues which require cross boundary collaboration and will be best addressed through joint working on development plans and other initiatives. To do this, close involvement of various agencies and communities will be required to ensure needs and aspirations can be aligned, investment is targeted to the right places and beneficial outcomes can be gained by better use of shared information, evidence and assessments. The State of Natural Resources Report (SoNaRR) and Area Statements provide evidence on a range of environment and natural resource management issues and an effective de-risking approach should facilitate greater transparency about environmental risks, appropriate solutions and the potential for wider associated benefits.

### **Distinctive and Natural Trends**

The future trends of relevance to the Distinctive and Natural theme will need to be addressed, both individually and in an integrated way by embracing the national sustainable placemaking outcomes and the objectives for places identified in the Productive and Enterprising and Active and Social themes. Certain trends will be beneficial and should be facilitated by the planning system. Negative trends or cycles must be challenged and reversed and more sustainable behaviours and outcomes sought. Change must be fostered in the way all those involved in the planning process respond, both strategically and locally when drawing up and designing individual proposals.

The key issues in this theme include:

- Long term and chronic decline of biodiversity and habitat loss: Pressure and demands include changes in land and sea-use, including the loss of traditional land management practices, direct exploitation of organisms, climate change, pollution and the arrival of invasive non-native species (INNS). SoNaRR 2020 reports losses of habitat and species' populations over the last century and suggests that decline is chronic, that decline will continue due to events which have already occurred and events associated with climate change and habitat fragmentation in the future. At present, there is insufficient resilience in Wales' ecosystems, primarily evidenced by species not recovering.
- Adaptation to the effects of climate change: The combination of warming that has already

occurred, together with additional warming, as projected by the latest climate change evidence, means there are potentially significant impacts for Wales in terms of adaptation. The challenges include flooding and coastal change risks to communities, businesses and infrastructure; risks to health, wellbeing and productivity from high temperatures; risk of water shortages in the public water supply, agriculture, energy generation and industry and risks to soil, biodiversity and terrestrial, coastal, marine and freshwater habitats. Climate change is also likely to have significant impacts on landscape character, historic buildings, local distinctiveness and quality, directly through changing land cover, migrating habitat and species ranges, and indirectly by influencing land use decisions.

- Recognising and addressing the factors influencing landscape change: SoNaRR reports national landscape change to 2015 has been small overall, but some changes have been substantial locally. The key contributors to landscape change which can be influenced by the planning system include the expansion of settlements, commercial, industrial, energy and quarrying developments, road improvements and large recreational related developments, including any associated mitigation measures.
- Rising levels of airborne and water pollution: SoNaRR reports increases in air pollution across a range of pollutants from urbanisation, road traffic and intensification of agriculture. Within freshwater and marine environments SoNaRR reports elevated nutrient and chemical contaminants which are detrimental to ecosystem function and resilience.
- Loss of venues for cultural activities or historic assets: understanding and addressing the challenges of loss of cultural features which give places their unique feel, including those subjected to particular pressure as a result of increasing demands for urban living.

### **Distinctive and Natural Linkages**

Driven by the national sustainable placemaking outcomes, the policy topics of the Distinctive and Natural places theme must be considered together with the Productive and Enterprising and Active and Social themes when formulating development plan strategies, policies and proposals and when designing and developing individual proposals and making decisions on planning applications.

The characteristics and environmental qualities of places varies across Wales, creating distinctive or unique features associated with their particular natural or cultural heritage and these should be recognised and valued, in and of, themselves and should be protected and enhanced. Priorities for rural and urban areas will reflect how these characteristics and qualities contribute to the attractiveness, liveability, resilience, functioning, economic prosperity and ultimately the health, amenity and wellbeing of people and places.

Desired Distinctive and Natural outcomes will be based on sustaining and creating places in which:

- the role which landscapes, the historic environment, habitats and biodiversity, the characteristics of coastal, rural or urban environments play in contributing to Distinctive and Natural places are identified, understood, valued, protected, maintained and enhanced;
- further fragmentation and isolation of habitats and species is avoided, wherever possible, and wildlife corridors and stepping stones forming wider ecological networks are protected, maintained and enhanced;
- sites designated for their landscape or biodiversity or geodiversity importance are fully considered and their special characteristics and features protected and enhanced, whilst the series of sites should be recognised as being at the heart of improving the resilience of ecosystems;
- development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species. This is the most cost effective and robust option for biodiversity, taking

into account the benefits of a preventative approach;

- opportunities in all areas to improve the resilience of ecosystems are taken by addressing problems such as, building on floodplains, diffuse pollution, soil compaction and sealing, ensuring the protection of peat resources and improving approaches to coastal flood defence in urban areas and coastal margins;
- opportunities to improve health and well-being are taken, in particular, to reduce average levels of airborne pollution, protect appropriate soundscapes, create areas of tranquillity, secure sustainable drainage systems, ensure water sensitive design, address soil carbon management and secure access to informal spaces for recreation through green infrastructure provision so as to improve capacity for adaptability to the challenges of climate change, such as flood risk and increased temperatures;
- opportunities to develop green infrastructure are taken, where this would improve the resilience of ecosystems; and
- support development which contributes positively to an area and addresses environmental risks which constrain potential and impact adversely on communities and the natural and built environment by using PDL or existing buildings and taking opportunities to 'clean up' land and address dereliction, where this is informed by the historic and natural environment.

## Introduction

- 6.0.1 The Distinctive and Natural Places theme of planning policy topics covers historic environment, landscape, biodiversity and geodiversity, coastal characteristics, air quality, soundscape<sup>98</sup>, water services, flooding and other environmental (surface and sub-surface) risks.
- 6.0.2 The special and unique characteristics and intrinsic qualities of the natural and built environment must be protected in their own right, for historic, scenic, aesthetic and nature conservation reasons. These give places their unique identity and distinctiveness and provide for cultural experiences and healthy lifestyles.
- 6.0.3 As well as those characteristics regarded as special or unique there are other, environmental qualities of places which are ubiquitous. Environmental components of places, such as clean air, access to open spaces and water quality, are linked to the quality of the built and natural environment. The environmental components of places influence and shape health and wellbeing as well as playing a role in sustaining and creating places which are adaptable and resilient to change. Distinctive and Natural places must maintain or incorporate green infrastructure, recognising the wide ranging role it can play, as key components of their natural and built fabric. Doing so will maximise health and well-being of communities and the environment.

## 6.2 Green Infrastructure

- 6.2.1 Green infrastructure is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. Component elements of green infrastructure can function at different scales and some components, such as trees and woodland, are often universally present and function at all levels. At the landscape scale green infrastructure can comprise entire ecosystems such as wetlands, waterways, peatlands and mountain ranges or be connected networks of mosaic habitats, including grasslands. At a local scale, it might comprise parks, fields, ponds, natural green spaces, public rights of way, allotments, cemeteries and gardens or may be designed or managed features such as sustainable drainage systems. At smaller scales, individual urban interventions such as street trees, hedgerows, roadside verges, and green roofs/walls can all contribute to green infrastructure networks.
- 6.2.2 The Environment (Wales) Act 2016, provides a context for the delivery of multi-functional green

infrastructure. Its protection and provision can make a significant contribution to the sustainable management of natural resources, and in particular to protecting, maintaining and enhancing biodiversity and the resilience of ecosystems in terms of the diversity within and connections between ecosystems and the extent and condition of these ecosystems, so that they are better able to resist, recover from and adapt to pressures. This means that the development of green infrastructure is an important way for local authorities to deliver their Section 6 duty<sup>13</sup>.

- 6.2.3 Green infrastructure is capable of providing several functions at the same time and as a result offers multiple benefits, for social, economic and cultural as well as environmental resilience. The components of green infrastructure, by improving the resilience of ecosystems, can result in positive benefits to well-being including flood management, water purification, improved air quality, reduced noise pollution and local climate moderation, climate change mitigation and food production. These benefits are important in urban environments where they can facilitate health and well-being related benefits of open space, clean air and improved tranquility, for example, as well as creating a sense of place and improved social cohesion. In addition, green infrastructure has a role in protecting local distinctiveness, providing economic benefits and social and community opportunities.

#### Taking a proactive approach to Green Infrastructure

- 6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and is intrinsic to the quality of the spaces we live, work and play in. The planning system must maximise its contribution to the protection and provision of green infrastructure assets and networks as part of meeting society's wider social and economic objectives and the needs of local communities. Taking a proactive and spatial approach, which links to wider activity being taken by local authorities to protect and provide green infrastructure, will help provide clarity around the contribution which the planning system can make. This means considering how it complements existing and future maintenance and management regimes within urban areas and contribute towards wider land management activities in rural areas to aid nature recovery, and its underpinning natural resources<sup>1</sup>. This will require effective joint working and collaboration across various sectors and activities, including administrative boundaries. Establishing arrangements to promote collaboration across local authority borders will be necessary, especially where the provision of off-site compensatory land to address biodiversity loss and provide enhancement will have the greatest benefit for biodiversity and resilient ecological networks.

#### Green Infrastructure Assessments

- 6.2.6 Planning authorities must, as part of adopting a strategic and proactive approach to green infrastructure, biodiversity and ecosystems resilience produce, up to date inventories and maps of existing green infrastructure and ecological assets and networks. Local authorities may already be undertaking such assessments and/or preparing such information to underpin local authority wide green infrastructure strategies and where this is the case planning authorities should both contribute to this process and use the inventories and mapping to underpin a spatial approach in their development plans. Green Infrastructure Assessments provide key evidence to support the preparation of development plans and where authorities are not already actively undertaking assessments, they should be undertaken as part of development plan preparation. Such Green Infrastructure Assessments should use existing datasets, and the best available information, to develop an integrated map-based evidence resource for biodiversity, ecosystem resilience and ecosystem service provision. Doing so will facilitate a proactive approach and enable contributions towards the well-being goals to be maximised.

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<sup>1</sup> Future Wales Policy 9

- 6.2.8 Green Infrastructure Assessments should also draw from the evidence base provided by NRW's Area Statements and Nature Network Maps, Well-being Assessments and locally and regionally collected green infrastructure data and mapping already underpinning local authority approaches to green infrastructure. Its outcomes should be integrated into development plans to ensure the early and co-ordinated consideration of opportunities to inform the development, design and land related strategies of the development plan. The Green Infrastructure Assessment and outcomes should also be given early consideration in development proposals, and inform the design and implementation of projects.
- 6.2.9 Considering how significant benefits can be delivered through green infrastructure will be a key aim of the assessment and will require collaboration with other stakeholders, including those across administrative boundaries. Planning authorities should develop a **multi-functional**, coherent and spatial framework of green infrastructure to improve the overall well-being and health of communities and the environment. The assessment should be used to develop a robust approach to maintaining and enhancing biodiversity, increasing ecosystem resilience and the multiple benefits obtained from nature, and should identify key strategic opportunities where the protection, retention, restoration, creation and connection of green features and functions would deliver the most significant benefits. Outputs from the green infrastructure assessment must address: -
- The identifying of landscape, biodiversity, geodiversity, and historic and cultural features in which green infrastructure plays a part, which are already being safeguarded as part of multi-functioning urban and rural landscapes;
  - The nature emergency identifying and demonstrating how a net benefit for biodiversity will be secured and the attributes of ecosystem resilience enhanced, making the links to other land management activity, such as local nature recovery plans, and identifying land which may be required for the protection, retention and restoration and recovery of nature (and in providing a net benefit for biodiversity). This includes recognising the value of designated sites, and natural resources such as peatlands, as part of resilient ecological networks. In urban areas, the protection and provision of green infrastructure should be considered alongside the needs of wider maintenance regimes and any role development may have in making an effective contribution. The assessments may assist in identifying how the impact of INNS and the risk of introducing or spreading INNS will be managed;
  - The reduction of pollution, as far as possible, by identifying green infrastructure/nature based solutions which form part of, or complement, wider activity at a catchment scale to address pollution and improve the restoration of riverine and other habitats;
  - The climate emergency by ensuring the multi-functional benefits provided by trees and woodlands are identified; for example, by increasing tree canopy cover in urban areas to ensure shading against increased temperatures, and by requiring effective natural flood management and sustainable drainage schemes. Such measures may also help maintain good air quality and appropriate soundscapes;
  - The health and well-being of communities by ensuring they have accessible natural green spaces of various sizes and scales within reasonable walking and cycling distances; and
  - How the planning system should secure the implementation and management of green infrastructure, recognising its dynamic nature, over the long term.
- 6.2.10 The need for ecosystems, habitats and species to adapt to climate change and other pressures should be considered as part of the Green Infrastructure Assessment. This must include identifying ways to avoid or reverse the fragmentation of habitats, and to improve habitat connectivity where

appropriate, through the promotion of wildlife corridors, protection of riverine corridors and identifying opportunities for land rehabilitation, reducing pollution, landscape management and habitat restoration, creation and nature recovery. The role of development as part of a spatial approach will be two fold. Planning authorities firstly must ensure that development avoids and then minimises impact on biodiversity and ecosystems and secondly that it provides opportunities for enhancement within areas identified as important for the ability of species to adapt and/or to move to more suitable habitats.

- 6.2.11 Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the National Site Network, formally known as the Natura 2000 network<sup>114</sup> as well as SSSIs and other statutory and non-statutory designated sites. The features concerned are those which, because of their linear and continuous structure or their function as 'stepping stones' or 'wildlife corridors', are essential for migration, dispersal or genetic exchange. The protection and creation of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to developing resilient ecological networks and securing a net benefit for biodiversity and in doing so improve the quality of the local place and its ability to adapt to climate change.
- 6.2.12 Green Infrastructure Assessments and their data and mapped outputs must be regularly reviewed to ensure that information on habitats, species and other green features and resources is kept up-to-date. This will ensure development management decisions are informed by appropriate spatial information about the potential effects of development on biodiversity and green infrastructure functions and help identify where different types of green infrastructure benefits/ecosystems services can be secured. Planning authorities should use the best available data to establish and monitor a set of key indicators and incorporate these indicators into both their Annual Monitoring Reports (AMRs) and, where appropriate, into the appropriate Section 6 Plan and Report. Such indicators will be place-specific and may cover information on key species and habitats, opportunities for the protection, retention, restoration and recovery of nature (to secure a net benefit for biodiversity) and benefits/ecosystem services which contribute to the health and well-being of communities. The monitoring of the success and delivery of net benefits for biodiversity secured through conditions and obligations would usefully feed into this process in addition to any agreed management plan for the site. At the end of each reporting period planning authorities should use this data to indicate whether there has been a net benefit or loss of biodiversity; whether progress is being made on securing mitigation and enhancement measures; and they should use the trends identified to determine future priorities for planning and decision making, with the aim of furthering the goals of the Section 6 Duty.

#### Integrating Green Infrastructure and Development

- 6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, informed by an appropriate level of assessment, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.

New Paragraph

A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The

green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.21) has been applied.

New Paragraph

There are multiple ways of incorporating green infrastructure, depending on the needs and opportunities a site presents, and the green infrastructure assessment should be referred to, as appropriate, in order to ascertain local priorities. Landscaping, green roofs, grass verges, sustainable drainage and gardens are examples of individual design measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places. Wider landscape measures, such as the creation of species rich meadows, woodlands and the improvement of linkages between areas of biodiversity value should be considered for larger scale development. In most cases the green infrastructure statement should highlight any baseline data considered and surveys and assessments undertaken, including but not limited to, habitats and species surveys, arboricultural surveys and assessments, sustainable drainage statements, landscape and ecological management plans, open space assessments and green space provision and active travel links.

New Paragraph

Development proposals should be informed by the priorities identified in green infrastructure assessments and locally based planning guidance. The Building with Nature standards represent good practice and are an effective prompt for developers to improve the quality of their schemes and demonstrate the sustainable management of natural resources. Using these standards in a way which is proportionate to the nature and scale of the development proposed will be a useful way of ensuring appropriate consideration in circumstances where there is an absence of a green infrastructure assessment and planned approach or relevant local or Supplementary Planning Guidance. The standards are underpinned by an accreditation system and whenever possible, accreditation under these standards should be pursued.

## 6.4 Biodiversity and Ecological Networks

6.4.1 Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species, **habitat** or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.

6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity<sup>119</sup> and resilience of ecosystems<sup>120</sup> duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals. Section 7 of the Act<sup>2</sup> **requires Welsh Ministers** to publish and maintain lists of species and types of habitats that are regarded as of 'principal importance' for the purpose of maintaining and enhancing that biodiversity<sup>3</sup>. The Nature Recovery Action Plan supports this legislative requirement to reverse the decline in biodiversity, address the underlying causes of biodiversity loss by putting nature at the heart of decision-making and increasing the resilience of ecosystems by taking specific action focused around the 6 objectives for habitats and species.

6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and

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<sup>2</sup> <https://www.legislation.gov.uk/anaw/2016/3/section/7>

<sup>3</sup> <https://www.biodiversitywales.org.uk/Section-7>

increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement<sup>4</sup>. Recognising that development needs to take place and some biodiversity may be impacted, the planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Addressing the consequences of climate change should be a central part of any measures to protect, maintain and enhance biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements, Local Nature Plans, Local Nature Recovery Action Plans, Local Biodiversity Action Plans and held by Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- 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 recent targets set out in the 2022 UN Global Biodiversity Framework;
- ensure statutorily and non-statutorily designated sites and habitats are properly protected and managed and their role at the heart of resilient ecological networks is safeguarded;
- safeguard protected species and species of principal importance and existing biodiversity assets from direct, indirect or cumulative adverse impacts that affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water, air and soil, including peat; and
- secure the maintenance and enhancement of ecosystem resilience and resilient ecological networks by improving diversity, extent, condition, and connectivity.

6.4.4 It is important that biodiversity and ecosystem resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. Since these considerations are not confined by administrative boundaries, nor by sectoral activity or regulatory regimes, they must be addressed strategically through consultation and collaboration with adjoining planning authorities and other bodies such as NRW and the third sector. All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on biodiversity and ecosystem resilience cannot be avoided, minimised or mitigated/restored, and as a last resort compensated for, it will be necessary to refuse planning permission.

#### Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site. The step-wise approach outlined below is the means of demonstrating the steps which have been taken towards securing a net benefit for biodiversity. In doing so, planning authorities must also take account of and promote the resilience of ecosystems, in particular the following attributes, known as the

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<sup>4</sup> Resilient ecological networks are vital for nature recovery and are networks of habitat in good ecological condition linking protected sites and other biodiversity hotspots across the wider landscape, providing maximum benefit for biodiversity and well-being (Future Wales, Policy 9).

DECCA Framework<sup>5</sup>:

- diversity between and within ecosystems;
- the extent or scale of ecosystems;
- the condition of ecosystems including their structure and functioning;
- the connections between and within ecosystems; and
- adaptability of ecosystems including their ability to adapt to, resist and recover from a range of pressures likely to be placed on them through climate change for example.

6.4.6 In fulfilling this duty, planning authorities must also have regard to:

- the list of habitats and species of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- the SoNaRR, published by NRW;
- any Area Statement, published by NRW, that covers all or part of the area in which the authority exercises its functions and NRW's Nature Network Maps<sup>6</sup> and
- guidance given to public authorities by Welsh Ministers under Section 6 of the Environment (Wales) Act.

6.4.7 Planning Authorities should also refer to up to date ecological survey information (where appropriate) and consider local ecological information submitted by recognised environmental organisations.

6.4.8 A proactive and creative approach towards facilitating the delivery of biodiversity and ecosystem resilience outcomes must be taken by all those participating in the planning process (including the third sector and communities) as small scale interventions contribute to a national scale resilience. In particular, planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment (Wales) Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions<sup>121</sup>. This will require action to be taken at the plan level, and ideally through co-ordinated action across regions and sub-regions. Such action should facilitate the implementation of the Section 6 duty at the level of individual development proposals by setting a broad framework of opportunities for achieving a net benefit for biodiversity. The step-wise approach will help guide decision makers in securing a net benefit for biodiversity and the onus is on developers to bring forward proposals in a way which will achieve a net benefit for biodiversity demonstrating how they have used the step wise approach.

New Paragraph

### Collaborative arrangements

It may not be possible for planning authorities to identify opportunities for a net benefit for biodiversity within their own administrative boundaries and co-operation may be needed to identify, capture and monitor net benefits for biodiversity across larger areas, making use of existing regional mechanisms or setting up new voluntary arrangements. Collaboration on this basis will mean exploring ways in which land may be identified and set aside to deliver net benefits for biodiversity and establishing where contributions could come forward towards the funding of nature recovery projects. It may also be possible as part of a co-ordinated approach

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<sup>5</sup> <https://cdn.cyfoethnaturiol.cymru/media/696279/ecosystem-resilience-in-a-nutshell-1-what-is-ecosystem-resilience.pdf>

<sup>6</sup> [https://datamap.gov.wales/layergroups/geonode:nrw\\_habitat\\_network](https://datamap.gov.wales/layergroups/geonode:nrw_habitat_network)  
[https://datamap.gov.wales/layergroups/geonode:nrw\\_priority\\_ecological\\_networks](https://datamap.gov.wales/layergroups/geonode:nrw_priority_ecological_networks)

to establish a position where net benefits for biodiversity are banked in advance of smaller scale developments coming forward. Net benefits for biodiversity would need to be monitored to ensure they are not lost to future development and that development proposals do not impact existing and previously agreed areas of net benefit for biodiversity<sup>7</sup>.

6.4.9 The broad framework for implementing the Section 6 Duty, securing a net benefit for biodiversity and building resilience through the planning system includes addressing all of the following attributes:

## Implementing the Section 6 Duty: The DECCA Framework

**Diversity:** at a biological level, including at the genetic, species, habitat, ecosystems or sea/landscape scale, as well as at the geological and physical level underpins biodiversity, resilient ecosystems, their functioning and the delivery of important ecosystem services. More diverse ecosystems are more resilient to external influences (this includes biological, geological and physical diversity on a site). This means strategic planning and individual development proposals should avoid negative impacts on biodiversity, by considering how biodiversity assets, can be maintained and enhanced;

**Extent:** to ensure mechanisms allow for the identification of potential habitat, the maintenance of existing biodiversity assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new additional habitat, as ecosystems which are small in extent are less resilient to external influences. This means that strategic planning and individual development proposals must avoid loss in the extent of biodiversity and incorporate measures to appropriately maintain and enlarge existing habitats, especially where extent is small or declining, through habitat restoration and creation with adjoining and nearby areas, green infrastructure features and networks;

**Condition:** Ecosystems and biodiversity assets need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services and be more resilient to external influences. Ecosystem health can be adversely affected by a range of pressures including land use and climate change, pollution, Invasive Non-Native Species and over exploitation as set out in SoNaRR. Good condition requires sufficient scale and functioning natural processes or appropriate management to provide structural complexity and sustain diverse mosaics of habitats. Strategic planning and individual development proposals must not compromise the condition of ecosystems. By taking an integrated landscape approach to development, for example, which considers both direct, indirect and cumulative impacts and benefits, and seeks to reduce pressures it should be possible to make a positive contribution. Planning for and securing the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;

**Connectivity:** to take opportunities to develop functional and physical connectivity of biodiversity and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management, including the links within and between habitats, allows species to forage, breed and migrate and respond to climate change and other pressures, as well as enabling the flow of natural processes (however, measures should be taken to prevent undesired flows such as INNS and nutrients). The opportunities to be taken at a strategic level could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, removal of barriers and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt

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<sup>7</sup> Potential for a task and finish group to consider possible options.

to change, including climate change. Individual development proposals should identify and incorporate measures which enable appropriate links to be made between the site and its surroundings so as to improve connectivity.; and

**Adaptation:** resistance and recovery from pressures arise when the attributes of ecosystem resilience – diversity, extent, condition and connectivity of ecosystems are in good condition. Habitats and species are not static: planning for nature recovery should aim to sustain habitats and associated species as the geography and land use changes around them, harnessing natural processes and opportunities for nature-based solutions. This means that strategic planning and individual development proposals should identify impacts to the ecosystem resilience attributes of biodiversity, using the pressures identified in SoNaRR. They should incorporate measures to ensure that biodiversity’s ability to adapt to, resist and recover from pressures is enhanced. Enhancement of resilient ecological networks and securing and enhancing green infrastructure will be key ways of achieving this, as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

#### Maintaining and Enhancing Biodiversity

- 6.4.21 Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact.

New Paragraph

Having worked iteratively, in line with Figure 1X, through the stages of the step-wise approach below, and providing evidence in the Green Infrastructure Statement that the step-wise approach has been followed, a scheme of enhancements must be provided to ensure a net benefit for biodiversity. Where biodiversity enhancement proportionate to the scale and nature of the development 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. Enhancement measures could include on-site, locally relevant, habitat creation and/or could be part of the development itself favouring the use of native species using biodiverse nature-based solutions such as SUDS, green roofs, grassland management for wildflowers or reptile refugia, woodland expansion, and wetland creation.

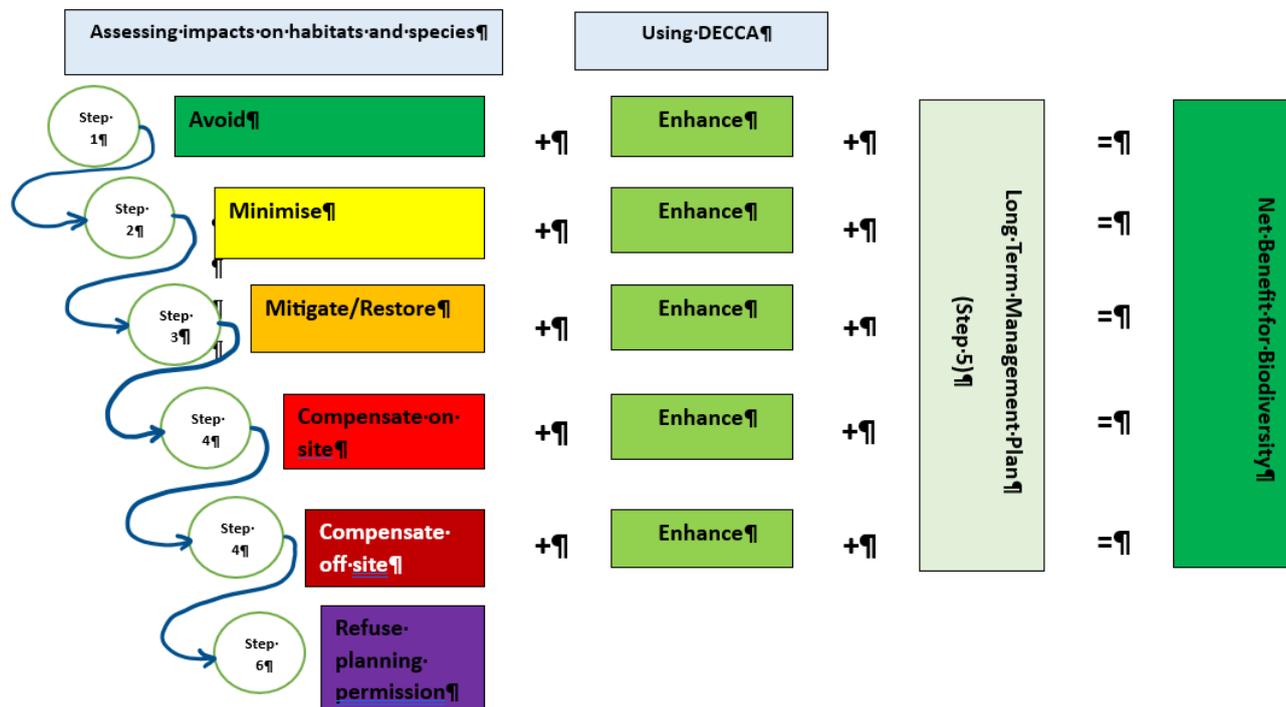
New paragraph

Improving ecosystem resilience, particularly improving connectivity to the immediate surroundings, would be a key contribution to on-site avoidance, minimisation, and mitigation strategies and enhancement. How a development would improve the attributes of resilience should be demonstrated as far as this is reasonably practical.

New Paragraph

Planning authorities can ensure biodiversity enhancement is undertaken at each stage of the step-wise approach below through attaching planning conditions and/or other obligations to a planning permission. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, and the development to be permitted, enforceable, precise, and reasonable in all other respects.

Figure 1X: Summary of the Step-Wise Approach



### The Step-Wise Approach

1. a ) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and habitats and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.
 

b) Proposals in statutory designated sites are, as a matter of principle unacceptable, and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable<sup>8</sup> and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances.
2. When all locational, siting and design options for avoiding damage to biodiversity have been exhausted, applicants, in discussion with planning authorities must seek to minimise the initial impact on biodiversity and ecosystems by:
  - maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 habitats and species where present, by minimising development size and appropriate orientation on site, paying due regard to the potential for continued long term maintenance and management of retained areas to benefit biodiversity;

<sup>8</sup> Habitats, including the natural resources which underpin them, which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. Examples include, ancient woodland and veteran trees, ancient hedgerows, wet woodlands, sand dunes, peatland, species rich grassland, long undisturbed soils, blanket bog, salt marsh and lowland fen.

- ensuring that retained habitats continue to be well connected to adjacent habitats to provide connectivity for key species and ensuring that the favourable conservation status of local species populations is maintained;
  - retaining existing features, develop a management plan for their future care (e.g., trees, hedgerows, species rich grasslands, heath, wetlands, ponds and freshwater habitats) and use appropriate buffers to protect these from construction and operational impacts, and
  - using proven innovative/creative solutions (where required) to minimise damage and maintain existing biodiversity features and ecosystems in tandem with robust monitoring and rectification strategies.
3. a) Where, after measures to minimise impact, biodiversity and ecosystems could still be damaged, or lost through residual impacts, the proposed development should mitigate that damage. Mitigation measures must be put in place to limit the negative effects of a development.
- 3.b) Effective mitigation or restoration measures should be incorporated into the design proposal following the consideration of steps one and two above. Mitigation or restoration measures must be designed to address the specific negative effects by repairing damaged habitats and disturbed species. They should seek to restore in excess of like for like, accounting for disturbance and time lags for the recovery of habitat and species, and in every case, mitigation or restoration measures should seek to build ecosystem resilience within the site and where possible the wider area. In some circumstances, where like for like mitigation measures are not possible, particularly in respect of restoration measures, it may be necessary to consider on site compensation measures in the first instance. In designing mitigation measures where uncertainty exists, applicants should follow the precautionary principle and assume a significant effect. Off-site compensation measures (as set out in step four below) should be considered as a last resort.
4. When all the steps above have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes further on-site/immediately proximate, and as a last resort off-site compensation for unavoidable damage must be provided. This must be of significant magnitude to fully compensate for any loss.

In the absence of a planned approach, compensation measures must be guided by place-based evidence and the onus is on applicants to address the following:

- a. Off-site compensation should normally take the form of habitat restoration, or habitat creation, or the provision of long-term management agreements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment to establish a formal baseline before habitat creation or restoration starts and secured far enough in advance before the loss of biodiversity on site.
- b. The Green Infrastructure Assessment should be used to identify suitable locations for securing off-site compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation. The Green Infrastructure Assessment should provide a spatial guide to opportunities already identified for securing a net benefit for biodiversity. Using the assessment will help determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional management located further away from the site would best support biodiversity and ecosystem resilience at a wider

scale.

- c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.
  - d. Any proposed compensation should be place based, take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), the DECCA framework and appropriate ecological advice from the local authority Ecologist, NRW and, or a suitably qualified ecologist.
5. Each stage of the step-wise approach must be accompanied by a long term management plan of agreed and appropriate avoidance, minimisation, mitigation/restoration and compensation measures alongside the agreed enhancement measures. The management plan should set out the immediate and on-going management of the site, future monitoring arrangements for all secured measures and it should clearly identify the funding mechanisms in place to meet the management plan objectives. The management plan must set out how a net benefit for biodiversity will be achieved within as short a time as possible and be locally responsive and relevant to local circumstances.
- 6 Finally, where the adverse effect on biodiversity and ecosystem resilience clearly outweighs other material considerations, the development should be refused.

New paragraph

The following factors will affect the implementation of the above step-wise approach:

- Pre-application surveys, research and data searches by developers will be necessary to establish the baseline state of biodiversity and ecosystem resilience on site taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services.<sup>9</sup> For householder scale applications, planning authorities should outline expectations regarding information required to accompany an application, recognising that the enhancement measures sought should be proportionate to the scale of the application. Understanding the ecological context of a development will be essential in facilitating/enabling a proportionate response to the significance of any potential impact.
- Potential applicants should not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.
- All development must deliver a net benefit for biodiversity and ecosystem resilience from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there must still be a pro-active process to look for and secure enhancement through the design and implementation of the development.

Where sites are already allocated in an adopted development plan it may not be possible to follow the step-wise approach in a sequential way, because certain progress towards fulfilling the allocations

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<sup>9</sup> Note that surveys must be carried out at an appropriate time of year.

may have been made. However, when plans are to be reviewed then allocations should be considered afresh against the step-wise policy and in light of their present biodiversity condition and the role they may play in enhancing ecosystem resilience. In such circumstances it may be necessary to de-allocate sites. Where sites have progressed to a degree that it may not be possible to de-allocate them, then effects should be minimised and potential mitigation, and as a last resort, compensation identified and be capable of being secured.

#### Designated Sites

- 6.4.10 Many of the most important areas for biodiversity have been statutorily or non-statutorily designated. These sites make a vital contribution to protecting biodiversity, maintaining the resilience of ecosystems and can also be important in providing opportunities for achieving wider well-being objectives.
- 6.4.11 International, national and local designations are governed by different statutory and non-statutory requirements. Further guidance, particularly in relation to the National Site Network, is contained in TAN 5: Nature Conservation and Planning. Whilst the process of designation may differ, all designated sites must be able to continue to protect the biodiversity and features for which they were designated and contribute to the resilience of ecosystems at the appropriate scale. This ability should not be compromised by inappropriate development or other activity.

#### Protection and Management of Designated Sites

- 6.4.15 Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. The contribution of the designated site to wider resilient ecological networks should be recognised and captured as part of a strategic approach to planning policy and decision making. The links between planning and wider management activity for the restoration and recovery of nature should be made. Complementary, and joint, action between all sectors and beyond the boundaries of the designated sites themselves is necessary to improve extent, connectivity and adaptability and address the nature emergency.
- 6.4.12 The supporting reasoning for the designation at all levels and an outline of the qualifying features of the designation should be clearly recorded as part of the Green Infrastructure Assessment and considered in formulating development plans, when designing new development proposals and in development management decisions.
- 6.4.13 As part of a Green Infrastructure Assessment it may be necessary to differentiate between the relative significance of the designation, when considering the value of the nature conservation interests and the weight to be attached to this value in respect of development proposals. It should be recognised that all designated sites will have a unique and important role as part of ensuring resilient ecological networks and this contribution may be equally as important in a local context as its designation status.

Figure 12: Designated Sites

Designation	Statutory or Non-Statutory	Interaction with Step-wise Approach
Special Area of Conservation	Statutory	<b>Avoid</b>
Special Protection Area	Statutory	
RAMSAR Sites	Statutory	
Site of Special Scientific Interest	Statutory	
National Nature Reserve	Statutory	
UNESCO Biosphere Reserve	Non-Statutory	<b>Apply Step-wise Approach to determine</b>
UNESCO Geoparks	Non-Statutory	
Sites of Importance for Nature Conservation	Non-Statutory	
Local Nature Reserve	Non-Statutory	
Local Wildlife Sites	Non-Statutory	
Regionally Important Geodiversity Sites (RIGS)	Non-Statutory	
Potential National Natural Resources Areas (Future Wales)	Development Plan	
Resilient Ecological Networks (RENs)/Nature Network Maps (NRW)	Area Statements/Green Infrastructure Assessments	

6.4.16 Planning authorities should consider opportunities to restore networks of habitats to a healthy condition identified as a result of undertaking the Green Infrastructure Assessment and the identification of appropriate interventions to secure delivery against the attributes of resilience, namely, diversity, extent, connectivity, condition and adaptability. This includes identifying opportunities for restoration and nature recovery even if this is beyond its own administrative boundaries. Taking a spatial approach which, for example, identifies buffer zones around designated sites or stepping stones to improve connectivity between them will strengthen the ability of designated sites to fully perform their role at the heart of resilient ecological networks and to encourage nature recovery on a larger scale.

#### Sites of Special Scientific Interest

6.4.17 SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away.

New paragraph

Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure that these sites can continue to fulfil their role at the heart of resilient ecological networks. What may be necessary for the management of a site will need to be considered on a case by case basis but it is likely to be limited to activities needed to meet its conservation objectives, including restoration and nature recovery, as well as site management infrastructure, natural flood management and other appropriate nature based solutions. There may be desirable interventions in SSSIs relating to public access, active travel, educational projects and other minor development necessary to secure its role as a living landscape. This may include agricultural development, such as new barns, slurry stores required to reduce pollution, barn conversions to support tourism or other alterations or extensions to existing houses or buildings on existing

employment sites where effects on the features for which a site has been designated can be considered to be acceptable.

- 6.4.17 There is a presumption against all other forms of development in a SSSI as a matter of principle and this presumption should be appropriately reflected in development plans and development management decisions. There is also a presumption against development not within a SSSI but likely to damage a SSSI. In such cases, proposals must be carefully assessed to ensure that effects on those nature conservation interests which the designation is intended to protect are clearly understood and development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites should be protected from damage and deterioration, with their important features conserved and enhanced and the capacity for restoration demonstrated by and through appropriate management.

New paragraph

In wholly exceptional circumstances and only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for mitigation and enhancement as part of a development plan should development be proposed. This means that development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.

- 6.4.17 Before authorising development outside of a SSSI but likely to damage any of the notified features of a SSSI, planning authorities must give notice of the proposed operations to NRW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions. Where local planning authorities are minded to grant planning permission against the advice of NRW they must notify Welsh Ministers.

For the purposes of landuse planning proposed SSSIs will be treated in the same way as notified SSSIs.

#### Special Protection Areas, Special Areas of Conservation and Ramsar Sites

- 6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations.

The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers.

Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs, but are not subject to the Habitats Regulations. However,

Ramsar sites should be treated within the planning system in the same way as SACs and SPAs. Further information on Habitats Regulations Assessment is contained in TAN 5: Nature Conservation and Planning.

#### Proposed Special Areas of Conservation, Special Protection Areas and Ramsar sites

- 6.4.19 Sites which have been formally proposed as SPAs, SACs but which are not yet subject to legal protection under the Habitats Regulations, should be treated within the planning system in the same way as if they were legally designated. The same considerations should, as a matter of policy, be applied to proposed Ramsar sites.

#### Protection for Non-statutory Designations

- 6.4.20 Although non-statutory designations do not have a statutory process for their protection Sites of Importance for Nature Conservation, Local Wildlife Sites, Local Nature Reserves, and Regionally Importance Geodiversity Sites make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given protection in development plans and the development management process. Non-statutory sites can form the core of a vital network of threatened habitats, play an essential role in protecting, maintaining, connecting and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the local authority Ecologist and third sector environmental organisations. In all cases a written opinion must be secured from the local authority Ecologist. Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be maintained or enhanced, planning authorities should state in their development plans what features or characteristics require protection and why, and explain how the policies will achieve this protection. Assessments should similarly consider the presence of protected and priority habitats and species including those on the Section 7 list and appropriate weight attached to their protection.

New Paragraph

Where, for reasons of scale, local authorities have decided not to map non-statutory designations on a proposals or a constraints map, development plans should include a criterion-based policy to provide for sites that meet the qualifying criteria for non-statutory designation (including those sites that are currently unidentified); these sites carry equal weight to mapped sites.

New paragraph

Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience. Where harm is unavoidable it should be minimised by mitigation measures and offset as far as possible by compensation measures designed to ensure there is no reduction in the overall conservation value of the area or feature,<sup>10</sup> and a net benefit for biodiversity secured.

#### Peatlands

New paragraph

Peat soils are extremely fragile and if compromised put at risk the resilience of the ecosystems they support. Peatland habitats cover only 3-4% of Wales yet store in the region of 20-25% of all soil carbon. Where peat is identified within proposed developments considerable weight should be given to its protection because of its special importance in underpinning and supporting national natural resources such as soil carbon, biodiversity and flood management, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. When considering criterion 1 of the step-wise approach and when undertaking the search sequence in the preparation of development plans access to information will be important and Welsh Government have made available the Peatlands of Wales map as a first step to assist in identifying peatland

<sup>10</sup> refer to paragraph 5.5.3 of TAN 5 Nature Conservation and Planning

locations.<sup>11</sup>

### Protected Species

6.4.22 The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained. Planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site, and potentially the surrounding area, concerned. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the development management process. It is considered best practice that screening to determine the presence of protected species should be carried out by a competent ecologist on the basis of data provided by the relevant Local Environmental Record Centre.<sup>123</sup>

6.4.23 Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. Proposals for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving 'public health or 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'. Derogations are granted by a licence issued by NRW who should notify planning authorities when a licence application has been granted. Planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities must take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

### Trees, Woodlands and Hedgerows

6.4.24 Trees, hedgerows, groups of trees and areas of woodland are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make an essential wider contribution to landscape character, culture, heritage and sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade, shelter and foraging opportunities, wider landscape benefits such as air and diffuse pollution interception, natural flood management, and building materials. The importance of trees, in particular urban trees, in creating distinctive and natural places which deliver health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking<sup>124</sup>. Planning authorities must promote the planting of new trees, hedgerows, groups of trees and areas of woodland as part of new development.

New paragraph

Welsh native tree and hedge species, characteristic of the local area, provide a strong ecosystem

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<sup>11</sup> Peatland Data Portal

<https://smnr-nrw.hub.arcgis.com/apps/d18ef8c74ecc4dc4a0cbf71ab6935ba0/explore>

<https://naturalresources.wales/evidence-and-data/maps/the-national-peatland-action-programme/?lang=en>

resilience function, and they provide resources for local wildlife, particularly other native plants and species. Native tree and hedge species can also complement opportunities for natural regeneration. Alongside broader woodland habitat types, such as wood pasture, parkland and traditional orchards, native tree and hedge species help to define our cultural heritage and landscape, creating a strong sense of place and connection to the past.

- 6.4.25 Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function<sup>12</sup>. Planning authorities should consider the importance of trees and woodland, particularly native woodland and valued trees, and should have regard to local authority tree strategies or SPG and the Green Infrastructure Assessment. Planning authorities should adopt appropriate, locally relevant, time sensitive, minimum tree canopy cover targets for their authority area to guide the protection and where appropriate the expansion of canopy cover. The Green Infrastructure Assessment and tools such as NRW's Tree Cover in Wales' Towns and Cities study and Forest Research's i-Tree Eco tool will help establish a baseline of canopy cover and guide the identification of appropriate and measurable canopy targets.<sup>13</sup> Tools to help with design and species choice in urban areas are also available.<sup>14</sup>

New paragraph

Where trees, woodland and hedgerows are present, their retention, protection and integration should be identified within planning applications. Where surveys identify trees, hedgerows, groups of trees and areas of woodland capable of making a significant contribution to the area, these trees should be retained and protected. The provision of services and utilities infrastructure to the application site should also avoid the loss of trees, woodlands or hedges and must be considered as part of the development proposal; where such trees are lost, they will be subject to the replacement planting ratios set out below.

New paragraph

Whilst most focus within the planning system is targeted at urban trees, planning authorities should recognise the importance of trees within the countryside, either as woodlands, within hedgerows and hedgebanks, or free-standing trees in fields, or as wood pasture. This is particularly important as the effects of climate change are leading towards pests and diseases that are damaging many of our native species in the rural landscape. Positive mechanisms of rural tree retention should be considered, and measures taken to replace them in an effective and economic manner, either with new planting or by allowing them to grow to their full potential.

- 6.4.25 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 and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.21. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure value including biodiversity, landscape value and carbon capture). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably

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<sup>12</sup> British Standard – BS5837:2012 Trees in relation to design, demolition and Constructions – Recommendations

<sup>13</sup> <https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/urban-trees/?lang=en>

<sup>14</sup> <https://naturalresources.wales/urbantrees?lang=en>

<https://naturalresources.wales/guidance-and-advice/environmental-topics/woodlands-and-forests/?lang=en>

<https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/?lang=en> <https://www.tdag.org.uk/our-guides.html>

onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers. The planting position for each replacement tree shall be fit to support its establishment and health, and ensure its unconstrained long-term growth to optimise the environmental and ecological benefits it affords.

- 6.4.26 Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees, woodlands and hedgerows are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits; this protection must prevent potentially damaging operations and their unnecessary loss<sup>15</sup>. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory, work to improve its completeness and use it to ensure the protection of trees and woodland and identify opportunities for more planting as part of the Green Infrastructure Assessment, particularly in terms of canopy cover.
- 6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs)<sup>125</sup>. They should also be incorporated into Green Infrastructure Assessments and plans.

## 6.6 Water and Flood Risk<sup>132</sup>

- 6.6.1 As well as a direct requirement for life, well planned water services provide a range of benefits and services for society. The water industry itself is a source of green jobs and water services support energy and food production, recreation and tourism and connect homes and businesses to the infrastructure networks upon which they depend. As well as this existing natural ecosystems, green infrastructure features and nature based solutions play an important role in providing water quality and flood management.
- 6.6.5 The Welsh Government aims to secure the provision of water services whilst minimising adverse impacts on the environment, amenity, health and communities, in light of the consequences of climate change. Development which is poorly designed or badly located can exacerbate problems associated with resource depletion, exposure to surface water flooding and diffuse pollution. The planning system should:
- protect and improve water resources and quality by promoting and encouraging increased efficiency and demand management of water as part of new developments, particularly in those areas where water resources may be under pressure or may not be available and where failure of water quality standards needs to be addressed;
  - ensure that the infrastructure networks, including nature based solutions, on which communities and businesses depend is adequate to accommodate proposed development, and takes into consideration the impacts of climate change, so as to minimise risk to human health and the environment and prevent pollution at source;
  - ensure sustainable drainage systems are an integral part of design approaches for new development; and

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<sup>15</sup> Further advice in relation to ancient woodland is available on NRW's website.

- ensure the protection of the quantity and quality of surface and ground water supplies is taken into account as part of development proposals.

6.6.6 The ability of the planning system to protect water features and foster sustainable water management as key attributes of attractive and resilient places to live is closely aligned with securing the multiple benefits of green infrastructure. Ensuring the implementation of nature based solutions through green infrastructure provision is a key preference and the multiple benefits of protecting river corridors should be maximised. The identification of managed wetland and riparian buffer zones to improve water quality should be a key output of green infrastructure assessments because they will have a positive benefit in both reducing diffuse pollution and as part of securing a net benefit for biodiversity and improving the attributes of ecosystem resilience. Embracing integrated approaches should make a contribution toward achieving the requirements imposed by EU Water Framework Directive<sup>133</sup> and ensuring the restoration of water features, protected freshwater habitats and sustainable water management along with Welsh Government policy for the integrated planning and management of water both in urban and rural areas and at a catchment scale.