

**Supplementary Planning Guidance –  
DEVELOPMENT AND BIODIVERSITY**

**Public Consultation Report**

**City & County of Swansea Council**

**February 2021**

# Supplementary Planning Guidance – DEVELOPMENT AND BIODIVERSITY

## Public Consultation Report

### 1. Introduction

- 1.1 In July 2020, the City & County of Swansea Council Planning Committee approved a draft version of Supplementary Planning Guidance (SPG) relating to Development and Biodiversity for the purpose of public consultation.
- 1.2 A six week public consultation and engagement process was undertaken on the draft version of the SPG, which began on the 4th September and ran until the 26th October.
- 1.3 Face to face public engagement events were unable to occur due to constraints associated with Covid-19 restrictions. Nevertheless, the consultation involved a wide range of awareness raising and engagement activities, including:
- Print media articles and social media notices before and during the consultation
  - A specific web page created for the SPG that described the consultation, provided a weblink to the document, and a link to the comment form.
  - Notification emails posted to a range of stakeholders, including Councillors
  - Remote briefings to stakeholder groups via Microsoft Teams presentations.

- Publication of recorded video presentations on the Council’s website.

- 1.4 The consultation generated a range of responses from organisations and individuals.

#### List of Respondents and Stakeholders

Various individuals	Gower Society
Art and Education by the Sea	Hygrove Homes
Bat Conservation Trust	Natural Resources Wales
Cllr Linda James	Persimmon Homes
Glamorgan Fungus Group	Wildlife Trust of South and West Wales (WTSWW)
Various internal council departments	

- 1.5 All of the comments received have been recorded and evaluated. They have been summarised and categorised into issues/themes in the schedule in Section 2 of this report, and the Council’s response provided within a separate column adjacent to each. In addition, the schedule

outlines the changes proposed by the Council to the SPG document as a result. A full list of all consultation responses received is provided in the Appendix to this report.

## 2. Schedule of Summarised Comments and Responses

- 2.1 The following schedule sets out, broken down for each part of the SPG document, the consultation comments raised, summarised into issues/themes with the Council’s response and the changes that are being proposed by the Council to the SPG document as a result. Appendix 1 to this report provides a copy of the verbatim comments received from each respondent to each question.

### CHAPTER 1: Introduction

Summarised Issue	Council’s Response	Changes proposed to SPG Document
<p><b>Question 1: Do you think the draft SPG contains sufficient and appropriate links to the Swansea LDP and its policies?</b></p> <p><b>Question 2: The key terms of biodiversity, ecosystem services, ecosystem resilience, and sustainable management of natural resources, net benefit and enhancement are all defined in Chapter 1. Do you think that the draft SPG clearly explains these terms and how they relate to the planning system?</b></p> <p><b>Question 3: Chapter 1 (together with the Appendices) confirms the key habitats, species and ecological features found in Swansea. Do you think the draft SPG provides clear information on how to identify important ecological features which may be affected by development?</b></p>		
<p>The majority of respondents considered that key terms and their relationship to the planning system were clearly explained and that the draft provided clear information on how relevant ecological features which may be affected by development.</p>	<p>Support noted</p>	<p>No change</p>

<p>The SPG document is substantial in length and technical in nature. Suggestion that this, together with the timing of the consultation during the pandemic, will have reduced the number and quality of responses received.</p>	<p>This SPG covers a technical subject which sits in the context of a complex framework of legislative and policy requirements. The document has sought to achieve the difficult balance between providing an accurate and transparent document for use as a material consideration in the planning process, whilst seeking to make it as accessible as possible to the lay reader.</p> <p>We propose, in response to this feedback, to produce an easy to read, infogram style leaflet to summarise the key points of the SPG. This will be produced post adoption and made available on our website.</p> <p>In response to the timing of the consultation, a number of online events were held to ensure that a range of individuals and stakeholders were engaged in the process, despite the constraints of lockdown.</p>	<p>No change to the SPG. However, propose to produce an online “SPG on a page” style leaflet to communicate key messages.</p>
<p>There was specific support for the implementation of the stepwise approach to mitigation and the clarification on how this will be applied to developments in Swansea,</p>	<p>Support noted</p>	<p>No change</p>

<p>for the clarification that the duty to maintain and enhance applies to all biodiversity and not just important features (in para 3.3) the clear intent to seek enhancement even when mitigation is not strictly necessary (para 3.7) and the link to green infrastructure and good place making at para 1.7.</p>		
<p>Implications of s6 Duty on planning system should be highlighted earlier in the document.</p>	<p>Amend introduction to clearly highlight implications of s6 Duty and resulting shift in approach required from LPA and applicants.</p>	<p><u>Amend second sentence of para 1.1.</u>  <u>“... This aim is in line with the Council’s enhanced biodiversity and resilience of ecosystems duties under Part 1, Section 6 of the Environment (Wales) Act 2016...”</u></p> <p><u>Add new para after 1.2.</u>  <u>“1.3 The Environment (Wales) Act represents a fundamental shift in approach that must be reflected in the Planning system. All those required in the planning process must move away from the presumption that damage or loss to biodiversity is acceptable where we can provide mitigation. The approach of “impact and mitigate” must now be replaced with one which delivers better quality development which works alongside nature to secure a more biodiverse and resilient environment.”</u></p>
<p>Strongly disagree with the use of ‘significant’ in the statement at para 1.6 “...set out how</p>	<p>Amend references to “significant loss” and other terms such as “no net</p>	<p>Amendments to clarify references to “significant loss” and “no net loss” as follows:</p>

<p>the Council will seek to ensure that development does not cause any <u>significant loss</u> of habitats or species...”. 3</p> <p>The wording of the Act is quite clear that the intention must be to ‘<i>maintain and enhance</i>’ biodiversity, therefore, Swansea seeking to avoid a ‘significant loss’ is not consistent with the act, particularly as there is no definition of what ‘significant loss’ might entail in this context, or with the rest of this SPG.</p> <p>While we appreciate that Planning Policy Wales (PPW) section 6.4.5 also makes reference to ‘<i>significant loss</i>’ it also states that the onus is on individual planning authorities to make it clear that <i>any loss of biodiversity due to development is unacceptable, particularly in the current climate and environmental crises, and to refuse applications on this basis.</i></p> <p>This SPG represents an opportunity to remove this confusion and embed the principle of the Act and its own corporate objectives in the Council’s planning policies. Only then can this guidance be meaningfully applied to address any potential impacts on biodiversity from development and ensure that the biodiversity and ecosystem goods</p>	<p>loss” which do not provide the level of clarity sought by the Council in communicating the council will go through in the determination of a planning application to ensure that the Council is able meeting its s6 duty in the carrying out of its functions as a Local Planning Authority.</p> <p>The SPG text should ensure that it clearly communicates the objective of the Environment Act and PPW which is to effect a shift towards securing development which maintains and enhances biodiversity and ecosystem resilience. Therefore the SPG text should be amended to communicate this positive focus on maintaining and enhancing.</p>	<p>Clarify para 1.6.</p> <p>The purpose of this <i>SPG</i> is to confirm how national guidance and legislation requirements should be considered at the local level, specifically by explaining how the policies of the <i>Swansea Local Development Plan (LDP)</i> will be applied. The <i>SPG</i> highlights how the <i>biodiversity</i> impact of development proposals should be assessed, and sets out the steps to be taken to ensure biodiversity and <i>ecosystem resilience</i> is maintained and enhanced. <del>It also sets out how the Council will seek to ensure that development does not cause any significant loss of habitats or species, and provides enhancements which deliver a net benefit for biodiversity.</del></p> <p><b>Clarify para 2.8:</b> “By following a stepwise approach to maintaining and enhancing biodiversity, development can build and sustain resilient ecological networks by:</p> <ul style="list-style-type: none"> <li><del>♣ — Avoiding any significant loss of habitats or populations of species, locally or nationally</del></li> <li>♣ Putting appropriate mechanisms in place to avoid <del>loss</del>, mitigate and/or compensate negative effects and secure enhancement <u>which deliver a net benefit for biodiversity and ecosystem resilience</u> wherever possible.</li> <li><del>♣ — Providing a net benefit for biodiversity</del></li> </ul> <p><del>[delete footnote <sup>2</sup> - <sup>4</sup> PPW, para 6.4.5 <i>Planning authorities must seek to maintain and enhance</i></del></p>
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and services of the area are maintained and enhanced as set out in the Act.

~~*biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so planning authorities must also take account of and promote the resilience of ecosystems.*~~

♣ Creating ecosystem resilience by applying the 5 principles of ecosystem resilience. (See DECCA figure 1.3).

**Clarify para 3.13:** “The primary biodiversity objective in the early stages of the development design process should be the to avoid negative impacts, by designing a site around the retention and maintenance of ecological features.”

**Clarify para 3.14:** “...However, no site is devoid of opportunities for ecological enhancements to be integrated into the design of the development. The Council will therefore explore with the developer opportunities to achieve ecological enhancements within the design and layout of a site (See Step C), or a contribution to off-site enhancements, which address evidenced opportunities to improve of the diversity, connectivity, scale, condition or adaptability of local ecosystems. (see Step E and DECCA Figure 1.3).

**Clarify para 3.18:** “Whilst the need for the development and justification of its location has been



		<p>established for LDP allocated sites by virtue of the Plan’s adoption by the Council, <del>efforts should still be made to avoid and minimise loss of biodiversity through sensitive site layout and design and compensate for any residual loss.</del> Stages A to F of the Stepwise Approach will still therefore apply in order to <u>maintain and enhance biodiversity the resilience of ecosystems.</u></p> <p><b>Clarify para 3.24:</b> <del>“Compensation either restores or recreates the ecological feature/s damaged by development, ensuring no net loss.</del> It is also important to note that compensation <del>is related solely to ensuring there is no net loss.</del> It is not a substitute for enhancements <del>or</del> <u>required to deliver a net benefit for biodiversity.</u></p> <p><b>Clarify para 4.31:</b> Specifically, the applicant should seek to establish at the pre-application stage how the proposal will <del>avoid or minimise the occurrence of the fragmentation of</del> <u>maintain and enhance biodiversity, ecological connectivity and resilience</u> and any <del>avoidable harm or net loss of important habitats or species.</del></p>
<p>The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, published Jan 1<sup>st</sup> 2021 by Defra.makes changes to the EU Habitats Regulations 2017.</p>	<p>Amend references throughout the document as appropriate.</p>	<p>Amend para 1.12 as below.</p> <p>“These include:</p> <ul style="list-style-type: none"> <li>• <i>2 Ramsar Wetlands of International Importance</i></li> <li>• <del>9 Natura 2000 Site</del></li> <li>• <u>7 Special Areas of Conservation (SACs)</u></li> </ul>

<p>SACs and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network.</p> <p>The 2019 Defra Regulations have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The national site network includes:</p> <ul style="list-style-type: none"> <li>• existing SACs and SPAs</li> <li>• new SACs and SPAs designated under these Regulations</li> </ul> <p>Any references to Natura 2000 in the 2017 Regulations and in guidance must be amended to refer to the new national site network.</p>		<ul style="list-style-type: none"> <li>• <u>2 Special Protection Areas (SPAs)</u></li> <li>• <u>35 Sites of Special Scientific Interest (SSSI)</u></li> <li>• <u>Gower AONB – IUCN Category V protected landscape</u></li> </ul> <p>Add footnote at end of section as follows: <u>“Changes to the EU Habitats Regulations 2017, published Jan 1<sup>st</sup> 2021 – available at: <a href="https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017">https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017</a>”</u></p> <p>Amend title of photo to Crymlyn Bog - <u>Ramsar, SAC, SSSI and NNR</u></p> <p>Amend <i>Figure 1.4</i> – Key ecological features – bullet 1 –as follows: <b>International and National Designated Sites</b> <del>SSSIs, SACs, SPAs, Ramsars, NNRs</del> <u>Ramsars, SACs, SPAs, NNRs</u></p>
<p>Request from Glamorgan Fungus Group that fungi are given a much higher profile in the documents to recognise their important role in ecosystem resilience.</p>	<p>The Importance of fungi is acknowledged. Although specific reference is not made to fungi or their specific ecosystem functions, the document does make reference in chapter 1 and the glossary to “plants and micro-organisms” and “plants and microbes” in the definition of ecosystems and biodiversity.</p> <p>Reference to plants is intended to refer to both “higher” and “lower”</p>	<p>Amend paras 1.14 and 1.15 to clarify the definition of an ecosystem in relation to plants and fungi.</p> <p>1.14 An <i>ecosystem</i> is made up of animals, <u>plants, fungi</u> and <u>single celled organisms</u></p> <p>1.15 Changes in the distribution and abundance of <u>plants, fungi</u>, animals, and microbes affect ecosystem functions</p> <p>Amend <i>Figure 1.4</i> – Key Ecological Features, bullet 6 to make reference to the role of Fungi in woodlands.</p>

	<p>plants, with lower plants including fungi amongst others. The glossary should be amended to make this clear.</p> <p>A specific glossary</p> <p>The Checklist of surveys at appendix 1 also highlights where all types of plant surveys may be required and this will include fungal surveys.</p> <p>The importance of fungi as part of the decomposition process of woodland habitats is acknowledged. Amend Figure 1.4: Key Ecological Features to highlight that trees, hedgerows and woodlands are also important for the ecosystems they are comprised of..</p>	<ul style="list-style-type: none"> <li>• <b>Trees, Hedgerows and Woodland</b> <u>This includes both the trees themselves and species and habitats that comprise hedgerow and woodland ecosystems (See Trees, Hedgerows and Woodland on Development Sites SPG)</u></li> </ul> <p>Add the following to the Glossary</p> <p><u>Fungi: Fungi are a group of living organisms which are classified in their own kingdom. Fungi are found throughout the Earth including on land, in the water, in the air, and even in plants and animals. They vary widely in size from microscopically small to the largest organisms on Earth at several square miles large. There are more than 100,000 different identified species of fungi.</u></p> <p>Amend glossary to clarify the definition of “Plant” as follows</p> <p><u>Plant: This includes</u></p> <p><u>(i) lower plants which include bryophytes (mosses and liverworts), lichens, fungi and algae (including diatoms), and</u></p> <p><u>(ii) higher plants or vascular plants which include trees, shrubs, flowering herbs and ferns etc.</u></p>
<p>Amend chapter 1 to include definitions of “sustainable management of natural resources, net benefit and Enhancement” currently located in the glossary.</p>	<p>A definition of SMNR and Enhancement and net benefit is included in the glossary.</p> <p>Whilst these terms are not specifically defined in chapter 1 they are</p>	<p>Add new text after para 1.16</p> <p><u>1.17 The Environment Act (Wales) 2016 established the principle of Sustainable Management of Natural Resources (SMNR) which is “using natural resources</u></p>

	<p>explained in detailed in subsequent chapters.</p> <p>However, these are principles which are fundamental to the policy shift implemented in the Environment {Wales} Act, it is useful to include explanations of their significance in chapter 1 of the SPG.</p> <p>Current Glossary Definitions</p> <p><b>SMNR</b> <i>Management</i> of land, water, soil, plants and animals, with a particular focus on providing nature based solutions which deliver improved quality of life for both present and future generations by maintaining biodiversity value and ecological resilience (stewardship).</p> <p><b>Enhancement:</b> Improved management of ecological features or provision of new ecological features, resulting in a net benefit to biodiversity, which is unrelated to a negative impact or is “over and above” that required to mitigate/compensate for an impact. (CIEEM 2018)</p>	<p><u>in a way and at a rate that maintains and enhances the resilience of ecosystems and the benefits they provide. In doing so, meeting the needs of present generations of people without compromising the ability of future generations to meet their needs, and contributing to the achievement of the well-being goals in the Well-being of Future Generations Act.”<sup>1</sup></u></p> <p>1.18 <u>Key principles of the SMNR include thinking about::</u></p> <ul style="list-style-type: none"> <li>• <u>the complex relationships between nature and people over the long term.</u></li> <li>• <u>the benefits that we get from natural resources now and in the future, recognising the ways they support our well-being.</u></li> <li>• <u>ways of making our ecosystems more resilient.</u></li> </ul> <p>1.19 <u>If we are to achieve this then we must think differently about how we can ensure that the planning process plays its part in ensuring that biodiversity and ecosystem resilience is maintained and enhanced. In this context “Enhancement” is where improved management of ecological features or provision of new ecological features result in a net benefit to biodiversity. This benefit is unrelated to negative impact and should be clearly distinguished from the results of actions to</u></p>
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<sup>1</sup> <https://naturalresources.wales/media/678063/introducing-smnr-booklet-english-final.pdf>

		<u>mitigate/compensate.</u>
<p><b>Further information should be provided in relation to Section 7 habitats</b> , to supplement information already provided Re key ecological features Figure 1.4, habitats listed in paragraph 1.9., and information provided re Priority/Protected species within Chapter 6 (Appendix 1),</p>	<p>Agree that amendments should be made to ensure appropriate reference is made throughout the document and appendices to the S7 list of habitats and species.</p>	<p>Amend Figure A.14 (Protection of Species in Swansea) to include a link to the Wales Section 7 Priority Species list.  <u>Section 7 Priority species (pdf)</u>  <b>Amend Figure A1.6 Protection of Habitats In Swansea- Legal and Policy Framework</b>  Amend reference to National/Local habitats – Feature column as follows  Section 7 – list of the habitats of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.</p>
<p>Suggest that examples are given of actions Swansea have taken to deal with issues raised. This would give weight to the SPG by showing that successful implementation of the Council’s stated actions. For example, provide examples of how the Council have dealt with Invasive Non-Native species.</p>	<p>Agree that this would be useful.  The final published version will include photographs of successful Swansea compensation, mitigation and enhancement schemes.</p>	<p>Include updated photos in final published version.</p>

## CHAPTER 2: Legislation and Policy Context

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 4: Is the draft SPG clear regarding how the relevant national legislation and policies, relating to biodiversity, will be implemented locally in Swansea through the planning application process?</b>		
All respondents agreed that the draft was clear on this issue	Support noted.	No changes to Chapter 2 arising from comments

## CHAPTER 3: The Stepwise Approach

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>No specific Question set on Chapter 3.</b>		
<b>Support expressed for</b> approach set out in Chapter 3, specifically, the clarification that the duty to maintain and enhance applies to all biodiversity and not just important features (para 3.3); the clear intent to seek enhancement even when mitigation is not strictly necessary (3.7), Step B of Stepwise re avoidance of negative impacts through early design to achieve retention and integration of ecological features (3.12), and Step F – Enhance (3.30 to 3.34)		
<b>Step A</b>	General minor amendments required to clarify and reinforce the message	Para 3.5: <u>“The first principle of the stepwise process is</u> <del>€</del> <u>The early and accurate identification of designated sites, and/or protected habitats and species that are present on a site and/or wider area. This is essential to understanding the significance of biodiversity issues and ascertain the potential ecological impacts and opportunities of a development proposal. , and</u>

Summarised Issue	Council's Response	Changes proposed to SPG Document
		<p>It is also crucial to establish the site's location in relation to ecological connectivity corridors <del>is the essential first step in understanding the significance of biodiversity issues, and for ascertaining the potential ecological impacts of a development proposal.</del></p> <p>3.6: "The attributes of ecosystem resilience should be used to <u>provide baseline data about</u> <del>assess</del> the current resilience of a site<sup>2</sup>. The Council supports the best practice approach of sharing of ecological survey data with the Local Environmental Records Centre to secure the continuous improvement of baseline <u>data as promoted in the Environment Act.</u> "</p>
<p><b>STEP B</b></p> <p>Clarify the distinction between the principle of avoidance at the strategic plan making stage and during the planning application process</p>	<p>Clarify paras 3.11, 3.12 and 3.27 as below and amend figure 3.1 and para 3.27</p>	<p>3.11: <u>The principle of avoidance is embedded into LDP Policies ER 6, 8 and 9 which require that the applicant must justify the need for the development in that location and that there are no satisfactory alternative locations for the development. It is important to distinguish between the principle of avoidance at the strategic plan making stage, and avoidance during the detailed planning application process.</u></p>

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<sup>2</sup> PPW 10, Para 6.4.9

Summarised Issue	Council's Response	Changes proposed to SPG Document
		<p><u>3.12 In the case of sites allocated for development in the LDP, the process of establishing appropriate need for the development and considering alternative locations was undertaken as an integral part of LDP preparation. Allocated sites will still be expected at the planning application stage to apply the stepwise process maintain and enhance biodiversity and the resilience of ecosystems through sensitive design and site layout a, mitigation, compensation and enhancement.</u></p>
<p>Para 3.15 (Step B Avoid) should refer to the ways in which the council will seek ecological enhancements, in the same way as set out in Step C respond and design, which refers to measures such as green infrastructure requirements, such as SuDS, or through other planning requirements (such as S106 agreements or CILs) associated with the granting of the planning permission.</p>	<p>In order to avoid repetition, a simple cross reference in para 3.16 to the relevant Step section would address this point.</p>	<p>3.16 "...The Council will therefore explore with the developer opportunities to achieve ecological enhancements within the design and layout of a site (<u>See Step C</u>), or a contribution to off-site enhancements, which address evidenced opportunities to improve of the diversity, connectivity, scale, condition or adaptability of local ecosystems. (<u>See Step E and DECCA Figure 1.3</u>).</p>
<p>Development on a SINC not supported unless demonstrated at the earliest stage how the development will seek to enhance and/or restore the ecological contribution of that site to the</p>	<p>The importance of SINC is acknowledged in the SPG which seeks to ensure that each stage of the SPG Stepwise process is equally applicable</p>	<p>No change</p>



Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>ecological network. This requires a strict enforcement of each stage of the stepwise process.</p>	<p>to SINC's as to any other area of ecological value. Para 3.10 specifically highlights the need to assess SINC's as part of the wider Step of gathering site information. It does not support development on designated SINC's. Para 3.15 also stresses the importance of SINC's in the process of avoiding impact at Step B.</p>	
<p><b>Step C</b></p> <p>Minor amendments required to better express paras .3.18 and 3.19</p>	<p>Amend 3.18 and 3.19</p>	<p>3.18 Gaining a detailed understanding of the biodiversity and GI qualities of a site at an early stage will <u>highlight opportunities to maximise the retention, enhancement or further creation of of natural assets on a site wherever possible ...This evidence led approach enables development to be designed with biodiversity benefits as an integral part. This will embed such matters into the placemaking approach that is advocated by the Council, as described in the adopted LDP.</u></p> <p>3.19 "Ongoing dialogue ... process. <u>This will ensure that the most appropriate mitigation, compensation and enhancement measures are agreed at the time of permission. As stated above, the Council will seek to secure net</u></p>

Summarised Issue	Council's Response	Changes proposed to SPG Document
		<del>benefit/biodiversity enhancements through the design of a site as outlined in Step F.</del>
<b>STEP D:</b> Improve clarity of expression	Amend para 3.19	3.19: <u>Where it has been established that avoidance is not possible, ....</u> "
<b>STEP E:</b> Ensure accurate reference to key terms of "net benefit" and "enhancements"	Amend par 3.24	3.24: " <del>Compensation either restores or recreates the ecological feature/s damaged by development, ensuring no net loss.</del> It is also important to note that compensation <u>is related solely to ensuring there is no net loss.</u> It is not a substitute for enhancements <u>required to deliver a net benefit for biodiversity.</u> "
<b>Support for Step E – Compensation.</b> Example provided of compensation, in very specific cases where it may be possible for the development to contribute to a landscape scale restoration project to deliver the compensation required but only if the alternative approach can demonstrate significant benefits above the standard approach (for example, the Carmarthenshire Cross Hands marsh fritillary project).	Point acknowledged, but this scenario is too specific to include in the SPG text and may dilute the emphasis on ensuring that proportionate, on site compensation is secured in the first instance.	No change

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p><b>STEP F:</b></p> <p>Clarify the significance of the principle of enhancement as an overarching principle.</p>	<p>Amend 3.29 and figures 3.1 and 4.1 to reflect overarching principle of enhancement.</p>	<p><b>Add new text to the start of para 3.29 as follows</b></p> <p><u>“Arguably Step F is not a sequential step in itself but an overarching principle which is fundamental to meeting the duty to maintain and enhance biodiversity. It is important not to confuse enhancement with mitigation and/or compensation. Enhancement will be sought over and above mitigation and compensation to achieve net benefit for biodiversity and maintain ecosystem resilience....”</u></p> <p><b>Amend figures 3.1 and 4.1 to emphasis enhancement as an overarching principle.</b></p>
<p><b>Steps G&amp;H</b></p> <p>Improve clarity of expression of Steps G&amp;H</p>	<p>Amend paras 3.34 to 3.6.</p> <p>Transfer technical information on best practice to a separate figure/text box.</p>	<p><u>3.34 Appropriate ongoing management arrangements must be put in place in order to secure the long lasting benefits of On sites where of retained and/or newly created habitats and features are created, appropriate ongoing management must be put in place to ensure long lasting benefits.</u></p> <p><u>3.35 As with previous steps, Applicants are strongly advised to consider management proposals at an early stage and integration of management requirements into the design of</u></p>

Summarised Issue	Council's Response	Changes proposed to SPG Document
		<p>mitigation, compensation and enhancement schemes <u>is strongly advised</u>.</p> <p><del>3.36 Management and monitoring needs will vary from site to site. The guiding principle will be to ensure that management and monitoring proposed is proportionate both to the scale and impact of the project.</del></p> <p>Create new figure re Recommended Best practice for Management and Monitoring Plans from remaining text of Steps G &amp; H</p>
<p><b>Steps G&amp;H :</b> Sufficient resources are required to support and improve appropriate monitoring and objective setting is key to this and improve review of CEMPs. The use of quality benchmarking such as BREEAM or Building with Nature (<a href="https://www.buildingwithnature.org.uk/">https://www.buildingwithnature.org.uk/</a>) is a useful tool but these do not replace the need for the Council to provide sufficient resources to enable its planning/ecology/biodiversity functions to deliver this critical follow up role.</p>	<p>Whilst an important point, this issue is a corporate issue which can only be addressed outside the scope of the SPG.</p>	<p>No change</p>

## CHAPTER 4: The Development Management Process

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p><b>QUESTION 5: Does the draft SPG make clear how the Council will integrate the Stepwise Approach advocated in PPW into its decision making process on planning applications.</b></p>		
<p><b>Support:</b> All respondents agreed that the draft was clear on this issue. There was clear support and encouragement for - the integration of the Stepwise Approach into the Council's development management and decision making process.</p> <ul style="list-style-type: none"> <li>- the approach of linking the Stepwise Process to the stage of the DM process was welcomed.</li> <li>- the clear link between biodiversity and ecosystem resilience in the planning process and the refusal to accept compensation for irreplaceable habitats.</li> <li>- the recommendation in para 4.23 that all ecological data collected as part of the planning process should be shared with the Local Biological Record Centre (SEWBReC)</li> <li>- the principle expressed at 4.26 re the need to consider biodiversity impacts beyond site boundaries, and the importance of understanding the - larger impacts of relatively small developments.</li> <li>- The principle expressed at 4.31 for re minimising fragmentation of ecological connectivity and any avoidable harm or net loss of important habitats or species.</li> </ul> <p>4.37 – re iteration of s6 duty throughout the document, particularly the requirement for the DAS to set out how the stepwise approach has been followed.</p>		
<p>The emerging British Standard for Biodiversity (para 4.8) contains terms and concepts which relate solely to the English system. The paragraph therefore creates confusion regarding</p>	<p>Reference to the BS guidance should be removed given its draft status and continued uncertainty surrounding the status of the guidance and its</p>	<p>Amend para 4.8</p> <p>4.8 This Chapter signposts best practice contained in the <b>British Standard for Biodiversity (BS 42020:2013)</b><sup>3</sup> and supporting</p>

<sup>3</sup> BS 42020:2013 British standard for Biodiversity – Code of Practice for Planning and development. (BSI, 2013)

Summarised Issue	Council's Response	Changes proposed to SPG Document
distinctions between approaches to biodiversity gain in England and Wales.	relationship to the differing environmental legislation in England and Wales	<b>CIEEM Guidance</b> <sup>4</sup> . ..... <del>The Council may also refer to relevant sections of the emerging British Standards Institution best practice the process of designing and implementing biodiversity net benefit as it evolves.</del> <sup>5</sup>
Caution required when using terms such as 'net benefit' which may have several different interpretations and definitions.	<p>Agree. The document has been reviewed to consistently refer to "net benefit for biodiversity" and to clearly distinguish between net benefit in the context of compensation/mitigation and enhancement. This is already clearly expressed in the definition of enhancement in the glossary and in Step F re enhancement.</p> <p>A single erroneous reference at para 2.14 to "net gain" also to be corrected.</p> <p>See also response above, which proposes to add an explanation of the terms enhancement and net benefit to Key Terms section in Chapter 1.</p>	<p>Minor amends made throughout the document consistently refer to "net benefit for biodiversity" at paras 2.27, 2.31, 3.7, 3.23, 3.29, 4.9, 4.34, 4.53.</p> <p>Addition of new diagram box re "enhancement" on 3.1 and 4.1 to be clear that enhancement is overarching principle.</p> <p>Amend para 2.14 – "...to achieve biodiversity net <del>gain</del> <u>benefit</u>..."</p>
The SPG should highlight that poor or degraded habitats and 'brown field' sites may be of	The SPG is clear throughout that it relates to all features of biodiversity	No change

<sup>4</sup> Ecological Impact Assessment (EclA) Checklist <https://cieem.net/resource/ecological-impact-assessment-ecia-checklist> The checklist ensures that decisions adequate information in accordance with Clauses 6.2 and 8.1 of BS 42020

<sup>5</sup> BS 8683 Process for designing and implementing Biodiversity Net Gain – Specification <https://standardsdevelopment.bsigroup.com/projects/2018-02413#/section>

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>considerable value, particularly if they are the only semi-natural habitat in an area or hold/connect isolated populations of vulnerable or scarce species</p>	<p>value, and the emphasis on considering ecological connectivity and ecosystem resilience will ensure that all types of habitat are considered.</p> <p>There is also specific guidance in Appendix 1 section 7c on the need for a survey on derelict land and brownfield sites. This will ensure that the relevant issues are considered.</p>	
<p>Adoption of SPG Paras 4.42 and 4.49, setting out the relationship between the SAB and planning applications processes, will add to the confusion caused by the introduction of SAB and the resulting impacts on site density and viability.</p>	<p>Whilst this sections refers to a factual statement to clarify that SAB and Planning processes operate under distinct legislative regimes, it is agreed that the text could be confusing and there is no disbenefit from removing the text from the SGP.</p>	<p>Amend final bullet of 4.9 as follows</p> <p>4.9 “Where approval from the SuDS Approval Body (SAB) is required..... <del>However, receipt of SAB approval in compliance with these standards should not be taken to imply that a proposed drainage scheme would necessarily satisfy the requirements of the planning process or meet the requirements of the Environment (Wales) Act 2016. Conversely, ecological measures agreed through the planning process, will not necessarily meet the requirements of the SAB process.”</del></p> <p><del>4.2 “SAB Pre-Application: Where a pre-application submission is made ..... Applicants should seek to establish separately that the biodiversity requirements of both the SuDS legislation and Planning Legislation are satisfied.</del></p>

Summarised Issue	Council's Response	Changes proposed to SPG Document
		<p><del>Approval of biodiversity measures under one regime, should not be assumed to imply that these measures are satisfactory under the other. It is also important to establish that measures, for example approved through the planning process, do not conflict with the requirements of the SAB process and vice versa.</del></p> <p><b>4.49 Sustainable Drainage Systems Approval:</b>  The details of any parallel SAB approval will be taken into account. <del>It should be noted that compliance with all requirements of a SAB approval does not necessarily indicate that the development will provide all biodiversity measures required to make the development acceptable in planning terms. The converse is also the case, granting of planning permission does not imply that the biodiversity measures required in the planning consent will meet the SAB requirements.</del></p>



Summarised Issue	Council's Response	Changes proposed to SPG Document
<p><b>QUESTION 6: The draft SPG seeks to ensure that biodiversity issues are considered as early as possible in the development process, in the interests of maximising opportunities to integrate, retain and/or enhance biodiversity.</b></p> <p><b>Do you consider this to be an appropriate and viable approach?</b></p>		
<p>This is a very important element of the SPG. With so many green sites being developed e.g. housing sites where I live in Loughor, there may come a time when local green spaces are protected from development.</p> <p>Para 3.7 re Sharing ecological data is excellent and demonstrates best practice</p>	<p>Support noted</p>	<p>No change</p>
<p>Adoption of the SPG will exacerbate concerns about the impact on density and viability of</p> <ul style="list-style-type: none"> <li>- The August 2020 WG 20% rise in planning fees.</li> <li>- The WG consultation on space standards for new homes</li> </ul>	<p>The purpose of SPG is to provide clarity/certainty to avoid costs and time delays. It provides guidance to navigate a complex environmental process. It does not introduce any obligations that are not already set out at a national level.</p>	<p>No change</p>
<p>The SPG introduces requirements for upfront ecological information and validation, engagement of specialists, pre-app engagement with council ecologists and consultation with NRW (Paragraphs 4.8, 4.9, 4.23 and 4.33 ). These will result in increased up-front costs for</p>	<p>Whilst issues of funding are noted, this is an issue that needs to be resolved at the national level.</p> <p>The paragraphs referred do not introduce new requirements above those set at the national level, and are not</p>	<p>4.9 – 3<sup>rd</sup> bullet</p> <ul style="list-style-type: none"> <li>• Submission of timely and appropriate ecological information is essential. In particular, where the Council's Planning Ecologist has identified that a <i>Preliminary Ecological Assessment (PEA)</i> <del>and any additional species</del></li> </ul>

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>developers and planning applicants which will affect viability and deliverability and elongate the length of the planning application process further by adding additional stages of consultation.</p> <p>The impacts of the above are particularly unclear for brownfield sites.</p> <p>National Assembly for Wales Economy, Infrastructure and Skills Committee report on barriers facing Small Housebuilders in 2019 highlights SME concerns re funding up-front costs given that banks will not lend on development schemes until planning consent has been secured.</p>	<p>intended to introduce barriers. Rather they seek to signpost best practice, either professional guidance (i.e. CIEM) on the quality and timing of ecological information in order to ensure that applicants meet the various legal requirements relating to protected species, sites and habitats.</p> <p>Amendments are proposed to bullet 3 of para 4.9 to clarify that it will be the Council's Ecologist who will identify that an applicant is required to undertake a PEA. The request will be in response to relevant evidence of sites, species likely to be affected by the development. The PEA may also highlight where the applicant will need to commission further species surveys. The LPA will require both the PEA and associated surveys in order to have sufficient information to determine the application. This process is standard practice and is explained in more detail at para 4.20.</p> <p>The SPG also seeks to highlight Council's own best practice methods of collaborative working with developers on</p>	<p><del>surveys are</del> <u>is required, this must be submitted with an application, along with any additional species surveys identified in the PEA.</u> <del>these must be submitted with an application.</del> Failure to submit the required information could lead to the application being refused....”</p>

Summarised Issue	Council's Response	Changes proposed to SPG Document
	<p>larger sites to ensure early identification and integration of environmental issues into design and cost appraisals.</p> <p>Again, the objective of national guidance, and of the SPG is to give clarity and certainty to developers of key issues and environmental legislation to be factored into the development appraisal process.</p>	
<p>It is of key importance that Council Members and Officers understand the increased cost associated with developer contributions and measures (referred to in Chapters 3 and 4) will impact on a scheme's viability and will have a detrimental impact on the amount of s.106 obligations that the Council can expect in areas like education and affordable housing particularly on sites that involve brownfield regeneration.</p> <p>If the Council is not prepared to be flexible in its approach on this, it will result in development schemes not being brought forward.</p>	<p>It is important to emphasise that the SPG does not introduce any new policies or costs. It is not the role of SPG to introduce policy, only to support the implementation of existing policy.</p> <p>The principle of securing biodiversity measures and enhancements has already been established in National Planning policy and Guidance and adopted LDP policies. The SPG simply provides more detail on the process the Council will follow to implement this.</p>	No change
<p>The SPG adds further reductions to density/developable area and viability in addition to those already arising from SAB requirements, new space standards and increased planning fees. Ongoing monitoring and management</p>	<p>Indeed, there is a strong emphasis in the SPG on ensuring that potential biodiversity measures are understood from the earliest stage of the process in order that costs and delays can be</p>	

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>requirements (see 3.36) and associated commuted sums or maintenance fees will have also have impacts on long term costs.</p> <p>These increased costs may be passed to purchasers through increased house prices or as management fees which will affect affordability, especially for first time buyers.</p>	<p>avoided. The SPG specifically promotes early engagement and assessment to ensure that there is a move away from conditions at a late stage in the project and that early integration of measures can be achieved through the design of the scheme.</p> <p>As with all developments, the council has made a clear statement that it is prepared to be flexible and work with developers through an open book viability process to ensure that developments are viable and deliverable whilst also ensuring that the most appropriate level of environmental and community benefits are realised by the development.</p>	
<p>The method of calculating any commuted maintenance sum should be transparent, with the calculation mechanism set out in any final SPG document.</p>	<p>Agree that clarity and certainty of all potential development costs is essential to inform an accurate development appraisal.</p>	<p>No change.</p>
<p>Will we get an idea of cost implications or commuted sum levels with the maintenance in mind at an early / pre app stage?</p>	<p>The Planning Obligations SPG currently sets the monitoring fee and is the appropriate location for setting out the method of calculation of commuted</p>	

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>Para 4.60 sets out how the Council will request a monitoring fee, referring to the use of either s106 Agreement or planning conditions. Concern is raised over the lack of inclusion in the draft SPG of a transparent method of calculation of the Monitoring Fee, which prevents developers from including monitoring costs into financial appraisals of development viability.</p>	<p>sums, relating both to environmental measures and to all other relevant developer contributions.</p> <p>A review of the current adopted Planning Obligations SPG will be carried out.</p>	
<p>Proposed allocations on sites may not be achievable as a result of reduced viability. Paramount that enough sites are allocated at LDP review to meet housing requirements, recognising that these further measures are likely to highly impact the gross / net ratio on sites. Allocated sites must be capable of the densities that they show on the masterplan.</p>	<p>The Annual Monitoring Report is the mechanism through which the delivery of adopted allocated sites is monitored and this will inform future LDP Reviews.</p> <p>Allocations in a reviewed LDP will be made in the context of the most up to date legislation and policy context at the time.</p>	<p>No change</p>
<p>Review Chapter 4 to highlight role of Fungi.</p>	<p>As stated above, all references to biodiversity are intended to include fungi.</p>	<p>See changes listed above.</p>

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 7: Does the SPG clearly explain how the Council will take account of, and promote the resilience of ecosystems?</b>		
Means of enforcement should be included	The process of enforcement of measures negotiated through the planning process is a corporate matter which lies outside the remit of this SPG.	<b>No change</b>

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 8: The draft SPG explains that the Council will seek to "secure enhancements wherever possible".</b>		
<b>Do you agree with the SPG's approach that enhancement should be proportionate to the scale, nature and location of the development involved?</b>		
SUPPORT: Member of public: The more enhancement the better! No excuses for minimising.	Support noted	No change required
The wording " <i>Wherever possible</i> " is a vague commitment. Many things are possible, with the appropriate resources. For example, a city centre development might have very limited surrounding space for biodiversity enhancement but could install a green roof or wall. The SPG should insist on biodiversity enhancements in all	The SPG cannot require enhancements in every single case. It is for this reason that the SPG refers to the principle of proportionality in order to acknowledge that a blanket requirement for enhancements in all cases is not practical.	No change

cases and then make a judgement on proportionality.	The approach is supported by the detail in the Appendices which provides advice relating to specific scales of development.	
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**QUESTION 9: The draft SPG emphasises that the Council will normally require any necessary biodiversity enhancements to be shown on plans submitted as part of a planning application, and will then use Planning Conditions to require that the proposed development is carried out in accordance with those submitted plans. Do you agree with the approach set out in the draft SPG to securing biodiversity enhancement through the use of planning conditions?**

All respondents answered “yes” to this question. No detailed comments submitted.

Summarised Issue	Council’s Response	Changes proposed to SPG Document
<b>QUESTION 10: Does the draft SPG make clear what information is required at what stage to support a planning application, in relation to biodiversity matters?</b>		
Detail provided in Appendix 2 re major developments should be clarified in the main document.	The SPG must satisfy a diverse readership and applies to a range of scales of applications. Detail was provided in the Appendices with the intention that specific readers could easily access specific sections of the SPG.	No change
Not in relation to fungi	See above re proposed amendments re references to Fungi	See above

## CHAPTER 5: Glossary of Terms

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 10: Does the draft SPG make clear what information is required at what stage to support a planning application, in relation to biodiversity matters?</b>		
A list of all the acronyms used would be a useful addition.	Provide a list of acronyms as part of the glossary	See list of acronyms now included in amended LDP doc at Appendix B.

## CHAPTER 6: Appendices

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 11: Is the information set out in the draft SPG Appendices accurate?</b>		
Amend incorrect reference to Rivers outside Council boundaries at Chapter 6 (Appendices) and Figure A.1.7 –(the River Tywi SAC and the River Usk SAC)	Amend errors in the Appendix A1.7	Amend Appendix to remover reference to River Tywi SAC and the River Usk SAC
The Council should publish a biodiversity connectivity map laying out clearly where crucial wildlife corridors are presently and where it proposes to create others. This would send a clear message of the Council's serious intent be and would be useful information for land owners and developers.	The Council have completed work on a Connectivity Map and intend to publish on the Council website.	No change



Summarised Issue	Council's Response	Changes proposed to SPG Document
Suggest fish and aquatic invertebrates could be added to Appendix 1 section 6 re Proposals affecting water bodies!	Add fish and aquatic invertebrate to section 6 of checklist re proposals affecting water bodies.	Amend Appendix 1, Figure A1.1 at sections 3, 5 and 6 to refer to "Fish" and "Aquatic Invertebrates"
Amendments required to align text with post Brexit changes to environmental legislation	Amend Appendices	Various amendments to Appendices.

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 12: Is the information set out in the draft SPG Appendices informative?</b>		
Support for the substantial appendix of original sources and further reading	Support noted	No change

Summarised Issue	Council's Response	Changes proposed to SPG Document
<b>QUESTION 13: Do you have any additional comments relating to the draft SPG and/or are there specific amendments (not covered by questions 1-12 above) that you would like to see made to the document?</b>		
The Wildlife Trust of South and West Wales (WTSWW) welcome and support the production of this supplementary planning guidance (SPG) on Biodiversity and development. It will help ensure a consistent and pro-active approach to ensuring	The detailed comments and support of WTSWW are welcomed.	No change

Summarised Issue	Council's Response	Changes proposed to SPG Document
<p>all development within the Swansea area takes full account of the Council's S6 duty. It should also assist in delivering better and more sustainable development within Swansea.</p>		
<p>General support from Gower Society, particularly re explanation of ecological survey requirements, with the caveat of the need to successfully implement and monitor the guidance</p>	<p>Support noted and welcomed. The implementation and monitoring of the SPG is a corporate issue which lies outside the remit of the SPG document.</p>	<p>No change.</p>
<p>Greater clarity requested on how monitoring will be carried out and funding, by whom and for how long. What will be the consequence if anticipated "green" outcomes are not realised. Who will be responsible for the ongoing management of important "green" resources like hedgerows, woods and ponds?</p>		

## Annex A - Consultation Responses

# APPENDIX – FULL LIST OF RESPONSES FOR EACH CONSULTATION QUESTION

### CHAPTER 1: INTRODUCTION

<b>Question 1:</b> Do you think the draft SPG contains sufficient and appropriate links to the Swansea LDP and its policies?
<b>Comments</b>
<b>Natural Resources Wales:</b> We note and welcome the references to LDP policies within paragraphs 2.16, 2.17, 2.18 and Appendix 5.
<b>Question 2:</b> The key terms of biodiversity, ecosystem services, ecosystem resilience, and sustainable management of natural resources, net benefit and enhancement are all defined in Chapter 1. Do you think that the draft SPG clearly explains these terms and how they relate to the planning system?
<b>Comments</b>
<b>NRW</b> = We believe the SPG clearly explains these terms especially biodiversity, ecosystem services and ecosystem resilience in paragraphs 1.13, 1.14 and 1.15. Although the terms sustainable management of natural resources, net benefit and enhancement are mentioned, they do not appear to have been defined in Chapter 1. They are however defined in the Glossary. Consideration should be given to adding the definitions, within Chapter 1.
<b>Gower Society</b> - We conclude with one thought. Maybe it is just not feasible in a document of this complexity to give examples of pro-active actions that CCS has actually been involved in that have utilised its predecessor equivalent, say, in the last five years, but, occasionally, one can be under the impression that documents of this type, once produced and approved, full of good intentions, essentially sit and gather dust on some distant largely 'forgotten shelf'. <b>For perhaps just one example, on p9, in the ecosystem services diagram fig 1.2,</b> 'Invasive Non-Native Species (INNS)' are referred to as 'one of the greatest drivers of change in Wales'. Fine, but are these just words? The reader has no means of knowing what activities the CCS might have had to date of dealing with invasive non-native species or even whether it has a watchlist of what it has considered should be on such a list. (Japanese knotweed, rhododendrons, then elm, ash, oak, bamboo diseases all probably, but what of species like grey squirrels and Spanish bluebells, etc - but where do you stop?)
<b>QUESTION 3:</b> Chapter 1 (together with the Appendices) confirms the key habitats, species and ecological features found in Swansea. Do you think the draft SPG provides clear information on how to identify important ecological features which may be affected by development?
<b>Comments</b>
Fungi are not covered - see Additional Information
NRW - We note that key ecological features are noted in Figure 1.4 along with certain habitats listed in paragraph 1.9. While we note that clear information is provided in relation to Priority/Protected species within Chapter 6 (Appendix 1), <b>we recommend that further information should also be provided in relation to Section 7 habitats.</b>

<b>Wildlife Trust SWW</b>
<b>1 introduction.</b> Welcome the acknowledgement of Swansea Council’s responsibilities set out under Section 6 of The Environment (Wales) Act 2016
<p><b>1.5</b> Strongly disagree with the use of ‘significant’ in the statement  “...set out how the Council will seek to ensure that development does not cause any <b>significant</b> loss of habitats or species...”  The wording of the Act is quite clear that the intention must be to ‘maintain and enhance’ biodiversity, therefore, Swansea seeking to avoid a ‘significant loss’ is not consistent with the act, particularly as there is no definition of what ‘significant loss’ might entail in this context, or with the rest of this SPG. While we appreciate that Planning Policy Wales (PPW) section 6.4.5 also makes reference to ‘significant loss’ it also states that the onus is on individual planning authorities to make it clear that any loss of biodiversity due to development is unacceptable, particularly in the current climate and environmental crises, and to refuse applications on this basis.  This SPG represents an opportunity to remove this confusion and embed the principle of the Act and its own corporate objectives in the Council’s planning policies. Only then can this guidance be meaningfully applied to address any potential impacts on biodiversity from development and ensure that the biodiversity and ecosystem goods and services of the area are maintained and enhanced as set out in the Act.</p>
1.7 Strongly support the link to green infrastructure and good place making.
1.8 support the intention to apply the mitigation hierarchy but see comments on section 1.5 about undermining this approach.

## CHAPTER 2: LEGISLATION AND POLICY CONTEXT

**QUESTION 4: Is the draft SPG clear regarding how the relevant national legislation and policies, relating to biodiversity, will be implemented locally in Swansea through the planning application process?**

<b>Comments</b>
NRW = We note that references to national legislation and policies, relating to biodiversity, and how they will be implemented locally in Swansea are outlined throughout the document.

## CHAPTER 3: THE STEPWISE APPROACH

### No specific questions

<b>Comments</b>
ADD WTSW COMMENTS
<p><b>Hygrove Homes: Impact on s.106 obligations</b>  We note from paragraph 3.30 that  <i>“Wherever possible the Council will seek to secure enhancements by applying the principles of good placemaking and GI. Where on-site enhancements are not feasible/cannot be incorporated into the site design the Council may seek a contribution from the developer to off-site measures. For example, to support identified projects for maintaining or creating habitats. This could be secured through an appropriate legal mechanism.”</i>  Similar points are made in <i>paragraphs 3.8, 3.15, 3.20, 3.22, 3.33 and 4.52</i> of the SPG document.  It is of key importance that Council Members and Officers understand the increased cost associated with these measures will impact on a scheme’s viability and will have a detrimental impact on the amount of s.106 obligations that the Council can expect in areas like education and affordable housing particularly</p>

<p>on sites that involve brownfield regeneration. If the Council is not prepared to be flexible in its approach on this, it will result in development schemes not being brought forward.</p>
<p>We also note the section of the SPG document that states:  <i>“Monitoring is intended to both check compliance with conditions or planning obligations and to establish whether the measures undertaken are effective and are successfully delivering the intended outcomes. The Council will either request a monitoring fee as part of a s106 Agreement and monitor in-house, or include within planning conditions a requirement for the applicant to cover the cost for ongoing monitoring”.</i>  We would expect any monitoring fee to be transparent, with the method of calculation set out in any final SPG document to enable developers to factor in such a cost to their development appraisal but reiterate that the SPG will add significant unnecessary cost to the applicant.</p>
<p><b>Hygrove Homes : 7. Impact on affordability of first time buyers</b>  The potential reduction in density on development sites caused by the introduction of SAB’s and the possible introduction of the new Welsh Government space standards will force developers to increase house prices, reducing the number of potential first time buyers from purchasing homes in the County. In addition to this, we note the comments relating ongoing management of biodiversity measures in paragraphs 3.34, 3.36 and 3.37 of the SPG document. We particularly note a extract from paragraph 3.36, which states:  <i>“On sites where ecological features are retained and/or new habitats and features are created, appropriate ongoing management must be put in place to ensure long lasting benefits. Applicants are strongly advised to consider management proposals at an early stage and integrate management requirements into the design of mitigation, compensation and enhancement schemes. Management and monitoring needs will vary from site to site. The guiding principle will be to ensure that management and monitoring proposed is proportionate both to the scale and impact of the project. In these cases, the appropriate monitoring and management plans will need to be produced and submitted to the Council”.</i>  While it is encouraging to note the SPG document’s emphasis on proportionality, the <b>likelihood is that the management cost will be funded either through a commuted maintenance sum or via a management company with monthly contributions from home owners.</b></p>
<p>We would expect the method of <b>calculating any commuted maintenance sum to be transparent, with the calculation mechanism set out in any final SPG document.</b>  This is contrary to our recent experience with the Council’s parks department, which refused to provide a breakdown of a requested commuted maintenance sum for the future maintenance of a green space within one of our developments.  Further to the above, any commuted maintenance sum will impact a scheme’s viability. Should a developer opt to pass the cost of maintenance on to future homeowners (via monthly contributions to a management company), this monthly cost will need to be factored in to a purchaser’s affordability assessment at the point of mortgage application (who will already be expected to pay contributions to the upkeep of any on-site SAB). This, again, will impact the number of first-time buyers that will be able to afford to buy in the County.</p>
<p><b>Wildlife Trust for South West Wales:</b>  <b>Section 3.</b> WTSWW strongly support the implementation of the stepwise approach to mitigation and the clarification on how this will be applied to developments in Swansea.  3.3 WTSWW welcomes the clarification that the duty to maintain and enhance applies to all biodiversity and not just important features.  3.7 Welcome the clear intent to seek enhancement even when mitigation is not strictly necessary.  3.10 WTSWW does not support any development on a designated SINC, even if it is demonstrated that the site no longer meets qualifying criteria, unless it is made clear at the earliest stages of the planning process how the development will seek to enhance and/or restore the ecological contribution of that site to the ecological network. This should not just be a matter of replacement of lost or damaged features but a strict application of the stepwise approach, ideally through the production of ecological management plan. This plan must demonstrate how the ecological capacity of the area will be maintained and</p>

enhanced both at the completion of the development and monitored and managed thereafter. In addition, such a process should not be limited to 'major' developments only but applied proportionately to all developments with the potential for ecological impacts, no matter how small.

3.12 WTSWW strongly support this approach.

3.15 While planning law (or at least the Planning Inspectorate and courts' interpretation of that law) that enhancement cannot be made a condition for development, it is still clear that the section 6 duty applies to the Council in exercising its function as a planning authority. We welcome that the SPG sets out that the Council will work with developers/applicants to seek ecological enhancements whenever and wherever possible, either by adapting green infrastructure requirements, such as SuDS, or through other planning requirements (such as S106 agreements or CILs) associated with the granting of the planning permission (Sections 3.18 and 3.19) but feel it could usefully be made clear in this section also.

3.17 WTSWW strongly support this approach, though our comments on section 3.10, particularly the need to look at restoring the original features that qualified the SINC, also apply.

3.21 – 3.29 WTSWW support the approach taken to compensation here, particularly the need to demonstrate that the compensation measures need to be able to either demonstrate that they fulfil the role and function of the loss or are sufficient to provide confidence that they will do so (for example, by applying a multiplier). In some, very specific, cases it may be possible for the development to contribute to a landscape scale restoration project to deliver the compensation required but only if the alternative approach can demonstrate significant benefits above the standard approach (for example, the Carmarthenshire Cross Hands marsh fritillary project).

3.30 – 3.34 WTSWW strongly support this approach, particularly the need to include even small developments in the remit of enhancements and the potential to contribute to landscape scale ecological enhancement initiatives (for example the RCT Rhos pasture project)

3.35 – 3.40 WTSWW support this approach but the need for a measurable and reliable way of ensuring the long-term viability of ecological mitigation and enhancement measures is critical. Appropriate monitoring and objective setting is key to this and review of CEMPs is often poor or non-existent. The use of quality benchmarking such as BREEAM or Building with Nature (<https://www.buildingwithnature.org.uk/>) is a useful tool but these do not replace the need for the Council to provide sufficient resources to enable its planning/ecology/biodiversity functions to deliver this critical follow up role.

## CHAPTER 4: THE DEVELOPMENT MANAGEMENT PROCESS

**QUESTION 5: Does the draft SPG make clear how the Council will integrate the Stepwise Approach advocated in PPW into its decision-making process on planning applications?**

### Comment

We note and encourage the integration of the 'Stepwise Approach' into the Council's development management decision making process, as detailed in both chapters.

Excellent approach

**Section 4.** WTSWW welcomes the clear setting out of the stepwise approach and how it applies to the application process

4.8 Note the developing British Standards Institute best practice guidance is based on the English legislative framework and heavily weighted towards the English approach to issues such as mitigation and concepts such as 'biodiversity no net-loss'.

This is not the approach currently being applied in Wales where the section 6 duty clearly states that we must 'maintain and enhance'. This should be made clear in the SPG, particularly where larger developers may be unfamiliar with the Welsh legislative framework and seek to apply inappropriate metrics when calculating the impacts of their developments.

<p>4.9 WTSWW welcome most of the points highlighted in this section, such as the clear link between biodiversity and ecosystem resilience in the planning process and the refusal to accept compensation for irreplaceable habitats. <b>However, we would urge the Council to be cautious when using terms such as ‘net benefit’ which may have several different interpretations and definitions.</b></p>
<p>4.23 WTSWW strongly support the recommendation that all ecological data collected as part of the planning process should be shared with the Local Biological Record Centre (SEWBRcC)</p>
<p>4.25 While WTSWW accept that there may be instances where ecological impacts of a development might be minor, <b>the SPG should also highlight that poor or degraded habitats and ‘brown field’ sites may be of considerable value, particularly if they are the only semi-natural habitat in an area or hold/connect isolated populations of vulnerable or scarce species.</b></p> <p>Such areas often also have the potential for significant enhancement both as Green infrastructure and for biodiversity but developers often ‘downgrade’ the value of such land in the application process. WTSWW strongly recommend that these types of habitat are included in the list of considerations when a preliminary ecological assessment is requested.</p>
<p>4.26 WTSWW strongly support this principle</p>
<p>4.31 WTSWW support this principle but refer to comments on Section 4.25 in relation to habitats and species of perceived lesser importance.</p>
<p>4.37 While we accept that biodiversity enhancement may currently not be legally required in the planning process, <b>we feel that the Council should make it clear throughout the SPG that it will be seeking to apply its section 6 responsibilities to maintain and enhance biodiversity throughout the planning process.</b> Therefore, we particularly welcome the approach set out in sections 4.51 – 4.54</p>
<p><b>Hygrove Homes Paras 4.42 and 4.49</b>  <b>Welsh Government introduced SAB’s in January 2019;</b> The introduction of SAB’s has been chaotic, causing widespread confusion in the industry and uncertainty over both the application process and interaction between the SAB board and planning department. Furthermore, SAB’s will impact site density (it is estimated that density could be reduced by up to 20% of the developable site acreage) and the developer will face cost consequences associated with construction and future maintenance of the SAB.</p> <p>A recent meeting of the Swansea developer forum heard significant concerns from the developers present while extracts from paragraphs 4.42 and 4.49 of the SPG document hints at the existing and increased confusion that planning applicants will experience should the SPG document be adopted  <i>(“...Approval of biodiversity measures under one regime, should not be assumed to imply that these measures are satisfactory under the other.....”)</i>  and  <i>(“It should be noted that compliance with all requirements of a SAB approval does not necessarily indicate that the development will provide all biodiversity measures required to make the development acceptable in planning terms. The converse is also the case, granting of planning permission does not imply that the biodiversity measures required in the planning consent will meet the SAB requirements...”)</i></p>
<p><b>Hygrove Homes Welsh Government announced a 20% rise in planning fees as of August 2020;</b> We have expressed concerns previously that the increase in planning fees will not result in an increase in the speed of the planning process or customer service received. These concerns will be exacerbated further should the SPG document be adopted;</p>
<p><b>Hygrove Homes: Welsh Government is currently consulting on the potential introduction of increased space standards in new homes</b>  Point i) above discusses the potential impact that SAB’s will have on site density. Welsh Government’s current consultation on space standards of new homes (if adopted) will clearly affect potential density further, impacting the viability of schemes (particularly of brown field first time buyer sites) negatively in the process. The introduction of the SPG document will only add to this. We would urge both Council Members and Officers to consider the above as part of the process in deciding on whether to adopt the SPG document.</p>
<p><b>Hygrove Homes 4. Increase in developer and planning applicant up-front cost</b></p>

The EIS Committee's report on barriers facing Small Housebuilders in 2019 heard concerns from developers about the up-front cost associated with planning applications and how banks will not lend on development schemes until planning consent has been secured. This is a major obstacle for SME housebuilders that have ambitions to bring sites forward for development. Paragraphs 4.8, 4.9, 4.23 and 4.33 of the SPG document details yet further up-front cost that developers will face should the SPG document be adopted ("*....Submission of timely and appropriate ecological information is essential. In particular, where the Council's Planning Ecologist has identified that a Preliminary Ecological Assessment (PEA) and any additional species surveys are required, these must be submitted with an application. Failure to submit the required information could lead to the application being refused.....*", and "*For major applications, a multi-disciplinary design team should be engaged at the earliest possible stage and include a suitably qualified ecologist*". This will of course be in addition to the 20% rise in planning fees introduced in August 2020 (as referred to above).

**:Hygrove Homes Elongate the planning process**

As well as increasing the up-front cost faced by developers, the adoption of the SPG document will also elongate the length of the planning application process further. We note extracts from paragraphs 4.17 and 4.45 of the SPG document in particular: "...The LPA will co-ordinate appropriate engagement of the Council's planning ecologist on biodiversity issues at the pre-application stage" and "*...Where applications are submitted without ecological information, they may be validated but cannot be determined until any necessary ecological reports have been submitted to, and approved by, the Local Planning Authority (LPA). Where surveys and reports are submitted which recommend further survey work is carried out, and this is not submitted to the LPA, the LPA may refuse the application*". It is unclear as to what interaction the planning department has had with other Council departments as part of the drafting of the SPG, and furthermore, **whether input from the Council's planning ecologist on design elements of planning applications will be contradicted by other departments** like highways, parks an urban design and how the case officer will decide which comments take precedence (these comments are equally relevant to the Council's current consultation on trees and hedgerows). Also, the LPA's efforts to "*....co-ordinate appropriate engagement of the Council's planning ecologist on biodiversity issues...*" will depend on the ecologist's working hours. We have found in the past that members of the planning ecologist team work part time, affecting the timeliness of response times. We also note paragraph 4.40 of the SPG document, an extract from which states: "*....Preapplication discussion with statutory consultees such as NRW is also recommended, together with non-statutory consultees, where appropriate....*". This acknowledges a duplication in process, which will elongate the application time and cause further uncertainty to the applicant.

**QUESTION 6: The draft SPG seeks to ensure that biodiversity issues are considered as early as possible in the development process, in the interests of maximising opportunities to integrate, retain and/or enhance biodiversity. Do you consider this to be an appropriate and viable approach?**

Comment
This is a very important element of the SPG.
With so many green sites being developed eg housing sites where I live in Loughor, there may come a time when local green spaces are protected from development. Sharing data 3.7 excellent best practice
If fungi are taken into consideration



Persimmon : Site viability 'will' be impacted regardless of level of biodiversity on a site. How do these measures impact brownfield development is something that is unclear. Will we get an idea of cost implications or commuted sum levels with the maintenance in mind at an early / pre app stage? It must also be ensured that all departments of the council give quick comprehensive and quick feedback in the pre app stage and that the comments made in the SAB process by ecologist are consistent with pre app feedback to the developer.

**QUESTION 7: Does the SPG clearly explain how the Council will take account of, and promote the resilience of ecosystems?**

**Comment**

DECCA

Means of enforcement should be included

If fungi are taken into consideration

Nrw - We note key ecological features, as shown in Figure 1.4, which will be maintained and enhanced by the Council in order to contribute to the resilience of local biodiversity. We also note and encourage the use of the 5 Attributes of Ecosystem Resilience (DECCA) in Figure 1.4.

**QUESTION 8: The draft SPG explains that the Council will seek to "secure enhancements wherever possible". Do you agree with the SPG's approach that enhancement should be proportionate to the scale, nature and location of the development involved?**

**Comment**

*Ciarn Obrian: "Wherever possible" is a vague commitment.*

Many things are possible, with the appropriate resources. For example, a city centre development might have very limited surrounding space for biodiversity enhancement but could install a green roof or wall. In my opinion, **the SPG should insist on biodiversity enhancements in all cases and then make a judgement on proportionality.**

Persimmon Homes: Yes, however what is considered reasonably as 'not possible' i.e. will this apply to brownfield for instance?

Member of public: The more enhancement the better! No excuses for minimising.

**QUESTION 9 : The draft SPG emphasises that the Council will normally require any necessary biodiversity enhancements to be shown on plans submitted as part of a planning application, and will then use Planning Conditions to require that the proposed development is carried out in accordance with those submitted plans. Do you agree with the approach set out in the draft SPG to securing biodiversity enhancement through the use of planning conditions?**

**QUESTION 10 Does the draft SPG make clear what information is required at what stage to support a planning application, in relation to biodiversity matters?**

**Comment**

NRW: This was mentioned to a degree within the SPG, and further detailed in Appendix 2. However, we advise that further clarity within the main document, would likely be more helpful for applicants.

Not in relation to fungi

## CHAPTER 5: GLOSSARY OF TERMS

### No specific question

#### Comment

Gower Society : The presentation is, on the whole clear and purposeful, though for ease-of-reading it would be greatly helped if, under the Glossary section (p 48), there could be added a list of all the acronyms used, of which there are a bewildering number. (N.B. Whilst, in a small document, it may be sufficiently simple to define the acronym the first time it is used – as has been adopted here – in a large document like this one, the absence of an easy-to refer-to list makes the reading of it akin to walking in a minefield of time-consuming distractions.)

## CHAPTER 6: APPENDICES

### QUESTION 11: Is the information set out in the draft SPG Appendices accurate?

#### Comment

NRW : In relation to Chapter 6 (Appendices) and Figure A.1.7 – we wish to highlight that the River Tywi SAC and the River Usk SAC, do not fall within the Swansea / City & County of Swansea Local Authority area. We advise that this is corrected and updated.

In my opinion, the Council should publish a biodiversity connectivity map laying out clearly where crucial wildlife corridors are presently and where it proposes to create others. This would send a clear message of the Council's serious intent be and would be useful information for land owners and developers.

Looks very thorough and comprehensive. Appreciate NRW will have information, but perhaps fish and aquatic invertebrates could be added for completeness in 6. Proposals affecting water bodies!

### QUESTION 12 Is the information set out in the draft SPG Appendices informative?

#### Comment

Excellent

There is a substantial appendix of original sources and further reading for those minded to do so.

**QUESTION 13 Do you have any additional comments relating to the draft SPG and/or are there specific amendments (not covered by questions 1-12 above) that you would like to see made to the document?**

Comment
<ul style="list-style-type: none"> <li>The Wildlife Trust of South and West Wales (WTSWW) welcome and support the production of this supplementary planning guidance (SPG) on Biodiversity and development. It will help ensure a consistent and pro-active approach to ensuring all development within the Swansea area takes full account of the Council's responsibilities under Section 6 of the Environment (Wales) Act 2016. It should also assist in delivering better and more sustainable development within Swansea. The comments provided should be taken not as criticisms, but points for improvement in an otherwise very good document</li> </ul>
<ul style="list-style-type: none"> <li>We note that there is almost no mention of fungi in the documents. Fungi are perhaps the most important members of the terrestrial ecological community, as they recycle nutrients, create habitats and provide food for a huge range of organisms. They are key players in carbon and nitrogen dynamics in habitats, and their role in maintaining healthy soils, should not be overlooked. Decomposition is just as important to consider as primary productivity. We must start to implement measures to combat biodiversity loss and greenhouse gas emissions. Soils with healthy populations of fungi, help sequester carbon and greatly support the functioning of terrestrial habitats. For these reasons, fungi and their habitats must be given protection, it is of utmost importance when designing strategies to improve, maintain or protect our green spaces. In addition to the aforementioned points, there are certain fungi present in Swansea, that need direct protection to prevent local extinction. Most trees depend on fungi - particularly mycorrhizal species that enhance the development of trees by providing water and nutrients from the soil that are not readily available. We would ask that due consideration of fungi be in measures proposed to protect trees/roots etc.. New, semi ancient and ancient woodlands may contain assemblages of locally important fungi. Veteran trees hold assemblages of fungi that can be hundreds of years old, and protection must be granted to these particular trees. Tree and hedgerow management – leaving standing deadwood (subject to safety concerns), a mixture of different grades of coarse deadwood and old/veteran trees is very important. In addition, semi or unimproved grassland sites are important for fungi particularly Waxcap fungi (<i>Hygrocybe</i> et al species). These include pasture, cemeteries and old lawns which we hope could be surveyed before change of use is agreed. Grassland fungi are extremely sensitive to change and this needs to be taken into consideration early in the planning process. We would ask that fungi are given a much higher profile in the documents, which ties into the Well-being of Future Generations (Wales) Act 2015. We must start to think about habitats from the ground up, starting with the microbes that support these habitats. Please do not hesitate to contact us with any further queries on aspects of fungal biology, ecology or conservation. We stress the need for fungal surveys by competent mycologists to be included as early as possible in the planning process.</li> </ul>
<p>I have insufficient personal knowledge to highlight any discrepancies.</p>
<p>Persimmon Viability impact needs to be recognised, the measures in the SPG are another cost that will be borne by the developer and it will also have a significant affect on net developable area and if certain sites are still viable. So much so that the proposed allocations on sites may not be achievable. Thus, when the LDP review occurs it is paramount that enough sites are allocated to meet housing requirements, recognising that these further measures are likely to highly impact the gross / net ratio on sites. When the LDP review takes place, it is paramount that sites that are allocated are capable of the densities that they show on the masterplan. It is unclear as to how Brownfield sites are implicated in the SPG. We are also reliant on the different consultees in the council being on the same page on sites and have buy in from all parties. Quick and comprehensive feedback at the pre app stage will be vital.</p>
<p><b>Gower Society</b> : Overall, it is a good and interesting summary of its intended function as a policy guide set within a quasi-legal framework of obligations of Swansea CCS on the one hand, and requirements from developers on the other. The requirements from developers get tougher if more than ten houses are involved, which partly explains why the amount of glossy paperwork provided for major developments is necessarily required to satisfy CCS. The information provided is assembled from a wide variety of sources, mainly either from the multitude of specific geographic locations of sites of biodiversity/environmental</p>

<p>interests on the one hand and the large number of environmentally-related organisations that have grown up over many years that represent particular aspects of environmental concern. (One of these referred to is the Gower Society.) : Overall, a very useful, detailed summary of what should and should not be done but needs vigilant implementing and monitoring if it is going to be of any real use when up against the rich panoply of real life.</p>
<p>I would like to greater clarity on how monitoring will be carried out and funding, by whom and for how long. What will be the consequence if anticipated "green" outcomes are not realised. Who will be responsible for the ongoing management of important "green" resources like hedgerows, woods and ponds?</p>
<p>We make the following initial comments:</p> <ul style="list-style-type: none"> <li>i) The SPG document is substantial in length and technical in nature. We consider that this will impact on the overall number and quality of responses that are submitted by members of the public;</li> <li>ii) Further to 1 above, we believe that the survey questions have been drafted in a way that will encourage and result in a positive outcome in favour of adopting the SPG document without wider implications being considered;</li> </ul> <p>2. As will be discussed in further detail below, we think it is important that Members understand at this stage that the introduction of the SPG in its current form will:</p> <ul style="list-style-type: none"> <li>i) Elongate the planning process;</li> <li>ii) Have a negative impact on the level of s.106 obligations that the Council can expect in other areas like Education and Affordable Housing;</li> <li>iii) Have a negative impact on the affordability of first time buyers in purchasing a new home in the City and County of Swansea;</li> <li>iv) Further impact on the presence of SME housebuilders in Swansea and deter housebuilders from building first time buyer homes.</li> </ul>
<p>Hygrove homes: Conclusion: In summary, we consider that the introduction of the SPG document will:</p> <ul style="list-style-type: none"> <li>1. Introduce a further layer of bureaucracy to an already over-bureaucratic system;</li> <li>2. Introduce a further layer of cost;</li> <li>3. Delay the planning application process further;</li> <li>4. Add to the barriers to entry faced by SME housebuilders and developers;</li> <li>5. Inevitably result in site density reducing which will impact first-time buyers disproportionately;</li> <li>6. Have a negative impact on the level of s.106 obligations that the Council can expect in other areas like Education and Affordable Housing.</li> </ul> <p>We hope that Members and Officers consider the above as part of the decision-making process on whether to adopt the SPG document. We would encourage Members and Officers to postpone any decision until the results of Welsh Government's consultation on space standards are published and until there is further clarity on the resolution of the Covid-19 pandemic.;</p>
<p><b>Hygrove Welsh Government is currently consulting on the potential introduction of increased space standards in new homes</b></p> <p>Point i) above discusses the potential impact that SAB's will have on site density. Welsh Government's current consultation on space standards of new homes (if adopted) will clearly affect potential density further, impacting the viability of schemes (particularly of brown field first time buyer sites) negatively in the process. The introduction of the SPG document will only add to this. We would urge both Council Members and Officers to consider the above as part of the process in deciding on whether to adopt the SPG document</p>

**Copies of Letters received**



Mr. Tom Evans  
Strategic Planning Lead, Planning and City Regeneration  
Swansea Council  
Civic Centre  
Oystermouth Road  
Swansea  
SA1 3SN

Date 15 October 2020

Dear Sirs

**Re: Consultation on Development and Biodiversity (Consultation Draft) Supplementary Planning Guidance**

Hygrove Homes (hereinafter referred to as "Hygrove") welcomes the opportunity to respond to Swansea Council's Consultation on Development and Biodiversity (Consultation Draft) Supplementary Planning Guidance (hereinafter referred to as the "SPG document").

Hygrove is a SME housebuilder that operates primarily in the City and County of Swansea, building approximately 80 new homes per annum for both private sale for the first time buyer/young family market and on behalf of Registered Social Landlords. Our developments are mainly located on brownfield sites, which require remediation as part of the construction process.

The new home housing market in Wales is dominated by a small number of PLC housebuilders, while the market share of small house builders has declined from 28 per cent in 2008 to 12 per cent today. The difficulties encountered by Small Housebuilders in Wales were explored by the Senedd's Economy Infrastructure Skills committee's ("EIS Committee") report on barriers facing Small Housebuilders in 2019. We enclose a copy of Hygrove's written evidence paper that it submitted to the EIS committee for your reference purposes.

Hygrove recognises the importance of protecting the County's biodiversity and shares the Council's ambition that Swansea's natural assets are safeguarded for the enjoyment of future generations. We feel it important, however, that both Council Members and Officers consider the following comments prior to Members deciding on whether to adopt the SPG document:

1. We make the following initial comments:

- i) The SPG document is substantial in length and technical in nature. We consider that this will impact on the overall number and quality of responses that are submitted by members of the public;
- ii) Further to 1 above, we believe that the survey questions have been drafted in a way that will encourage and result in a positive outcome in favour of adopting the SPG document without wider implications being considered;

- iii) The Council has consulted on the SPG during the Covid-19 pandemic. Given this, we feel that interested parties that may otherwise have taken the time to read and comment on the substantial SPG document will have instead prioritised undertaking other matters;
- iv) We feel that the introduction of this SPG will cause planning applicants yet further cost and slow the planning process even further against a backdrop of:
  - a) **An already under-resourced planning department** (to this end, we do not consider that the Council's recent announcement of an added member of staff to the planning department will make a material difference should the SPG document be adopted in its current form);
  - b) **Poor communication between Council departments;**
  - c) **Inconsistency of approach and application by planning officers;**
  - d) **Failure of external consultees to respond to consultations in a timely manner.**

2. As will be discussed in further detail below, we think it is important that Members understand at this stage that the introduction of the SPG in its current form will:

- i) **Elongate the planning process;**
- ii) **Have a negative impact on the level of s.106 obligations that the Council can expect in other areas like Education and Affordable Housing;**
- iii) **Have a negative impact on the affordability of first time buyers in purchasing a new home in the City and County of Swansea;**
- iv) **Further impact on the presence of SME housebuilders in Swansea and deter housebuilders from building first time buyer homes.**

3. **Recent and proposed potential regulatory changes:**

The potential adoption of the SPG document comes at a time when:

- i) **Welsh Government introduced SAB's in January 2019;**  
The introduction of SAB's has been chaotic, causing widespread confusion in the industry and uncertainty over both the application process and interaction between the SAB board and planning department. Furthermore, SAB's will impact site density (it is estimated that density could be reduced by up to 20% of the developable site acreage) and the developer will face cost consequences associated with construction and future maintenance of the SAB. A recent meeting of the Swansea developer forum heard significant concerns from the developers present while extracts from paragraphs 4.42 and 4.49 of the SPG document ("*...Approval of biodiversity measures under one regime, should not be assumed to imply that these measures are satisfactory under the other....*") and ("*It should be noted that compliance with all requirements of a SAB approval does not necessarily indicate that the development will provide all biodiversity measures required to make the development acceptable in planning terms. The converse is also the case, granting of planning permission does not imply that the biodiversity measures required in the planning consent will meet the SAB*")

requirements...”) hints at the existing and increased confusion that planning applicants will experience should the SPG document be adopted.

ii) **Welsh Government announced a 20% rise in planning fees as of August 2020;**

We have expressed concerns previously that the increase in planning fees will not result in an increase in the speed of the planning process or customer service received. These concerns will be exacerbated further should the SPG document be adopted;

iii) **Welsh Government is currently consulting on the potential introduction of increased space standards in new homes**

Point i) above discusses the potential impact that SAB’s will have on site density. Welsh Government’s current consultation on space standards of new homes (if adopted) will clearly affect potential density further, impacting the viability of schemes (particularly of brown field first time buyer sites) negatively in the process. The introduction of the SPG document will only add to this.

We would urge both Council Members and Officers to consider the above as part of the process in deciding on whether to adopt the SPG document.

**4. Increase in developer and planning applicant up-front cost**

The EIS Committee’s report on barriers facing Small Housebuilders in 2019 heard concerns from developers about the up-front cost associated with planning applications and how banks will not lend on development schemes until planning consent has been secured. This is a major obstacle for SME housebuilders that have ambitions to bring sites forward for development.

Paragraphs 4.8, 4.9, 4.23 and 4.33 of the SPG document details yet further up-front cost that developers will face should the SPG document be adopted (“...Submission of timely and appropriate ecological information is essential. In particular, where the Council’s Planning Ecologist has identified that a Preliminary Ecological Assessment (PEA) and any additional species surveys are required, these must be submitted with an application. Failure to submit the required information could lead to the application being refused...”; and “For major applications, a multi-disciplinary design team should be engaged at the earliest possible stage and include a suitably qualified ecologist”).

This will of course be in addition to the 20% rise in planning fees introduced in August 2020 (as referred to above).

**5. Elongate the planning process**

As well as increasing the up-front cost faced by developers, the adoption of the SPG document will also elongate the length of the planning application process further.

We note extracts from paragraphs 4.17 and 4.45 of the SPG document in particular:

“...The LPA will co-ordinate appropriate engagement of the Council’s planning ecologist on biodiversity issues at the pre-application stage” and “...Where applications are submitted without ecological information, they may be validated but cannot be determined until any necessary ecological reports have been submitted to, and approved by, the Local Planning Authority (LPA). Where surveys and reports are submitted which recommend further survey work is carried out, and this is not submitted to the LPA, the LPA may refuse the application”.

It is unclear as to what interaction the planning department has had with other Council departments as part of the drafting of the SPG, and furthermore, whether input from the Council’s planning ecologist on design elements of planning applications will be contradicted by other departments like highways, parks an urban design and how the case officer will decide which comments take precedence (these comments are equally relevant to the Council’s current consultation on trees and hedgerows). Also, the LPA’s efforts to “...co-ordinate appropriate engagement of the Council’s planning ecologist on biodiversity issues...” will depend on the ecologist’s working hours. We have found in the past that members of the planning ecologist team work part time, affecting the timeliness of response times.

We also note paragraph 4.40 of the SPG document, an extract from which states: “...Pre-application discussion with statutory consultees such as NRW is also recommended, together with non-statutory consultees, where appropriate...”. This acknowledges a duplication in process, which will elongate the application time and cause further uncertainty to the applicant.

**6. Impact on s.106 obligations**

We note from paragraph 3.30 that “Wherever possible the Council will seek to secure enhancements by applying the principles of good placemaking and GI. Where on-site enhancements are not feasible/cannot be incorporated into the site design the Council may seek a contribution from the developer to off-site measures. For example, to support identified projects for maintaining or creating habitats. This could be secured through an appropriate legal mechanism.”

Similar points are made in paragraphs 3.8, 3.15,3.20, 3.22, 3.33 and 4.52 of the SPG document.

**It is of key importance that Council Members and Officers understand the increased cost associated with these measures will impact on a scheme’s viability and will have a detrimental impact on the amount of s.106 obligations that the Council can expect in areas like education and affordable housing particularly on**

sites that involve brownfield regeneration. If the Council is not prepared to be flexible in its approach on this, it will result in development schemes not being brought forward.

We also note the section of the SPG document that states: "Monitoring is intended to both check compliance with conditions or planning obligations and to establish whether the measures undertaken are effective and are successfully delivering the intended outcomes. The Council will either request a monitoring fee as part of a s106 Agreement and monitor in-house, or include within planning conditions a requirement for the applicant to cover the cost for ongoing monitoring".

We would expect any monitoring fee to be transparent, with the method of calculation set out in any final SPG document to enable developers to factor in such a cost to their development appraisal but reiterate that the SPG will add significant unnecessary cost to the applicant.

#### 7. Impact on affordability of first time buyers

The potential reduction in density on development sites caused by the introduction of SAB's and the possible introduction of the new Welsh Government space standards will force developers to increase house prices, reducing the number of potential first time buyers from purchasing homes in the County.

In addition to this, we note the comments relating ongoing management of biodiversity measures in paragraphs 3.34, 3.36 and 3.37 of the SPG document. We particularly note a extract from paragraph 3.36, which states:

*" On sites where ecological features are retained and/or new habitats and features are created, appropriate ongoing management must be put in place to ensure long lasting benefits. Applicants are strongly advised to consider management proposals at an early stage and integrate management requirements into the design of mitigation, compensation and enhancement schemes. Management and monitoring needs will vary from site to site. The guiding principle will be to ensure that management and monitoring proposed is proportionate both to the scale and impact of the project. In these cases, the appropriate monitoring and management plans will need to be produced and submitted to the Council".*

While it is encouraging to note the SPG document's emphasis on proportionality, the likelihood is that the management cost will be funded either through a commuted maintenance sum or via a management company with monthly contributions from home owners.

We would expect the method of calculating any commuted maintenance sum to be transparent, with the calculation mechanism set out in any final SPG document. This is contrary to our recent experience with the Council's parks department, which refused to provide a breakdown of a requested commuted maintenance sum for the future maintenance of a green space within one of our developments.

Further to the above, any commuted maintenance sum will impact a scheme's viability. Should a developer opt to pass the cost of maintenance on to future homeowners (via monthly contributions to a management company), this monthly cost will need to be factored in to a purchaser's affordability assessment at the point of mortgage application (who will already be expected to pay contributions to the upkeep of any on-site SAB). This, again, will impact the number of first-time buyers that will be able to afford to buy in the County.

#### Conclusion

In summary, we consider that the introduction of the SPG document will:

1. Introduce a further layer of bureaucracy to an already over-bureaucratic system;
2. Introduce a further layer of cost;
3. Delay the planning application process further;
4. Add to the barriers to entry faced by SME housebuilders and developers;
5. Inevitably result in site density reducing which will impact first-time buyers disproportionately;
6. Have a negative impact on the level of s.106 obligations that the Council can expect in other areas like Education and Affordable Housing.

We hope that Members and Officers consider the above as part of the decision-making process on whether to adopt the SPG document. We would encourage Members and Officers to postpone any decision until the results of Welsh Government's consultation on space standards are published and until there is further clarity on the resolution of the Covid-19 pandemic.

We would welcome any opportunity to discuss the contents of this document with the Council. If we are able to be of any further assistance, please contact the writer.

Yours faithfully

Ben Francis  
Solicitor  
On behalf of Hygrove Homes





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Addendum 3 ¶

16 October 2020 ¶

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**BIODIVERSITY AND DEVELOPMENT CONSULTATION DRAFT:  
Supplementary Planning Guidance** ¶

..... ¶

¶

Overall, it is a good and interesting summary of its intended function as a policy guide set within a quasi-legal framework of obligations of Swansea CCS on the one hand, and requirements from developers on the other. The requirements from developers get tougher if more than ten houses are involved, which partly explains why the amount of glossy paperwork provided for major developments is necessarily required to satisfy CCS. ¶

¶

The information provided is assembled from a wide variety of sources, mainly either from the multitude of specific geographic locations of sites of biodiversity/environmental interests on the one hand and the large number of environmentally-related organisations that have grown up over many years that represent particular aspects of environmental concern. (One of these referred to is the Gower Society.) ¶

¶

The presentation is, on the whole clear and purposeful, though for ease-of-reading it would be greatly helped if, under the Glossary section (p 48), there could be added a list of all the acronyms used, of which there are a bewildering number. (N.B. Whilst, in a small document, it may be sufficiently simple to define the acronym the first time it is used – as has been adopted here – in a large document like this one, the absence of an easy-to-refer-to list makes the reading of it akin to walking in a minefield of time-consuming distractions.) There is a substantial appendix of original sources and further reading for those minded to do so. ¶

¶

We conclude with one thought. Maybe it is just not feasible in a document of this complexity to give examples of *pro*-active actions that CCS has actually been involved in that have utilised its predecessor equivalent, say, in the last five years, but, occasionally, one can be under the impression that documents of this type, once produced and approved, full of good intentions, essentially sit and gather dust on some distant largely forgotten shelf. ¶

¶

For perhaps just one example, on p9, in the ecosystem services diagram fig.1.2, '*Invasive Non-Native Species (INNS)*' are referred to as 'one of the greatest drivers of change in Wales'. Fine, but are these just words? The reader has no means of knowing what activities the CCS might have had to date of dealing with invasive non-native species or even whether it has a watchlist of what it has considered should be on such a list. (Japanese knotweed, rhododendrons, then elm, ash, oak, bamboo diseases all probably, but what of species like grey squirrels and Spanish bluebells, etc - but where do you stop?) ¶

¶

**Overall, a very useful, detailed summary of what should and should not be done but needs vigilant implementing and monitoring if it is going to be of any real use when up against the rich panoply of real life.** ¶

## Biodiversity and development

The Wildlife Trust of South and West Wales (WTSWW) welcome and support the production of this supplementary planning guidance (SPG) on Biodiversity and development. It will help ensure a consistent and pro-active approach to ensuring all development within the Swansea area takes full account of the Council's responsibilities under Section 6 of the Environment (Wales) Act 2016. It should also assist in delivering better and more sustainable development within Swansea. The following comments should be taken as criticisms, but points for improvement in an otherwise very good document.

**1 introduction.** Welcome the acknowledgement of Swansea Council's responsibilities set out under Section 6 of The Environment (Wales) Act 2016

1.5 Strongly disagree with the use of 'significant' in the statement "...set out how the Council will seek to ensure that development does not cause any **significant** loss of habitats or species...". The wording of the Act is quite clear that the intention must be to 'maintain and enhance' biodiversity, therefore, Swansea seeking to avoid a 'significant loss' is not consistent with the act, particularly as there is no definition of what 'significant loss' might entail in this context, or with the rest of this SPG. While we appreciate that Planning Policy Wales (PPW) section 6.4.5 also makes reference to 'significant loss' it also states that the onus is on individual planning authorities to make it clear that any loss of biodiversity due to development is unacceptable, particularly in the current climate and environmental crises, and to refuse applications on this basis. This SPG represents an opportunity to remove this confusion and embed the principle of the Act and its own corporate objectives in the Council's planning policies. Only then can this guidance be meaningfully applied to address any potential impacts on biodiversity from development and ensure that the biodiversity and ecosystem goods and services of the area are maintained and enhanced as set out in the Act. The Wildlife Trust of South and West Wales (WTSWW), therefore, wish to see the wording of this section amended to "It also sets out how the Council will seek to ensure that development does not cause loss of habitats or species and provides for a net benefit for biodiversity."

1.7 Strongly support the link to green infrastructure and good place making.

1.8 support the intention to apply the mitigation hierarchy but see comments on section 1.5 about undermining this approach.

**Section 3.** WTSWW strongly support the implementation of the stepwise approach to mitigation and the clarification on how this will be applied to developments in Swansea.

3.3 WTSWW welcomes the clarification that the duty to maintain and enhance applies to all biodiversity and not just important features.

3.7 Welcome the clear intent to seek enhancement even when mitigation is not strictly necessary.

3.10 WTSWW does not support any development on a designated SINC, even if it is demonstrated that the site no longer meets qualifying criteria, unless it is made clear at the earliest stages of the planning process how the development will seek to enhance and/or restore the ecological contribution of that site to the ecological network. This should not just be a matter of replacement of lost or damaged features but a strict application of the stepwise approach, ideally through the production of ecological management plan. This plan must demonstrate how the ecological capacity of the area will be maintained and enhanced both at the completion of the development and monitored and managed thereafter. In addition, such a process should not be limited to 'major' developments only but applied proportionately to all developments with the potential for ecological impacts, no matter how small.

3.12 WTSWW strongly support this approach.

3.15 While planning law (or at least the Planning Inspectorate and courts' interpretation of that law) that enhancement cannot be made a condition for development, it is still clear that the section 6 duty applies to the Council in exercising its function as a planning authority. We welcome that the SPG sets out that the Council will work with developers/applicants to seek ecological enhancements whenever and wherever possible, either by adapting green infrastructure requirements, such as SuDS, or through other planning requirements (such as S106 agreements or CILs) associated with the granting of the planning permission (Sections 3.18 and 3.19) but feel it could usefully be made clear in this section also.

3.17 WTSWW strongly support this approach, though our comments on section 3.10, particularly the need to look at restoring the original features that qualified the SINC, also apply.

3.21 – 3.29 WTSWW support the approach taken to compensation here, particularly the need to demonstrate that the compensation measures need to be able to either demonstrate that they fulfil the role and function of the loss or are sufficient to provide confidence that they will do so (for example, by applying a multiplier). In some, very specific, cases it may be possible for the development to contribute to a landscape scale restoration project to deliver the compensation required but only if the alternative approach can demonstrate significant benefits above the standard approach (for example, the Carmarthenshire Cross Hands marsh fritillary project).

3.30 – 3.34 WTSWW strongly support this approach, particularly the need to include even small developments in the remit of enhancements and the potential to contribute to landscape scale ecological enhancement initiatives (for example the RCT Rhos pasture project)

3.35 – 3.40 WTSWW support this approach but the need for a measurable and reliable way of ensuring the long-term viability of ecological mitigation and enhancement measures is critical. Appropriate monitoring and objective setting is key to this and review of CEMPs is often poor or non-existent. The use of quality benchmarking such as BREEAM or Building with Nature (<https://www.buildingwithnature.org.uk/>) is a useful tool but these do not replace the need for the Council to provide sufficient resources to enable its planning/ecology/biodiversity functions to deliver this critical follow up role.

**Section 4.** WTSWW welcomes the clear setting out of the stepwise approach and how it applies to the application process

4.8 Note the developing British Standards Institute best practice guidance is based on the English legislative framework and heavily weighted towards the English approach to issues such as mitigation and concepts such as ‘biodiversity no net-loss’. This is not the approach currently being applied in Wales where the section 6 duty clearly states that we must ‘maintain and enhance’. This should be made clear in the SPG, particularly where larger developers may be unfamiliar with the Welsh legislative framework and seek to apply inappropriate metrics when calculating the impacts of their developments.

4.9 WTSWW welcome most of the points highlighted in this section, such as the clear link between biodiversity and ecosystem resilience in the planning process and the refusal to accept compensation for irreplaceable habitats. However, we would urge the Council to be cautious when using terms such as ‘net benefit’ which may have several different interpretations and definitions.

4.23 WTSWW strongly support the recommendation that all ecological data collected as part of the planning process should be shared with the Local Biological Record Centre (SEWBRc)

4.25 While WTSWW accept that there may be instances where ecological impacts of a development might be minor, the SPG should also highlight that poor or degraded habitats and ‘brown field’ sites may be of considerable value, particularly if they are the only semi-natural habitat in an area or hold/connect isolated populations of vulnerable or scarce species. Such areas often also have the potential for significant enhancement both as Green infrastructure and for biodiversity but developers often ‘downgrade’ the value of such land in the application process. WTSWW strongly recommend that these types of habitat are included in the list of considerations when a preliminary ecological assessment is requested.

4.26 WTSWW strongly support this principle

4.31 WTSWW support this principle but refer to comments on Section 4.25 in relation to habitats and species of perceived lesser importance.

4.37 While we accept that biodiversity enhancement may currently not be legally required in the planning process, we feel that the Council should make it clear throughout the SPG that it will be seeking to apply its section 6 responsibilities to maintain and enhance biodiversity throughout the planning process. Therefore, we particularly welcome the approach set out in sections 4.51 – 4.54