

## Report of the Head of Planning and City Regeneration

Special Planning Committee– 22 October 2021

### **Adoption of Supplementary Planning Guidance: Trees, Hedgerows and Woodlands**

<b>Purpose:</b>	To inform Members of the representations received during the public consultation on draft versions of the Trees, Hedgerows and Woodlands document, and highlight officer responses to these, and to seek approval to formally adopt the amended version as Supplementary Planning Guidance (SPG).
<b>Policy Framework:</b>	Swansea Local Development Plan (Adopted 2019); Planning and Compulsory Purchase Act 2004; City & County of Swansea Local Development Plan (Adopted February 2019); Well-being of Future Generations (Wales) Act 2015; Planning (Wales) Act 2015; Planning Policy Wales (2018) and related Guidance; Environment (Wales) Act 2016; Gower AONB Management Plan, 2017
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that:  <ol style="list-style-type: none"><li>1) The issues raised in the representations made during the consultation process, and the responses of the Planning Authority to these (set out at Appendix A and B of this report), be noted;</li><li>2) The final version of the SPG (attached at Appendix C of this report) be approved and adopted by the Council;</li><li>3) The Head of Planning and City Regeneration, or appropriate delegated officer, be authorised to make any outstanding typographical, grammatical, presentational or factual amendments to the final version of the SPG prior to its final publication</li></ol>
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## 1. Introduction

- 1.1 In July 2020 the Planning Committee resolved to approve a draft version of Supplementary Planning Guidance (SPG) relating to Trees, Hedgerows and Woodlands for the purpose of public consultation. Subsequently, a comprehensive stakeholder engagement and public consultation process was undertaken, to obtain views on the content of the draft document. This ran for over six weeks, beginning on 4<sup>th</sup> September and concluding on 26<sup>th</sup> October 2020.
- 1.2 The responses to the consultation were recorded and evaluated, and having regard to the comments received, a number of modifications to the draft SPG were considered to be appropriate. The majority of amendments were relatively minor improvements to the accuracy and clarity of the Guidance. However, a handful of amendments were considered to benefit from a second consultation, in order to ensure consultees had sufficient opportunity to consider them. As per the initial consultation, this second consultation ran for over six weeks, beginning on 14<sup>th</sup> June and ending on 5<sup>th</sup> September 2021. Consultation reports for both consultation exercises are provided at Appendix A and B.
- 1.3 A final version of the SPG has been produced for Members to formally endorse as SPG to supplement the Swansea Local Development Plan (LDP), and to be used in planning decision making. The final version is attached to this report at Appendix C.
- 1.4 This Committee Report briefly summarises the background and context to the SPG's preparation. It describes the outcome of the consultation process, and summarises the range of comments received, and the response of the Planning Authority to these comments. It also highlights the specific amendments that have been made to the initial and second draft versions to further clarify and refine the SPG.

## 2. Background and Context

- 2.1 Full details of the planning policy and legislative background and context to the SPG is provided in the Report of the Head of Planning and City Regeneration to Special Planning Committee dated July 2020 'New Supplementary Planning Guidance: Development and Biodiversity and Trees, Woodlands & Hedgerows'. The key points are summarised below, and include subsequent updates to the national policy framework.
- 2.2 The Swansea LDP (available at [www.swansea.gov.uk/ldp](http://www.swansea.gov.uk/ldp)) was adopted in February 2019 as the Council's statutory development plan. The LDP highlights a wide range of SPG scheduled to be produced to augment LDP policies, which will provide definitions and working examples to assist the interpretation of policy. The LDP identifies "Trees, Hedgerows and Woodlands" as a priority SPG to be produced in the early years of LDP adoption.
- 2.3 The SPG is primarily supplemental to **Policy ER 11: Trees, Hedgerows and Development** in the adopted Swansea LDP.
- 2.4 The SPG also provides supporting guidance to the following adopted policies:

SD 2: Masterplanning Principles – <i>retention/integration of trees &amp; hedgerows on sites of 100 homes or more</i>	SDA to SD L – <i>Site specific requirements re Trees on strategic site allocations.</i>
ER 1: Climate Change: <i>retention/protection of trees re mitigating effects of climate change.</i>	ER 2: Strategic Green Infrastructure Network
ER 6 Designated Ecological Sites ER 8 Protected Habitats & Species ER 9 Ecological Networks <i>Management of biodiversity value of trees</i>	HC1 & HC2 – Management of Trees in Historic Environment
SI 1: Health and Well-being – <i>role of trees in addressing health through improving air, noise, light, water quality</i>	

2.5 The SPG provides applicants with the detail necessary to understand how the Council will implement the LDP’s Policies relating to the integration of trees into development, in alignment with recent changes to legislation and policy requirements, which together require the Council to achieve clearly defined well-being and environmental goals and objectives.

2.6 The SPG promotes the ‘placemaking approach’, which underpins the Swansea LDP, Future Wales, the National Plan 2040 and Planning Policy Wales (PPW). The SPG assists in implementing this approach by providing guidance on the retention and enhancement of existing trees, hedgerows and woodland (hereafter “trees”), and the integration of both new and existing trees into the design and layout of a development.

### **3. Public Consultation and Engagement**

3.1 A public consultation and engagement process was undertaken on the draft version of the SPG which began on the 4<sup>th</sup> September and ran until the 26<sup>th</sup> October 2020.

3.2 Face to face public engagement events were unable to occur due to constraints on social contact associated with Covid-19 restrictions. This was the case during both the initial and subsequent consultation. 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.
- A copy of the Initial Consultation Report was provided on the SPG webpage to support the second consultation process.
- 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.

3.3 The responses to this consultation were recorded and evaluated, and amendments were proposed. A further 8 week consultation period was undertaken between 14th June and 5th September 2021 to ensure consultees had sufficient opportunity to consider the amendments. The consultation involved a similar range of awareness raising and engagement activities to the initial consultation exercise.

#### **4. Key Issues Arising from the Consultation**

4.1 The responses to both the initial and subsequent consultation have been recorded and evaluated. The key issues raised are set out below.

4.2 The public consultation generated a range of representations relating to all parts of the SPG, from individuals, stakeholders and development industry sectors.

4.3 The initial and subsequent Consultation Reports (enclosed as Appendix A and Appendix B of this Committee Report) contain summaries of the comments received, categorised into issues/themes, together with the Council's corresponding response. Any necessary amendments to the draft SPG document are also reported, including substantive amendments. The full text of all consultation responses are annexed to the relevant Consultation Report for transparency. The main issues raised during the consultation are set out below.

4.4 **Tree Surveys:** The inclusion at Section 3 (in the initial consultation draft), of a clear expectation for a tree survey in accordance with BS5837:2012 to be carried out was welcomed. As was clarification that, where Category A and B trees are identified, the Council will expect them to be retained and incorporated in to the development wherever possible. Some respondents considered this section was too technical for the average reader to access. The second consultation draft included amendments to Section 3, and inclusion of a new "Easy Guide" at Appendix 2, which improve accessibility for all.

4.5 **Complexity:** Some respondents found the order of the SPG content difficult to follow. A revised document structure now provides guidance in the logical order of the Stepwise approach/Mitigation hierarchy (avoid/design/mitigate/compensate/manage). Amendments to Chapter 4 distinguish more clearly the application requirements for permitted development, householder and larger scale development. An amended Chapter 5 now brings together guidance on how the Council will use planning conditions, planning obligations and Tree Preservation Orders to ensure that all significant existing and proposed trees kept healthy, and remain an asset to a new development.

4.6 **Planning Conditions:** Amendments to Chapter 5 clarify that, where trees are included in a landscaping scheme, the Council will normally place conditions on planning consents to ensure that a suitable replacement is provided should a new tree become unhealthy or die.

4.7 **Tree Preservation Orders:** New para 5.13 is included within the SPG in response to Council Members' requests made at the July 2020 committee when the initial draft version of the SPG was approved for consultation. Members raised the concern at that time about retained, or newly planted,

trees located on private land within a development site potentially being removed once a site is built out. For example, trees planted in front gardens, which are important for delivering placemaking requirements and supporting wider wellbeing objectives. Members requested that the SPG should highlight the Council has the ability to make a Tree Preservation Order in such circumstances. Addition of para 5.10 now also clarifies that the Council may consider making TPOs on trees protected previously by condition, at any time following the point of discharge.

- 4.8 **Swansea Tree Replacement Standard (TRS):** Where trees are to be replaced to compensate for trees lost, LDP Policy ER 11 requires a tree replacement scheme to be agreed. Following comments received in the first consultation, the SPG now has an additional Appendix to provide a “Swansea Tree Replacement Standard”. This responds to concerns that the method by which replacement tree will need be agreed with the LPA was not sufficiently transparent, and that there should be clarity that the number of trees to be replaced must reflect the full amenity and ecosystem function the tree lost (i.e. a simple 1:1 replacement would not be appropriate in all cases).
- 4.9 The Swansea TRS applies only to **Category A and/or B trees** (as identified in a BS 5837:2012 Tree Survey) that would be lost as a result of a development proposed as part of a planning application. The TRS does not apply where development results in the loss of Category C or U trees, or to the loss of trees of any category located within privately owned gardens. The SPG emphasises that where woodland is removed to facilitate a planning consent, the Council will have specific regard to the number of Category A or B trees identified in the BS Survey as being within the woodland area to be lost. It is important to note that application of the TRS does not substitute any requirement to undertake relevant parallel processes to establish appropriate integration, mitigation or compensation with regard to impact on the ecological, historic or archaeological value of the whole woodland proposed to be removed.
- 4.10 Figure A.1 of the TRS now provides a transparent method to calculate the number of replacement trees to be provided. The calculation is based upon a measurement of the diameter of the trunk of the tree to be lost. This is important, as rather than provide a basic ratio of one replacement tree, for one tree lost, this simple proxy measurement of the tree trunk, enables the Council to ensure that any replacement tree/s take into account, not just the size and age of the tree, but the extent of the canopy cover it provides.
- 4.11 The SPG states that in exceptional cases where replacement trees cannot be integrated into the landscaping (i.e. provided on site), a financial contribution will be negotiated and secured by s106 Agreement. The financial contribution will be used by the Council, to fund the planting of trees (by the Council or its contractors) to provide trees on council owned land outside the boundary of the development site. The calculation of the financial contribution will reflect the location of the trees lost and the differing costs of planting replacement trees.
- 4.12 **Comments requiring factual updates:** A number of comments did highlight the need for the draft SPG to be amended in order to: provide factual updates; additional cross references to relevant existing

information; and improve the layout and grammatical structure of the document. Specific changes have been made in order to provide more clarity in respect of:

- 4.13 ***The wider value of Trees:*** Additional references to placemaking, wellbeing, ecological and historic/archaeological value of trees. Links now added to relevant LDP policy, and Biodiversity and Placemaking SPGs, together with inclusion of references to requirements for ecological and historical surveys/assessments.
- 4.14 ***Clarity of Legislation and Policy References:*** Amendments to improve references to relevant adopted LDP Policy, SPGs and national legislation/ (i.e. environmental, wellbeing and drainage legislation and policy). Factual updates to refer to Future Wales: the National Development Plan, and PPW.
- 4.15 ***Reference to Ancient and Veteran Trees and Woodlands:*** Support for guidance relating to Ancient and Veteran Trees, but further amendments to Section 3 requested to cross reference guidance contained in national policy and the relevant criteria of LDP Policy ER11. Further amendments to respond to comments that definitions of Ancient Woodland and Plantations and Woodland Sites (PAWS) and signposting to the relevant LDP Policy and NRW guidance would also be useful.
- 4.16 ***Scope of SPG:*** Some respondents were unclear that the SPG is not able to address concerns about the removal of street trees as part of public realm, landscaping, highways projects. The relationship between the SPG and any emerging Swansea Local Tree Strategy was also considered unclear. Amendments now clarify the scope of the SPG, and specifically, that it is the remit of a Local Tree Strategy to provide guidance on the Council's approach to protecting/managing/maintaining/planting trees on Council owned land. The Strategy should also clarify the powers held by the Council in relation to trees that are on privately owned land, where consideration of impact of a proposal on trees on the land is not the subject of a planning application.
- 4.17 ***Comments not requiring amendments:*** A large number of the comments made did not necessitate an amendment to the draft document as it was considered the LDP and/or SPG already sufficiently covered the points raised. Some comments made in support of the SPG did not require a response other than to note and welcome the representation made. Some suggestions put forward conflicted with the adopted LDP or national guidance, or requested repetition of national guidance, neither of which are appropriate. Some comments are outside the scope of the SPG and are matters to be addressed by a Local Tree Strategy. A number of comments were queries that required an answer (which has been provided in the consultation reports), but did not require a change to the SPG.

## **5. Monitoring**

- 5.1 The effectiveness and appropriateness of the SPG will be regularly monitored by the LPA having regard to the outcomes that arise. This monitoring will consider any additional evidence arising over time, such as new national guidance and future outcomes of planning decisions that reference the SPG (including planning appeals). This will be particularly

important where such outcomes demonstrate that a particular change to the guidance is necessary for the LPA to continue to use the SPG to provide effective, evidenced based and sustainable decision making

## **6. Integrated Assessment Implications**

- 6.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
  - Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 6.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 6.3 An Integrated Impact Assessment (IIA) process has been undertaken to ensure due regard has been paid to the above. This process takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 6.4 An Integrated Impact Assessment (IIA) screening was carried out prior to the July 2021 consultation. The IIA demonstrated that a full IIA was not necessary, because the SPG seeks to facilitate community cohesion by assisting the implementation of relevant LDP Policies, which themselves have already been subject to EIA, are based on a comprehensive and up to date evidence base, found sound by the Planning Inspectorate. The IIA was an update of the EIA carried out in 2020 on the previous version of the SPG which identified mostly low impacts. The results of this screening are set out in Appendix D of this Committee Report.

## **7. Financial Implications**

- 7.1 There are no significant financial implications arising from the publication of this SPG. The cost of the public consultation process and document production has been accommodated within existing budgets and staff resources, and has utilised, as far as possible, electronic communication (email and website).

7.2 The final adopted document will be made available electronically and hard copies will generally only be produced upon request for an appropriate charge in order to recoup costs incurred. As such printing costs going forward will not be significant and can be met within allocated budgets.

## **8. Legal Implications**

8.1 The SPG will provide planning guidance to the adopted Swansea LDP and will be a material consideration in evaluating future planning applications.

8.2 The adopted SPG will supersede the “*Protection of Trees on Development Sites*” SPG 2016, which will no longer remain extant.

8.3 The Council has a duty to seek to continually improve in the exercise of its functions (which include where appropriate powers) in terms of strategic effectiveness, service quality and availability, sustainability, efficiency and innovation pursuant to the Local Government (Wales) Measure 2009.

### **Background Papers:**

Report of the Head of Planning and City Regeneration to Special Planning Committee 22<sup>nd</sup> July 2020 re New Supplementary Planning Guidance: Development and Biodiversity and Trees, Woodlands & Hedgerows (Consultation Drafts).

### **Appendices:**

Please note that Appendices A-C are available to download from <https://www.swansea.gov.uk/spg>

Appendix A [Initial Public Consultation Report – 2020](#)

Appendix B [Second Public Consultation Report - 2021](#)

Appendix C [Trees, Hedgerows and Woodlands SPG](#)

Appendix D Integrated Impact Assessment (IIA) Screening Form