



City and County of Swansea

Notice of Meeting

You are invited to attend a Meeting of the

Scrutiny Performance Panel - Climate Change and Nature

At: Multi-Location Meeting - Lilian Hopkin Room, Guildhall / MS Teams

On: Tuesday, 17 September 2024

Time: 10.30 am

Convenor: Councillor Mary Jones

Membership:

Councillors: C M J Evans, E W Fitzgerald, O G James, S E Keeton, M W Locke, B J Rowlands and W G Thomas

Agenda

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| 1 | Apologies for Absence | |
| 2 | Disclosure of Personal and Prejudicial Interests
www.swansea.gov.uk/disclosuresofinterests | |
| 3 | Prohibition of Whipped Votes and Declaration of Party Whips | |
| 4 | Minutes of Previous Meeting(s)
To receive the minutes of the previous meeting(s) and agree as an accurate record. | 1 - 2 |
| 5 | Public Question Time
Questions must be submitted in writing, no later than noon on the working day prior to the meeting. Questions must relate to items on the agenda. Questions will be dealt with in a 10-minute period. | |
| 6 | Update on Planning Enforcement: Nature and Biodiversity
<i>Cllr David Hopkins, Cabinet Member for Corporate Service and Performance</i>
<i>Eilian Jones, Area Team Leader, Planning and City Regeneration</i> | 3 - 11 |
| 7 | Work Plan 2024-25 | 12 - 13 |

Next Meeting: Tuesday, 19 November 2024 at 10.30 am

Huw Evans

Huw Evans
Head of Democratic Services
Monday, 9 September 2024
Contact: Liz Jordan 01792 637314

Agenda Item 4



City and County of Swansea

Minutes of the **Scrutiny Performance Panel - Climate Change and Nature**

Remotely via Microsoft Teams

Tuesday, 16 July 2024 at 10.30 am

Present: Councillor M H Jones (Chair) Presided

Councillor(s)
C M J Evans
B J Rowlands

Councillor(s)
E W Fitzgerald
W G Thomas

Councillor(s)
S E Keeton

Officer(s)
Liz Jordan

Scrutiny Officer

Apologies for Absence
Councillor(s): M W Locke

1 **Appointment of Convener**

Cllr Mary Jones was appointed as Convener of the Panel.

2 **Disclosure of Personal and Prejudicial Interests**

No disclosures of interest were received.

3 **Prohibition of Whipped Votes and Declaration of Party Whips**

No declarations were made.

4 **Minutes of Previous Meeting(s)**

Panel agreed the Minutes of the meeting on 14 May 2024 as an accurate record of the meeting.

5 **Public Question Time**

No questions were received.

6 **Role of the Panel**

Panel discussed and agreed its role and confirmed it is happy with the way the Panel is working.

7 **Draft Work Plan 2024-25**

Panel discussed and agreed its work plan for 2024-25 with the following addition:

- Asset Management Strategy (in terms of decarbonisation) – to be confirmed if this will be a separate item on the work plan or part of the item on 'Renewable Energy/Local Area Energy Plan' which is scheduled for January 2025.

The meeting ended at 10.40 am

Agenda Item 6



Report of the Cabinet Member for Corporate Services & Performance

Climate Change and Nature Scrutiny Performance Panel – 17th September 2024

Update on Planning Enforcement: Nature and Biodiversity

Purpose	<ul style="list-style-type: none">To provide an update requested by the Board on Planning Enforcement: Nature and Biodiversity following the briefing to panel in October 2023
Content	<p>This report provides an update on progress since the previous briefing to panel, and includes information on</p> <ul style="list-style-type: none">how people are encouraged to consider biodiversity within planning applicationshow the planning department can help with biodiversityhow much we can do to strongly encourage builders to be more mindful of the environment while they are in the process of building,gain clarity on whether planning can put in place policies such as all new build requiring solar panels, rainwater capture etc on a local level, or if this is all directed by Welsh Gov planning policy.
Councillors are being asked to	<ul style="list-style-type: none">Consider the information and give their views
Lead Councillor(s)	Cllr David Hopkins, Cabinet Member for Corporate Services and Performance
Lead Officer(s)	Phil Holmes – Head of Planning and City Regeneration, Ian Davies – Development Manager
Report Author	Ian Davies - Development Manager ian.davies@swansea.gov.uk Tel : 07970 680549
Legal Officer	Jonathan Wills
Finance Officer	Peter Key
Access to Services Officer	Rhian Miller

1. Background

- 1.1 In October 2023, this panel considered a report on Planning Enforcement: Nature and Biodiversity. A copy of the report is attached as Appendix 1.
- 1.2 The panel has asked for an update to the report, particularly in relation to:
 - how people are encouraged to consider biodiversity within planning applications
 - how the planning department can help with biodiversity
 - how much we can do to strongly encourage builders to be more mindful of the environment while they are in the process of building,
 - gain clarity on whether planning can put in place policies such as all new build requiring solar panels, rainwater capture etc on a local level, or if this is all directed by Welsh Gov planning policy.

2. Briefing/Main Body of Report

- 2.1 The previous report to panel set out the planning policies and supplementary planning guidance in place at the time and how these policies are applied to the decision-making process. This update will look at the four areas that panel has identified as having particular interest.
- 2.2 How people are encouraged to consider biodiversity within planning applications:
- 2.3 As the original report indicated, both National and Local Planning Policies require developers to demonstrate action towards securing the maintenance and enhancement of biodiversity, the resilience of ecosystems and green infrastructure assets. Since the last report to panel, Planning Policy Wales (PPW) has been updated and there is now a requirement for planning applications to be accompanied by a Green Infrastructure Assessment, proportionate to the scale of the development and describing how green infrastructure has been incorporated to the proposal. Proposals are also required to demonstrate a net benefit for biodiversity, the nature and scale of which will depend on the scale of the development. When potential applicants seek pre-application advice from the department, responses identify the need to consider such issues as part of any subsequent planning application.
- 2.4 How the planning department can help with biodiversity:
- 2.5 The department has produced Supplementary Planning Guidance to supplement planning policies and provide guidance on how the requirements of the policies can be addressed. Please refer to paragraph 2.3 & 2.4 of the original report at Appendix 1.

- 2.6 How much we can do to strongly encourage builders to be more mindful of the environment while they are in the process of building.
- 2.7 As indicated above, the Council provides guidance on biodiversity. In addition NRW publishes advice for developers on Planning and Development. Where necessary, conditions will be attached to Planning permissions requiring development to be undertaken in accordance with a Construction Environmental Management Plan (CEMP) that has to be approved before development commences. The purpose of this plan is to ensure that the site is developed in a sensitive manner that respects the surrounding environment.
- 2.8 It should be noted that most legislation relating to protection of the environment is covered by legislation that is not enforced by the Local Planning Authority.
- 2.9 Gain clarity on whether planning can put in place policies such as all new build requiring solar panels, rainwater capture etc on a local level, or if this is all directed by Welsh Gov planning policy
- 2.10 Local Development Plans have to be in general conformity with National Development Plans. It would be difficult to have a local policy that did not accord with national planning policy. The energy efficiency of a building is covered by Building Regulations, and any proposals to make solar panels mandatory is best addressed under this legislation. Proposals for new development has to obtain approval from the Suds Approval Body (SAB). The SAB would be responsible for ensuring that a development is sustainably drained. Planning requirements should not duplicate other legislation.

3. Conclusions/Key Points Summary

- 3.1 This reports indicates that the Local Planning Authority already has policies and guidance in place which require developers to address issue of biodiversity and ensure protection of the environment. In addition, other legislation seeks to ensure that development is energy efficient and sustainable. The combined effect of all these legislative strands is to ensure that biodiversity and sustainability are integral parts of the development process.

4. Legal implications

- 4.1 None

5. Finance Implications

- 5.1 None

6. Integrated Assessment Implications

6.1 None

Glossary of terms: *Please add glossary of terms if you are using acronyms*

PPW – Planning Policy Wales Edition 12

SAB – Suds Approval Body

LPA – Local Planning Authority

NRW – Natural Resources Wales

CEMP – Construction Environmental Management Plan

LDP – Swansea Local Development Plan 2010-2025

SPG – Supplementary Planning Guidance

Background papers:

None

Appendices:

Appendix 1 – October 2023 report to the Panel.



Report of the Cabinet Member for Corporate Services & Performance

Climate Change and Nature Scrutiny Performance Panel – 3rd October 2023

Planning Enforcement: Nature and Biodiversity (Discussion on how to encourage people to look at biodiversity within planning applications, for example, checklist/toolkit on biodiversity)

Purpose	To provide an overview of how the Planning System seeks to incorporate Nature and Biodiversity in the decision-making process
Content	This report includes a summary relevant planning policies and supplementary planning guidance in relation to Nature and Biodiversity and how these policies are applied to the decision making process
Councillors are being asked to	Consider the information and give their views
Lead Councillor(s)	Cllr David Hopkins, Cabinet Member for Corporate Services and Performance
Lead Officer(s)	Phil Holmes – Head of Planning and City Regeneration, Ian Davies – Development Manager
Report Author	Ian Davies - Development Manager ian.davies@swansea.gov.uk Tel : 07970 680549
Legal Officer	Sally Ann Evans
Finance Officer	Peter Keys
Access to Services Officer	Rhian Miller

1. Background

- 1.1 The Development Plan is at the heart of the planning system with a requirement set in law that planning decisions must be taken in line with the Development Plan unless material considerations indicate otherwise (Section 38 of The Planning and Compulsory Purchase Act 2004)

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- 1.2 In Wales, the Development Plan consists of both National and Local Planning policies. National Planning Policy is set out by Welsh Government in the following documents:
- Future Wales - The National Plan 2040
 - Planning Policy Wales (Edition 11, February 2021)
- 1.3 Future Wales – the National Plan 2040 is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.
- 1.4 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs), Welsh Government Circulars, and policy clarification letters, which together with PPW provide the national planning policy framework for Wales.
- 1.5 Local Planning Policy is set out the Swansea Local Development Plan 2010-2025 – the LDP. The LDP provides a clear planning framework to address key issues facing the County, providing certainty and the basis for efficient planning decisions. Its policies and proposals will enable the delivery of sustainable development, and ensure that social, economic, environmental and cultural well-being goals are all suitably balanced in the decision-making process so that the right development occurs in the right place.

2 Nature and Biodiversity in the Planning System

- 2.1 Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy ER 9 of the LDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. In addition, policies ER 6 (Designated Sites of Ecological Importance) and ER 9 (Ecological Networks and Features of Importance for Biodiversity) seek to protect sites that are important for biodiversity.
- 2.2 When the Local Planning Authority (LPA) considers applications for planning permission, one of the issues that needs to be considered is whether the proposal takes action towards securing the maintenance and enhancement of nature and biodiversity. As part of the consideration of this issue, Development Management officers consult with Planning Ecologists who appraise the applications and provide advice on the acceptability or otherwise of a proposal. The Planning

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Ecologists also advise on the requirement for any further survey work, as well as mitigation/compensation/enhancement measures and the Conditions and Informatives that should be included on any Decision Notice. The Planning Ecologists ensure that the applicants demonstrate that they have considered the Stepwise Approach, to help deliver net benefit for biodiversity (Identify & Assess, Avoid, Respond & Design, Mitigate, Compensate, Enhance, Manage and Monitor). The Stepwise Approach is explained in full within the Biodiversity and Development Supplementary Planning Guidance (SPG) (see 2.3). In some cases, the application proposals will make provision for ecological enhancement and where the provision is acceptable, a condition is attached to the planning permission requiring the development to be undertaken in accordance with the approved details. In cases where no details are provided, or the details provided are inadequate, a condition will be attached to any planning permission granted requiring details of ecological enhancement measures and an implementation timetable to be submitted and approved before development commences. The condition also requires the scheme to be implemented in accordance with the approved scheme and timetable.

- 2.3 In order to ensure development within Swansea maintains and enhances the County's biodiversity and delivers long term ecosystem resilience, the Council has produced Supplementary Planning Guidance (SPG) entitled 'Biodiversity and Development'. This document provides guidance to augment LDP policies ER 6, ER 8 and ER 9 and provide clarity on the interpretation of those policies. The SPG can be viewed via the following link: [Biodiversity and Development - Swansea](#). This aligns with the Council's duties under s6 of the Environment (Wales) Act 2016 and the Resilient Wales Goal of the Well Being of Future Generations Act 2015 and is consistent with National Development Plan (Future Wales) Policy. The SPG guides applicants on how to consider biodiversity at each stage of the development management process. It provides the framework to demonstrate that proposals have responded to a robust ecological understanding of a site, and that appropriate ecological mitigation, compensation, enhancement and aftercare will be provided. Officers have promoted the policy requirements and SPG in workshops with stakeholders so that they are aware of the requirements and advice available.
- 2.4 In addition to the SPG, there is advice regarding Biodiversity and Development on the Swansea Council website including: [Sustainable Drainage Systems \(SuDS\) & Biodiversity](#), [Biodiversity Enhancements](#), [Ecological Survey & Assessment Process](#), [Protected Species & Development Licences](#) and [Natural Environment Legislation & Policy](#). There is also information on [Tree Preservation Orders \(TPOs\)](#) and [wildlife crime](#).

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- 2.5 The onus on ensuring any development complies with the approved plans and conditions rests with the developer. Whilst conditions are attached to planning permissions to ensure schemes are acceptable, it does not always follow that the conditions are complied with. Where development is not undertaken in accordance with the approved plans or conditions, a breach of planning control occurs, and the Local Planning Authority could take enforcement action to remedy any such breach of planning control.
- 2.6 Where a complaint is received that a condition has not been complied with, officers will investigate and where a breach is identified, seek to ensure compliance. Initially, this will be through negotiation, but can be through the service of a formal enforcement notice if negotiation is unsuccessful. Consequently, if it is established that a biodiversity-related condition is breached, the above course of action will be taken to secure compliance with the condition.
- 2.7 The vast majority of complaints in respect of alleged breaches of planning control investigated by the Development Management Team are as a result of complaints received by the department. In 2022/23, 412 complaints were received for investigation. This volume of work, together with a backlog that increased during the Covid Pandemic, means that there is no capacity within the Development Management Team to undertake pro-active monitoring of planning permissions.
- 2.8 It should be noted that, except in the case of ‘major development’ (20 major applications received 2022/23), there is no statutory requirement for a developer to notify the LPA that development is commencing. As a result, there is no mechanism for the LPA to check whether conditions attached to a planning permission have been discharged as they have not been informed that the planning permission has been implemented. Although the mechanism exists for conditions to be discharged through a Discharge of Conditions application, there is no process that notifies the LPA that the conditions are implemented on site and/or in accordance with the approved plans.
- 2.9 It should also be noted that once development lawfully commences, there is no time limit for the works to be completed. Planning conditions that require developers to take action will contain trigger points. These triggers relate to timescales for submitting details for approval and/or timescales for undertaking the works required by condition. The timescale for biodiversity conditions will be dependent on the nature of the requirement (e.g. a mitigation strategy for a protected species or provision of an ecological enhancement). Even if the LPA is aware that development has commenced there are no resources available to continually monitor development to ensure that implementation timescales are met as there is no specific date for compliance – it will vary depending on when development is completed.

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- 2.10 The scrutiny performance panel is also requested to note that biodiversity conditions are only one type of condition attached to a planning permission and there are conditions in relation to areas such as highways, drainage, external materials that also need to be complied with.

3. Conclusions/Key Points Summary

- 3.1 Whilst the LPA is actively using the decision-making process to maintain and enhance biodiversity, secure the resilience of ecosystems and green infrastructure assets, the ability of the LPA to ensure compliance with approved plans and conditions is severely restricted by the resources available to pro-actively monitor development. Developers are the key component in ensuring that their developments maintain and enhance biodiversity and ecosystem resilience. Continued awareness-raising and engagement with applicants, developers and the wider public is therefore essential to increase understanding of the role they can play in helping to deliver nature recovery.

4. Legal implications

- 4.1 None

5. Finance Implications

- 5.1 None

6. Integrated Assessment Implications

- 6.1 Not required

Glossary of terms: Please add glossary of terms if you are using acronyms

SPG – Supplementary Planning Guidance

LPA – Local Planning Authority

PPW – Planning Policy Wales (Edition 11) Feb 2021

TAN – Technical Advice Notes

LDP – Swansea Local Development Plan 2010-2025

Background papers:

None

Appendices:

Biodiversity SPG: <https://www.swansea.gov.uk/biodiversityspg>

Biodiversity and Development Guidance Notes:

<https://www.swansea.gov.uk/biodiversitydevelopmentguidance>

Agenda Item 7

CLIMATE CHANGE AND NATURE SCRUTINY PERFORMANCE PANEL WORK PLAN 2024-25

<p>Meeting 1 16 July 2024</p> <p>10.30am</p>	<p>Appointment of Convener</p> <p>Role of the Panel and draft Work Plan 2024-25</p>
<p>Meeting 2 17 September 2024</p> <p>10.30am</p>	<p>Update on Planning Enforcement: Nature and Biodiversity <i>Cllr David Hopkins, Cabinet Member for Corporate Service and Performance</i> <i>Eilian Jones, Area Team Leader, Planning and City Regeneration</i></p>
<p>Meeting 3 19 November 2024</p> <p>10.30am</p>	<p>Briefing on New Waste Strategy / Recycling <i>Cllr Cyril Anderson, Cabinet Member for Community (Services)</i> <i>Chris Howell, Head of Waste, Parks and Cleansing</i> <i>Matthew Perkins, Group Leader Waste</i></p> <p>Water Quality, Management and Pollution Control <i>Cllr David Hopkins, Cabinet Member for Corporate Service and Performance</i> <i>Relevant Officers (Tom Price)</i> <i>Representatives from Natural Resources Wales</i></p>
<p>Meeting 4 21 January 2025</p> <p>10.30am</p>	<p>Sustainable Transport Strategy (including Electric Vehicle Charging Point Provision) <i>Invited to attend:</i> <i>Cllr Andrea Lewis – Cabinet Member for Service Transformation</i> <i>Stuart Davies, Head of Highways and Transportation</i> <i>Matthew Bowyer, Group Leader Highways and Transportation</i> <i>Ioan Brannigan, Transport Strategy Officer Highways and Transportation</i></p> <p>Renewable Energy / Local Area Energy Plan <i>Cllr Andrea Lewis – Cabinet Member for Service Transformation</i> <i>Relevant Officers (Geoff Bacon, Rachel Lewis, Andy Edwards)</i></p>
<p>Meeting 5 18 March 2025</p> <p>10.30am</p>	<p>Asset Management Strategy (in terms of Decarbonisation) <i>Cllr Andrea Lewis – Cabinet Member for Service Transformation</i> <i>Geoff Bacon, Head of Property Services</i></p>

	<p>Local Flood Risk Management – Annual Update (including discussion on Drainage Systems/Services) <i>Invited to attend:</i> <i>Cllr Andrew Stevens – Cabinet Member for Environment and Infrastructure</i> <i>Stuart Davies – Head of Highways and Transportation</i> <i>Mike Sweeney – Team Leader, Highways and Transportation</i></p> <p>Air Quality Management <i>Invited to attend:</i> <i>Cllr David Hopkins, Cabinet Member for Corporate Service and Performance</i> <i>Tom Price – Team Leader, Pollution Control</i></p>
<p>Meeting 6 13 May 2025</p> <p>10.30am</p>	<p>Climate Change Update <i>Invited to attend:</i> <i>Cllr Andrea Lewis - Cabinet Member for Service Transformation</i> <i>Relevant Officers (Geoff Bacon / Rachel Lewis)</i></p> <p>Local Nature Recovery Section 6 Action Plan (Progress of work across the County as a Council and with Partners) <i>Invited to attend:</i> <i>Cllr David Hopkins, Cabinet Member for Corporate Service and Performance</i> <i>Cllr Andrew Stevens?</i> <i>Relevant Officers</i></p> <p>Achievement Against Corporate Priorities/Objectives/Policy Commitments <i>Cllr Andrea Lewis / David Hopkins / Cyril Anderson / Andrew Stevens</i></p> <p>Panel Review of the Year</p>

Future work plan items: