



## Report of the Head of Planning and City Regeneration

Special Planning Committee 22 July 2020

### **New Supplementary Planning Guidance: Development and Biodiversity and Trees, Hedgerows & Woodland (Consultation Drafts)**

<b>Purpose:</b>	To provide a summary of two new draft Supplementary Planning Guidance (SPG) documents, and to seek approval from Members to undertake public consultation on the documents.
<b>Policy Framework:</b>	Planning (Wales) Act 2015; Planning Policy Wales 2018; Technical Advice Note 12; City & County of Swansea Local Development Plan (Adopted February 2019)
<b>Reason for Decision:</b>	To enable the draft SPG documents to be subject to public consultation and further stakeholder engagement.
<b>Consultation:</b>	Legal, Finance, Access to Services
<b>Recommendation(s):</b>	Approve the draft SPG (as attached at Appendix A to C) for the purpose of public consultation and further stakeholder engagement.
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## 1.0 Introduction

- 1.1 This report seeks the approval of Members to undertake public and stakeholder consultation, for a minimum 6 week period, on the following draft Supplementary Planning Guidance (SPG) documents:
- Development and Biodiversity (Consultation Draft)
  - Trees, Hedgerows and Woodland on Development Sites (Consultation Draft)
- 1.2 The documents (attached at Appendix A to C of this report) will provide SPG in support of policies in the Swansea Local Development Plan (LDP). Once adopted, following public consultation and further stakeholder engagement, they will be used in the determination of planning applications. Fundamentally, the purpose of both documents is to set out the appropriate processes that development proposals must follow to ensure that the County's important environmental assets are maintained and enhanced. Whilst the two documents are separate pieces of guidance, they contain a number of overlapping themes and contain a number of cross references. The documents also contain signposting to relevant best practice guidance and technical guidance notes on the Council's website.
- 1.3 Upon conclusion of public and stakeholder consultations, a schedule of all the comments received will be produced. This schedule will include officer responses to confirm whether amendments will be made to the document as a result of comments made. The schedule will be reported back to Members for consideration, alongside a final version of the documents, at which time Members will be asked to formally adopt them as SPG to inform future decision making on development proposals.

## 2.0 Planning Context

- 2.1 In February 2019, the Swansea LDP was adopted as the Council's new statutory development plan (available at [www.swansea.gov.uk/ldp](http://www.swansea.gov.uk/ldp)). The LDP highlights that various SPG documents will be produced to augment policies in the Plan, which will set out appropriate detailed definitions and developer requirements to assist the interpretation of the policies. The titles of the above-mentioned SPGs (attached to this report at Appendix A to C) were highlighted in the LDP as key pieces of planning guidance to be produced during the lifetime of the Plan.
- 2.2 Having regard to this context, the above-mentioned SPG have been produced with particular reference to the following key LDP policies:
- ***PS 2 Placemaking and Place Management***
  - ***ER 2 Strategic Green Infrastructure Network***
  - ***ER 6 Designated Sites of Ecological Importance***
  - ***ER 8 Habitats and Species***
  - ***ER 9 Ecological Networks and Features of Importance for Biodiversity***
  - ***ER 11 Trees, Hedgerows and Development***

- 2.3 The documents are underpinned by a **‘placemaking approach’**, as advocated by the Swansea LDP and Planning Policy Wales (PPW). Placemaking is a holistic approach to planning and is the cornerstone of the Planning Authority’s decision making process. It is a concept focussed on positive outcomes that considers social, economic, environmental and cultural values of development proposals, as well as the potential of an area to create development that promotes prosperity, health, and well-being. There is increasing evidence of the physical and mental wellbeing benefits to people that contact with the natural environment can provide. Maintaining and enhancing biodiversity is therefore an integral part of the placemaking approach, as is recognising the cultural and historic significance of Ancient Woodlands and Veteran trees. Given this, the retention of existing natural features and assets, and the integration of new features into the design and layout of a development, is fundamental to the placemaking approach.
- 2.4 The SPGs reflect the changes made to national policy and guidance that have occurred over the last decade. In particular, they have been produced to align with amendments to National Planning Guidance<sup>1</sup>, the Planning Act<sup>2</sup>, the Environment Act, and the Well-being of Future Generations Act<sup>3</sup>, which together require the Council to achieve clearly defined well-being and environmental goals and objectives.
- 2.5 **The Consultation Draft Development and Biodiversity SPG** has particular regard to the requirements of the Environment (Wales) Act 2016, which includes a new Biodiversity and Resilience of Ecosystems Duty, referred to as the “Section 6 Duty” (S6 Duty). This duty requires the Council to *seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions and in so doing promote the resilience of ecosystems*. This duty is embedded as an objective in the Local Well Being Plan and is a priority in the Council’s Corporate Plan. PPW provides the framework for implementing the S6 Duty through the planning system. The SPG reflects this guidance and specifically focusses on how the Council will follow a “stepwise approach” to achieve this through its own planning decision making process.
- 2.6 **The Consultation Draft Trees, Hedgerows & Woodland on Development Sites SPG** is, for the most part, a factual update to previously adopted Guidance. Minor amendments have been made to align with the increased recognition in the Environment Act and reflected in PPW of the biodiversity and ecosystem resilience value of trees and to ensure that appropriate signposting is provided to the Development and Biodiversity SPG. The SPG will be supported by forthcoming Council Tree Policy.

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<sup>1</sup> PPW and Technical Advice Note (TAN) 12 ‘Design’

<sup>2</sup> Planning Act (Wales) (2015)

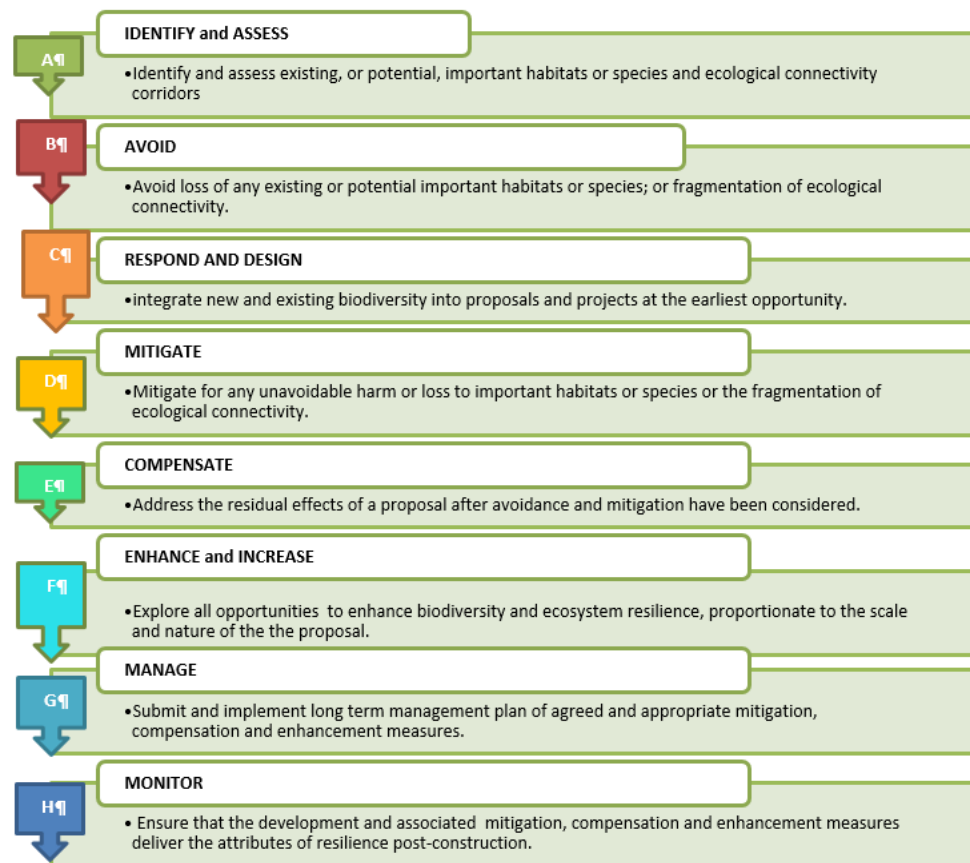
<sup>3</sup> Well-being of Future Generations (Wales) Act (2015).

### **3.0 Summary of the Consultation Draft SPGs**

#### ***Development and Biodiversity SPG***

- 3.1 The Development and Biodiversity SPG provides applicants with the detail necessary to understand how the Council will implement the LDP's biodiversity policies in the context of legislation and policy requirements, including the consideration of designated sites (Policy ER 6) and protected habitats and species (Policy ER 8). Policy ER 9 sets out how development decisions should take account of the wider ecosystem resilience of sites, and how it connects with surrounding ecological corridors to enable dispersal and function of protected and priority species. The SPG therefore explains how to consider the impacts of development, on all features of importance to biodiversity in the County and not just those which benefit from legal protection.
- 3.2 The SPG signposts to best practice guidance on how to carry out the ecological surveys and assessments the Council will require to be submitted in support of an application. The SPG encourages engagement with the Council on biodiversity issues from an early stage of the development process. This has a number of important benefits. Applicants can plan for necessary ecological surveys and assessments to be carried out within the correct survey seasons, reducing costs and time delays. Results of surveys can then inform understanding of the constraints and opportunities presented by valuable habitats, species and sites identified on a development site. The applicant can then begin to plan into the design and layout how existing features can be retained, and how appropriate compensation, mitigation and enhancement measures can be integrated into the development. The SPG therefore promotes a process of exploring positive opportunities where environmental measures are incorporated as part of wider green infrastructure/open space and placemaking measures, which is a process that can significantly enhance the quality of development. The SPG is supported by an Appendix that provides further detailed guidance and survey checklists to guide applicants through implications for development in the context of the rich variety of habitats, species and sites found in Swansea and their associated legal obligations and policy requirements.
- 3.3 A key purpose of the SPG is to ensure that the S6 Duty is embedded into the planning decision making process. PPW advises that this is achieved by following a step by step process to understand and plan for the impacts of development on biodiversity. This process is called the "Step-wise Approach" and is summarised at Fig 3.1 of the document (see below). The process guides both the Council and the applicant through a sequential approach which will ensure that the development will leave the biodiversity and ecosystem resilience of the site in a better state after the development is complete (i.e. the development provides "net benefit"). Chapter 3 guides the reader through the principles of each step of the process, from initial survey stage through to monitoring and management of the site. Chapter 4 then explains how each step relates to the planning application process.

Figure 3.1 from Biodiversity and development SPG (Consultation Draft)



3.4 Chapter 4 of the SPG also explains how the requirement in national guidance to secure enhancement “wherever possible” will be implemented through the planning system. It explains that, where the Council requires an applicant to provide enhancement, this will be proportionate both to the scale of the proposals and their impact/effect on biodiversity. It states that the Council will always seek to integrate biodiversity measures into the design and layout of a site in the first instance. However, where this is not possible, the SPG explains the use of appropriate legal mechanisms (such as a s106 Agreement and Planning Conditions) to secure the required biodiversity outcomes (detailed in the Appendix of the SPG). The Guidance sets out how the implementation of this approach will need to respond to the scale of development proposed. The SPG provides specific guidance on the application of the Stepwise Approach to Major and Minor developments, and it signposts to the Council’s Residential Design Guide and Householder Design Guide SPGs which give further details of biodiversity requirements.

### The Trees, Hedgerows and Woodlands on Development Sites SPG

3.5 This document is an update of the existing SPG adopted against the UDP (previously titled “the Protection of Trees on Development Sites SPG). Being relatively recently adopted against the UDP, in October 2016, the majority of updates made have been minor and factual only. The most substantive change is to clarify that the Council will require Category A and B trees to be incorporated into a development (see Section 4 of the draft SPG). Minor amendments have also been made to cross reference to other relevant LDP SPG, (specifically the Biodiversity SPG) and the emerging Council Tree Strategy. Minor amendments also highlight the contribution trees and

woodlands make to biodiversity, bringing the document into line with the emphasis on biodiversity and trees in PPW 10.

- 3.6 As previously, the SPG sets out the steps that need to be considered at the planning and design stages, as well as during construction, to ensure that all significant existing and proposed trees are kept healthy and become an asset to a new development. Specific guidance is given on how to prevent damage during construction to the tree's soil and root structure, and how to incorporate trees into the development in line with relevant best practice guidance. (Chapters 3 and 4). The SPG also guides applicants through the documentation that the Council will require is submitted with a planning application in relation to trees having regard to different types and scales of development. The SPG also signposts to best practice guidance on tree, shrub and hedgerow planting on new developments.

#### **4.0 Consultation Process and Next Steps**

- 4.1 The draft SPGs will be subject to a minimum 6-week period of consultation and engagement, which is an integral part of the process towards its adoption as formal planning guidance to inform decisions. It is anticipated that the consultation will be carried out during the months of August to October 2020. The consultation will allow Councillors, the public, stakeholders and other interested parties to make their views public and contribute to the content of the final version of the SPG. The aim is to ensure that there is a broad consensus of support for its objectives. It is important to note that planning legislation precludes SPG from introducing new policy, but is instead an opportunity to augment what is already contained in adopted LDP policies.
- 4.2 The public and stakeholder consultation process will make use of a variety of consultation methods to raise awareness and maximise the involvement of the community. The precise methods capable of being used will be continually reviewed having regard to the constraints associated with Covid-19 restrictions. The methods will include: use of a bespoke survey and feedback form on the Council's website; articles in the local media; a public drop-in consultation event for the public and stakeholders where officers will be available to explain the draft document and invite feedback (subject to being permissible having regard to Covid-19 restrictions); and also a targeted email consultation of known stakeholders, including local planning agents, Community Councils and specific relevant environmental organisations. All information will be readily available in hard copy at the Civic Centre and libraries (subject to opening), where electronic versions of the document and survey/feedback forms can also be viewed on line. Summary details and promotional materials will be provided in a bilingual format.
- 4.3 All comments received will be recorded, evaluated and, where appropriate, will feed into the final versions of the SPG documents. A full detailed schedule of representations will be published. A report setting out the public consultation comments received, and any amendments made to the SPGs as a result of these, will be presented to Members as soon as possible after the consultation period ends, at which time Members will be asked to approve the final versions as adopted SPG.

## **5.0 Financial Implications**

- 5.1 There are no additional financial implications arising from the publication of these SPG, as the cost of the public consultation process can be accommodated within existing budgets and staff resources. The consultation will, as far as possible, utilise electronic communication via email and the Internet.
- 5.2 The final adopted documents will be made available electronically, so there will be no printing costs.

## **6.0 Legal Implications**

- 6.1 The SPGs will provide planning guidance to the adopted LDP (2019), and will be a material consideration in evaluating future planning applications.
- 6.2 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.

## **7.0 Equality & Engagement Implications**

- 7.1 The Council is subject to the Public Sector Equality Duty (Wales) 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 Act.
  - 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.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 7.2 Section 4 of this report outlines equalities considerations in respect of consultation activity. Equality Impact Assessment (EIA) screenings have been carried out and this has demonstrated that a full EIA is not necessary for either of the two Consultation Draft SPG. The EIA screenings identify mostly low impacts and highlights that the SPGs seek to facilitate community cohesion by assisting the implementation of the LDP. The LDP has already been subject to EIA and is based on a comprehensive and up to date evidence base, and was formulated with extensive community engagement. The SPGs themselves will be subject to a bespoke 6 week consultation that will provide opportunities for engagement via a range of methods, as described in this report.

### **Appendices:**

Appendix A: Development and Biodiversity – CONSULTATION DRAFT SPG

Appendix B: Development and Biodiversity – CONSULTATION DRAFT SPG  
appendices

Appendix C: Trees, Hedgerows and Woodlands – CONSULTATION DRAFT SPG

Appendix D: Equality Impact Assessment (EqIA) Screening Forms