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## **LOCAL DEVELOPMENT PLAN WORKING GROUP**

**Friday, 22nd June, 2018**

### **S U P P L E M E N T A R Y   P A C K**

#### **1.1. Biodiversity and Geodiversity**

**(Pages 1 - 62)**

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**Powys Local Development Plan  
(2011 to 2026)**

**Supplementary Planning Guidance  
on  
Biodiversity and Geodiversity**

**Consultation Draft  
July 2018**



*This Supplementary Planning Guidance relates to the policy area of Biodiversity and Geodiversity and has been prepared to assist householders, developers and Planning officers to conserve, manage and enhance biodiversity and geodiversity in the preparation and determination of planning applications.*

*Other SPG are being prepared on the following subjects and this SPG needs to be read alongside these other titles wherever appropriate;*

- *Landscapes*
- *Open Space*
- *Affordable Housing*
- *Archaeology*
- *Planning Obligations*
- *Land Drainage*
- *Conservation Areas*
- *Renewable Energy*
- *Historic Environment*
- *Residential Design Guide*

*This SPG only relates to the Powys County Council Planning Area, so does not apply to areas of the County covered by the Brecon Beacons National Park, who have published their own SPG on Biodiversity and Development (2016). Please refer to that document if your development proposal lies within, or close to the boundaries of the National Park.*

<b>Version Control</b>		
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## **Status & Purpose of this Guidance**

This guidance supplements the Powys Local Development Plan (LDP) 2011-2026 and specifically supports LDP Strategic Policy SP7 and Development Management Policy DM2.

The Council will have regard to this Supplementary Planning Guidance (SPG) when making planning decisions. This guidance should be read in conjunction with the Powys LDP and its supporting text. Neither the LDP or this SPG apply to areas within the Brecon Beacons National Park (BBNP). The BBNPA has its own LDP and SPG on Biodiversity.

This guidance is compiled in line with current international, European, and national regulations, policy and guidance and Powys County Council policy. A list of the relevant documents is provided in Appendix 3.

The purpose of this guidance is to:

- Explain how prospective developers, and any other applicants and Powys County Council as a decision maker can protect biodiversity via the planning process, and
- Detail the requirements that the planning process places on developers and other applicants to demonstrate how they are protecting biodiversity.

## **1.0 Introduction**

Powys County Council has a responsibility to protect, conserve and enhance wildlife and the natural environment when considering and determining development proposals. Species, habitats and geodiversity can be adversely affected as a result of development and it is essential to consider the potential impacts of proposals upon the ecology of development sites.

**Biodiversity and geodiversity is a material consideration in the planning process and must be considered by all development proposals.**

**This Supplementary Planning Guidance (SPG) supports and expands upon LDP Policies SP7 and DM2, and where necessary national planning legislation and policy with the aim of providing clear guidance on how biodiversity and geodiversity should be maintained and enhanced throughout the development management process.**

It explains how biodiversity and geodiversity is protected by both international and national legislation and the policy drivers acting upon the Local Planning Authority (LPA); how biodiversity and geodiversity is taken into consideration within the Planning process; and what steps developers and applicants alike have to take in order to adequately demonstrate to the LPA how the needs of biodiversity and geodiversity have been accommodated within their development proposal.

This (SPG) will be a material consideration in determining applications for planning permission.

## **1.1 What is 'Biodiversity' and why is it important?**

"Biodiversity" is the term applied to the variety of life on earth. It describes the richness and variety of all living things, from the tiniest microscopic organism to the largest tree. Biodiversity includes the number of different species, the number of individuals of a species (ie. their population), and even covers the genetic diversity within and between populations of a species.

The following definitions summarise what biodiversity is and its importance;

'The variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.'

(Biodiversity, the UK Action Plan, 1994)

"Biodiversity is all living things, from the tiny garden ant to the giant redwood tree. You will find biodiversity everywhere, in window boxes and wild woods, roadsides and rain forests, snow fields and the sea shore. But don't take plants and animals for granted. We are part of biodiversity and depend on it for our quality of life. And what we don't save now, our children will pay for later. Biodiversity is the living bank that everyone should invest in. Now it is banking on you."

(Biodiversity: The UK Steering Group Report Volume 1: Meeting the Rio Challenge 1995)

"Loss of biodiversity not only means a loss of species for us to study or from which to gain enjoyment, but also the loss of a potentially valuable source of drugs or some other commercial products, a reservoir of genetic diversity for the future, and, most profoundly, some of the biological building blocks of the planet. Take too many of these blocks away and the global ecosystem becomes in danger of collapsing."

(Working with wildlife, compliance and beyond in construction, 2004, CIRA C587).

### **1.1.1 Biodiversity in Powys**

Powys is often described as the green heart of Wales, being a very rural county in the centre of Wales covering over 5,000 sq. km, approximately a quarter of the land mass of Wales.

As a consequence of its extent, it has a considerable diversity of habitat types such as deciduous and coniferous woodlands, hedgerows, heathland, parkland, streams, rivers, lakes, ponds, peat bogs, cliffs and rock outcrops, meadows and grassland, arable farmland and also urban environments. The county also has a small stretch of coastland along the tidal river bank at the head of the Dyfi estuary.

As befits such a wealth of habitats the county consequently has an enormously rich biodiversity. This is reflected in the high number of designated sites, habitats and species within its borders. A number of these are internationally and nationally protected including Special Areas of Conservation, Special Protection Areas, a Ramsar site, National Nature Reserves and Sites of Special Scientific Interest.

However designations alone cannot guarantee the integrity and prolonged existence of these invaluable resources. Threats to their survival are many and varied. Agriculture is a vital activity in the county that has left an indelible mark on both the uplands and the river valleys they give rise to. Much agricultural activity has been traditional, small-scale and non-intensive giving rise to a relatively rich flora and fauna associated with it. However this flora and fauna does not readily cope or adapt to more recent moves to intensify agriculture within the county. Climate change continues to present a significant threat as populations of plants and animals have to adapt to long term changes as a result of climate change, as well as the more short term climate-related events such as extreme or unseasonal weather. Other threats are more insidious, such as the introduction or colonisation of invasive non-native species (INNS), pressure arising from increased recreational use of the countryside and insensitive or inappropriate development in both towns and the wider countryside.

## **1.2 What is 'Geodiversity' and why is it important?**

Geodiversity is the variety of rocks, minerals, fossils, landforms, sediments and soils, together with the natural processes which form, alter and shape them. Geodiversity provides many of Wales' natural resources, strongly influences our landscape, biodiversity and culture and is internationally important for geoscience research. Biodiversity and geodiversity are intrinsically linked; the elements of geodiversity form the foundation upon which plants, animals and human beings live and interact providing the framework for life.

### **1.2.1 Geodiversity in Powys**

For a relatively small country Wales has some of the most varied geology in the world and Powys has its fair share of fantastic geodiversity which is reflected in its mineral wealth and spectacular landscape. Powys contains a rich tapestry of topographical, geological and geomorphological features with extensive upland areas dissected by numerous river valleys and their tributaries.

Much of Powys is made up of ancient Ordovician and Silurian marine sedimentary rocks, deposited in the Lower Palaeozoic when Wales lay beneath an ocean. The rocks laid down in this Welsh Basin comprise sequences of sandstone, siltstone and mudstone which were later shaped by the Caledonian orogenic earth-movements as the sea shallowed and continents collided some 400 million years ago resulting in the folding and cleaving of the rock strata. Some volcanic activity also took place

locally, notably in the Welshpool and Builth Wells areas which produced basaltic lava flows and dolerite intrusions.

Several phases of hydrothermal activity during the Upper Palaeozoic created rich mineral veins in north-west Powys. As the mountains of the ancient continent eroded, the “Old Red Sandstone” succession of sandstones, mudstones and siltstones, as seen in southern Powys, were deposited during the late Silurian and Devonian periods in shallow lagoons and river valleys on arid continental margins. In the south of Powys around Ystradgynlais, Carboniferous-age Coal Measures reflect a later change to an environment of humid swamp conditions and the extensive development of equatorial tropical forests.

Since the beginning of the Quaternary Period approximately 2.6 million years ago the landscape has been affected by a series of “ice ages” some of which lasted up to 100,000 years, the last one ending about 11,500 years ago. During these periods, ice-caps formed on the Welsh mountains and glaciers occupied and shaped the valleys. The glaciers carved deeply into the rocks to give the landscape its now familiar appearance. Since the last Ice Age, rivers have created terraces and floodplains and human activities have continued to modify the landscape by coal and lead mining and quarrying for building stone, by farming and through today’s development activities.

## 2.0 LDP Policies

### **Strategic Policy 7 (SP7) Safeguarding of Strategic Resources and Assets**

**To safeguard strategic resources and assets in the County, development proposals must not have an unacceptable adverse impact on the resource or asset and its operation.**

**The following have been identified as strategic resources and assets in Powys:**

- 1. Land designated at international, European and/or national level for environmental protection.**
- 2. Historic environment designations, including:**
  - i. Registered Historic Landscapes.**
  - ii. Registered Historic Parks and Gardens.**
  - iii. Scheduled Ancient Monuments and other archaeological remains.**
  - iv. Listed Buildings and their curtilages.**
  - v. Conservation Areas.**

**AND the setting of designations i.-v.**

- 3. Recreational Assets, including:**
  - i. National Trails.**
  - ii. Public Rights of Way Network.**
  - iii. Recreational Trails.**
  - iv. National Cycle Network.**
- 4. The valued characteristics and qualities of the landscape throughout Powys.**
- 5. Sennybridge (Ministry of Defence) Training Area.**
- 6. Mineral Resource Areas.**
- 7. Proposed Strategic Infrastructure Routes (if and when identified).**

#### **Development Management Policy 2 (DM2) The Natural Environment**

**Development proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site.**

**Development proposals which would impact on the following natural environment assets will only be permitted where they do not unacceptably adversely affect:**

- 1. The important site designations, habitats and species afforded the highest levels of protection through European legislation including:**
  - A. European Sites (SAC, SPA and Ramsar).**
    - i. Development proposals likely to have a significant effect on a European site, when considered alone or in combination with other proposals or plans, will only be permitted where it can be demonstrated that:**
      - a) The proposal is directly connected with or necessary for the protection, enhancement and positive management of the site for conservation purposes; or**
      - b) The proposal will not adversely affect the integrity of the site.**
    - ii. Where it cannot be demonstrated that development proposals would not adversely affect the integrity of the site and there is no satisfactory alternative solution, permission will be refused unless:**
      - a) There are imperative reasons of over-riding public interest; and**
      - b) Appropriate compensatory measures are secured.**

**B. European Protected Species afforded strict protection by the Conservation of Habitats and Species Regulations 2017 (Habitats Directive Annex IV Species).**

Development proposals likely to have an adverse effect on a European Protected Species will only be permitted where it can be demonstrated that:

- i. The proposal is for the purposes of preserving public health or public safety or there are imperative reasons of over-riding public interest; and
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the habitat or population of the species concerned at a favourable conservation status in their natural range.

**2. The important site designations, habitats and species afforded levels of protection in line with national policy and legislation including:**

- A. National Nature Reserves and Sites of Special Scientific Interest;
- B. Protected Species including those listed in Wildlife and Countryside Act 1981 (as amended) and the Protection of Badgers Act 1992;
- C. Habitats and Species of principal importance for the purpose of maintaining and enhancing biodiversity conservation in Wales as listed in Section 7 of the Environment (Wales) Act 2016; and
- D. National Biodiversity Action Plan Habitats and Species.

Development proposals likely to have an adverse effect on the conservation value of nationally protected sites, habitats or species, either directly, indirectly or in combination, will only be permitted where it can be demonstrated that:

- i. The proposal contributes to the protection, enhancement or positive management of the site, habitat or species; or
- ii. There is no suitable alternative to the proposed development; and
  - a) It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site, habitat or species; and
  - b) Appropriate compensatory measures are secured; and
  - c) The population or range and distribution of the habitat or species will not be adversely impacted.

**3. The locally important site designations, habitats and species including:**

- A. Local Nature Reserves;
- B. Local Biodiversity Action Plan Habitats and Species; and

**C. Regionally Important Geodiversity Sites and Geological Conservation Review Sites.**

Development proposals likely to have an adverse impact upon these sites, habitats or species will only be permitted where it can be demonstrated that:

- i. They conserve and where possible enhance the natural heritage importance of the site, habitat or species; or
  - ii. The development could not reasonably be located elsewhere; and
    - a) The benefits of the development outweigh the natural heritage importance of the site, habitat or species; and
    - b) Mitigation and/or compensation measures are provided where adverse effects are unavoidable.
4. The achievement of the Water Framework Directive’s overarching objectives.
5. Trees, woodlands and hedgerows of significant public amenity, natural or cultural heritage.

**3.0 Biodiversity and Geodiversity Designations**

This section describes the significant biodiversity and geodiversity designations that are to be found within the county. The section follows the format of Policy DM2 with the designations being treated in the order of sites, habitats and species, and within each of these subsections, in the order of International, European, National and Local scales. The designations are summarised in the following table;

**Table 1: Summary of Biodiversity and Geodiversity Designations in Powys**

	Biodiversity	Geodiversity	Site	Habitat	Species	International	European	National	Local	Statutory Protection	No Statutory Protection	In DM2	Un-named in DM2	Mapped	Un-mapped
Ramsar.	✓		✓			✓				✓		✓		✓	
Special Areas of Conservation ( <b>SAC</b> ).	✓		✓				✓			✓		✓		✓	

Special Protection Areas (SPAs)	✓		✓				✓			✓		✓		✓	
National Nature Reserves (NNRs)	✓		✓					✓		✓		✓		✓	
Sites of Special Scientific Interest (SSSIs)	✓		✓					✓		✓		✓		✓	
Local Nature Reserves (LNRs).	✓		✓					✓		✓	✓	✓		✓	
Sites of Interest for Nature Conservation (SINCs)	✓		✓					✓		✓		✓	✓	✓	
Local Wildlife Site (LWS)	✓		✓					✓		✓		✓	✓	✓	
Wildlife Trust Reserves (WTRs)	✓		✓					✓		✓		✓	✓	✓	
Road Verge Nature Reserves (RVNRs).	✓		✓					✓		✓		✓	✓	✓	
Regionally Important Geodiversity Sites (RIGS)		✓	✓					✓		✓	✓	✓		✓	
Geological Conservation Review Sites (GCRS)		✓	✓				(✓)	✓	(✓)	✓	✓	✓		✓	
<b>Ancient Woodlands</b>	✓		✓	✓				✓		✓	✓	✓		✓	
Powys Local Biodiversity Action Plan <b>Habitats (LBAP)</b>	✓			✓				✓	✓	✓	✓	✓			✓
European Protected Species (EPS)	✓				✓		✓			✓		✓			✓
National (UK) <b>protected species</b>	✓				✓			✓		✓		✓			✓
Powys Local Biodiversity Action Plan <b>Species (LBAP)</b>	✓				✓			✓	✓	✓	✓	✓			✓

### 3.1 Designated Sites

Powys has a wide range of biodiversity and geodiversity designations that apply to large parts of the county. The sites involved cover many different kinds of habitats and geological features. They are afforded different levels of protection via a hierarchy of statutory and non-statutory designations.

Each designation is protected by either European or national legislation, and/or national and local policy.

**It is the developer's responsibility to assess which designations might be affected by a development proposal, and to demonstrate what the effects might be and how these can be managed or mitigated acceptably.**

#### 3.1.1 International and European Site Designations

Criterion 1.A. of LDP Policy DM2 relates to Sites that have been designated at the European or International level (SACs, SPAs and Ramsar sites). This affords them the highest level of protection possible. This ensures that the integrity of these European sites is not adversely affected by development proposals, and outlines the circumstances under which development proposals will be permitted or refused consent

At the International level, Powys has one site that has been designated as a **Ramsar** site, under the terms of the International Ramsar Convention for Wetlands, due to its international significance. This is immediately adjacent to the county's boundary. There are also a further four Ramsar sites that are outside the county but close enough to the boundary to be potentially affected by development activity within Powys.

Designated under EU Legislation, there are 17 **Special Areas of Conservation (SACs)** that are either wholly or partially within the Powys planning area, and a further 25 that are outside the county but close enough to the boundary to be potentially affected by development activity within Powys. SACs are designated because of their outstanding international significance and therefore of importance to the maintenance of biodiversity across Europe.

**Special Protection Areas (SPAs)** are another European site designation that is concerned with the conservation of birds. There are three SPAs that are either within or partially within the Powys planning area, plus a further two that are outside the county but close enough to the boundary to be potentially affected by development activity within Powys. Associated with the SPA designation are species specific ranging and foraging buffers that developers need to be aware of.

A list of the SACs, SPAs and Ramsar sites (collectively known as Natura 2000 sites) within or adjoining the County is found in Appendix 3 of the LDP. (N.B. whilst the Ramsar designation originates from an international source and SACs and SPAs from European, for the purposes of Planning the Ramsar designation is treated in the same way as SACs and SPAs).

Developers must check whether their proposal is close to or adjacent to a European Site. This can be done by contacting the Biodiversity Information Service for Powys and BBNP (BIS) or visiting the Welsh Government's Lle Geo-portal (see Appendix 2). However, certain proposals may have impacts over a longer distance particularly if they emit airborne or waterborne pollution – for example, intensive livestock units may give rise to pollution that adversely affects a European site, therefore threatening its integrity and conservation objectives. These kinds of development proposals will need to ensure they take European sites that are further away into consideration. See also Sections 6.2, 6.3 and 6.4.

### **3.1.2 National and Statutory Site Designations**

Criterion 2.A. of LDP Policy DM2 relates to Sites that have been designated at the National (UK) level (NNRs and SSSIs). This ensures that these nationally designated sites are not adversely affected by development proposals, and explains the

circumstances under which planning applications will be refused or granted planning consent.

There are eight **National Nature Reserves (NNRs)** that are either wholly or partially within the boundaries of the Powys planning area. These have been designated by Natural Resources Wales (NRW) under the National Parks and Access to the Countryside Act (1949) or the Wildlife and Countryside Act (1981) because of their national importance for the study and enjoyment of biodiversity and geodiversity. These sites are usually specifically managed by NRW or, exceptionally other organisations with similar aims to NRW (eg. a Wildlife Trust). All NNRs are protected as **Sites of Special Scientific Interest (SSSIs)**

There are 222 SSSIs within Powys. These are also designated by NRW due to their nationally important biodiversity and geodiversity. However, whereas NNRs are largely managed by NRW, SSSIs are usually managed by the landowner, under conditions and guidance from NRW. Whilst the majority of SSSIs are designated for their value to wildlife, a number of SSSIs in Powys have been designated for their geological importance (see also RIGS and GCR below).

### **3.1.3 Local and Non-Statutory Site Designations**

Criterion 3.A. of LDP Policy DM2 relates to non-statutory sites that have been designated as a result of local policy, particularly, in this case, **Local Nature Reserves (LNRs)** and ensures that these locally designated sites are not adversely affected by development proposals, and explains the circumstances under which planning applications will be refused or granted planning consent.

In Powys there is only one LNR, the Lake Park LNR in Llandrindod Wells. LNRs are designated by local authorities under the National Parks and Access to the Countryside Act 1949, and managed for nature conservation, education and public access.

In addition to the LNR there are a number of other important locally designated sites, which are covered by the wording of Policy DM2 and the requirement it places on developers to 'demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests' in the county.

Chief amongst these local designations are **Sites of Interest for Nature Conservation (SINCs)**. These are selected, after being subject to rigorous and transparent selection criteria, on the basis of their nature conservation interest using specific criteria. These are developed by members of the Powys Nature Partnership (see Appendix 1). These locally important sites help meet local and national biodiversity objectives and contribute to the quality of life and well-being of the local community. Developers should note that the nature conservation interests for which they have been designated are a material consideration in planning decisions.

When a SINC has been identified subsequent negotiations with the landowner can result in a management agreement being drawn up and the site becoming designated as a **Local Wildlife Site (LWS)**. Where funding allows, these additional negotiations are often carried out by the Wildlife Trusts that operate in Powys (Montgomeryshire WT, Radnorshire WT and WT for South & West Wales). LWS are not necessarily open to the public, with the majority having no public access at all. Should a visit be thought necessary for surveying purposes then applicants must contact the landowner to seek permission to enter the site.

The three Wildlife Trusts in Powys also own, lease and manage land as **Wildlife Trust Reserves (WTRs)**. These protect locally or nationally rare or vulnerable wildlife or habitats. In Powys there are approximately 45 Wildlife Trust Reserves across the county outside the Brecon Beacons National Park.

Lengths of road verge that have been identified as having particular value to wildlife in the county have been designated as **Road Verge Nature Reserves (RVNRs)**. Sites are managed by Powys County Council as part of the rural verge management regime with the aim of conserving and enhancing their features of interest. Such features have previously been monitored with the assistance of the three Powys WTs and volunteers. RVNRs typically support species or assemblages of species of local and/or national importance for the conservation of biodiversity. Their linear nature means that they play an important role in linking habitat areas and supporting landscape connectivity. Whilst there is no statutory protection, *per se*, for RVNRs, developers will need to take them into consideration in developing their proposals.

N.B. SINC, LWS, WTRs and RVNRs are not specified in LDP Policy DM2 because the Inspector conducting the Examination in Public concluded that insufficient evidence was available at the time to support their inclusion, in particular the lack of delineated boundaries. However, these sites have been included in the SPG because maps for these sites can be obtained from BIS and the LPA plans to make these available via an inter-active mapping tool on its website. These designations are included within the SPG as material considerations in the determining of planning applications.

Any areas or sites that are considered particularly high in geological and geomorphological interest have been designated as **Regionally Important Geodiversity Sites (RIGS)**. RIGS sites, of which there are 78 in Powys, are selected on a local or regional basis using four selection criteria (scientific, educational, historical and aesthetic). RIGS sites are those which, whilst not benefiting from statutory protection [such as is afforded by being a Geological SSSI (see above)], they are nevertheless regionally or locally representative sites where "... consideration of their importance becomes integral to the planning process" (Earth Science Conservation Strategy (ESCS)).

**Geological Conservation Review Sites (GCRS)** are non-statutory sites of international and national importance for demonstrating the key scientific elements of

the Earth Heritage in Britain. The majority of these sites in Powys have been afforded statutory protection by being designated as geological SSSIs (see above) for their geological value.

### **3.1.4 Trees & Woodlands**

LDP Policy DM2, Criterion 5 includes protection for individual trees, woodlands and hedgerows of significant public amenity, natural or cultural heritage. This includes ancient woodland and veteran trees

Any development that is considered to unacceptably adversely affect these features will not be permitted. See also paras 4.2.12 and 4.2.13 of the reasoned justification for Policy DM2.

**Ancient Woodlands** are identified and designated by NRW and are included in Policy DM2 under Criterion 5. These are areas of land that are defined as having been under more or less continuous woodland cover since at least 1600AD. Because of their age they have enormous heritage and conservation value arising from the sometimes unique fauna and flora that has grown to be associated with them. PPW requires LPAs to consult with NRW before authorising any developments that may result in damage to an Ancient Woodland

Ancient Woodland is an irreplaceable habitat whose unique value derives from the relationship between its soils, ground flora and other species beyond the trees themselves which may not necessarily be particularly old. It is also included in LDP Policy DM2 as it has significant conservation value due to the highly diverse ecology that has developed as a result of the site being under more or less continuous woodland cover for many hundreds, or even thousands of years. Ancient woodlands also frequently have a high cultural importance for the same reasons. Recognised as irreplaceable habitats, developers would need to demonstrate how they are taking into account any ancient woodland that their proposal may effect. See also PPW and TAN5 for further details.

Ancient woodland is important for its wildlife (including many rare species that are not usually found in any other types of woodland), its soil, and its cultural, historic, landscape and recreational value. It includes:

- ancient semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration.
- plantations on ancient woodland sites - replanted with conifer and broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi.

Other distinct forms of ancient woodland are:

- wood pastures identified as ancient.
- historic parkland, which is protected as a heritage asset.

Many of the above do not appear on the NRW's Ancient Woodland Inventory because their low tree density didn't register as woodland on historic maps. However

developers must give consideration to any kind of wood pasture, ancient or otherwise, as it appears in the Environment (Wales) 2016 Section 7 list of habitats of principal importance.

It is also important to note that 'Wooded continuously' doesn't mean there's been a continuous tree cover across the whole site. Also not all trees in the woodland have to be old, and open space, both temporary and permanent, is an important component of ancient woodlands.

### **Veteran trees**

Veteran, ancient, or aged trees also have cultural, historical, landscape and nature conservation value because of their age, size, or condition. They can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks, or other areas.

It is planned to make the locations in Powys of all of the sites designations described above available via the LDP Interactive Maps (currently in preparation) produced by the Council. More information can be sought from BIS, Lle Geoportal and Geoconservation Wales (see Appendix 2)

## **3.2 Habitats of Principal Importance**

### **Nationally Important Habitats**

Section 7 of the Environment (Wales) Act (2016) lists habitats of importance for the conservation of Biodiversity in Wales. Of these the habitats that are to be found in Powys are dealt with in the section below.

### **Locally Important Habitats**

The Powys Local Biodiversity Action Plan (LBAP) identifies the following habitats that are of particular importance for the conservation of Biodiversity in Powys;

Coniferous Woodland	Lowland raised bog	Traditional Orchards
Farmland	Lowland wood pasture	Upland calcareous grassland
Garden Habitat	Mesotrophic waters	Upland lowland heath
Linear Habitats	Rhos pastures	Upland Oak Woodland
Low dry acid grassland	Rivers and streams	Wet Woodland
Lowland Meadows	Scrub and ffridd	

The Powys LBAP can be found online (see link in Appendix 2). For each habitat there is a separate action plan detailing the targets that need to be met in order to protect the habitat, the main threats, and the actions that local partners are taking to secure the habitat's future. Developers will need to demonstrate that they have taken into account any of these protected habitats in their proposals.

N.B. the Powys LBAP is due to be replaced in 2018 or early 2019 by the Powys Nature Recovery Action Plan (NRAP) which provides a focus for local delivery of national Nature Recovery Plan objectives, supports sustainable management of natural resources and contributes towards the goals of the Well-being of Future Generations (Wales) Act 2015. Developers therefore need to be aware that the detail surrounding habitats and species of principal importance, and the actions required to protect and enhance them may well change when the NRAP replaces the LBAP.

### **3.3 Protected and Important Species,**

In addition to sites and habitats, certain species also have special protection, afforded to them under either European or National legislation (see below).

The Habitats Regulations 2017 (which transposes the EU habitats Directive) requires public bodies such as Powys County Council to facilitate the upkeep, management and creation of habitat for wild birds. NRW has a duty to review the implementation of this action.

TAN 5 states that:

*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.*

The presence of protected or priority species or species of principal importance on a proposed development site is a material consideration in the planning process, therefore it is necessary that developers provide sufficient information with their planning applications to identify the species present and the extent to which they may be affected by the development proposals. This information cannot be considered after permission is granted so if it is absent then it may delay determination. The information will need to detail any avoidance measures, mitigation or compensation that is required as well as any opportunities that may exist for enhancement of the habitat or features associated with that species.

#### **3.3.1 European Protected Species (EPS)**

The Conservation of Habitats and Species Regulations 2017 affords protection to a number of species which may be found on development sites in Powys. These include bats, otters, great crested newts and the (hazel) dormouse. Whilst it is an offence to kill, injure, disturb (including handle) these species, the protection also extends to their breeding sites and resting places (or habitat) where they are found.

This legislation also requires Powys County Council to consider how it can best contribute to the protection, enhancement and restoration of habitat available for wild birds, both through the management of the areas of land under its control and areas of land that is influenced by its wider functions. That includes promoting and delivering habitat management and restoration, and/or habitat creation, to support wild birds through the planning process.

Article 4(4) of the 2009 EU Birds Directive also refers to member states striving to avoid pollution or deterioration of habitats used by species of birds listed in Annex 1 of the Directive, even when they are outside designated areas.

Where development proposals will affect EPS, a Derogation Licence may also be required (see Section 4.4 below). This can be obtained from NRW but must be done before the development can be implemented.

### **3.3.2 National (UK) protected species**

The Wildlife and Countryside Act 1981 (as amended) provides different levels of protection for a number of nationally important species. The Act includes Schedules with lists of those species which receive special protection in the UK – Schedule 1 (birds), Schedule 5 (animals) and Schedule 8 (plants). Species such as bats, great crested newts, water vole, barn owl and kingfisher are afforded absolute protection (including their breeding and resting places); other species are afforded partial protection such as slow-worms which are protected from killing and injury.

#### Nationally Important Species

The Section 7 list of the Environment (Wales) Act 2016 contains those species that have been identified as being of principal importance for the conservation of biodiversity in relation to Wales. As this list may change during the lifetime of this SPG developers should refer to the Wales Biodiversity Partnership's website (see Appendix 2) where the most up to date version can be viewed.

#### Locally Important Species

The Powys LBAP contains a list of species that are considered to be a priority to protect. As this list may change during the lifetime of this SPG, and especially considering the forthcoming publication of the Powys NRAP, developers should refer to the Powys Nature Partnership's website (see Appendix 2) where the most up to date species list can be viewed.

#### Mobile Species and Non-designated Habitats

It is also important for developers to bear in mind that many protected species, particularly birds, insects and mammals such as bats and otters can have quite extensive territories using areas repeatedly for travel, shelter, breeding and/or feeding and in so doing rely on habitats that may not themselves be designated. Disruption to these areas can impact species and populations significantly. As a result these habitats will be considered to be of significant conservation value because of their important role in facilitating dispersal of that protected species. Therefore development proposals that impact upon such habitat will need to demonstrate how their proposal will not adversely affect the provision or management of these 'stepping-stone' and linear habitats.

## **4.0 Biodiversity and Geodiversity Assessments, Surveys and Licences**

To understand how a particular development proposal may affect biodiversity developers must undertake research into the area that is proposed to be developed. This research is in the form of surveys and assessments, and often requires

licencing and so must be carried out by suitably qualified personnel. This section explains how these surveys and assessments should be undertaken. Geodiversity assessments are described at the end of this section.

#### **4.1 Environmental Impact Assessment (EIA)**

The term 'Environmental Impact Assessment' (EIA) describes a procedure that must be followed for certain types of development proposal before they can be given 'development consent' (see Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations (2017) in Appendix 3). The procedure is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. Further advice on EIA is given at the pre-application stage.

The types of development proposal are listed on two schedules within the above regulations. Schedule One includes large development such as airports and industrial works. Other development types are listed in Schedule Two that only require EIA if the proposal is likely to have significant environmental effects. The process of undertaking the assessment of environmental impacts is the 'Environmental Impact Assessment'; the submission of that information as part of a planning application is called the '**Environmental Statement**'.

The preparation of an Environmental Statement in parallel with development proposal design provides a useful framework within which environmental considerations and design development can interact. The responsibility for carrying out the Environmental Impact Assessment and compiling the Environmental Statement rests with the developer.

#### **Screening Opinion**

The above regulations provides a procedure which enables developers to apply to the planning authority for an opinion on whether they will need to undertake an EIA – this is called a '**screening opinion**'.

To provide a screening opinion, the Council requires a plan on which the site of the proposed development is identified, and a brief description of its nature and purpose and of its possible effects on the environment. This can be done well in advance of any formal planning application, and the Council must give its opinion within three weeks, unless the developer agrees to a longer period.

Developers should note that removal of uncultivated or semi-natural habitats to restructure rural land holdings may require a screening decision by Welsh Government under the Environmental Impact Assessment (agriculture) (EIA) Regulations 2017, for more information refer to the Welsh Government web site; <https://gov.wales/topics/environmentcountryside/consmanagement/conservationbiodiversity/eiahome/?lang=en>.

Similarly projects within certain thresholds involving afforestation, deforestation, construction of forest roads and quarrying operations, may require NRW consent under the Environmental Impact Assessment Regulations (Forestry) 2017. For more

information refer to the NRW website; <https://naturalresources.wales/permits-and-permissions/tree-felling-and-other-regulations/environmental-impact-assessment-for-forestry-activity/eia-quick-guide/?lang=en>

### **Scoping Opinion**

The Regulations also enable a developer, before making a planning application, to ask the local planning authority for its formal opinion on the information to be included in an environmental statement – this is called a ‘**scoping opinion**’. If the applicant wishes, an application for a scoping opinion can be carried out simultaneously with the screening opinion.

Developers and the Council should discuss the scope of an Environmental Statement before its preparation is begun. Statutory consultees, such as NRW will be consulted at this stage. The formal requirements as to the content of environmental statements are set out in Schedule 4 of the regulations.

There is no prescribed form of Environmental Statement, provided that the requirements of the Regulations are met.

The Chartered Institute for Ecology and Environmental Management have produced detailed guidance for EIA (see Appendix 2 for contact details).

If there is disagreement concerning the outcomes of screening or scoping then the opinion can be referred to the Welsh Government for determination.

## **4.2 Habitat Regulations Assessment and Appropriate Assessment**

A **Habitats Regulations Assessment (HRA)** is the assessment of the impacts of implementing a development proposal on a European Site. This is a statutory duty undertaken by the relevant competent authority. Its purpose is to consider the impacts of a development proposal against conservation objectives of the site and to ascertain whether it would adversely affect the integrity of the site. Where significant negative effects are identified, alternative options should be examined to avoid any potential damaging effects.

Where it is considered that there is a potential for a development proposal to impact a European Site (SAC/SPA/Ramsar) and the development proposal is not directly connected with or necessary to the management of that site, the LPA is required to undertake a HRA Test of Likely Significance as required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017, to establish whether the proposals could result in a likely significant impact to the site and/or its associated features either alone or in combination with other plans and projects. The LPA can request sufficient information from the applicant to inform this Test

Where a development proposal (alone or in combination with another proposal) is likely to have a significant effect on a European Site, the Competent Authority (the LPA in most cases) must undertake an **Appropriate Assessment (AA)**. The Appropriate Assessment establishes whether in the view of the site’s conservation objectives the development would have an adverse effect on the integrity of a SAC, SPA or Ramsar site or any of its features.

The applicant must provide details of all the aspects of the development and its potential impacts to the LPA to allow an **Appropriate Assessment** to be carried out. This can take the form of an ecological report and be submitted along with the application – the scope and content of this assessment will vary depending on the proposal. Developers are advised to seek advice regarding the scope of survey required prior to undertaking the survey work. Consent cannot be granted unless the results of the appropriate assessment show that the proposal will not have a significant negative effect.

Maps showing the locations and the buffer zones surrounding the 21 European Sites within or partially within the county are to be found in Appendix 2 of the Powys LDP's HRA Screening Report (June 2015).

For each of these designated sites, details of the potential considerations that developers will need to take into account are to be found on the NRW website (see Appendix 2).

### **4.3 Biodiversity Surveys**

#### **Why are Biodiversity Surveys necessary?**

All development has an impact upon the environment and the biodiversity within it. Therefore it is important that developers or applicants carry out biodiversity (or ecological) surveys to understand exactly what and how biodiversity (including habitats and individual species) will be affected on and near to the site of their particular development proposal.

#### **When are surveys required?**

Applicants may be required to submit information in support of a planning application to enable the LPA to assess the impacts on biodiversity on or adjacent to the development site. The nature of the impact and type of survey required will very much depend on the scale and type of development proposed. It is recommended that applicants seek pre-application advice as soon as possible and it can then be identified whether a biodiversity (or ecological) survey is required.

The local planning authority will reject or require additional survey effort if the information provided in a survey is deemed insufficient to inform the Favourable Conservation Status (FCS) (see Glossary) test for relevant species.

A checklist is provided in the following table that identifies the types of development site for which an ecological survey as well as the type of surveys that will be required. This checklist is to aid the Council, applicants and developers to assess when an ecological survey and report is likely to be needed. The list is for guidance – it is not exhaustive and is not a substitute for expert advice based on an assessment of the site. A survey is likely to be needed when a development proposal affects, is adjacent or near to, or involves the following, and survey effort is likely to need extending beyond the boundaries of the development proposal as disturbance of European Protected Species can occur beyond the development site itself:

**Table 2: Types of Development Site Requiring Biodiversity/Ecological Surveys**

<b>Development Site Type</b>	<b>Species and/or habitat Surveys likely to be required</b>
Greenfield land	Preliminary ecological appraisal; Protected species surveys as necessary
Brownfield land	Preliminary ecological appraisal; Protected species surveys as necessary
Open greenspace	Preliminary ecological appraisal; Protected species surveys as necessary
Watercourses	Preliminary ecological appraisal; potential for water vole, otter, fish, white-clawed crayfish, floating plantain, bird surveys
Ponds / wetlands	Water vole, great crested newt
Woodland	Bats, badgers, birds, dormice
Nature Reserves	Preliminary ecological appraisal; Protected species surveys as necessary
Mines / caves / cellars	Bats
Quarries	Preliminary ecological appraisal; Protected species surveys as necessary including reptiles, bats, great crested newts.
Sites known to have protected species	Any protected species identified as present
Barn / building conversion*	Bats, barn owl, nesting birds
Loft conversion / roof-light installation / re-roofing	Bats, nesting birds such as swifts and house martins
Hedgerow, tree line or scrub removal	Hedgerow survey Bats, dormice, great crested newt, badger, nesting birds
Habitat creation / enhancement	Preliminary ecological appraisal; Protected species surveys as necessary
Road construction	Preliminary ecological appraisal; Protected species surveys as necessary
Coastal development	Preliminary ecological appraisal; Protected species surveys as necessary

(based on BBNP Biodiversity and Development SPG, May 2016)

**Who can carry out a survey?**

Applicants should appoint an ecological consultant with sufficient expertise and qualifications to undertake the assessment of the site. Developers and appointed consultants should note that the LPA will only accept surveys carried out by surveyors who hold a valid NRW license for the species affected. Natural England licenses are not valid in Wales.

There are a number of professional bodies that ecological consultants may be a member of such as the Chartered Institute of Ecology and Environmental Management (CIEEM). Surveys carried out by people who are not members of these professional bodies will not be accepted by the LPA.

Information on how to find and engage an ecological consultant is provided by NRW and CIEEM. Please see Appendix 2.

### **What kind of survey is required?**

There are a number of different types of ecological survey:

A Preliminary Ecological Appraisal (also known as an Extended Phase I Habitat Survey) is an initial assessment of the habitats present at the site, records of any species present at the time and an assessment for the potential for presence of other species. The appraisal should assess the potential impacts of the development and make recommendations for further surveys if they are necessary. CIEEM issued Guidelines for Preliminary Ecology Appraisal in 2017; the LPA will expect applicants and their ecological consultants to adhere to the best practice principles in this guidance.

Where a preliminary survey identifies evidence of, or the potential for, protected species to be present, additional surveys are likely to be required (see below).

Surveying for European Protected Species (EPS) EPS include bats, great crested newts, otters and (hazel) dormouse that are frequently found in Powys. If a proposal is close to or likely to affect habitat known to be, or potentially, used by EPS then survey information must **always** be provided up-front as part of a planning application. A planning application which could impact on these species cannot be determined until the developer provides all the necessary information to inform the Favourable Conservation Status (FCS) test. This is an assessment of whether the development proposal would pose a risk to maintaining the particular species FCS. The survey, survey report and mitigation proposals must always be undertaken and prepared by a licenced surveyor (survey licences are issued NRW).

Consideration of the impact the proposal is likely to have on EPS **must** be given as part of the planning application.

If the survey shows that EPS are present and likely to be impacted by the proposals, the developer will need to provide details of appropriate mitigation measures. The mitigation proposals will depend on the results of the survey and the licenced surveyor can provide advice on those most appropriate. For bats this may involve incorporating a bat roost within the building; erecting bat boxes; or hedgerow planting.

Details of these proposed mitigation measures will then need to be clearly shown on any submitted plans/drawings and the applicant will need to ensure that they match the requirements identified within the Survey Report (See below).

The LPA will then assess the information submitted against the requirements of the Habitat Regulations (see Section 4.2). If EPS presence has been ascertained, and disturbance or damage to their habitat or resting place cannot be avoided and planning permission is granted, the developer will then need to apply for a EPS development licence ('Derogation') from NRW.

Before planning permission is granted, the LPA needs to address three tests of derogation during its decision on the application:

- there is 'no satisfactory alternative';
- it is 'not detrimental to the maintenance of the populations of the species concerned at favourable conservation status in their natural range';
- it is 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'

To enable the LPA to do this, these issues must be addressed in the biodiversity survey/s and assessment report that's submitted with the planning application, and where appropriate information and/or mitigation provided on the plans.

Once the application is received the LPA may consult NRW to make sure that the approach detailed in the report is sufficient. If planning permission is then granted, conditions will be attached ensuring that the agreed approach is followed.

Surveying for Barn owls The Wildlife and Countryside Act 1981 protects all birds, their nests and eggs. Barn owls are listed on 'Schedule 1' of the Wildlife and Countryside Act, which gives them special protection, making it an offence to disturb them while it is building a nest or is in, on, or near a nest containing eggs or young; or disturb dependent young of such a bird.

Before any work commences applicants need to check for signs of barn owl presence in or near the property – they may be roosting or nesting. If barn owls are found, compensation proposals may include providing nest boxes in, on or near the building (or tree or structure). Any proposals which may affect barn owls should also take into account factors such as lighting and proximity of suitable habitat.

Surveying for Nesting birds The Wildlife and Countryside Act 1981 (as amended) protects all wild birds from being killed, injured or taken. This protection also extends to birds' eggs, young and nests (whilst in use). Bird species such as starlings, house martins, house sparrows, swallows and swifts all use buildings to nest in/on. Areas of dense vegetation (e.g. hedgerows, or long-derelict land) are also important for other nesting birds. Works which might affect nesting birds should avoid the bird breeding season, which is considered to be March to August inclusive.

Additional survey effort should follow the latest best practice guidance for the species concerned.

Surveying for Bats The Bat Conservation Trust’s Bat Surveys for Professional Ecologists Good Practice Guidelines (3rd Edition 2016) provides guidance on designing and undertaking surveys; the Powys LPA will expect bat survey reports that are submitted in support of planning applications to comply with these guidelines. The results of **Bat Activity Surveys** are required to ascertain the bat species present, the numbers of bats and type of roost and also where they are gaining access to the structure. These surveys can only be undertaken at a time of year when bats are active.

Applicants for smaller developments that affect roofs or other features that may support bat roosts can be asked to submit a **Bat Scoping Survey**. This is a full visual assessment of the site or structure(s) by a suitably qualified and/or experienced individual to survey for evidence of bats or potential for presence. If evidence of (bat droppings or even live bats) or potential for presence is found, bat activity surveys will need to be undertaken at an appropriate time of year.

Consultants should note that it is considered good practice for survey data (such as habitats, species and their numbers recorded) to be passed onto BIS. See Appendix 2 for contact details.

**When can surveys be carried out?**

It is important that the need for ecological surveys is identified as early as possible as there are constraints on when certain surveys can be done. A Preliminary Ecological Appraisal can usually be done throughout the year although if undertaken in the winter months, some species may be missed. Applicants and their ecological consultants should refer to best-practice guidance when designing or commissioning surveys; the following table provides general guidance on when surveys can be undertaken:

**Table 3: Seasonal Timetable for Biodiversity/Ecological Surveys**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Badgers												
Bats – Preliminary Roost Assessment												
Bats (Hibernation Roosts)												
Bats (Summer Roosts)												
Bats (Foraging/ Commuting)												
Birds (Breeding) including barn owls												
Birds (Over-wintering)												
Birds (Migrant Species)												
Dormouse												
Great crested newts (Terrestrial)												

Great crested newts (Aquatic)												
Invertebrates												
Otters												
Reptiles												
Water voles												
White-clawed crayfish												
Habitats/ Vegetation												

**Optimal Survey Time**      **Sub-optimal Survey Time**

**What should an Ecological Survey Report contain?**

Once survey work has been completed the results need to be presented in an ecological report. All submitted ecological reports must provide sufficient information for the Council to fully consider the impacts of a proposed development. A report must therefore address two requirements:

1. Assessment of the site through ecological survey/s and assessment of ecological impacts
2. Measures to avoid, mitigate, compensate, enhance and manage wildlife features

The following structure provides guidance on the type of information required in ecological reports:

**Table 4: Typical Structure and Content for Ecological Reports**

	<i>Information to include:</i>
Executive summary	<ul style="list-style-type: none"> <li>• Reason for the report</li> <li>• Essential evidence, such as status of bat roosts identified</li> <li>• Outline of recommendations, including any further surveys required</li> <li>• NRW Standard Summary Sheet</li> </ul>
Introduction and background	<ul style="list-style-type: none"> <li>• Surveyors and qualifications</li> <li>• Site location (map)</li> <li>• Photographs</li> </ul>
Methodology	<ul style="list-style-type: none"> <li>• Apply to BIS for Biodiversity Report</li> <li>• Desk study</li> <li>• Field survey types, methods and justification</li> <li>• Constraints</li> </ul>
Results	<ul style="list-style-type: none"> <li>• Weather conditions</li> <li>• Survey results tables</li> </ul>

	<ul style="list-style-type: none"> <li>• Plans to show location of surveyors and results</li> <li>• Any departure from published guidance</li> </ul>
Discussion and analysis	<ul style="list-style-type: none"> <li>• Analysis of the results and particularly how protected species are utilising the site</li> <li>• Assessment of the impact of the development proposals</li> <li>• Consideration of Current Conservation Status (CCS) and Favourable Conservation Status (FCS)</li> </ul>
Conclusions and recommendations	<p>Recommendations for:</p> <ul style="list-style-type: none"> <li>• Mitigation measures</li> <li>• Timing of works</li> <li>• Method Statement</li> <li>• Details of specific enhancement measures</li> <li>• Further survey work</li> <li>• Ecological Compliance Audit</li> <li>• Biosecurity Risk Assessment</li> </ul>

For more details on this subject CIEEM has produced a document entitled Ecological Report Writing.

#### 4.4 Species Licences

A protected species licence gives a person permission to carry out an activity affecting an animal or plant that would otherwise be illegal. Licences are only issued for certain purposes, which are set down in the law, and only where there is a valid justification.

##### Who needs a licence?

Activities that are likely to cause harm or disturbance to a protected species or its habitat as a result of proposed works, must be carried out under a derogation licence issued under Section 55 of the Habitat and Species Regulations 2017 by NRW.

For development, a 'development licence' will often be needed if a protected species will be negatively affected. PPW encourages pre-application discussion between the applicant, LPA and NRW in developments where protected species may be affected.

In some cases appropriate avoidance and mitigation will prevent the need for a licence – work can be managed so that it doesn't cause disturbance or harm. In other cases, mitigation will not remove the need for a licence, but will form part of the licence conditions, as well as being covered by planning condition(s).

Developers need to be aware that mitigation work required as a condition for many development licences may involve a significant lead in time. For example, mitigation habitat for dormouse may take several years to develop and this will require a commitment to ongoing appropriate management before it is suitable for dormouse.

European Protected Species (EPS) If an EPS is likely to be affected by the proposals, the developer will need to apply to NRW for a 'development licence'

before any work on site can begin. The application for a licence must be made by the developer after planning permission has been granted.

It is important to note that planning permission (or a permitted development right) doesn't negate the need for a development licence to be obtained before work starts on site.

Working without a development licence could lead to a wildlife crime being committed and subsequent prosecution.

UK Protected Species NRW issues licences for species protected under the Wildlife and Countryside Act 1981, (for example, water voles). Proposals that result in the damage or destruction of a place used for shelter and protection by water voles, are likely to require displacement of individuals prior to commencements of work. This work is likely to require a conservation licence from NRW.

NRW is also responsible for issuing licences under the Protection of Badgers Act 1992, where the proposed works will result in damage, destruction, obstruction to an active badger sett and/or where works in close proximity of an occupied sett are likely to cause disturbance to badgers.

The consideration and granting of such licences are separate from the process of applying for planning permission, but LPAs must take account of the legislation throughout the development control process.

For more information on protected species and the planning system, see TAN 5 (Section 6 and Annex 7).

#### **4.5 Tree Felling Licences**

Felling of trees may also require a NRW felling licence in accordance with the Forestry Act (1967). For more information on when a license is required refer to the booklet "*Tree Felling: Getting Permission*". To download copies of this booklet please go to the following NRW web page;

<http://naturalresources.wales/media/682351/tree-felling-getting-permission-booklet.pdf>.

#### **4.6 Geodiversity Assessments**

Where it has been identified that geodiversity features may be affected, development proposals on Sites of Special Scientific Interest (SSSIs) that have been designated for their geodiversity interest or on Regionally Important Geodiversity Sites (RIGS) must be accompanied by an assessment of the impacts and an appropriate mitigation strategy.

## 5.0 Biodiversity and Geodiversity in the Planning Process

The Council must consider a range of factors and issues when determining planning applications.

LDP Policies SP7 and DM2 cover the broad consideration of biodiversity and geodiversity interests on development sites and developers must familiarise themselves with these interests. The Royal Town Planning Institute (RTPI) have developed a step-wise approach to help developers adequately consider these interests and incorporate them into their proposals. In doing so it will obviously help biodiversity and geodiversity but is likely to improve the proposal itself and make it easier for decision makers to come to a conclusion.

### RTPI's Step-Wise Approach

- **Identify and safeguard** any existing, or potential, important habitats or species and ecological connectivity.
- **Avoid loss** of any existing or potential important habitats or species; or fragmentation of ecological connectivity.
- **Design** biodiversity into proposals and projects (e.g. landscaping, SuDs, site layout and green infrastructure, living roofs and facades etc).
- **Mitigate** for any unavoidable harm or loss to important habitats or species or the fragmentation of ecological connectivity.
- **Compensate** for any un-mitigatable habitats or species losses that can be justified.
- **Enhance** and increase the biodiversity on the site or off-site, if on-site cannot accommodate such requirements.

The purpose of the step-wise approach is to consider how it can be demonstrated that there will be no unacceptable harm to important habitats and species in the County. Where potential harm is identified, applicants must also make provision for further creation, positive management and enhancement of these habitats as well as appropriate compensatory measures.

### 5.1 Incorporating Biodiversity into Development

Following the step-wise approach from above, this section describes how biodiversity and geodiversity need to be considered at each of the different steps of the planning process.

**Wherever possible, development should avoid impacting on any wildlife feature. If avoidance is not possible, the developer should be able to justify why avoidance of adverse impacts is not possible.**

The developer should show how their proposals have been designed in such a way as to minimise any adverse effects on those habitats or species present, this may involve incorporating appropriate new features or habitats within development. Developers should therefore **consider wildlife at the pre-application stage** - which

will also help to prevent delays that may otherwise be caused by the need for survey work and redesign.

Please note: Where the development may affect an Internationally Designated Site, the developer must show that the proposals will have no adverse impacts on the features of the site (see Sections 4.1 and 4.2).

### **5.1.1 The Pre-Application Stage**

**The potential for wildlife features to be affected by a development must be considered at the first stage of any proposal. Failure to do so may prevent a planning application from being validated or lead to delays in the planning process or refusal.**

#### Pre-application discussions

The Council welcomes early discussion of biodiversity or ecological issues at the pre-application stage, as recommended by national policy (PPW). Pre-application discussions with statutory consultees such as the NRW are recommended, in addition to non-statutory consultees such as the Wildlife Trusts and RSPB if appropriate. The NRW has a regulatory function with regards to the water environment. Section 3.1 of the NRW document 'Guide for Developers', gives details of consents and permissions which developers may need to obtain from NRW.

Under Schedule 1C of Article 2D of the Development Management Procedure (Wales) Order (2012), pre-application enquiries for major developments are required to consult with NRW.

Where it is suspected that a site has deliberately been cleared of its habitats and features prior to pre-application discussions, survey work, or a planning application, the LPA may refer the facts to the relevant enforcing authority where applicable.

If protected species or sites are known to be present at the affected location and a criminal offence is suspected under current wildlife protection legislation (refer to Appendix 3) the LPA and or NRW will report the incident to the police and support them in their investigations.

#### Survey

Where there is a reasonable likelihood for a development to impact on a **designated site** or **protected/priority habitat or species**, developers will need to carry out specific ecological biodiversity surveys. Please refer to section 4.3

Up-front survey work, including applying for a Biodiversity Report from BIS, will demonstrate a professional approach to your planning application and will enable your design work to fully take account of constraints and opportunities on-site. Developers should also be aware of the **seasonal** nature of ecological surveying (see Table 3), this should help to minimise delays in the application process.

#### Exceptions to survey work and additional surveys

In some cases there may not be a reasonable likelihood of a wildlife feature being affected by development. In these cases survey work won't be needed. Developers should also be aware that additional information may be requested - the local planning authority can direct the applicant to supply any further information reasonably necessary to determine any planning application.

### 5.1.2 The Design Stage

It is important that the findings of any survey work are taken into careful consideration during the design stage. Good survey work will give you the details of both constraints and opportunities on your site and allow you to... **Avoid, Mitigate, Compensate, Enhance and Manage**

**Ecological connectivity** is a key theme when incorporating wildlife features into development proposals. Certain habitats provide corridors or stepping stones across the landscape, such as hedgerows or networks of ponds. For example, designing a scheme around an existing pond would not be sufficient if that pond is then completely isolated from nearby terrestrial and wetland habitats. Ecological connectivity allows species to forage, migrate, colonise new areas and respond to habitat and climate change. Connectivity is an essential factor in securing ecosystem resilience. See also sections 5.5 and 5.6.

#### Avoid

The primary objective should be to **avoid** negative impacts by designing the site around the wildlife features. For example, if the development site includes a watercourse or existing hedgerow try to incorporate it into the layout.

#### Mitigate

Where avoidance is not at all possible then the design should aim to **mitigate** any negative impacts. Applicants should ensure that they take account of all the potential effects of a development and make sure that avoidance and mitigation are appropriate to the situation.

All stages and processes of the development should be considered - the land take for construction is often larger than that shown on the application form or after works are completed.

Impacts can also extend beyond the site boundary in unexpected ways such as light pollution or disturbance from domestic pets. Relatively small developments can also have larger impacts on the wider landscape, for example, removing a hedgerow or line of trees could break up a bat feeding route, negatively affecting a breeding colony some distance from the development site.

Very occasionally, translocation of a certain species, habitat or feature can be considered when no other options exist, moving it to another part of the development site or to a receptor site in another area. However where hedgerows are concerned translocation is preferred to hedgerow removal and replanting where possible as this retains the original hedgerow's species mix and provenance and will function as a hedgerow sooner than a newly planted one.

### Compensate

In some cases it isn't possible to avoid or mitigate for certain wildlife features on a site. In these instances either on or off-site **compensation** is required. Compensation either restores or recreates the wildlife feature damaged by a development, including elsewhere, ensuring no net loss. It should be noted that some habitats and features, such as ancient woodland, cannot be compensated for.

It takes time for new habitats and features such as hedgerows and ponds to establish and become functional and there is no certainty that it will ever achieve the nature conservation value of the original. Compensation will not therefore be regarded as an alternative to avoidance or mitigation and where a habitat or feature is unavoidably damaged or lost to development a replacement ratio that delivers a greater quantity of the replacement may be required.

Compensation does not necessarily need to be like for like replacement as the post-development site may not be appropriate for the habitat type. In these cases the replacement ratio may need to be much greater than 1:1.5 so as to guarantee net biodiversity gain and this will be discussed with the LPA on a case by case basis.

Proposals resorting to compensatory measures must demonstrate why avoidance or mitigation is not achievable and may need to establish compensatory features before development itself begins.

### Enhance

PPW requires the planning system to promote approaches to development which create new opportunities to **enhance** biodiversity. The local authority also has a statutory duty under Section 6 of the Environment (Wales) Act 2016 to promote and enhance biodiversity. One of the primary ways the Council can achieve this duty is through encouraging action by others.

Enhancement of biodiversity should be a goal for all planning applications. Enhancement is additional to any mitigation or compensation measures required as a result of the impact of the development. Enhancement that contributes to the objectives set by Powys LBAP and NRAP are welcomed.

The ways in which enhancement can be achieved will vary from site to site and in scale. As such it will be considered on a case by case basis by the LPA. Examples of how enhancement could be achieved are:-

- bird boxes for protected or priority species such as barn owls, swifts or house sparrows;
- provision for bats, such as open soffit boxes or access to loft spaces;
- a reptile and amphibian hibernaculum;
- planting of a native species hedgerow or landscaped area;
- choosing native flower species to encourage butterflies and bees;
- incorporating access points in gardens for small animals such as hedgehogs
- creation of a wildlife pond and scrapes;
- establishment of a meadow area;
- incorporating the needs of wildflowers in any grass cutting or other management regime

- improving a waterways and its banks;
- planting a native woodland area or copse
- creation of connecting green infrastructure, wildlife corridors or linear features for wildlife movement;
- creation of otter holts;
- creation of buffer zones along watercourses planted with native species of local provenance;
- naturalising or restoring watercourses and opening up culverts

### Manage

On sites where wildlife features are retained or new habitats and features are created, appropriate ongoing **management** must be put in place to ensure long lasting benefits. Management needs will vary from site to site, in some cases a habitat will largely manage itself if the initial design was appropriate. However, for the majority of sites there may be a need for specific management regimes.

In these cases a **management** plan will need to be produced and submitted as part of the ecological report. As a minimum, a management plan should cover at least the five years following completion of a development and ideally plan for longer term management and maintenance. Where compensation is required, 21 to 25 years represents the minimum duration.

Criteria should be included in the management plan to measure success, such as a population of an indicator species reaching a certain size. It should identify specific actions required for good management and include phasing where necessary. The organisation and personnel responsible for implementing the plan also needs to be identified. This will be undertaken by a suitably qualified ecologist who will be required to liaise with Powys County Council's Ecology Officer and submit relevant monitoring information.

### Design and Access Statement

For those development proposals where Design and Access Statements are required, the developer should provide a summary within their Design and Access Statement which explains how they have addressed the impact of their proposals on any wildlife features and show how they aim to enhance biodiversity.

### **Figure 1: Illustrated Example of Development Proposal Incorporating Biodiversity** *(to follow)*

To follow

### **5.1.3 The Application Stage**

**By the time a planning application is ready for submission the wildlife features present on site should have been fully considered. In those cases where survey work is required, an Ecological Report should be submitted along with the application. The Council will then assess the information submitted against the relevant legislation and policy as part of the planning application process.**

If permission is granted, conditions are likely to be attached to the consent. These might include restrictions on certain operations to particular times of year, good practice during construction or appropriate future management and maintenance.

### **5.2 Incorporating Biodiversity into a Domestic Application**

**Domestic or householder applicants should use the following section to check whether they will need to submit any ecological information with their planning application.**

If you are a domestic applicant you will need to consider: **Bats, nesting birds, great crested newts** and very rarely **otters, dormouse** and **barn owls**. Bats and nesting birds (especially starlings, house sparrows, swallows, swifts and house martins) and barn owls, are all species which regularly use buildings to nest or 'roost' in. Great crested newts are often found in garden ponds, cellars, canals and ditches.

Prior to any works and submission of a planning application it is advised that applicants check for signs of these species (more information about how to look for these species can be found in section 4.3 and the links to national and Welsh Government websites in Appendix 2). If any of these species are found then it will, in most cases, be necessary to accommodate the needs of the species concerned within your development proposal. (NB remember it is an offence to knowingly harm or disturb these species, and accommodating them within your proposal need not be expensive.)

Domestic applicants should refer to Table 2 and use column 1 'Development Site Type' to select the type(s) of work relevant to the application (if any). The column on the right will then indicate whether survey work is likely to be required and for what species.

If applicants do need to carry out surveys please refer to section 4.3 for more information. Powys County Council encourages pre-application discussion on all applications.

As a Domestic applicant, the ecological issues most likely to be encountered are outlined below. Applicants should note, however, that this is not an exhaustive list and cannot account for all ecological issues or domestic applications. Please contact the LPA if you have any queries.

#### **5.2.1 Bats**

Bats are an EPS (refer to section 4.4 above) and roost and/or breed in trees, caves and buildings, including underground structures such as cellars and tunnels. Within buildings they are most commonly encountered in rooves (e.g. under slates or roofing felt) or roof spaces (e.g. the attic itself). They usually have regularly used entrance and exit points. Their use of a particular building or tree may change quite suddenly so their physical absence at any one time is not necessarily evidence that they do not use the building or tree. Other signs such as droppings or insect remains will need to be looked for by a licenced surveyor. Further advice on bats can be found in the BCT leaflets 'Bats and buildings' (2012), 'Bats and Lighting in the UK' (2009) and 'Bats and trees' (2010).

#### **5.2.2 Nesting birds**

All wild birds are protected by the Wildlife and Countryside Act 1981 from being killed, injured or taken. This protection also includes bird's eggs, and young. Wild bird nests are also protected from damage or destruction, whilst in use. The species that use a building itself and are most commonly encountered by householders, include; house sparrow, starling, swallows, house martins and swift. Many other species use gardens and areas around dwellings and so can be effected by development proposals.

#### **5.2.3 Great crested newts**

Great crested newts are an EPS and can be found in ponds, canals and ditches and sometimes even cellars. If a planning application is likely to directly impact on a pond, canal, ditch or cellar a great crested newt survey may be required.

#### **5.2.4 Otters**

Otters are an EPS and can be found in many rivers, streams and lakes in Powys. However their distribution is not limited to aquatic environments, with many individuals travelling overland between waterways. Evidence of their presence can be found by licenced surveyors.

### **5.2.5 Dormouse**

The dormouse encountered in Powys is also known as the hazel dormouse. This is an EPS and is typically found in woodland or extensive, mature hedgerows. However they have also been found in some much less typical situations in Powys so it is particularly important that signs for this species are looked for by a competent and licenced surveyor, wherever woodlands or any hedges in areas known to support dormice, are close to or likely to be impacted by a development proposal.

### **5.2.6 Barn owls**

These birds are usually found nesting or roosting in derelict rural buildings but are also found in trees, particularly older ones, including ones in or near to more rural gardens

### **5.2.7 Designated Sites**

Domestic applicants should also check whether their application is within or near to a designated site (see LDP Interactive Maps (currently in preparation)). Further survey information may be required if an application is likely to impact upon a designated site.

### **5.2.8 Enhancing Biodiversity**

Domestic applicants can easily provide new opportunities for wildlife. This may include:

- providing bird boxes, bird feeders and bird baths in the garden
- incorporating bat bricks, swift nesting bricks or sparrow terraces in the fabric of the building
- landscaping a garden to include native hedgerows, trees and wildflower areas that are good for butterflies or bees
- erecting bat boxes or even a barn owl box
- making sure that hedgehogs can enter the garden via multiple entry points
- creating a pond or bog garden
- creating a log pile or rock pile

Further advice can be sought from the Wildlife Trusts or the Internet.

## **5.3 Permitted Development and Listed Buildings**

### **General Permitted Development Orders (GPDO)**

Permitted development does not negate the need to comply with wildlife legislation and therefore, although a planning application may not be required, ecological advice, surveys and licences may still be required.

### **GPDO and SACs/SPAs/Ramsar Sites**

Regulation 73 of the Habitats Regulations imposes a condition on all development permitted under the GPDO to ensure that it is not in breach of the terms of the

Habitats Directive. More information on permitted development and Protected Sites can be found in TAN 5.

### **GPDO and EIA**

If the LPA considers that the, otherwise permitted, development is an EIA Development, then it will require a full planning application, including an Environmental Statement and will no longer be considered permitted development.

### **GPDO and Protected and Priority Species**

Certain works under the GPDO may have an impact on protected and priority species. Of particular impact may be works affecting or close to roofs, blocking eaves, clearing scrub, integrated PV solar etc. Developers must take full responsibility for ensuring they comply with wildlife legislation and get advice and licenses where needed from NRW. Where European Protected Species are affected, a full planning application may be required.

### **'Prior notification' for demolition**

Demolition of a building may result in impacts on protected and priority species. Therefore, the LA will require a Biodiversity Survey/s and Assessments where relevant for 'Prior Notification' of demolition applications.

Where European Protected Species are affected and insufficient information is provided with regards to methods of demolition and how protected species will be considered, a full planning application may be required.

### **Listed Building Consent**

Applications for listed building consent may require a Biodiversity Survey. The LPA should be consulted to determine when that is the case. Impacts from works to listed buildings could include closing of gaps for bat access through changes to soffits, works to windows, etc. Disturbing or destroying nesting birds, removal of vegetation used by birds, bats or reptiles, etc.

### **Building Control**

Works which require Building Regulation Approval may require a European Protected Species survey where there may be an impact on those species, e.g. through the use of breathable membrane and external cladding where bats may be present.

## **5.4 Geodiversity and Development Proposals**

Geodiversity is frequently encountered on development sites, and this may often be of significance or worth safeguarding. Development and regeneration proposals should provide protection for important geological sites (SSSI, GCR and RIGS), but also take into account the wider geodiversity of Powys. Proposals should incorporate positive elements that contribute to the enhancement and conservation of this natural heritage.

Important geodiversity sites can represent a range of geological features, including specific time periods (Precambrian, Ordovician, etc.), structural (faults, folds),

mineralogical, active landforms (rivers and landslides) and fossil landforms (glacial features). These sites can be found in quarries (working or disused), road and rail cuttings, natural outcrops (mountain crags, stream sections, etc.), active rivers, landslides etc.

Geodiversity manifests itself in important ways within the built environment with local building stone influencing local character. Using such stone in new developments could be an effective way to show local geodiversity and reinforce the local character. Consideration should also be given to how existing structures that use local stone could best keep this in public view.

Development may offer opportunities to study temporary or permanent geological exposures which reveal geological features not seen previously. These may be road sections, borrow pits or quarries. Developers should make sure that where earthworks are involved in a proposal, such as road cuttings or the restoration and after care of mineral workings or waste sites, any geodiversity encountered should be assessed. The geodiversity importance of new or temporary exposures should be assessed for their scientific interest and if possible conserved to allow future access.

A good example is the design of cuttings in road schemes where early design to maintain the rock exposure rather than rock netting or shotcrete would be a significant enhancement to the geodiversity of Powys.

Other positive measures to enhance the geodiversity can include the promotion of the geodiversity resource. Opportunities can include

- encouraging local community involvement in identifying and developing initiatives
- providing controlled, safe access to sites for educational, interpretation and recreational use
- developing access arrangements to quarries for educational and interpretational use
- off- and on-site interpretation

RIGS groups, the Mid Wales Geology Group, the Geological Society of London, the Geologists Association, and the British Geological Survey will all be interested in any Geodiversity features encountered at a development site.

Geodiversity also has a profound influence on landscape which is the subject of the SPG on Landscape.

## **5.5 Incorporating Resilience into Development Proposals**

For developers and other applicants it is relatively easy to incorporate features into your development proposal or planning application that will, in the long term, improve the resilience of biodiversity within Powys, and in so doing improve your proposal at the same time.

The Environment (Wales) Act emphasises the need for ‘building resilience’. This recognises five attributes (sometimes termed ‘aspects’) as building blocks of resilience which can be summarised as:

- **Diversity:** at different levels and scales, from genes to species and from habitats to landscapes. It supports the complexity of ecosystem functions. If diversity is lost systems may collapse. For example; a forest's resilience to disease may increase with the number of tree species it contains.
- **Extent:** The greater the extent of a habitat or species, the more able it will be to contain the effects of disturbance. For example, a larger area of habitat can support larger populations of species, which will be less likely to go extinct than a smaller one. ... Consequently, the services provided by an ecosystem, such as water purification, flood attenuation or pollination will become more stable and reliable as its size increases.
- **Condition:** concerns how a system is managed, what inputs are applied, what is taken from it, and how it is influenced by the management of the surrounding land. An ecosystem in poor condition will be ‘stressed’ and have reduced capacity to resist, recover or adapt to new disturbances, or to deliver ecosystem goods effectively.
- **Connectivity:** Concerns movement within and between ecosystems. ...the movement of organisms: from foraging or migration of individuals, through dispersal of seeds and genes. Connectivity allows ecosystems to function and recover from disturbance but it is reduced through habitat loss and fragmentation. In certain situations connectivity may have negative aspects, for example, if it facilitates the spread of diseases or INNS (see above). For this reason, plans to enhance connectivity need to be made in an informed and appropriate way.
- **Adaptability:** this differs from the other attributes because it is part of the *definition* of resilience rather than an attribute that *supports* it. However, its inclusion in the Environment (Wales) Act is important because it emphasises one of the most important features of resilience: dynamism and the ability to adapt to change. This is especially relevant to climate change where change is inevitable and we cannot expect to maintain the *status quo*.

If actions are “targeted to these attributes, resilience is likely to be developed or enhanced, and the chances of crossing undesirable thresholds should be reduced.” (page 6, Chapter 4, SoNaRR). However as these attributes are essentially proxies for resilience, resilience is likely to arise from the interplay between these attributes, rather than just one on its own. “This recognition of interconnections makes an approach based on resilience different to the traditional, more reactive responses in the management of natural resources.” (page 7, Chapter 4, SoNaRR,)

The table below provides an indication of how certain, sometimes very simple additions to a development proposal can contribute towards improving the resilience of biodiversity.

**Table 5: Development that Contributes to the Five Attributes of Resilience**

Five Attributes of Resilience	Diversity	Extent	Condition	Connectivity	Adaptability
Actions					
nesting boxes for protected or priority species such as bats, barn owls, swifts or house sparrows	✓	✓	✓		
landscaping a garden with native hedgerows, trees and wildflower areas good for butterflies or bees	✓	✓	✓	✓	
provision for bats, such as open soffit boxes or access to loft spaces	✓	✓	✓		✓
a reptile and amphibian hibernaculum	✓	✓	✓		✓
planting of a native species hedgerow or landscaped area	✓	✓	✓	✓	✓
choosing native flower species to encourage butterflies and bees	✓	✓	✓		✓
creating a log pile or rock pile	✓	✓	✓		✓
incorporating access points in gardens for small animals such as hedgehogs	✓	✓		✓	✓
creation of a wildlife pond and scrapes	✓	✓	✓	✓	✓
establishment of a meadow area	✓	✓		✓	✓
incorporating the needs of wildflowers in any grass cutting or other management regime	✓	✓	✓	✓	✓
improving a waterways and its banks	✓	✓	✓	✓	✓
planting a native woodland area or copse	✓	✓	✓	✓	
creation of connecting green infrastructure, wildlife corridors or linear features for wildlife movement	✓	✓	✓	✓	✓
creation of otter holts	✓	✓			✓
creation of buffer zones along natural watercourses planted with native species of local provenance	✓	✓	✓	✓	✓
naturalising or restoring watercourses and opening up culverts	✓	✓	✓	✓	✓

Principal Impact 

Secondary Impact 

It is worth bearing in mind that, to an extent, any one action above could make a contribution to any one of the five attributes, for instance creating a reptile hibernaculum may contribute towards connectivity depending how close it is to other habitat or perhaps naturally occurring hibernacula. Similarly planting a native woodland area may provide a means for wildlife to adapt if it is sufficiently close to other similar habitat that would allow an organism to migrate in response perhaps to

climate change. So with all of the actions above their impact upon resilience will be affected by their circumstances. What the table therefore demonstrates are the principal, and secondary impacts that these particular actions could be making towards improving the resilience of biodiversity. Any other actions not listed above could be making similar contributions so long as they are principally impacting upon more than one of the five attributes.

## **5.6 Green Infrastructure and Resilience**

Green Infrastructure encompasses whole landscape features such as mountain ranges, but also includes at the local scale, woodlands, fields, parks, allotments, cemeteries, and gardens. Even individual street trees and green roofs all contribute towards green infrastructure. For the purposes of this document the phrase 'Green Infrastructure' will also apply to and include Blue Infrastructure which is a similar term that refers to all of the different types of water-based environment, man-made or natural, so includes any kind of wetland, ponds, lakes, reservoirs, streams, rivers, canals, or tidal waters.

Green Infrastructure presents obvious benefits for biodiversity and the resilience of our ecosystems, chiefly through the roles it plays in ecological services and connectivity, providing corridors and routes for organisms to travel to improve their genetic pool and inhabit new places. This is crucial for adapting to climate change for example.

However the importance of Green Infrastructure goes beyond these environmental interests and lies in its multi-functional ability to provide benefits across a wide range of both social and economic interests, for example in providing places for human relaxation, exercise, or social cohesion, with the associated mental and physical health benefits, as well as tourism and other economic activities.

Whilst Powys clearly has a great deal of green infrastructure it is nonetheless crucial, particularly in urban or built up areas, that development proposals consider the role that they can play in improving it. This could be quite straightforward through the use of native planting schemes and provision of connections with existing areas or green corridors. Finding ways to improve green infrastructure within a development proposal will therefore automatically contribute towards ecological connectivity and the resilience of biodiversity.

Developers may also seek further guidance by checking on the availability of any local Green Infrastructure Assessments that may be available.

Green Infrastructure will also be included within the forthcoming SPG on Landscape.

## **6.0 Other Considerations**

### **6.1 Alien or Invasive Non-native Species (INNS)**

There is a list of approximately 100 species identified in Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) that are non-native (i.e. originating from overseas) and invasive (i.e. they spread very quickly, at the expense of native wildlife). Some of the more well-known species on the list include Japanese Knotweed and Himalayan Balsam and these and many others, including animals, can be found in Powys.

Under Part 14 of the Act it is an offence to release, or allow to escape into the wild any animal which:

- (1) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
- (2) is included in part 1 of schedule 9 to the Wildlife and Countryside Act 1981.

It is an offence to plant or cause to grow in the wild any plant listed in part 2 of schedule 9 to the 1981 Act.

The control and disposal of these species are also covered by the 1981 Act and the Environment Protection Act 1990.

It is the responsibility of the developer and landowner to be aware of their responsibilities towards these species, and to take adequate care to avoid both the introduction and spread of invasive non-native species.

For more help and guidance visit the Non-native Species Secretariat website (see Appendix 2).

NB the UK government carried out in early 2018 a consultation on the enforcement of the EU Invasive Alien Species Regulations. The consultation included the introduction of penalties in England and Wales. Developers are therefore urged to make sure they are familiar with how the enforcement of these regulations may apply to their development proposal.

### **6.2 Water Quality and the Water Framework Directive**

The impact of new development upon water quality is an important consideration that needs to be addressed in planning applications.

Under the EU's Water Framework Directive the quality of both ground and surface water is split into five categories; Bad, Poor, Moderate, Good and High. The

Directive requires these waters to be in an overall 'good' status by 2027, and development proposals that may lead to this status being threatened will be refused.

Linked to the Directive is the creation of River Basin Management Plans (there are two that cover Powys; Severn and Western Wales) that outline the actions being taken to prevent deterioration of water quality, how aquatic habitats and species will be conserved, and how pollutants will be reduced or eliminated..

The River Wye and the River Lugg are both part of the River Wye Special Area of Conservation (SAC) which affords them the highest level of legal protection under international legislation. NRW is the body that is responsible for monitoring the water quality in these rivers, as well as the licencing or permitting that is required for any activities (or 'operations') that may lead to pollution of water courses. This includes any industrial or agricultural activities.

Due to the fact that parts of the River Wye SAC are currently either failing or are in danger of failing to meet the required phosphate targets a multi-agency partnership has drawn up a Nutrient Management Plan (NMP) for the river with the aim of ensuring it complies with the phosphate target. Failure to do so by 2027 could potentially result in a moratorium on development within the catchment until the target is reached.

Certain development proposals such as intensive livestock units can pose a very high risk to water quality so proposers of such developments need to take note of the requirements of the particular process that is involved in determining any applications. See Section 6.5 below.

### **6.3 Air Quality**

Where development proposals (such as quarrying or mineral extraction, road-making etc.) may give rise to air quality issues affecting biodiversity, developers will need to demonstrate in their proposal that they have plans in place to avoid, reduce or eradicate such airborne pollution.

Certain development proposals such as intensive livestock units pose a high risk to air quality so proposers of such developments should see Section 6.5 below for more specific information.

### **6.4 Intensive Livestock Units**

Whilst most agricultural developments and activities fall outside the planning process intensive livestock units will need to satisfy rigorous criteria in order to gain planning permission.

This is because of the high environmental risks they pose through their effects upon both water and air quality (see below). Water quality is affected through, for example, surface water run-off and leaching, arising from poorly sited ranging areas being too near a water course, or poorly designed slurry storage, inadequate planning for extreme weather events such as high rainfall or drought, and inappropriate manure management plans. Air quality is affected via livestock unit ventilation systems and other areas where dust may arise, which can result in atmospheric ammonia and nitrate deposition reaching levels that are unacceptable for nearby biodiversity, causing particular damage to non-vascular organisms such as lichens and algae. If designated sites with features sensitive to air pollution are present within a 5km radius of a proposal, the developer may be required to submit a Simple Calculation of Atmospheric Impact Limits (SCAIL) from Agricultural Sources report to assess the likely impact of the proposal on an SSSI or SAC. For developments within 250m of a designated site, detailed modelling may be required.

In determining applications for intensive livestock units the Council will seek technical advice, in the first instance, from NRW who are the competent authority for determining environmental thresholds and whether any one development proposal may threaten to exceed them either alone or in combination with other projects.

NRW publishes guidance for developers of intensive livestock units (Guidance Note 020; Assessing the impact of ammonia and nitrogen on designated sites from new and expanding intensive livestock units, and \*Guidance Note 021; Poultry Units: planning permission and environmental assessment). Guidance Note 021 contains a development checklist reproduced in Appendix 5. Guidance Note 021 highlights the importance of developers providing enough detailed information for NRW to form an opinion and stresses the need for developers to take into account;

- avoiding locations close to designated sites
- habitats
- protected species
- watercourses
- other locations where it would be difficult to manage run off or leaching.

Failure to provide the information detailed in the checklist, or providing inaccurate or misleading information will only delay determination as more accurate or detailed information is sought.

(\* Guidance Note 021 replaces the Guidance Note cited in the LDP Para 4.2.7 as Quick Guide 9)

## Appendix 1: Glossary

**Appropriate Assessment:** A statutory assessment which is undertaken by a competent authority in respect of plans or projects which are likely to have a significant effect on a Natura 2000 site.

**Biodiversity:** Biodiversity is a term meaning “biological diversity” that describes the number and variety of species of plants and animals and other organisms within a habitat and also the diversity of habitats within an ecosystem.

**Biodiversity Action Plan/Local Biodiversity Action Plan (BAP/LBAP):** The UK’s Biodiversity Action Plan recognises priority habitats and species and plans and works towards their conservation. Local biodiversity action plans are the mechanism for local delivery.

**Biodiversity Information Service for Powys & BBNP (BIS)** is the Local Environmental Record Centre . BIS aims to make information on wildlife habitats & important sites, readily available to ensure that decisions affecting local natural heritage, are made with the best available knowledge.

**Chartered Institute of Ecology and Environmental Management (CIEEM):** CIEEM is the non-profit professional body which represents and supports ecologists and environmental managers in the UK and abroad.

**Connectivity:** The ability of wildlife, plant and animal, to “travel” between and within ecosystems to enable the sustaining of their existence and to avoid the isolation of populations.

**Development Licence:** Term used within this document to refer to a protected species license (European or UK protected species) obtained by a developer for the purposes of undertaking a development. Licenses are obtained from Natural Resources Wales.

**Environmental Impact Assessment (EIA):** An EIA is an assessment undertaken by the developer which will identify the likely effects of new development on the environment

**Environmental Statement (ES):** An ‘environmental statement’ is a document setting out the developer’s assessment of a project’s likely environmental effects (EIA), which is prepared and submitted by the developer in conjunction with the application for consent.

**European Protected Species (EPS):** Species protected by the Conservation of Habitats & Species Regulations 2010 (as amended). They include bats (all species), dormice, great crested newts and otters.

**Favourable Conservation Status (FCS):** The conservation status of natural habitats means the sum of influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as

well as the long-term survival of its typical species within the territory referred to in Article 2 of the Habitat Directive.

It will be seen from this definition that 'Conservation Status' is seen as the result of influences which include the present state of the habitat, together with current environmental and human influences (both positive and negative), that may influence its long-term survival.

conservation status will be taken as 'favourable' when: population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a longterm basis."

**Geodiversity:** Geodiversity is the variety of rocks, minerals, fossils, landforms, sediments and soils, together with the natural processes which form, alter and shape them.

**Green Infrastructure:** Green and blue (i.e. water-based) natural and semi-natural spaces in and around towns and villages. Component elements include parks, private gardens, agricultural fields, hedges, trees, woodland, green roofs, green walls, canals, rivers and ponds. The term covers all land containing these features, regardless of ownership, condition or size.

**Habitat:** The place in which a particular plant or animal lives. Often used to refer to major assemblages of plants and animals together and the type of site where an organism or population naturally occurs.

**Habitat Regulations Assessment (HRA):** An assessment undertaken by a competent authority where a development proposal (alone or in combination with another plan or project) is likely to have a significant effect on a Natura 2000 site.

**Intensive Livestock Units:** Agricultural units where livestock is permanently (generally) housed inside sheds at significantly higher numbers than would be normal in local traditional agricultural practices, for examples, pigs or poultry.

**Invasive Non-Native Species (INNS):** species of plants or animals that have originated from other parts of the world and that when introduced to this country, either deliberately or accidentally, grow or spread with little or none of the usual checks and balances (such as competition or natural predators or diseases, etc.) that native species are subject to.

**Local Biodiversity Action Plan:** see Biodiversity Action Plan.

**Local Development Plan (LDP):** LDPs contain policies that are used in the assessment of all planning applications that come before the LPA (the Council) and guide the new development that is likely to take place in the County up until 2026.

**Local Nature Reserve:** Non-statutory sites of local significance that are designated by the local authority to offer protection for, and encourage public engagement with, wildlife.

**Local Planning Authority:** A local planning authority (LPA) is responsible for determining planning applications. An LPA is usually the city or borough council.

**Local Wildlife Sites (LWS):** In Powys LWS are SINC's (see below) for which a management agreement has been drawn up between the landowner and the Wildlife Trust or Local Authority. They are a material consideration in the planning process.

**Mitigation:** The term mitigation in the document refers to action taken which offsets and minimises potential impacts on any wildlife features.

**National Nature Reserve (NNR):** An NNR is an area which is among the best examples of a particular habitat. NNRs are of national importance. They are in many cases owned and managed by the statutory All of the reserves are also Sites of Special Scientific Interest and may be used for educational projects, research and management trials.

**Natura 2000 site:** Sites protected under the Conservation of Habitats & Species Regulations 2017, including Special Areas of Conservation, Special Protection Areas and Ramsar sites.

**Natural Resources Wales (NRW):** NRW is the Government's statutory advisor on sustaining natural beauty and providing wildlife guidance on environmental planning and regulatory issues, which includes foul drainage, pollution prevention, waste management, biodiversity and protected species.

**Planning Policy Wales (PPW):** Current land use planning policy is contained in 'Planning Policy Wales' which provides the strategic policy framework for the effective preparation of local planning authorities' development.

**Powys Nature Partnership:** is a group of organisations and individuals who work together to conserve Powys' wildlife for the future. Their aims are as set out in the Powys Local Biodiversity Action Plan (LBAP). The Partnership includes the Wildlife Trusts, Powys County Council, NRW and Brecon Beacons National Park Authority.

**Powys Nature Recovery Action Plan:** (see **Nature Recovery Action Plan** above)

**Ramsar Site:** Sites designated under the Ramsar Convention (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations (1994)), to protect wetlands that are of international importance, particularly as waterfowl habitats. WAG policy is that such sites should be treated as if they are European designated sites (i.e. Conservation (Natural Habitats &c) Regulations (1994) apply).

**Regionally Important Geodiversity Sites (RIGS):** Sites designated locally for geodiversity purposes and protected by the planning system. They can be designated for their value for educational, scientific, historical or aesthetic qualities.

**Resilience:** The capacity of ecosystems to deal with disturbances, either by resisting them, recovering from them, or adapting to them, whilst retaining their ability to function, deliver ecological services and benefits, now and in the future.

**Road Verge Nature Reserve (RVNR):** A local site designation which are lengths of road verge that have been identified as having particular value to wildlife, plant and animal species, and managed with the aim of conserving and enhancing those features of interest.

**Royal Society for the Protection of Birds (RSPB):** The RSPB is a charitable organisation which works to promote conservation and protection of birds and the wider environment. The RSPB is a non-statutory consultee in the development management process who deal primarily with applications relating to birds (or sites which are important for birds).

**Section 6 Duty:** A duty placed on LPAs under the Environment (Wales) Act 2016 to seek to maintain and enhance biodiversity in the exercise of their functions, in order to promote the resilience of ecosystems, with particular regard to diversity, connectivity between and within ecosystems and their scale, condition and adaptability.

**Section 42 'Important (priority) habitats and species':** These habitats and species have been identified by the Welsh Government to be of principal importance for nature conservation in Wales. These are currently listed in Section 42 of the Natural Environment and Rural Communities Act 2006; this will be revised and replaced by **Section 7** of the Environment (Wales) Act 2016.

**Site of Interest for Nature Conservation (SINC):** Along with biological SSSIs, SINC are the most important places for wildlife in the county. They have significant nature conservation value and are designated to seek to ensure, in the public interest, the conservation, maintenance and enhancement of species and habitats of significant nature conservation value. They are a material consideration in the planning process.

**Site of Special Scientific Interest (SSSI):** A site identified under the Wildlife and Countryside Act 1981 as an area of special interest for wildlife or geological features.

**Special Area of Conservation (SAC):** A site designated under the European Community Habitats Directive (enacted in the UK through the Conservation of Habitats & Species Regulations 2010 (as amended) to protect internationally important natural habitats and species.

**Special Protection Areas (SPA):** Sites classified under the European Community Directive on Wild Birds (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations 1994), to protect internationally important bird species.

**Sustainable Management of Natural Resources (SMNR):** Using natural resources in a way and at a rate that maintains and enhances the resilience of ecosystems and the benefits they provide, in doing so, meet the needs of current generations without

compromising the ability of future generations to meet their needs. Also referred to as sustainable management.

**Technical Advice Note 5 (TAN 5):** TAN 5 provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geodiversity conservation.

**UK Biodiversity Action Plan (UK BAP):** The UK BAP is the UK Government's response to the Convention on Biological Diversity 1993. The UK BAP describes the biological resources of the UK and provides detailed plans for conservation of these resources.

**Wildlife Feature:** A wildlife feature is a term used in this document to refer to features found within or nearby a development site which are of wildlife value.

**Wildlife Trust:** The Wildlife Trusts are a movement of independent, local, nature conservation charities. Powys is covered by three Wildlife Trusts; Montgomeryshire Wildlife Trust, Radnorshire Wildlife Trust and Wildlife Trust for South & West Wales. They own and manage nature reserves and also carry out projects in the wider countryside, which includes SINC's and LWS (see separate entries).

## **Appendix 2: Contacts, Websites and Documents**

To follow

## **Appendix 3; Biodiversity and Geodiversity in Planning – the Legislative & Policy Context**

The key legislation under which the Council carries out its responsibilities as Local Planning Authority (LPA) in respect of biodiversity and geodiversity issues is as follows.

### **International and European Obligations**

Many of the actions to protect Biodiversity taken in the UK are a direct result of international obligations which the UK has subscribed to either in its own right or as a result of being in the European Union. International obligations range from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)(as implemented by EU Regulations), the Convention on Biological Diversity (CBD), and areas where the UK has traditionally played a prominent role such as the (Bonn) Convention on the Conservation of Migratory Species of Wild Animals, the Bern Convention on the Conservation of European Wildlife and Natural Habitats, and the Ramsar Convention on Wetlands of International Importance.

Key EU Legislation concerning Biodiversity, such as the EU Habitats Directive, the Birds Directive, and the Water Framework Directive have been transcribed in to UK law and so are treated below. How the UK government enforces the EU's Alien Invasive Species Regulations has yet to be determined.

Whilst international conventions and treaties do not apply to individuals themselves, they do place an expectation upon the UK government to ensure they are adhered to via UK and or Welsh Government legislation. This is particularly true for the EU Directives, which have been transcribed into UK law so the measures contained within them will still apply whether the UK is in Europe or outside of it.

### **UK Legislation**

The **Conservation of Habitats & Species Regulations 2017** (also known as the **Habitats Regulations**) and the **Wildlife and Countryside Act 1981 (as amended)** afford protection to a number of sites within the County. The Habitats Regulations also cover the planned provision and management of stepping stone and linear habitats, and the prevention of incidental capture and killing of European Protected Species (EPS). These **statutorily designated** sites include Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs). The Wildlife and Countryside Act 1981 also places a duty on Local Authorities [through the proper exercise of their functions] to further the conservation and enhancement of SSSIs.

In addition to designated sites, certain species of wildlife are also afforded specific protection. EPS are listed in Schedule 2 (animals) and Schedule 5 (plants) of the Conservation of Habitats & Species Regulations 2017; species which are protected by UK law are listed in the Wildlife and Countryside Act 1981 (as amended). Developers must ensure they understand and comply with this legislation, including

that afforded to wild birds and their habitats. The Wildlife and Countryside Act also prevents destruction of or disturbance to nesting birds, their nests, eggs and young; it is advisable to avoid works to vegetation during the nesting season, generally taken to be March through to August inclusive.

**The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.** These regulations transpose the EU's Water Framework Directive into UK law. As such it places a general duty on Welsh Ministers and NRW to exercise their 'relevant functions' so as to secure compliance with the Water Framework Directive (WFD). The Welsh Ministers, NRW, and other public bodies have a specific duty to have regard to the relevant River Basin Management Plan and any supplementary plans made under it, in exercising their functions. More information on the WFD and River Basin Management Plans can be found in section 6.2.

**National Parks and Access to the Countryside Act 1949.** Section 21 concerns the designation of Local Nature Reserves by Local Authorities.

The **Protection of Badgers Act (1992)** protects badgers and their setts. It is illegal to wilfully kill or injure badgers, to damage or destroy their setts or to disturb badgers when they are in their setts.

The **Hedgerow Regulations (1997)** classifies and protects certain hedgerows.

**The Countryside and Rights of Way Act (2000).** This strengthens the protection of Sites of Special Scientific Interest (SSSIs) and amends the Wildlife and Countryside Act with regard to certain protected species.

**The Natural Environment and Rural Communities Act (2006)** Key provisions within this piece of legislation have now largely been superseded by the Environment (Wales) Act (2016) (see below) however developers should be aware of the implications of this legislation as it applies to their proposal.

## Welsh Legislation

Within Wales the single most important piece of legislation is the **Well-being of Future Generations Act 2015** due to the influence it has on every aspect of governance including at the local authority level and for the biodiversity and geodiversity topic area itself. The Act requires the delivery of seven goals of sustainability, of which 'A Prosperous Wales', 'A Resilient Wales' and 'A Globally Responsible Wales', as well as 'A Healthier Wales' specifically relate to the area of Planning and the interests of biodiversity. These goals need to be delivered by public bodies such as Local Planning Authorities working with five considerations in mind. These are presented below along with the relationship they have to LPAs and developers alike.

### Table 6: Five Ways of Working towards Well-being of Future Generations

Five ways of working	What they mean	Their relationship with Biodiversity/Geodiversity and Development
Think Long term	The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.	The shorter term need for, for example, housing or employment, or financial profit, has to be balanced against the need to ensure that other longer term interests, such as biodiversity and geodiversity, are adequately safeguarded (particularly when they are harder to quantify financially).
Prevention	Acting to prevent problems occurring or getting worse	Problems such as the decline in biodiversity will have to be acted upon by the local authority, which will need development proposals to help biodiversity as much as they possibly can.
Integration	Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.	Requires the local authority to think in a joined-up way, to try to ensure that everything it does supports as many of its own and national objectives as possible. This includes seeking as many 'wins' as possible from development and land-use. Whereas one 'win' may be the new dwelling, other 'wins' would include enhancing biodiversity within that development.
Collaboration	Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.	The local authority needs to work closely and collaboratively with other agencies or parties, which includes developers.
Involvement	The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.	Stressing the importance of information to enable interested parties to come to informed decisions about planning proposals.

The Well-being of Future Generations Act also presents a Sustainable Development principle which local authorities must act in accordance with, and in so doing “act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs”. When considering development proposals the LPA must therefore seek to ensure

protection and where possible enhancement of biodiversity and geodiversity in line with this principle of Sustainable Development.

**The Planning (Wales) Act 2015.** This Act introduced a statutory purpose for the planning system; Any statutory body carrying out a planning function must exercise its functions in accordance with the principles of sustainable development as defined in the Well-being of Future Generations Act. The planning system is therefore necessary and central to achieving sustainable development in Wales.

**Environment (Wales) Act 2016** The Environment (Wales) Act 2016 introduces a number of important duties for different aspects of the public sector in Wales as well as the requirement to 'build resilience' within natural resources (including geological/geomorphological features and soils) and biodiversity.

The Act introduced an enhanced biodiversity and resilience of ecosystems duty (known as the Section 6 Duty). This duty applies to public authorities, including local planning authorities. Section 6 of the Act replaces Section 40 of the Natural Environment and Rural Communities Act 2006. As such it requires LPAs to seek to maintain and enhance biodiversity in the exercise of their functions, in order to promote the resilience of ecosystems, with particular regard to diversity, connectivity between and within ecosystems and their scale, condition and adaptability.

Section 7 places a duty on Welsh Ministers to publish national lists of species and habitats of principal importance for maintaining and enhancing biodiversity in Wales.

Section 8 of the Act introduces a duty for NRW to prepare and publish a State of Natural Resources Report (SoNaRR, see below), and Section 9 introduces a duty for NRW to prepare, publish and implement a national Natural Resources Policy (see below).

The Act also requires NRW to prepare and publish **Area Statements** under Section 11, in order to implement the Natural Resources Policy as a whole. For each area of Wales that Area Statements cover they will describe the natural resources that are to be found, the benefits that they provide and the priorities, risks and opportunities to be addressed for the sustainable management of those natural resources. The mid-Wales Area Statement, currently in preparation, includes Powys and Ceredigion.

The Act also introduces the phrase 'sustainable management of natural resources' (SMNR), which includes biodiversity and geodiversity, and places a responsibility upon NRW to pursue SMNR in order to promote the objective of sustainable development and achieve the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015.

These particular responsibilities and duties all have a direct relevance to development proposals. Section 6 in particular requires LPAs to have regard to the Section 7 lists, SoNaRR report and relevant Area Statements.

The **Town and Country Planning (Environmental Impact Assessment)(Wales) Regulations (2017)**. This requires certain types of development project (see Schedules 1 and 2 of the regulations) to be subject to an assessment of their environmental impact before planning permission can be granted. Refer to section 4.1 for more detail on Environmental Impact Assessment.

## National Policy

**Planning Policy Wales (PPW)** This national Policy document places a strong focus on 'Placemaking' throughout in order to make sure it fits into and supports the Well-being of Future Generations Act. It also presents as a starting point, five key Planning Principles;

1. To facilitate the right development in the right place.
2. Making best use of Resources
3. Facilitating Accessible and Healthy Environments
4. Creating and Sustaining Communities
5. Maximising environmental protection and limiting environmental impact.

The content of PPW is presented using four themes (Placemaking, Active and Social Places, Productive and Enterprising Places, and Distinctive and Natural Places) the fourth ('Distinctive and Natural Places'), is of direct relevance to this SPG. It cites as key issues the "long term and chronic decline of biodiversity and habitat loss" and a lack of "resilience in Wales' ecosystems..." and the need for "adaptation to the effects of climate change".

PPW recognises the significant contribution that **non-statutory designations** (such as those made at the local level (see PPW Section 3.1.3)) to delivering an ecological network for geodiversity, biodiversity and resilient ecosystems.

PPW also introduces a new set of 'National Sustainable Placemaking Outcomes' which tie into and deliver the seven goals in the Well-being of Future Generations Act (see above). It also emphasises the role of Planning in delivering the enhanced Duty to 'maintain and enhance biodiversity' which arises from Section 6 of the Environment Act (see above) and it explains that this is to be done via development proposals adopting a step-wise approach that involves **Modification** of proposals where necessary, exploring and using **Alternatives** where needed, the use of **Conditions**, (along with Planning Obligations and Advisory Notes), the need for proposals to provide for mitigation or **Compensation**, with **Refusal** being a consequence for not adequately considering the other steps.

PPW also recognises the multi-functional importance of **Green Infrastructure**. (see SPG Section 5.6 above) This "is the network of natural and semi-natural features, green spaces, rivers and lakes that ..... connect places".

**Technical Advice Note 5 Nature Conservation and Planning (TAN 5) (2009)** supplements PPW and sets out detailed information on Nature Conservation in

Development Control Procedures, including the information required to be submitted in support of a planning application. In addition to guidance on designated sites and protected species covered by the above legislation, it also recognises the importance of the role of Local Sites (Sites of Importance for Nature Conservation and Regionally Important Geodiversity Sites) in delivering biodiversity and geodiversity targets, protecting landforms and features, and contributing to the well-being of communities.

The **State of Natural Resources Report (SoNaRR) 2016** surveys and assesses how Welsh “natural resources provide us with a wide range of benefits and a wealth of opportunities, including the ability to support our prosperity and improve our health as a nation”. However for this to continue “we need to improve the way we manage our natural resources – our land, sea and air”. SoNaRR “for the first time ... links the resilience of Welsh natural resources to the well-being of the people of Wales”.

Chapter 3 Part A focuses on natural resources, and identifies 557 species that are of principle importance in Wales. It details key messages about the extent, condition and trends for these species as a whole. In terms of geodiversity, SoNaRR focusses on geoconservation sites, mineral wealth, geotourism, research/education and geological hazards. Part B focuses on Welsh ecosystems, and lists eight broad Habitat types (which contain the 55 Habitats identified under Section 7 of the Environment (Wales) Act). For each of these eight the report details the extent, condition and trends affecting them.

Chapter 4 of SoNaRR focuses on Resilient Ecosystems, and presents a “first attempt to set out a framework to assess the resilience of ecosystems in Wales so that we can understand the extent to which sustainable management of natural resources (SMNR) is being achieved”. This chapter also explains how the five attributes of resilience (Diversity, Extent, Condition, Connectivity, Adaptability) work in more detail and the role they play in resilience.

**National Nature Recovery Action Plan (NRAP)** This national document will set out how Wales will address the Convention on Biological Diversity’s (CBD) Strategic Plan for Biodiversity. Based on the species and habitats of principal importance for Wales, the NRAP will identify actions for delivery in the short term and a course for the delivery of longer term commitments concerning those species and habitats beyond 2020. It will also identify the partners who will be responsible for the delivery of these actions and commitments. (see also the Powys Nature Recovery Action plan in Section 2.5)

**Natural Resources Policy (NRP) 2017**, The NRP is based on the understanding that as a society we need to manage our natural resources sustainably, and this document sets out how Welsh Government will align its policies, including land-use planning, to deliver the national priorities identified within the NRP.

The NRP is delivered through the **Area Statements** introduced through the Environment (Wales) Act (see above).

## **Local Policy**

**The Local Development Plan (LDP)** The Powys LDP (2011 to 2026) sets the policy framework for all development in Powys outside of the Brecon Beacons National Park. The policies reinforce and expand upon the principle that all development within the Powys planning area will conserve and enhance biodiversity and geodiversity and encourage development proposals that achieve this requirement. The Specific LDP policies relating to biodiversity and geodiversity are;

### Strategic Policy SP7 – Safeguarding of Strategic Resources and Assets

### Development Management Policy DM2 – The Natural Environment

The full text of these Policies can be found in Section 2 above and the reasoned justification for each of these policies can be found in the LDP.

Whilst development proposals need to have regard to all of the LDP policies, the following is a list of particular policies that may have specific relevance to Biodiversity

### DM1 Planning Obligations

### DM3 Public Open Space

### DM4 Landscape

### DM6 Flood Prevention Measures and Land Drainage

### DM7 Dark Skies and External Lighting

### DM13 Design and Resources

### DM14 Air Quality Management

### TD3 Montgomery Canal and Associated Development

### W2 Waste Management Proposals

### RE1 Renewable Energy

### M4 Minerals Proposals

### M5 Restoration and Aftercare

A number of the policies listed above (eg DM1, DM3, DM4, DM6, DM13 and RE1) will be supported by separate SPG to provide extra guidance on these particular subjects.

**The Powys Local Biodiversity Action Plan (LBAP) and the Powys Nature Recovery Action Plan (PNRAP)** Developers must also consider the Powys LBAP (2003) and its replacement the Powys NRAP (currently in preparation). The LBAP contains targets and associated actions for a number of habitats and species that are considered to be of national and/or local significance. It is the responsibility of the local nature partnership, of which the Council is a key member, to work towards these targets and the planning process will be an important tool for achieving them. Local Nature Partnerships play an important part in achievement of national biodiversity objectives set out in the national Nature Recovery Plan.

The Powys NRAP is due to be finalised in late 2018 or early 2019. It will highlight those habitats and species that are of principal importance for maintaining biodiversity within Powys, including locally significant species. Key to both the national Nature Recovery Action Plan and the Powys NRAP is the emphasis on ecosystem resilience and retaining and improving connectivity between habitats and populations. As with the LBAP, the Powys NRAP provides targets for action by local partner organisations, including the Council and the LPA. As such the Powys NRAP also provides the Council with a mechanism for meeting its Section 6 Duty and the planning process in turn will be an important tool for achieving this

## **Appendix 4: Habitats of Principal Importance in Wales and Powys**

To follow

## **Appendix 5: Poultry Developer's Checklist**

To follow

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