



**COFNOD O BENDERFYNIAD WEDI'I DDIRPRWYO GAN SWYDDOG**  
**RECORD OF DELEGATED OFFICER DECISION**

**Penderfyniad Allweddol | Key Decision** ✓

**PWNC | SUBJECT:**

Planning And Biodiversity:

RCT Observations To Welsh Government Regarding Proposed Amendment Of Planning Policy Wales

**DIBEN YR ADRODDIAD | PURPOSE OF THE REPORT:**


In accordance with the Council's Scheme of Delegation, this report has been prepared to accompany the intended officer decision of the Director of Prosperity and Development as below.

The purpose of the report is to consider the observations on the proposed changes to Planning Policy Wales and seek approval to submit to Welsh Government.

**PENDERFYNIAD WEDI'I DDIRPRWYO | DELEGATED DECISION:**

It is AGREED that:

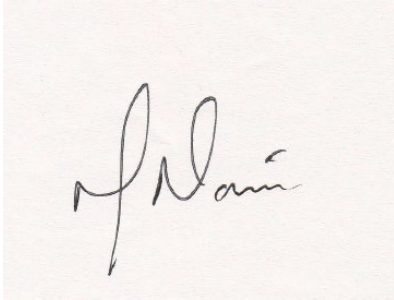
The observations at Appendix 1 are to be submitted to Welsh Government by 31<sup>st</sup> May 2023.

	Simon Gale	23.05.23
<b>Llofnod y Prif Swyddog</b> Chief Officer Signature	<b>Enw (priflythrennau)</b> Name (Print Name)	<b>Dyddiad</b> Date

Mae'r penderfyniad yn cael ei wneud yn unol ag Adran 15 o Ddeddf Llywodraeth Leol 2000 (Swyddogaethau'r Corff Gweithredol) ac yn y cylch gorchwyl sy wedi'i nodi yn Adran 5 o Ran 3 o Gyfansoddiad y Cyngor.

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution.

**YMGYNGHORI | CONSULTATION**



23.05.23

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**LLOFNOD YR AELOD YMGYNGHOROL O'R CABINET**  
CONSULTEE CABINET MEMBER SIGNATURE

**DYDDIAD | DATE**



23.05.23

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**LLOFNOD YR AELOD YMGYNGHOROL O'R CABINET**  
CONSULTEE CABINET MEMBER SIGNATURE

**DYDDIAD | DATE**

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**LLOFNOD SWYDDOG YMGYNGHOROL**  
CONSULTEE OFFICER SIGNATURE

**DYDDIAD | DATE**

**RHEOLAU'R WEITHDREFN GALW-I-MEWN | CALL IN PROCEDURE RULES.**

**A YW'R PENDERFYNIAD YN UN BRYN A HEB FOD YN DESTUN PROSES GALW-I-MEWN GAN Y PWYLLGOR TROSOLWG A CHRAFFU?:**

IS THE DECISION DEEMED URGENT AND NOT SUBJECT TO CALL-IN BY THE OVERVIEW AND SCRUTINY COMMITTEE:

**NAC YDY | NO**

**Rheswm dros fod yn fater brys | Reason for Urgency:**

*Os yw'n cael ei ystyried yn fater brys - llofnod y Llywydd, y Dirprwy Lywydd neu Bennaeth y Gwasanaeth Cyflogedig yn cadarnhau cytundeb fod y penderfyniad arfaethedig yn rhesymol yn yr holl amgylchiadau iddo gael ei drin fel mater brys, yn unol â rheol gweithdrefn trosolwg a chraffu 17.2:*

*If deemed urgent - signature of Presiding Member or Deputy Presiding Member or Head of Paid Service confirming agreement that the proposed decision is reasonable in all the circumstances for it being treated as a matter of urgency, in accordance with the overview and scrutiny procedure rule 17.2:*

.....  
*(Llywydd | Presiding Member)*

.....  
*(Dyddiad | Date)*

**DS - Os yw hwn yn benderfyniad sy'n cael ei ail-ystyried yna does dim modd galw'r penderfyniad i mewn a bydd y penderfyniad yn dod i rym o'r dyddiad mae'r penderfyniad wedi'i lofnodi.**

**NB - If this is a reconsidered decision then the decision Cannot be Called In and the decision will take effect from the date the decision is signed.**

**AT DDEFNYDD Y SWYDDFA YN UNIG | FOR OFFICE USE ONLY**

**DYDDIADAU CYHOEDDI A GWEITHREDU | PUBLICATION & IMPLEMENTATION DATES**

**CYHOEDDI | PUBLICATION**

**Cyhoeddi ar Wefan y Cyngor | Publication on the Council's Website:-** 23.05.23

**DYDDIAD | DATE**

**GWEITHREDU'R PENDERFYNIAD | IMPLEMENTATION OF THE DECISION**

**Nodwch: Fydd y penderfyniad hwn ddim yn dod i rym nac yn cael ei weithredu'n llawn nes cyn pen 3 diwrnod gwaith ar ôl ei gyhoeddi. Nod hyn yw ei alluogi i gael ei "Alw i Mewn" yn unol â Rheol 17.1, Rheolau Gweithdrefn Trosolwg a Chraffu.**

**Note:** This decision will not come into force and may not be implemented until the expiry of 3 clear working days after its publication to enable it to be the subject to the Call-In Procedure in Rule 17.1 of the Overview and Scrutiny Procedure Rules.

**Yn amodol ar y drefn "Galw i Mewn", caiff y penderfyniad ei roi ar waith ar / Subject to Call In the implementation date will be**

30.05.23  
**DYDDIAD / DATE**

**WEDI'I GYMERADWYO I'W GYHOEDDI: ✓ | APPROVED FOR PUBLICATION :✓**

Rhagor o wybodaeth | Further Information:

Cyfadran   Directorate:	Prosperity and Development
Enw'r Person Cyswllt   Contact Name:	Simon Gale
Swydd   Designation:	Director of Prosperity and Development
Rhif Ffôn   Telephone Number:	01443 281114

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**KEY DELEGATED DECISION**

**A REPORT TO ACCOMPANY A DECISION OF THE DIRECTOR OF PROSPERITY AND DEVELOPMENT IN DISCUSSIONS WITH THE CABINET MEMBER FOR CLIMATE CHANGE & CORPORATE SERVICES AND CABINET MEMBER FOR DEVELOPMENT AND PROSPERITY**

**MAY 2023**

**PLANNING AND BIODIVERSITY:  
RCT OBSERVATIONS TO WELSH GOVERNMENT REGARDING  
PROPOSED AMENDMENT OF PLANNING POLICY WALES**

AUTHOR: Jim Bailey, Head of Planning

**1.0 PURPOSE OF THE REPORT**

- 1.1 To consider the observations on the proposed changes to Planning Policy Wales and seek approval to submit to Welsh Government.

**2.0 RECOMMENDATIONS**

- 2.1 It is recommended that approval is given to submit the observations at Appendix 1 to Welsh Government by 31<sup>st</sup> May 2023.

**3.0 REASONS FOR RECOMMENDATIONS**

- 3.1 To provide Welsh Government with the observations of the Council on their plans to make changes to Planning Policy Wales

**4.0 BACKGROUND**

- 4.1 In March, Welsh Government announced their consultation on '*targeted policy changes to [Planning Policy Wales on net benefit for biodiversity and ecosystems resilience](#) (incorporating changes to strengthen policy on Sites of Special Scientific Interest, trees and woodlands and green infrastructure).*'
- 4.2 These targeted changes are proposed '*to strengthen and clarify the policy around securing a net benefit for biodiversity and the resilience of*

*ecosystems. This includes strengthened policy on green infrastructure, the protection of SSSIs, Sites of Importance for Nature Conservation and Trees. Factual updates have been made to the protected sites policy wording and consequential changes are made to the Water and Minerals sections to reflect the net benefit for biodiversity policy. Finally, a factual change is made in relation to National Parks.*

4.3 The consultation will inform an update to Planning Policy Wales (PPW) later in the year.

4.4 Members may be aware that Welsh Government conducted a ‘Deep Dive’ into biodiversity in the summer of 2022 and published their findings in October. [Biodiversity deep dive: recommendations \[HTML\] | GOV.WALES](#) . The Welsh Government budget has increased the funding for biodiversity for the remainder of the current Senedd and is focused on achieving the protection of at least 30% of land and sea by 2030 (30by30). The deep dive recommendations contained eight objectives, two of these specifically relate to the consultation on the proposed amendments to PPW namely;

*‘4. Continue to reform land and marine management and planning (including spatial) to deliver more for both protected sites and wider land / seascapes’ and*

*8. Embed Nature Recovery in policy and strategy in public bodies in Wales’*

4.5 The proposed changes build on the current S.6 Biodiversity Duty [Report.pdf \(modern.gov.co.uk\)](#) and on two letters from the Minister to Local Planning Authorities [Biodiversity enhancements: guidance for heads of planning | GOV.WALES](#), in October 19 and [COP15, biodiversity deep dive, section 6 duty and the planning system | GOV.WALES](#), in December 22. In summary, various changes are proposed to section 6.4 of PPW on net benefit for biodiversity and the resilience of ecosystems. The ‘stepwise’ policy (please see 6.4 below) has been redrafted, text relating to the S.6 Biodiversity Duty and DECCA framework (please see 6.16 below) has been updated and the policy on trees and woodland strengthened.

## **5.0 KEY IMPLICATIONS FOR RHONDDA CYNON TAF**

5.1 The changes are described in detail below and are quite technical. This section summarises the main issues that the detailed changes may raise in Rhondda Cynon Taf.

5.2 The basic premise of the changes - that biodiversity in Wales is under threat and that serious action to address this is required – is not disputed. In RCT we are well aware of this through the work of the Local Nature

Partnership and their recent review of the RCT Local Nature Plan <https://rctlnp.wixsite.com/rct-actionfornature>. The role of the planning system is also acknowledged and, as the Local Planning Authority, the Council has a good record of protecting and enhancing biodiversity, with a monitoring indicator (Loss of SINC habitat) included in the Local Development Plan and also reported via the S.6 Biodiversity Duty action plan (<https://rctcbc.moderngov.co.uk/documents/s38634/Appendix%20A.pdf?LL=0>, lines 2.1-2.4). The potential for improvement is also recognised and work has already commenced for the review of the LDP.

5.3 The proposed changes to PPW may work very well in large urban areas like Cardiff and in the agricultural rural areas of Wales, where most proposed development sites will support low levels of biodiversity. Mitigation and on-site enhancement is a realistic possibility in these circumstances. In Rhondda Cynon Taf the situation is very different, due to the settlement pattern and the close proximity of extensive areas of semi-natural habitat to all our built up areas

5.4 In RCT, planning applicants are already required to provide ecological survey data (AW8 and SPG Nature Conservation), so the Council's ecologist is advised of the biodiversity interest and can consider how this may be impacted by development proposals. Very few proposed development sites in RCT have no ecological interest, but mitigation and more recently enhancement can be negotiated. It is accepted that the requirements will in future be more stringent, but the concern is that a strict interpretation of the statement below (in revised PPW 6.4.5) will require the refusal of a large number of proposals.

*'Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems.'*

5.5 There is scope for a local policy led approach (RPPW 6.4.8) to meet the PPW requirements and for off-site as well as on-site mitigation and enhancement when necessary (RPPW 6.4.21) to be part of the acceptable solution. It is important to draw this to the attention of Welsh Government, in particular for the period before the review LDP is complete as a national policy such as this is not necessarily cognisant of the complexity in the biodiversity of development sites and their surroundings in RCT. Examples of the type of sites where this may be an issue are given in section 6.5 below

5.6 A more serious concern relates to the blanket three for one tree replacement policy. The principle that existing, mature trees are of biodiversity, landscape, amenity and carbon storage value is supported and priority to their retention on development sites is welcomed.



However, in RCT, many development sites that come forward have not been managed for number of years and are frequently colonised by scrub and regenerating woodland. The ecological benefit of retaining this on the site should be part of the site assessment but if it is acceptable to remove, the requirement to replace 3 for 1 could make development impossible. More detail is given in paragraph 6.12 below

- 5.7 As part of the review of the Local Development Plan a Green Infrastructure Assessment is required. The review of AW8 and the SPG Nature Conservation will also need to address the changes in PPW. The Council is able to draw on the experience of successfully planning for biodiversity in a 'development-led' environment. Similarly, there is experience of the challenges associated with this approach which can inform future policy and guidance and have informed the attached response to Welsh Government. There is concern that the additional biodiversity and tree requirements could severely restrict the availability of suitable sites for necessary development, with greater restrictions on smaller sites, which often provide the only options for valley communities to grow. This will compound existing barriers to development relating to viability, flood risk and other site constraints. Some flexibility will be required to enable the allocation of sufficient land for housing and other essential social infrastructure in the review LDP.
- 5.8 These concerns could be addressed by allowing local policy and SPG to address specific local issues within the spirit of PPW. This would, for example, allow off site mitigation or enhancement (in the cases where, after following the step-wise hierarchy see para 6.4 below) to avoid, protect and maximise on site biodiversity mitigation and enhancement, with any residual impacts of the development being offset at a nearby site.
- 5.9 Of particular relevance to the ability to and benefit of securing off-site mitigation, is the emerging RCT 'Living Landscape' project ([Cabinet Report MTSP One4aLL LG \(modern.gov.co.uk\)](#)). The pilot tranche of 29 sites includes a number of S106 sites in Council management. These 29 sites contribute to local communities' open space and access to nature, as well as to a potential long-term connected biodiversity network across RCT. This larger network could include sites managed by developers, by other nature conservation or public bodies, where the management is for nature conservation. This 'Living Landscape' as part of the Green Infrastructure Assessment for the Revision of the LDP could provide the mechanism for meeting the requirements of PPW (both within development sites and off-site). It would also address the United Nations challenge for 30% of land and water to be managed for biodiversity by 2030 (30 by 30), assist the Council in achieving its S6 Biodiversity Duty obligations and, potentially, also address other climate change related issues such as floodplain protection, soil carbon storage, woodland and

peatbog management. The Living Landscape approach is also a way of implementing the emerging NRW Area Statement ecological networks.

## 6.0 PROPOSED CHANGES TO PLANNING POLICY WALES

6.1 The Welsh Government consultation response form is appended and the comments here summarise the key issues for RCT as the Local Planning Authority, in the order set out in the Appendix.

6.2 In PPW **6.2 Green Infrastructure**, changes are made to reflect the substantive changes in PPW 6.4 (below) and to provide greater direction on securing green infrastructure. The use of 'Building with Nature' standards is advocated.

6.3 These changes are generally welcomed, in particular the addition of peatlands, ponds and natural green spaces to the list of Green Infrastructure (GI) as well as the proposed changes to 6.2.4 which emphasises that the careful consideration of impacts on green infrastructure provision (PPW says: *'but this must occur alongside the need to meet society's wider social and economic objectives and the need of local communities.'*) our response makes some specific comments relating to the applicability of the 'Building with Nature Standards' in RCT, focusing on the importance of a 'place-based' approach and ongoing maintenance. This theme is picked up again in our comments on Green Infrastructure Assessment (GIA). Long-term management and maintenance of the functions of the GI, for the lifetime of the development, is essential and needs to be resourced. Our comments on this section recommend a realistic approach to monitoring, drawing on the Council's experience of planning gain for biodiversity and advocating the supply of developer's ecological data to Local Record Centres. There are implications for the RLDP and our response expresses concern with regard to the additional workload, resource implications and need for clear guidance.

6.4 The second question relates to the changes in the '**Stepwise**' approach to decisions affecting biodiversity as set out in PPW 6.4 and 6.4.21. these proposals generally strengthen the weight that should be accorded to biodiversity considerations, as proposed PPW 6.4.5 states *'this means development must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems.'* The stepwise approach is based on the hierarchy of:

- Avoiding harm (including consideration of alternative sites)
- Minimising impact
- Mitigate damage ('like for like' for Priority Habitats and Species) and enhance for net biodiversity benefit

- Improving ecosystem resilience of the locality.
- The developer must demonstrate how they have addressed these issues and on-site mitigation and enhancement is advocated

6.5 These measures should give greater protection to biodiversity and promote ecosystem resilience and in many cases allow biodiversity enhancements to be delivered. However, the policy proposal that requires every planning consent, in every circumstance, to achieve biodiversity enhancement will be very difficult to satisfy. Without a further discussion and potential refinement of this policy measure, certain development types may prove particularly problematic, and the requirement may prove to have unintended consequences for both biodiversity and development. In RCT due to our settlement structure and the connectivity provided by the extensive semi-natural habitats of the County Borough, urban areas within settlement boundaries, and vacant plots in industrial estates, can often support surprisingly rich wildlife habitat, including Priority S7 Species and Habitats. Where such sites are small in area, there is often very limited potential within development design, to set aside large enough areas for ecology. This can sometimes make ecological mitigation difficult to achieve and may in certain circumstances make the delivery of ecological enhancement a practical impossibility. There is therefore a significant potential that (as written) the new enhancement policy could result in certain small scale urban and industrial estate planning applications having to be refused, because mitigation and enhancement cannot be accommodated on site alongside the development. While every planning application of this type should be required to seek to achieve 'on-site' ecological mitigation and enhancement, where this is impossible, and where development will bring over-riding societal benefits which would justify the granting of planning permission, alternative biodiversity mitigation and enhancement solutions may be needed. In these types of special development circumstances, there may be a need to consider whether off site provision nearby would be more appropriate and would help reduce development pressure on other less sustainable locations.

6.6 A similar 'step-wise' procedure is envisaged for allocated but undeveloped sites and this will place a greater emphasis on the Council's duty to show due consideration of biodiversity within the development of the Review Local Development Plan. The recognition of sites which '*have progressed to a degree that it may not be possible to de-allocate them*' is welcomed. Inherent in this duty will be a need to ensure that new site development allocations have the capacity to provide effective, long-term biodiversity mitigation and enhancement, and where appropriate contribute to wider ecological networks and connectivity. The RCT Living landscape project offers a potential model and experience that may help to advise a strategic biodiversity delivery within the RLDP.

- 6.7 The RCT response also includes some detailed wording changes to better reflect the range of habitats covered by s7 and again to emphasise the importance of long-term habitat management if the biodiversity benefit is to be sustained for the lifetime of the development. The scope for the PPW 6.6.4 amendments to address parallel permitting processes is also noted.
- 6.8 Question 3 relates to the proposed changes for **designated sites** (PPW6.4.10-6.4.20). These again generally strengthen the level of biodiversity consideration for SAC and SSSI sites, limiting the scope for development for reasons other than their conservation. The importance of local designations, such as Sites of Importance for Nature Conservation (SINC), is also strengthened and the role of LDPs in ensuring resilient ecological networks is promoted.
- 6.9 These proposals are generally welcome and the RCT observations relate to specific points of detail and information. For example, the link between planning and wider management activity is welcomed and the RCT Living Landscape project, which includes a number of planning gain sites as well as some statutorily designated sites is cited. New text relating to peatlands is welcomed and a request for additional text regarding organic soils and their carbon storing potential is suggested in our response. Our response also includes a specific technical question about SSSI subdivision.
- 6.10 Question 4 considers the proposed changes to **trees and woodlands** (PPW 6.4.24-27). These strengthen the protection for trees, hedges and woodland with an emphasis on the importance of ancient woods, large and veteran trees in the planning process. New proposals for trees unavoidably lost on development sites are included here.
- 6.11 Members will know that RCT, unlike most of Wales, is a heavily wooded County Borough. The focus on protecting irreplaceable trees is welcomed and should help to guide developers away from this important natural asset. The RCT observations raise a number of concerns about the text in this section, including the need for some operational flexibility, separating the biodiversity benefits of planted conifer forest from that of semi-natural woodland habitat, the importance of stonewalls as a particular landscape boundary feature in parts of RCT (and Wales) and the lack of reference to natural tree regeneration or colonisation. The latter is a strong feature of the RCT landscape, contributing hugely to the extension of the wooded area, without the need for tree planting and the associated disease risk and increased carbon footprint. In certain circumstances, invasive tree removal can also be hugely beneficial for biodiversity within specific priority habitats, such as heathland, peatbogs, wetlands and ffridd, so a place-based approach is essential.

- 6.12 Based on past experience, the proposed metric for replacing every tree lost on a development site with three planted trees is questioned in terms of what that provision will realistically achieve and how it may compromise other green space features and opportunities. Some scope for local policy definition is advocated to allow better balanced local decisions for green space/tree/habitat provisions to be made. As an example; the metric policy proposal, as written, could require the retention of very recently established woodland over the protection of much older and more ecologically and carbon important habitats, such as species rich grassland. Trees also require adequate space if they are to achieve a healthy maturity and this is an important consideration in new developments, together with their ongoing management. The observations suggest there needs to be scope for local policy and SPG based on the RCT Tree Strategy.
- 6.13 Q5 relate to **consequential changes** to the section of PPW on minerals (5.14.37) and Q6 to flood (6.6). These are to ensure consistency of approach.
- 6.14 No observations are offered on minerals and two minor comments regarding water, reiterating concerns re maintenance, for the lifetime of the development, and management of riparian corridors.
- 6.15 Question 7 relates to the **DECCA framework** (follows 6.4.9), introduced in the Environment (Wales) Act and amendments to the current wording in PPW. The framework is seen as a key way for the Local Planning Authority to demonstrate its commitment to the Biodiversity Duty, as set out in the Environment Act. In common with the other changes, the DECCA framework is strengthened to give more weight to biodiversity considerations and how individual development proposals should address this. It will also be important for the review LDP. Further guidance on the application of the DECCA Framework in planning is also proposed in q7.
- 6.16 The DECCA framework is a means of understanding what 'ecosystem resilience' means in practice. It is based on scientific evidence from the natural world about what is needed to reverse the decline in biodiversity. In simple terms it is about 'more, bigger, better and more joined up'. The initials stand for:
- Diversity the variety of habitats and species
  - Extent area
  - Condition habitats in 'favourable conservation status'
  - Connectivity links between habitat patches
  - Adaptability these all contribute towards building resilience
- 6.17 The changes are generally supported as the additional text provides more detail of what is required.

- 6.18 Question 8 relates to the change in the **order of paragraphs** in PPW, and is a logical result of the proposed changes.
- 6.19 Question 9 relates to the promotion of the **Welsh language** and no observations are offered.
- 6.20 Question 10 provides the opportunity to raise any matters not addressed by the questions. A number of issues are raised here including the resource and staffing implications, the need for clarity of message for a lay audience and further guidance. The support for a place-based and locally distinctive approach, as opposed to the use of metrics, is re-iterated as are the concerns to ensure that habitat management, for the lifetime of the development, is properly recognised and resourced.

## **7.0 EQUALITY AND DIVERSITY IMPLICATIONS/ SOCIO-ECONOMIC DUTY**

- 7.1 None as a direct result of these observations.

## **8.0 WELSH LANGUAGE IMPLICATIONS**

- 8.1 There are no Welsh language implications as a result of the recommendations set out in the report.

## **9.0 CONSULTATION/ INVOLVEMENT**

- 9.1 This report forms part of the Welsh Government's consultation process. Officers have had the opportunity to hear presentations from civil servants engaged in preparing the proposals, which have also been informed by discussions in the Planning and Biodiversity Forum.

## **10.0 FINANCIAL IMPLICATIONS**

- 10.1 None directly related to this report. Where it is considered that the proposals may have resource implications, this is noted in the observations to Welsh Government.

## **11.0 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

- 11.1 Planning Policy Wales is part of the planning legislative framework for both Development Plans and Development Management. The Council also has a statutory Biodiversity Duty under S.6 of the Environment (Wales) Act.

## **12.0 LINKS TO THE COUNCIL'S CORPORATE PLAN/OTHER CORPORATE PRIORITIES/WELLBEING OF FUTURE GENERATIONS ACT**

12.1 Planning policy and its implementation through the management of development is fundamental to the Council's priorities as set out in the Council's Corporate Plan.

12.2 Similarly it embraces the five ways of working in the Well-being of Future Generations Act. Sustainable development is based on long-term considerations and is focused on preventative and precautionary action. Planning aims to involve all the relevant stakeholders and to integrate the consideration of a wide range of issues. The amendments proposed by Welsh Government aim to strengthen the integration of the Resilience and Global Responsibility goal, for the long term benefit across all the goals.

## **13.0 STRATEGIC OR RELEVANT TO ELECTORAL WARDS**

13.1 Planning Policy Wales is of strategic importance and relevant to all wards.

## **14.0 CONCLUSION**

14.1 It is recommended that the observations at Appendix 1 is submitted to Welsh Government by 31<sup>st</sup> May 2023.

### **Other Information:-**

**Relevant Scrutiny Committee**  
*Climate Change, Frontline Services and Prosperity*

**Contact Officer:** Simon Gale 01443 281114

## Appendix 1: draft consultation response

### Consultation Response Form

Your name:	Simon Gale, <b>Director of Prosperity and Development</b>
Preferred contact details (email/phone/post)	Simon.Gale@rctcbc.gov.uk
Organisation (if applicable):	Rhondda Cynon Taf County Borough Council

#### **Q1 Do you agree with the proposed changes in section 6.2? Please explain where you disagree with the change.**

##### **Agree**

The following specific comments relate to para 6.2 Green Infrastructure (GI):

- We welcome the addition of peatlands, ponds and natural green spaces to GI list (6.2.1)
- 6.2.4 We welcome the changes that emphasise the importance of integrating GI with existing management and maintenance regimes, however the mechanisms to undertake and resource this are not explained. We welcome amendment to the last sentence because this emphasises how biodiversity can be integrated with necessary development.
- Re 6.2.5: GI must be part of the 'place-based' approach to planning and the 'Building for Nature Standards' can contribute to this. (Standard 4 Champions a Context Driven Approach and Standard 5 Creates Distinctive Places). The standards also recognise the importance of maintenance and on-going management (Standard 6 Secures Effective Place-keeping), however we are concerned that this is not clearly expressed in the wording of this paragraph. In our experience developers can use standards such as BREEAM to tick boxes without any concern for context, local biodiversity or deliverability and management. We welcome the opportunity to develop local Supplementary Planning Guidance, to draw developers attention to local conditions. It is important to avoid generic solutions which can be very damaging to local distinctiveness and compromise the conservation status of rare plant species (e.g. the planting of the wayfaring tree along the M4 in RCT).
- Re GI Assessments (6.2-6.9) the amendments relating to content of Assessments are welcomed, although there is some concern regarding the workload implications for the RLDP. The major concern, as referenced in 6.2.4, is the management and maintenance of GI. The additional words in the final bullet point of 6.2.9 about long-term safeguarding are welcome but not sufficient.



- Re 6.2.10 5<sup>th</sup> line proposed amendment ‘...landscape **and habitat** management and restoration and the .....’.
- Re 6.2.11 4<sup>th</sup> line proposed amendment ‘...network as well as **SSSI and other protected sites.**’
- **Re 6.2.12** - Monitoring proposals for LPA must be realistic. SINC area lost is measurable, mitigation and enhancement more difficult to quantify. Habitat and species monitoring relies largely on developers and conservation organisations, and LPA currently do not have the resources or systems to undertake this work. In this regard, it would be helpful if developers were required to place the ecological information submitted as part of their planning application, and consequently in the public domain, with the Local Record Centre. (see below 6.4.21)

**Q2 Do you agree with the proposed changes to the step wise policy in section 6.4 paragraph 6.4.21? Please explain where you disagree with the proposed changes.**

**Agree**

Neither agree or disagree

**Disagree**

The overall ‘step-wise’ approach is supported. The following observations relate to specific detail

- Re 6.4.3 line9/10 add **Local Nature Plans/Local Nature Recovery Action Plans/Local Biodiversity Action Plans** to the list of information sources (local data to support the place-based approach)
- 6.4.4 The reference to regulatory regimes is welcome as the granting of planning consent by Local Planning Authorities can trigger subsequent essential infrastructure development that are neither the subject of the ecological assessment requirements of a planning application or the resulting ecological mitigation and enhancement. These can include RCT duties such as ordinary watercourse consent and SABs, but also duties undertaken by other agencies, including sewer connections (Welsh Water) and flood prevention (NRW). Additional ecological impacts can therefore occur outside of the planning consent process, but as direct impact of planning consent that was granted. Co-ordinating these parallel permitting processes better could help reduce additional ecological impacts and achieve better integrated ecological solutions.
- 6.4.5 whilst this strengthening of the policy is welcomed, it could have some unintended consequences in RCT. Due to our settlement structure and the connectivity provided by the extensive semi-natural habitat of the County Borough, much of RCT, including the built up areas, supports a rich diversity of wildlife including many S7 species and habitats. See below.

- **6.4.21** of particular concern is the statement '*where biodiversity enhancement is not proposed, significant weight will be given to its absence and may result in planning being refused*'. This could be particularly problematic for small scale of development on small areas of land (small or single house developments, or infill developments on existing industrial estates) where even if ecological impact is relatively low, achieving effective biodiversity mitigation for habitat loss can sometimes be very difficult and where realistic opportunities for biodiversity enhancement may not be possible. This could be particularly problematic in valley communities, where this type of site often provides the only option for development. It will also compound the difficulties relating to viability, flood risk and other site constraints. Some local flexibility, perhaps as specified in LDP policy or SPG (for small scale, non SINC sites only), will be required to avoid refusing consent for developments on sustainable sites of this type and to secure mitigation and enhancement nearby, as indicated elsewhere in PPW (6.4.21 (4)). The Council's Living Landscape project, which aims to bring land into biodiversity management, could be part of the 'compensation' solution. This approach would not undermine the principle of stepwise consideration, but would help direct development to sustainable locations.
- The 'like for like' mitigation for s.7 habitats and species will be very difficult to achieve in practice, especially where these are established on 'ancient' or undisturbed sites, rely on very specific environmental conditions or ecological networks.
- 6.4.21 subsection 2, second bullet point, suggested amendment; **'retaining existing features and developing a wildlife management plan for their future care (e.g. trees and hedgerows, species rich grassland, heath, wetlands and freshwater habitats)**
- 6.4.21 3b suggested amendment in line 4-6 to diversify the range of interventions; 'These could include on-site **locally relevant** habitat creation...green roofs, **grassland management for wildflowers or reptile refugia.**'
- 6.4.21 4d suggested amendment 'Any proposed compensation should **be place-based** and take account of Section 6.....and appropriate advice from the **Local Authority Ecologist**, NRW and, or a competent CIEEM registered ecologist'
- 6.4.21 new paragraph after current 5 (top of p13). The requirements for developers to provide pre-application survey data and to not conduct pre-emptive site clearance works are welcome. A requirement for developers to submit any ecological surveys, prepared as part of the planning application process (and therefore in the public domain), to the Local Record Centre would be a welcome addition to the PPW. This would greatly improve the data accessibility, including at a National level, where there is little data from areas such as RCT (with few statutory sites) which

contributes to the lack of knowledge and understanding of the rich biodiversity that is present.

**Q3 Do you agree with the proposed changes to designated sites in paragraphs 6.4.10–6.4.20. Please explain where you disagree with the proposed changes.**

**Agree**

Neither agree or disagree

Disagree

The proposed changes are generally supported and the following are points are mainly for information.

- 6.4.10 is it possible to add anything here that would address the issue of the sale/subdivision of SSSI in small lots (in RCT typically for pony patches with maybe the expectation of a house long term as the habitat deteriorates). Fencing of the plots does not require planning consent and pursuing a change of use from agriculture to pony paddock is rarely a realistic option under current guidance. (SSSI consent for fencing is hard to refuse in these circumstances and management agreements with numerous owners is very onerous for NRW with current resources)
- 6.4.14 note the RCTLDP (2011) has RIGS based on a local earth science audit (which is much more extensive than the NRW RIGGS list)
- 6.4.15 We welcome the link between planning and wider management activity. In RCT the Living Landscape project (included in the local Nature Partnership Plan 'Action for Nature' <https://rctlnp.wixsite.com/rct-actionfornature>) includes a number of sites arising from S106 and similar planning agreements. The long-term ambition is that all designated sites will also contribute to the RCT Living Landscape.
- 6.4.17 Note there is a paucity of statutorily protected sites in RCT, given the extensive biodiversity of the County Borough. SINC are of therefore particular importance for protecting S7 habitats and species and in promoting ecosystem resilience.
- 6.4.20 We welcome the addition of the new text relating to non statutory sites and greater role for SINC. The new paragraph on peatlands is of particular relevance in RCT and is welcomed.
- It would be helpful if additional wording about the importance of other organic soils in Wales for carbon storage could be included here. Undisturbed soils are believed to be of particular importance for carbon retention and these are often co-located with semi-natural habitat of biodiversity value. Soil biodiversity is not well understood but is likely to be a fundamental component of ecosystem resilience.

**Q4 Do you agree with the proposed changes to trees and woodland in paragraphs 6.4.24-27? Please explain where you disagree with the proposed changes.**

Agree

Neither agree or disagree **mixed**

Disagree

The focus on protecting irreplaceable trees is welcomed and should help to guide developers away from this important natural asset. It would be helpful however, if the text enabled the decision maker, taking everything into account, to have some flexibility ‘where a loss is absolutely justified”, rather than there be some blanket protection that means that it can’t go ahead. The following observations provide information and raise a number of specific concerns based on RCT experience.

- General comment: in large parts of Wales (including most of upland RCT) stonewalls and banks form traditional boundaries and these also have biodiversity value as a specific habitat and as connecting features. Many also have historic and cultural significance and their maintenance should form part of the place-based approach to green infrastructure
- 6.4.25 line 7 suggested amendment: ‘.....to guide the protection of trees **and, where appropriate, the expansion of canopy cover.** The Green.....’
- 6.4.25 New Paragraph foot of p18 ‘Where trees, woodland and hedges are present, **all should be assessed for their contribution to the Green Infrastructure of the site. For all significant trees, woods and hedges** their retention should be identified within planning applications. **All retained features must be given enough space to develop to maturity and be subject to management agreement.** The provision of services.....’
- RCT may not be a typical Welsh County Borough. It is about a third woodland and natural tree regeneration/colonisation is prolific. Almost any site which is not subject to management for a few years will be colonised by trees. Development sites in RCT can often include areas of very recent secondary woodland, often developed from circa 2000. Although such recent woodland will have some very local value, it is often too young to have acquired any over-riding or significant ecological value. Indeed, in some cases recently developed woodland can be ecologically damaging when it has colonised and invaded other non-woodland priority habitats. Therefore, a blanket planning requirement to retain (or mitigate (x3?)) for all woodland/scrub of very recent origin on development sites may not be ecologically desirable. This will particularly be the case where mitigation balance needs to be realised between new woodland and valuable non-woodland habitats, and where non-wooded habitat restoration is a priority. It is therefore important from a biodiversity perspective that planning policy for woodland mitigation on sites does not compromise site specific biodiversity priorities and desired outcomes.

- 6.4.25 top p19 suggested amendment to line 2 ‘...clearly defined public benefits, **including management for nature conservation.**’ This is necessary to recognise that sometimes tree removal is a highly beneficial and essential biodiversity practice, for instance in the management and restoration of important peat bogs, wetlands, heathlands, ffridd and grassland habitats.
- 6.4.25 the text in relation to conifer trees is confusing. Commercial woodland (conifer or otherwise) is not subject to planning consent but may have a role in Green Infrastructure. This might be better covered in a separate paragraph. It is not currently clear whether development in a commercial plantation should retain all the trees (or 3 for 1 removed?).
- Whilst the reasoning behind the planting proposals included in this paragraph are appreciated, the approach is likely to be to the detriment of biodiversity conservation in RCT. A place-based approach should apply to trees and woodlands as well as other habitats. Retaining important Green Infrastructure (as noted above), should be the priority and metrics for replacement should be avoided. The adverse consequences of this can include replacements being given insufficient space to develop to maturity, loss of non-woodland habitat opportunities on site, and a tick box mentality. Extensive woodland planting off site to compensate for woodland removal may threaten the biodiversity of the ‘receiving’ habitat. **This policy is not appropriate in RCT and scope for local policy and SPG based on the Council’s emerging Tree Strategy is required.**
- 6.4.27 suggested amendment: ‘The protection, **planting and, where appropriate, the encouraging of natural tree colonisation and regeneration** should be delivered through locally specific.....’. There is no reference in this whole section to natural tree colonisation/regeneration as an equally important way of achieving new tree and woodland establishment. In many locations natural tree regeneration provides better, more biodiversity appropriate solutions, without the inherent carbon footprint and risk of tree disease that is associated with planting.
- Introductory text – Distinctiveness and Natural Trends p3 second bullet: The text refers to woodland expansion as a mitigating action. It would be helpful if the text recognised the potential tensions between land use changes for woodland expansion and the importance of conserving and protecting other habitats such as ffridd and old permanent pastures as important biodiversity reservoirs. Place-based planning, using the local biodiversity context and distinctiveness should inform all environmental mitigation.

**Q5 Do you agree with the consequential changes to section 5.14 paragraph 5.14.37? Please explain where you disagree with the proposed changes.**

Agree

**Neither agree or disagree**

Disagree

**Q6 Do you agree with the consequential changes to section 6.6 paragraphs 6.6.1, 6.6.5 and 6.6.6? Please explain where you disagree with the proposed changes.**

**Agree**

Neither agree or disagree

Disagree

The proposals are generally supported, with minor suggested amendments.

- 6.6.5 suggest adding a bullet point **to ensure that the infrastructure, including green infrastructure, can be funded and managed to maintain its function for the lifetime of the development**
- 6.6.6 – add word into the new paragraph ‘identification of **managed** riparian buffer zones.....’- suggested to avoid the concept of fencing off river banks and leaving them unmanaged and full of invasives.

**Q7 The proposed changes will provide a framework for the development of further guidance on the DECCA framework and a potential means of measuring whether a net benefit for biodiversity has been achieved and the resilience of ecosystems promoted. Do the proposed changes provide a sufficient framework to enable this or are there omissions which would need to be included with PPW itself? Please explain further if you consider there to be omissions which would prevent the effective development of further guidance.**

**Agree**

Neither agree or disagree

Disagree

We support the proposed clarification of the DECCA framework. The comment below relate to the concern to ensure the essential role of habitat management is recognised in PPW

- Condition line 3 ‘...climate change, **land management**, pollution...’
- With regard to the discussion on biodiversity metrics mentioned in the consultation documents (Additional information on the use of biodiversity metrics), we would be happy to contribute to this discussion and contribute from our experience. We have not made specific comment on the ‘Draft Principles for Planning Applicants’ in this response, however many of the our responses to the PPW questions will be of relevance.

**Q8 It is considered that the *order of paragraphs* in section 6.4 could be changed so that the stepwise approach comes before the paragraphs on designated sites. The order of the paragraphs has been changed in the proposed changes document; do you agree with this suggestion? Please explain if you do not agree.**

- Agree

Neither agree or disagree

Disagree

**Q9 Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language, and on treating the Welsh language no less favorably than the English language.**

- No observations

**Q10 We have asked a number of specific questions. If you have any related *issues which we have not specifically addressed*, please use this space to report them:**

The following observations do not fall logically under any of the specific questions. Some relate to specific text, others to general matters.

- In the key issues section of Distinctive and Natural Trends p2 it would be helpful to highlight the loss of traditional land management practices (such as grazing and hay management) and conversion of permanent diverse grassland to rye leys, as an example of the types of chronic long-term change which, in Wales, has driven biodiversity loss. Emphasising that, until recently, this chronic change and loss went largely unrecognised fundamentally because the important habitats that supported Welsh biodiversity, and the land use processes that sustained them, were not appreciated.
- Similarly under Distinctiveness and Natural Linkages the same points about local biodiversity context driving best practice could be better explained. Avoiding generic biodiversity solutions is key to retain local distinctiveness. For example understanding local tree/shrub/ wildflower flora and avoiding planting generic 'native species rich hedgerows' into, and thereby compromising landscapes with historically important networks of ancient species rich hedgerows. Similarly, understanding where interventions can assist natural processes for example managing existing soil containing native wildflower seed rather than importing plug plants/seed, managing for natural tree regeneration/colonisation rather than planting trees in tubes. This is part of understanding and working with local ecological resilience.
- The successful implementation of changes to PPW will be dependent on the clarity of the message and how easy it is for a 'lay' audience of councillors and developers to understand and apply. This is particularly

important as biodiversity is one of several 'priority' issues that must be factored into decision making.

- Some scope for local policy/SPG is required to reflect local distinctiveness, within the spirit of the PPW changes, and allow for the place-based nature of biodiversity considerations, as highlighted in the RCT specific comments above.
- An update of TAN5 would be helpful to support the amendments to PPW
- The resource implications for planning staff, specialist expertise and in enforcement are likely to be an issue. Because of the requirement for local knowledge, a regional approach is unlikely to be helpful in promoting biodiversity and is more likely to reinforce the damaging 'generic' solutions that are undermining local distinctiveness and diversity.
- It is worth re-iterating the key concern re the management of habitat. Green Infrastructure must have a funded mechanism to ensure it continues to provide the benefits to people and wildlife for which it was designed **for the lifetime of the development**. There are currently few planning mechanisms to achieve this. RCT has considerable experience of S106 agreements for biodiversity and it is often difficult to achieve the level of long-term commitment that is required when compared with engineered infrastructure. Nature based solutions are often seen as the cheap option but without long-term management and maintenance the benefits will not be realised. If GI has a planning function it should be subject to planning enforcement for the lifetime of the development. Particular difficulties arise where the developer passes the responsibility of ecological mitigation/enhancement onto new residents. Current mechanisms do not work well, LA powers are limited and all too often LA's end up having to assume green infrastructure responsibilities but without the necessary funding. Management by residents groups is particularly challenging when specialist habitat/species maintenance is required. The Council and the Local Nature Partnership is developing a Living Landscape project to bring land into sustainable biodiversity management (largely with public access). It is hoped that in the long-term this may contribute to successful management of the biodiversity elements of green infrastructure.
- With regard to the discussion on biodiversity metrics mentioned in the consultation documents (Additional information on the use of biodiversity metrics), we **agree** that considerable care is needed to ensure that site and issue specific mitigation and enhancement is delivered, and quality is not compromised or constrained by generic metrics. We would therefore be happy to contribute to this discussion and contribute from our experience. We have not made specific comment on the 'Draft Principles for Planning Applicants' in this response, however many of the our responses to the PPW questions will be of relevance.



Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

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