



Supplementary Planning Guidance

No. 8 Nature Conservation and Development

Adopted by Flintshire
County Council on 17th
January 2017



Purpose

It is Flintshire County Council's intention to prepare and keep up to date a series of Supplementary Planning Guidance (SPG) Notes which will provide detailed guidance on a range of development issues and topics. The purposes of these Notes are:

- To assist the public and their agents in preparing planning proposals and to guide them in discussions with officers prior to the submission of planning applications,
- To guide officers in handling, and officers and councillors in deciding, planning applications, and
- To assist Inspectors in the determination of appeals

The overall aim is to improve the quality of new development and facilitate a consistent and transparent approach to decision making.

Planning policies: the Flintshire context

The Development Plan

Under planning legislation, the planning policies for each area should be set out formally in the Development Plan. Flintshire County Council, as the Local Planning Authority (LPA), has a legal duty to prepare and keep up to date a development plan for the County, and the Flintshire Unitary Development Plan was adopted in 2011. The UDP provides broad policies together with allocations of land for all the main uses such as housing, employment and retailing, and will help to shape the future of Flintshire in a physical and environmental sense as well as influencing it in economic and social terms. The Plan therefore seeks:

- To help the Council make rational and consistent decisions on planning applications by providing a policy framework consistent with national policy and
- To guide development to appropriate locations over the period up to 2015.

The need for Supplementary Planning Guidance

Despite the Plan containing policies with which the Council can make consistent and transparent decisions on development proposals, it cannot in itself give all the detailed advice needed by officers and prospective applicants to guide proposals at the local level, such as house extensions or conversions of agricultural buildings. The Council's intention is to prepare a range of Supplementary Planning Guidance notes (SPG) to support the UDP by providing more detailed guidance on a range of topics and issues to help the interpretation and implementation of the policies and proposals in the UDP. The review of the Local Planning Guidance Notes will be undertaken on a phased basis and details of the available SPG's can be found on the Council's website. Where there is a need to refer to another SPG this will be clearly referenced. These SPG Notes are freely available from Planning Services, Directorate of Environment, County Hall, Mold, Flintshire CH7 6NF (telephone 01352 703228), at the Planning Services reception at County Hall and can be downloaded from the Planning Web pages www.flintshire.gov.uk/planning

The status of Supplementary Planning Guidance

Supplementary planning guidance can be taken into account as a material consideration in the decision making process. The National Assembly will give substantial weight to SPG which derives out of and is consistent with the development plan. In accordance with National Assembly advice the Council's suite of SPG's has been the subject of public consultation and Council resolution. The draft of this SPG was approved for public consultation on 27.03.14 (Council Minute no.55). The SPG was the subject of a public consultation exercise between 18.12.15 and 12.02.16. The 4 comments submitted to the Council have been taken into account and where appropriate amendments have been incorporated into this final draft which was approved by the Council on 17.01.17 (Council Minute no.8) for use as a material consideration in determining planning applications and appeals. A summary of the representations and the Council's response is set out in Appendix 2.

This document should therefore be afforded considerable weight as a material planning consideration.

No. 8 Nature Conservation and Development

1 - Background

1.1 - The purpose of this guidance note is to provide information and advice on nature conservation interests when considering development proposals. 'Nature conservation' is a term used to describe measures which seek to protect the natural world, which was brought to the forefront of the public's attention in 1992 with the Rio Earth Summit. At the Summit the UK Government made a commitment to conserve and sustainably use biological diversity for the benefit of present and future generations. 'Biological diversity' is the variety and richness of all natural living things and is commonly referred to as 'biodiversity'.

1.2 - Development will in some instances have implications for nature but opportunities exist to enhance nature, prevent losses, or compensate for losses where damage is unavoidable. The key to the conservation of nature is protecting the habitat on which it depends. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created. It is therefore important that applicants consider nature at the start of developing their proposals.

2 - Legislation and Policy

2.1 - Since 1992 there have been significant developments in legislation relating to species and their habitat. The key legislation within which the Council undertakes its responsibilities as local planning authority in respect of biodiversity issues is as follows:

- The Conservation of Habitats and Species Regulations 2010 ("The Habitat Regulations") - ratifies the EU directive on the Conservation of Wild Fauna and Flora (92/43/EEC). This legislation gives protections to European sites (SACs & SPAs) and also protects certain wild plants and animals (European Protected Species).
- Wildlife and Countryside Act 1981 (as amended) - affords protection to certain species of plants and animals.
- Natural Environment and Rural Communities Act 2006 - places a statutory duty on all public bodies to have regard to the conservation of biodiversity, and identifies species and habitats of principle importance for nature conservation.
- Protection of Badgers Act 1992 – protects badgers and their setts.
- The Hedgerow Regulations 1997 – classifies and protects certain hedgerows.
- The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 - requires that certain types of project are subject to an assessment of their Environmental impact before planning permission can be granted.
- The Countryside and Rights of Way Act 2000 - strengthens the protection of Sites of Special Scientific Interest (SSSIs) and amends the Wildlife and Countryside Act with regard to certain protected species.

2.2 - The Welsh Government in Planning Policy Wales (PPW 2016 paragraph 5.2.3) seeks to ensure that its policies contribute to the conservation of the abundance and diversity of native wildlife and its

habitats and will minimise the adverse effects on wildlife where conflict of interest is unavoidable. The Welsh Government recognises that 'the planning system has an important part to play in meeting biodiversity objectives by promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable' (paragraph 5.2.8).

2.3 - 'Local planning authorities must address biodiversity issues, insofar as they relate to land use planning, in both development plans and development management decisions' (paragraph 5.2.8). The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land. Pre-application discussions between the developers, local planning authorities and statutory advisers are recommended.

2.4 - Local planning policy guidance is found in the shape of a number of policies in the 'Wildlife and Biodiversity' chapter of the adopted Flintshire Unitary Development Plan (FUDP). The policies are detailed in Appendix 1 of this note.

3 - Householder Applications

3.1 - **Householder Applicants should use this section to check whether they will need to submit any ecological information with their planning application.** If you are a Householder Applicant you will need to consider: **Bats, Nesting birds, Barn owls and Great crested newts.** Bats, Nesting Birds, and Barn Owls are all species which regularly use buildings to nest or 'roost' in. Great crested newts are often found in garden ponds and ditches.

3.2 - If you do need to carry out surveys, you need to make sure that you employ a suitably qualified person to carry out the necessary surveys, impact assessment, method statements and mitigation or enhancement strategies to be included with your application. Ecological surveys are seasonal, so your survey should be carried out at an appropriate month of the year, and time of day. Your survey information should include a data search from the Cofnod - the Local Records Centre for North Wales, and use nationally recognised survey guidelines/methods where available. Cofnod is one of four Local Records Centres (LRCs) in Wales and forms part of the first national network of LRCs anywhere in the UK. Their task is to bring together all these individual records into a centralised database allowing a better knowledge of the environment in which we live. Their objectives are to provide:

- High Quality biodiversity and geodiversity information.
- Support for wildlife recorders and environmental professionals.
- Mechanisms to help make better environmental decisions.

Cofnod is based in Bangor and can be contacted at this address:-

COFNOD, North Wales Environmental Information Service, Intec, Ffordd Y Parc, Bangor, Gwynedd, LL57 4FG, 01248 672603. www.cofnod.org.uk for detailed environmental information.

For further information on site surveys please contact Amanda Davies, County Ecologist, Flintshire County Council, County Hall, Mold, CH7 6NF. 01352 703268.

3.3 - The Council encourages pre-application discussion on all applications. As a Householder Applicant,

the ecological issues you are most likely to encounter are outlined below. Applicants should note, however, that the requirements shown below are unable to account for all household applications situations. You can contact Flintshire County Council if you have any queries, as we have officers who can provide ecological guidance and advice to members of the public.

Bats

3.4 - Bats are 'European Protected Species' and survey information for bats should always be provided up-front as part of your planning application. A planning application which could impact on bats cannot be determined until you provide all the necessary information. The survey, survey report and mitigation proposals should always be undertaken and prepared by a licenced bat surveyor (Bat survey licences in Wales are supplied by Natural Resources Wales).

Barn Owls

3.4 - 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 birds at the nest.

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

Nesting Birds

3.6 - 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). Birds species such as house martins, house sparrows, swallows and swifts all use buildings to nest in/on. Areas of dense vegetation (e.g. hedgerows) are also important for nesting birds. Works which might affect nesting birds should avoid the bird breeding season, which is considered to be March - August inclusive.

Great crested newts

3.7 - Great crested newts are commonly found in ponds and ditches. If your planning application is likely to directly impact on a pond, canal or ditch, you will need to consider whether a Great crested newt survey is required.

3.8 - Great crested newts are 'European Protected Species'. Survey information for Great crested newts should always be provided up-front as part of your planning application. A planning application which could impact on Great crested newts cannot be determined until you provide all the necessary information. The survey, survey report and mitigation proposals should always be undertaken and prepared by a licenced surveyor (Great Crested Newt survey licences in Wales are supplied by Natural Resources Wales). If the survey you submit shows that Great crested newts are likely to be affected by your proposals, you will need to provide mitigation proposals. The mitigation proposals will depend on the results of your Great Crested Newt survey. The Council will then assess the information you have submitted against the 'three tests' of the Habitat Regulations (see section 3. Protected Species and Licences). If planning permission is granted, you will then need to apply for a European Protected Species development licence ('Derogation') from the Welsh Government.

Sites Designated for nature conservation interest

3.9 - Householder Applicants should also check whether their application is within or near to a designated site. Further survey information may be required if your application is likely to impact upon a designated site.

Enhance

3.10 - Householder applicants should provide new opportunities for wildlife. This may include:

- providing bird boxes, bird feeders and bird baths;
- landscaping your garden to include native hedgerows, trees and wildflower areas;
- erecting bat boxes or a barn owl box;
- creating a pond or bog garden; or
- creating a log pile or rock pile; or
- An appropriate sized hole in garden boundaries to allow access by hedgehogs.

4 - Pre-application considerations for developers

4.1 - In order to conserve and sustainably use biological diversity it is important to protect all nature interests, whether unprotected or protected by legislation. There are many unprotected sites which have considerable nature conservation value in their own right or may serve an important function, for instance, forming a wildlife corridor, linking areas that are vital for certain species. Whilst the UDP recognises the natural significance of these unprotected areas and gives them a measure of protection against significant adverse effects, it does not specify in any detail the species and habitats considered to be important, rather these are set out in Flintshire's Biodiversity Action Plan. However if nature is to be genuinely enhanced, the conservation of all nature and their habitat needs to be at the centre of development considerations. **The potential for natural 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.**

4.2 - The Council welcomes early discussion of nature issues at the pre-application stage, as recommended by national policy (PPW 5.5.1). Pre-application discussions with statutory consultees such as Natural Resources Wales are recommended, in addition to non-statutory consultees such as North Wales Wildlife Trust and RSPB, if appropriate. Applications for wind turbines or hydroelectric schemes are advised to undertake pre-application discussions with Flintshire County Council and Natural Resources Wales in order to obtain advice regarding survey requirements. Natural Resources Wales also have a regulatory function with regards to the water environment.

5 - Nature Appraisal

5.1 - Fundamental to this concept of nature being at the centre of development considerations is establishing, at the outset of any development proposals, the nature interests on a site. Up-front survey work will enable the design work for your planning application to fully take account of constraints and opportunities on-site.

5.2 - A nature appraisal of a site is a good way to achieve this and should be provided when planning applications affect, for instance, woodland; hedgerow; tree; open green space; water courses (including

rivers, ponds, ditches); any site, or building, with a protected species; any site of nature conservation importance; and any forms of industrial archaeology (including lime kilns, chimneys, etc).

5.3 - A nature appraisal is also required when proposals involve the conversion of buildings, outbuildings and barns; the demolition of buildings / structures (including walls) and the removal of roofs; the felling of trees (including woodland), hedgerows and other vegetation including the clearance of scrub land; the refurbishment of unoccupied dwellings; infrastructure construction (including roads, drainage schemes, electricity and telecommunications installations); and habitat formation and enhancement.

5.4 - Applicants must submit sufficient detailed information to enable the impact upon nature interests to be properly appraised. A nature appraisal must clearly demonstrate the following three elements: a site appraisal; a nature survey; and an assessment of the information.

i. Site Appraisal

5.5 - The site appraisal can be a desktop exercise to assess the potential of the site to support habitats and species of importance. As part of this exercise it should be established what habitats and species are potentially affected by the proposal. A species search from Cofnod – the North Wales Information Service (local record centre) can help identify which habitats and species are within, adjacent or near the development site. The proximity of any protected species or habitats to the site must be highlighted.

For further information on how to carry out a site appraisal please contact: -

Amanda Davies, County Ecologist, Flintshire County Council, County Hall, Mold, CH7 6NF, 01352 703268.
Email: amanda.a.davies@flintshire.gov.uk

Also contact: COFNOD,
North Wales Environmental Information Service, Intec, Ffordd Y Parc, Bangor, Gwynedd,
LL57 4FG, 01248 672603. www.cofnod.org.uk for detailed environmental information.

ii. Nature Survey

5.6 - If the site appraisal demonstrates the presence of a habitat or species of nature interest (protected or not) the applicant must undertake a nature survey. The survey must identify the species present on site noting the number and their exact location and habitats on the site. Any proposal within 500 metres of a pond which is known or likely to support great crested newts will be required to be part of the nature survey, otherwise their presence will be assumed. Similarly, where a proposal is adjacent to a water course or water body surveys for otter and water vole must be carried out. The conversion of any building (e.g. barn or outbuilding) and demolition of existing building or removal of trees will require a separate survey for bats or birds.

5.7 - It is fundamentally important to carry out nature surveys at the correct time of year in order to help to minimise delays in the application process and they must be conducted by a suitably experienced and licensed ecologist. Applicants who are required to submit ecological information with their planning application are likely to need to employ an ecological consultant. This guidance is unable to make individual recommendations on ecological consultants. However, the Chartered Institute of Ecology and Environmental Management (CIEEM) is one of the main bodies in the UK to promote good practice and professionalism in ecology - membership of this organisation is a good indication that the person is suitably qualified to carry out ecological surveys to a high standard of competence. The CIEEM website (www.cieem.net) has a directory of members which can be searched by region and specialism.

iii. Assessment of the Information

5.8 - Key considerations following a Nature Survey are:

- How significant is the site or population – locally, regionally or nationally?
- Can mitigation or compensation be achieved in the long term?
- If protected species are found to be using the proposed application site, has it been demonstrated that the population can be maintained at favourable levels?

5.9 - Following an 'Assessment of the Information', applicants may need to undertake an Environmental Impact Assessment (1) and may wish to submit a screening opinion. Applicants should also consider whether they need to submit a report to inform a Habitat Regulations Assessment (2) and whether a protected species may be affected by their proposals, which will require them to apply for a protected species licence (3).

Environmental Impact Assessment

5.10 - The term Environmental Impact Assessment (EIA) describes a procedure that must be followed for certain types of project before they can be given 'development consent'. 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 can be given by the Council at the pre-application stage and guidance is also available in a separate SPG, which covers procedures such as 'screening option' and 'scoping option'.

Habitat Regulations Assessment

5.11 - 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, the Competent Authority (i.e. Flintshire County Council) must undertake an 'appropriate assessment', which is required under the Habitat Regulations.

5.12 - The applicant must provide details of all the aspects of the development and its potential impacts to the local planning authority 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 survey work. Consent cannot be granted unless the results of the appropriate assessment show that the proposal will not have a significant negative effect.

5.13 - Flintshire contains a number of sites designated under the Habitat Regulations therefore it is important to consider that development proposals do not need to be within or adjacent to a site in order to impact upon the features of the site.

Protected Species and Licences

5.14 - Activities that are likely to cause harm or disturbance to a protected species or its habitat must be carried out under licence. This can include survey work, trapping and marking, photography and habitat management. For this reason, a professional ecologist should always be employed to carry out survey work. For development, a 'development licence' will often be needed if a protected species will be negatively affected. PPW (5.5.4) encourages pre-application discussion between the applicant, local

planning authority and Natural Resources Wales 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). Mitigation work for many development licences may involve a significant lead in time, for example, mitigation habitat for dormice may take several years before it is suitable for dormice.

- European Protected Species

5.15- There are a number of 'European Protected Species' in Flintshire, these include otters, bats (all species), great crested newts, and dormice. If a European Protected Species is likely to be affected by the proposals, the applicant will need to apply to the Welsh Government 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.

5.16 - It is important to note that planning permission (or a permitted development right) doesn't negate the need for a development licence before work starts on site. Working without a development licence could lead to a wildlife crime being committed and subsequent prosecution. Before planning permission is granted, the Council needs to address three tests during its decision on the application:

1. there is 'no satisfactory alternative'
2. it is 'not detrimental to the maintenance of the populations of the species concerned at favourable conservation status in their natural range'
3. 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'

5.17 - To enable the Council to do this, these issues must be addressed in the nature conservation report that is submitted with the planning application.

5.18 - Once the application is received the Council will consult Natural Resources Wales 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. The Council will document their consideration of the Three Tests on a European Protected Species Local Planning Authority Consultation Document - a signed original of this completed form will be provided to the developer with the Full Planning Permission documents.

- UK Protected Species

5.19 - Natural Resources Wales issues development licences for species protected under the Wildlife and Countryside Act 1981, for example, Reptiles (all UK species) and Water Voles.

5.20 - NRW is also responsible for issuing licences under the Protection of Badgers Act 1992 where it is necessary to interfere with badger and/or their setts in the course of development. The consideration and granting of such a licences are separate from the process of applying for planning permission, but Local Planning Authorities must take account of the legislation throughout the development management process. For more information on protected species and the planning system, see TAN 5 (Section 6 and Annex 7).

6 - Design

6.1 - 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.

6.2 - Connectivity is important when incorporating wildlife features into development proposals so that wildlife does not become isolated from existing habitats. Certain habitats provide corridors or stepping stones across the landscape (e.g. hedgerows or networks of ponds) and designing a scheme around an existing pond would not be sufficient if that pond is then completely isolated from nearby terrestrial and wetland habitats. The connectivity of natural features allows species to forage, migrate, colonise new areas and respond to habitat and climate change.

- Avoid

6.3 - As an applicant your primary objective should be to avoid negative impacts of your proposal by designing the site around the wildlife features. For example, if the development site includes a pond or existing hedgerow try to incorporate it into the layout.

- Mitigate

6.4 - Where avoidance is not at all possible and developers are required to show why this is the case then the design of your proposal 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.

6.5 - 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.

6.6 - Very occasionally, translocation of a certain species, habitat or feature can be considered when no other options exist, for instance, moving a species, habitat or feature to another part of the development site or to a receptor site in another area.

- Compensate

6.7 - 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.

6.8 - Compensation either restores or recreates the wildlife feature damaged by a development – ensuring no net loss. It should be noted that some habitats and features, such as ancient woodland, cannot be compensated for.

6.9 - Compensation will not be regarded as an alternative to avoidance or mitigation and where a habitat or feature is lost to development a greater quantity of the replacement will be required. It takes time for new habitats and features such as trees and hedgerows to establish and become functional

and there is no certainty that it will ever achieve the nature conservation value of the original.

6.10 - A replacement ratio for 'like for like' compensation is set at 1:1.5 or 50% above the area to be replaced. This is the minimum that would be accepted and the ratio may be increased in some instances where, for example, fragmentation of important existing habitats needs to be avoided.

6.11 - 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 local planning authority on a case by case basis.

6.12 - 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

6.13 - Planning Policy Wales (5.2.8) 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 the NERC Act (2006) to conserve biodiversity through restoration and site enhancement. One of the primary ways the Council can achieve this duty is through encouraging action by others.

6.14 - Enhancement is additional to any mitigation / compensation measures required as a result of the impact of the development and will be assessed on a case by case basis as part of the consideration of planning applications. Enhancement that contributes to the targets set by Flintshire's biodiversity action plan is welcomed.

6.15 - 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 local planning authority. 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;
- creation of a wildlife pond and scrapes;
- establishment of a meadow area;
- improving a waterway and its banks;
- planting a native woodland area or copse;
- creation of connecting wildlife corridors/linear features for wildlife movement;
- creation of otter holts;
- creation of buffer zones along watercourses planted with native species of local provenance;
- naturalising/restoring watercourses opening up culverts;

- Manage

6.16 - 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 and some features require no management at all. However, for some sites there may be a need for specific management regimes for many years.

6.17 - In these cases a management plan will need to be produced and submitted as part of the 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/maintenance.

6.18 - 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. The organization and personnel responsible for implementing the plan also need to be identified. A management plan may also need to include regular monitoring as part of a licence granted for disturbance to a protected species.

- Design and Access Statement

6.19 - The applicant should provide a summary within their Design and Access Statement (where required) which explains how they have addressed the impact of their proposals on any wildlife features, through design and show how they aim to enhance biodiversity.

7 - Submission of a planning application

7.1 - By the time a planning application is ready for submission nature and the natural features present on site should have been fully considered as part of the pre-application survey work (as recommended in the 'Appraisal' section of this SPG). In those cases where survey work was required a nature 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.

- Nature Report requirements

All submitted reports must provide sufficient information for the local planning authority to fully consider the impacts of a proposed development. A report must 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.

1) A submitted report demonstrating thorough survey work and assessment must:

- Identify all designated sites and protected species that could be affected by the proposals, and provide details of potential impacts and proposed mitigation measures;
- Include a summary of the proposed development, description of the site (including existing wildlife features), and site history (e.g. ownership, general land use, type of and need for the proposed development, planning history);
- Include a search for data from 'Cofnod' and/or any other relevant organisations. (All data submitted to the local planning authority as part of the application will be made available to 'Cofnod', unless the applicant requests otherwise);
- Inform of the extent, scope, and methodology of the survey(s) being undertaken;
- Be undertaken and prepared by competent persons with suitable qualifications, licenses and

experience – and this information should be contained within the report;

- Be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available and working to best practice standards;
- Record species and/or habitats present on site, identifying their numbers/extent and location – both on site and within an appropriate buffer zone around the site boundary;
- Map species distribution and use of the area, site, structure or feature (e.g. for feeding, shelter, breeding);
- Map the habitat types present on site and/or in the surrounding area to be shown on an appropriate scale plan and record extent, area or length. Maps should indicate habitat and wildlife features, and any appropriate target notes, on and off site. Inclusion of photographs is recommended;
- Briefly record species and habitats incidentally encountered as part of the survey as appropriate (for example, a bat survey should also include any evidence of nesting birds);
- Detail any limiting factors or constraints that may have affected survey work;
- Assess site status against SINC criteria;
- Identify ecological networks;
- Identify and describe development impacts likely to harm the species, features used and habitats. This should take account of: direct and indirect effects; short-term and long term impacts; direct and indirect impacts; scale and nature of impacts (set within a local/national context); and impacts during construction and operation.

2) A submitted report must first demonstrate why avoidance of negative impacts is unfeasible before providing a strategy that details mitigation and compensation proposals. These must include:

- A strategy to ensure no overall detrimental effect on the maintenance of habitats and species affected;
- On sites where European protected species are likely to be affected, a statement to inform the Council's assessment against the 'three tests';
- Details of any translocation proposals, including methodology and full assessment and description of proposed receptor site;
- Details of habitat/feature creation, restoration and/or enhancement;
- Details of any resultant change in the status of priority habitats/species expressed in terms appropriate to the local biodiversity action plan;
- A work schedule (preferably to include maps and a diagram showing phasing/timing of works);
- Post development management and monitoring (as a standalone management plan).

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, enhancement or appropriate future management and maintenance.

Appendix 1

WB1 Species Protection

Development which would have a significant adverse effect on important species or their habitats will not be permitted unless appropriate measures are taken to secure their long term protection and viability.

WB2 Sites of International Importance

Development will not be permitted unless:-

a) it is demonstrated that it will not have a significant adverse effect on any Ramsar Site or Natura 2000 site (including SPAs, potential SPAs, SACs, candidate SACs); or

b) it is demonstrated, following appropriate assessment, that it will not adversely affect the integrity of any Ramsar or Natura 2000 site.

WB3 Statutory Sites of National Importance

Sites of Special Scientific Interest (SSSI) will be protected. There will be a presumption against development either within or in the vicinity of a site which would have a significant adverse effect on the nature conservation interest of the site.

WB4 Local Sites of Wildlife and Geological Importance

Wildlife Sites and Regionally Important Geological Sites will be protected. Planning permission will not be granted for development that is likely to have a significant adverse effect on their nature conservation or geological value.

WB5 Undesignated Wildlife Habitats

Development will be permitted only if it will not have a significant adverse effect on wildlife and habitats of local importance.

APPENDIX 2

Supplementary Planning Guidance Note (SPGN) Public Consultation, (Dec 18th 2015 and Feb 12th 2016) comments and responses to SPGN No 8 Nature Conservation and Development.

Commenting Body / Individual	Comment	Response	Recommendation
No. 8 Nature Conservation and Development			
Bourne Leisure	<p>Compensation The Revised Draft Nature Conservation and Development SPGN provides detail on the level of replacement wildlife habitat to be provided as compensation for development proposals where it is not possible to avoid or mitigate for a loss of habitat. Paragraph 6.10 sets a minimum replacement ratio of 1:1.5 for where the replacement habitat is like-for-like, and paragraph 6.11 states that a 'much greater' ratio may be required where the replacement habitat type is different to the original habitat. Bourne Leisure objects to the standard application of a replacement ratio for all development proposals. It is considered that the quality and type of the existing habitat that is being replaced and the specifics of the development proposal should be taken into account when determining the level and type of replacement habitat to be provided. The company therefore considers that the standard replacement ratio should be removed from the SPGN and the level of replacement habitat should be determined on a case-by-case basis.</p> <p>Although the Flintshire Unitary Development Plan (UDP) (adopted 2011) only 'encourages' the enhancement of biodiversity (Policy WB6), the Revised Draft SPGN states the assumption that the enhancement of biodiversity will be required for the 'majority of planning applications' (paragraph 6.14). This assumption changes the emphasis of UDP policy WB6, and so does not meet the</p>	<p>The issue of seeking the enhancement of biodiversity is fully embodied in PPW and is therefore quite properly set out in the SPG. Rather than deleting the sentence in para 6.14 as suggested by the objector it is considered more appropriate to redraft the paragraph so as to be less prescriptive.</p>	<p>That para 6.14 be redrafted as follows: 'Enhancement is additional to any mitigation / compensation measures required as a result of the impact of the development and will be assessed on a case by case basis as part of the consideration of planning applications. Enhancement that contributes to the targets set by Flintshire's biodiversity action plan is welcomed'.</p>

	<p>requirements of PPW paragraph 2.4.3, which states that SPGs ‘must be consistent with the plan’.</p> <p>The purpose of an SPG is not to create new policy. PPW states the purpose of SPGs as being limited to providing more detail on the policies of the development plan: “Selective use of supplementary planning guidance (SPG) is a means of setting out more detailed thematic or site specific guidance on the way in which the policies of an LDP are to be interpreted and applied in particular circumstances or areas.” (paragraph 2.4.1)</p> <p>The LDP Manual (2nd edition, August 2015) also states: “The LDP contains policy; SPG contains guidance and advice only.” (paragraph 7.3.1)</p> <p>Bourne Leisure’s view is that the enhancement of biodiversity should be considered on a case-by-case basis and in line with the adopted Plan, as some development proposals will provide more opportunities to deliver this than others. Therefore, the company requests that the following sentence is deleted from paragraph 6.14 of the Revised Draft SPGN: “‘There is an assumption that enhancement will be required for the majority of planning applications.’”</p>		
Huw Evans Planning	The clarity of the guidance is to be commended. It is far simpler and generally more useful than the overelaborated national advice in TAN 5.	Noted	No change
CPRW	Add to the bullet points in para 3.10 ‘or an appropriate sized hole in garden boundaries to allow access by hedgehogs’.	It is considered reasonable for an additional bullet point to be added.	Add a new bullet point in para 3.10
CPRW	It is considered that paragraphs 6.17 and 6.18 should be combined as they deal with the same subject.	Due to a formatting issue it is considered appropriate for paras 6.16, 6.17 and 6.18 to be merged into a single para so as to read better.	Merge paras 6.16, 6.17 and 6.18