



Llywodraeth Cymru
Welsh Government

OPEN CONSULTATION

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)

We want your views on draft policy changes to Planning Policy Wales on net benefit for biodiversity and ecosystems resilience.

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Date of issue: 09 March 2023

Action required: Responses by 31 May 2023

Overview

This consultation is seeking your views on proposed changes to Chapter 6 of Planning Policy Wales primarily on net benefit for biodiversity and ecosystem resilience. There are some additional changes which are consequential for other chapters or which not fully related to the main purpose of the consultation and these are documented in the consultation document as supplemental to the main changes.

How to respond

Please respond to this consultation by using the response form.

Responses can be submitted in a number of ways:

Online [GOV.WALES]

Email: planconsultations-d@gov.wales

Post:

Proposed Changes to PPW on Net benefit for Biodiversity and Ecosystems Resilience
Planning Policy Branch,
Welsh Government,

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Cathays Park,
Cardiff
CF10 3NQ

When responding please state whether you are responding in a personal capacity or are representing the views of an organisation.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

email: planningpolicy@gov.wales

Tel: 0300 025 3711

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In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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The contact details for the Information Commissioner’s Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

Website: [Information Commissioner’s Office](#)

Introduction

At the United Nations COP15 Biodiversity Summit leaders around the world

have agreed a new ambitious Global Biodiversity Framework to put the world on a path to restoring nature by the end of the decade. In attending COP15, Wales added its voice by pressing for urgent transformative action across the whole of society. We emphasised the key role that subnational governments, cities and local authorities play in maintaining and enhancing biodiversity and in delivering actions across planning, implementation, and monitoring. Now we must step up and ensure we deliver to realise our ambitions.

In support of COP15, we recently completed our own **Biodiversity Deep Dive** and agreed a set of collective actions to be taken in Wales to protect and effectively manage some of our most precious habitats and support the recovery of nature.

Planning Policy Wales was fully revised in 2018 to reflect the Well-being of Future Generations (Wales) Act 2015 and to support the implementation of the Environment (Wales) Act 2016 through the planning system **Planning Policy Wales (PPW)**.

In autumn 2019 a Chief Planning Officer letter provided further guidance on the **application of the Environment (Wales) Act Section 6 duty with regard to securing enhancement** which stated that if this could not be achieved, permission for the development should be refused.

A further Chief Planning Officer letter was published in December 2022 to highlight the essential role that the planning system must play in meeting the challenges laid down by COP15, the Deep Dive recommendations and in fulfilling the Section 6 duty in Wales. **COP15, biodiversity deep dive, section 6 duty and the planning system**. The letter also signposted that proposed changes to PPW would be forthcoming.

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What are we consulting on?

The primary purpose of this consultation is a targeted update of policy in section 6.4 of PPW relating to net benefit for biodiversity and the resilience of ecosystems and to strengthen policy on designated sites, in particular Sites of Special Scientific Interest, and on trees and woodlands. This requires changes to section 6.2 on Green Infrastructure given its close alignment with securing the maintenance and enhancement of biodiversity and resilience of ecosystems.

As a result of these primary changes, there are consequential changes to section 5.14 Minerals (paragraph 5.14.37) and Section 6.6 Water and Flood Risk (paragraphs 6.6.1, 6.6.5 and 6.6.6) and the introductory section of Chapter 6.

An unrelated change will be made to paragraph 6.3.10 on National Parks for the purposes of accuracy.

Comments are not requested on any other aspects of PPW at this time except those tracked as changes in the accompanying proposed changes document.

Annex 1 to this consultation document on 'Achieving a Net Benefit for Biodiversity – Draft Principles for Planning Applicants' is attached for background information and comments are not requested on this document at this time. This document has informed the changes to section 6.4 in the proposed changes document and is provided for context only.

In summary, the proposed changes include:

The following primary changes:

Section 6.4 various changes are proposed to this section on net benefit and the resilience of ecosystems incorporating the draft principles contained in Annex 1

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to this consultation document. The stepwise policy has been redrafted; policy in relation to designated sites has been strengthened; the text in the orange box on the 'Implementing the Section 6 Duty and the DECCA framework' has been updated; and policy on trees and woodland has been strengthened.

Section 6.2 changes are proposed to this section in light of the changes being proposed in section 6.4 on net benefit for biodiversity and the resilience of ecosystems. The opportunity is taken to provide greater direction on securing green infrastructure. A green infrastructure statement is required to accompany planning applications and in the absence of a local authority approach, including supplementary planning guidance, the Building with Nature Standards should be applied as a checklist to ensure appropriate consideration has been given. Accreditation under the Building with Nature Standards is recommended wherever possible.

The following consequential changes:

Section 5.14 Minerals - paragraph 5.14.37 to align this paragraph with the proposed changes to sites designated for biodiversity reasons.

Section 6.6 Water and Flood Risk – paragraphs 6.6.1, 6.6.5 and 6.6.6: A number of small wording changes are proposed to better reflect net benefit and the resilience of ecosystems along with greater recognition of nature based solutions and the benefit of taking complementary action to address pollution and the restoration of riverine habitats.

Introductory paragraphs to Chapter 6 various changes are made which reflect the primary changes made to section 6.4.

One unrelated change for the purposes of accuracy:

Paragraph 6.3.10 National Parks: a small change is needed to properly reflect the statutory purposes of a National Park and the ability of the National Park Authority (NPA) to protect them. It is considered that NPAs need to be able to decide what constitutes 'major' depending on local context and the particular application in question. The deletion of text is proposed to rectify this.

Additional information on the use of biodiversity metrics

Whilst the proposed changes do not refer explicitly to the issue of a biodiversity metric and such an approach is not in its entirety supported by Welsh Government, there is a recognition that metrics may have a role to play in certain circumstances, but only where they reflect the full Section 6 duty contained in the Environment Act (Wales) 2016, including the 'DECCA' framework (see paragraph 6.4.9 of the proposed changes document).

To this end, the benefits of a standardised and transparent methodology are acknowledged, along with the issues and drawbacks of attempting to apply a 'one-size-fits-all' solution to a highly complex system. However, a method to measure whether a net benefit for biodiversity can be, or has been achieved, either already in existence or a bespoke measure, would be desirable - in conjunction with the rigorous application of the policies contained in section 6.4 of PPW (as amended by the proposed changes document).

Welsh Government therefore propose to work with Natural Resources Wales and other stakeholders to develop a common approach to measure whether a net benefit will be achieved on site (i.e. the end result will be better than the starting state). Such a mechanism will provide clarity for what is required and

what can be done to achieve a net benefit for biodiversity and enhance the resilience of ecosystems. Further guidance will be forthcoming on this matter and will operate within the framework of section 6.4 and will use expert judgement to quality assure the approach.

Annex 1: Achieving a Net Benefit for Biodiversity – Draft Principles for Planning Applicants

These principles were developed by a Task and Finish group under the Nature Recovery Action Plan for Wales' Planning and Biodiversity Forum in 2019-20. The group included representatives from local planning authorities, NRW, Wales Environment Link, the local records centre, PEDW and Welsh Government. It was intended that these principles be fed into Planning Policy Wales at an opportune time. The current consultation on proposed changes aims to do this.

Introductory notes

- A net benefit for biodiversity (NBB) is defined as, 'the concept that development should leave biodiversity and ecosystems in a better state than before, through securing long term, measurable and demonstrable benefit, primarily on site.'
- Under Section 6 of the Environment (Wales) Act a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.
- Biodiversity is defined as the diversity (variety and abundance) of living organisms, whether at the genetic, species or ecosystem level. In particular, under Section 6(5)a, in complying with the duty a public authority must have regard to the Section 7 biodiversity lists of species and habitats of principal

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importance for Wales.

- The Act not only requires consideration of biodiversity in terms of the species and habitats present, but also ecosystems and in particular the resilience of those ecosystems.
- The Convention on Biological Diversity defines ecosystems as “a dynamic complex of plant, animal and micro-organisms and their non-living environment interacting as a functional unit”. The key feature of ecosystems is that they are fully integrated systems with ‘emergent properties’ arising from interactions between the living and non-living elements of which they are composed.
- Ecosystem resilience is defined as “the capacity of ecosystems to deal with disturbances, either by resisting them, recovering from them, or adapting to them, whilst retaining their ability to deliver services and benefits now and in the future”.
- To maintain and enhance the resilience of ecosystems involves consideration and action around the following attributes of ecosystems as set out under the DECCA Framework -
 - **Diversity** between and within ecosystems; not only biological but also geological and physical.
 - **Extent**; the bigger an ecosystem extends, without fragmentation, the more resilient it is likely to be.
 - **Condition** of ecosystems (including their structure and functioning); the underpinning supporting services of ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services.
 - **Connectivity** - between and within ecosystems; facilitates the movement of genes, species and ecosystem components such as water across landscapes, allowing ecosystems to function effectively and to adapt spatially.
 - **Adaptability** of ecosystems. As an outcome of the above, the overall adaptability of ecosystems invites specific consideration of the adaptive cycles which many ecosystems undergo. The key question here is

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whether the ecosystem in question will adapt and change in the desired direction given future environmental, and socio economic changes and demands such as climate change.

Why is ecosystem resilience important?

Resilience is core to the new, integrated approach to the environment, which is based on the flow from ecosystems, through ecosystem services and benefits, to well-being. Sustainable Management of Natural Resources (SMNR), is the means by which the Welsh environment is managed to achieve this flow, and resilience is the property of ecosystems that allows the flow to persist in the face of impacts and change.

- The outcomes of applying the NBB principles should be that:
- Biodiversity and ecosystem resilience is maintained and enhanced,
- A biodiversity uplift on site is secured over and above that required to mitigate or compensate for a negative impact, and
- Developments are sustainable, ecologically resilient, healthy, and deliver multiple benefits for the well-being of local people.

The stepwise process (PPW para 6.4.21) and these principles must be applied at the earliest stages of any development planning, aiming to maintain and enhance as much biodiversity as possible, and moving away from the assumption that damage can be compensated for, either on or off-site. Evidence showing how the stepwise approach has been followed together with these principles will be required.

Through the application of these principles and the step-wise process the overriding aim must be to deliver an enhancement.

Pre application principles - assess and plan

1: Early surveys and research should establish **the baseline state** of biodiversity and ecosystem resilience on site and in the local context, taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services (see PPW para 6.4.9). For householder scale applications in particular, advice should be provided to potential applicants outlining expectations regarding information required to accompany an application. It is important that the application of these principles are proportionate and relate to the significance of any potential impact or contribution that positive measures could make to local biodiversity and ecosystems. In every case however, understanding the ecological context of a development will be essential.

The local Green Infrastructure Assessments (GIAs) and Area Statements should be referred to in order to provide this important spatial context, as well as assisting in the identification of pro-active measures and enhancement opportunities to help integrate the proposal successfully into its location.

2: Any pre-development site clearance (including disruptive site investigations) will lead to refusal of planning permission **OR** where a site has been cleared the site condition is deemed to have been as it was before any site investigations or clearance took place. NBB must be achieved from that point.

3. All development must aim to deliver a net benefit for biodiversity (and ecosystem resilience) from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there should still be a pro-active process to look for and secure enhancement through the design and implementation of the development.

4: The net benefit for biodiversity must be achievable within as short a time as possible, and management must be secured, for the long-term.

Applying the step-wise approach - avoid

5: First, aim to maintain biodiversity by avoiding loss or damage to biodiversity in its widest sense (i.e. the variety of species and their abundance). Consider whether the development is really needed, whether it could be located elsewhere, sited or designed differently, or incorporate or be replaced in part by a nature based solution.^[1]

6: Sites that include SSSIs, SINCs, protected species and habitats, especially those that are irreplaceable^[2] must be safeguarded. (Refer to PPW 6.4.11 – 6.4.20 for all designated sites guidance.)

Minimise

7: When all options for avoiding loss or damage to biodiversity have been exhausted, development should seek to minimise the initial impact on biodiversity and ecosystems on the site by:

- maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 priority habitats and species where present, by minimising development size and appropriate orientation on site,
- retaining existing features (e.g. trees, hedgerows, ponds), and
- using innovative solutions to avoid damage and maintain existing biodiversity features and ecosystems.

Mitigate

8: Where after measures to minimise impact, biodiversity and ecosystems could still be damaged, the proposed development should aim to mitigate that damage

– ‘like for like’ in the case of priority habitats and species and in every case seek to build ecosystem resilience within the site and where possible the wider area. Having mitigated loss, a scheme of enhancements should be provided to ensure a net benefit for biodiversity. These could include on-site habitat creation and/or could be part of the development itself using biodiverse nature based solutions such as SUDS, green roofs, woodland expansion, and wetland creation.

Improving ecosystem resilience through the DECCA attributes, particularly improving connectivity to the immediate surroundings would be a key contribution to on-site mitigation and enhancement.

Compensate – As a last resort

9: When all other options have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes, offsite compensation for unavoidable damage must be sought.

10: Compensation measures should be guided by place-based evidence and the priorities as set out in SoNaRR, the Area Statement and/or Green Infrastructure Assessment and must be secured and established far enough in advance before the loss of biodiversity on site.

11: Appropriate compensation measures or tools could include:

- biodiversity enhancements with demonstrable ecological relationship to the site,
- translocation and restoration of site features, habitats and species, and/or
- contribution to an approved levy scheme or habitat bank.

Compensation should be at least ‘like for like’ in terms of type, quality and extent and be context appropriate - guided by the documents referred to above and appropriate ecological advice from NRW and/or a competent CIEEM registered

ecologist.

[1] References to further guidance e.g. Building with nature/Enhancements guidance note

[2] Habitat that once lost cannot be recreated elsewhere within a reasonable timeframe e.g. ancient woodlands, active peatland and limestone pavement

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