



Ein cyf/Our ref MA/JJ/3780/22

20 December 2022

Dear Colleague,

### **COP15, Biodiversity Deep Dive, Section 6 Duty and the Planning System**

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 protecting 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 <https://gov.wales/biodiversity-deep-dive-recommendations>

The purpose of this letter is 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. Further, the letter gives notice of proposed changes to planning policy in relation to net benefit for biodiversity and the protection afforded to Sites of Special Scientific Interest and trees and woodlands.

In Wales the biodiversity duty is set out under Section 6 of the Environment (Wales) Act 2016. It requires public authorities to “*seek to maintain and enhance biodiversity in the exercise of its 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*”. In complying with the duty public authorities must take account of the resilience of ecosystems, in particular the following aspects (known as the *DECCA* Framework):

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

- diversity between and within ecosystems;
- the connections between and within ecosystems;
- the scale of ecosystems;
- the condition of ecosystems (including their structure and functioning); and,
- the adaptability of ecosystems.

In relation to the duty public authorities must also have regard to:

- the list published under Section 7<sup>1</sup>;
- the State of Natural Resources Report (SoNaRR) published under Section 8;
- any Area Statement published under Section 11 for an area that includes all or part of an area in relation to which the authority exercises functions;
- to any guidance given to it by the Welsh Ministers.

Welsh Government has issued [guidance](#) in relation to the Environment (Wales) Act through a series of factsheets. The [Biodiversity and Resilience of Ecosystem Duty factsheet](#) (published Aug 2020) explains the Section 6 duty and provides examples of how public authorities can meet the duty. The [Biodiversity and Resilience of Ecosystem Duty FAQs](#) (revised Feb 2022) reiterates the duty and those elements which should be taken account of and be given regard to. In addition it requires that the six objectives contained with the [Nature Recovery Action Plan for Wales](#) (NRAP) should be used to help develop and guide actions to comply with the duty.

A number of Ministerial statements have been made in relation to nature recovery which clearly identify the importance attached to protecting nature and ensuring its recovery. These statements can be found at: [Cabinet statements | GOV.WALES](#)

The Deep Dive committed delivery of the 30 by 30 target, to protect, effectively and equitably manage 30% of our land, freshwater and seas by 2030 as a strategic focus to consider where and how action could be accelerated. **Planning Policy Wales** (PPW) includes the planning system response to the Section 6 Duty by setting out a framework for planning authorities to maintain and enhance biodiversity in the exercise of their functions (providing a net benefit for biodiversity).

A net benefit for biodiversity, whilst similar in concept to Net Gain, includes a distinct reference to ecosystem resilience and how the site relates to surrounding ecosystems and biodiversity. As such it encourages proposals to pro-actively maintain and enhance biodiversity and ecosystems with a focus on avoidance, minimisation and mitigation of impacts within the context of the site with offsite mitigation seen as a last resort in considering the resilience of ecosystems, their diversity, extent, condition, connectivity and adaptability.

The placemaking outcomes contained in PPW (figure 5 and paragraph 2.20) make it clear that the qualities and characteristics of places should be improved. This extends to incorporating the opportunities to be gained by improving the resilience of ecosystems and green infrastructure based on multiple ecosystem benefits and solutions and specifically how these issues affect locational as well as design choices (sections 6.2, 6.4 and paragraphs 3.36-3.37 and 3.47).

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<sup>1</sup> NB the S7 list has yet to be published and the list produced under the NERC Act 2006 acts as the interim list.

PPW is clear that “*Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so planning authorities must also take account of and promote the resilience of ecosystems...*”. (6.4.5)

More specifically, PPW requires the following:

6.4.4 that all reasonable steps must be taken to maintain and enhance biodiversity and ecosystems reliance, at an early stage in both development plan preparation and when proposing development, and these should be balanced with the wider economic and social needs of business and communities;

6.4.6 identifies the information which planning authorities must have regard to;

6.4.8 requires a proactive approach to demonstrate the duty is fulfilled;

6.4.9 outlines the DECCA framework which should be applied as part of implementing the duty. Addressing the *DECCA* framework is an inherent part of ensuring resilient locational and design choices for infrastructure and built development;

6.4.10 that designated sites are the most important areas for nature conservation and make a vital contribution to protecting biodiversity, and, 6.4.15 this importance should be recognised and captured as part of policy and decision making;

6.4.21 requires the step wise policy to be applied and followed in order to maintain and enhance biodiversity and build resilient ecological networks. These steps should be demonstrated as part of any development proposals to ensure resilient location and design choices are made.

**Future Wales** provides additional commitments on ensuring resilient locational and design choices and reversing the decline in biodiversity and increasing the resilience of ecosystems:

Policy 9 confirms resilient ecological networks are vital for nature recovery and are defined as “*networks of habitat in good ecological condition linking protected sites and other biodiversity hotspots across the wider landscape, providing maximum benefit for biodiversity and well-being*”.

Nine National Natural Resources are identified as part of policy 9 in areas where these issues are of national importance. The National Natural Resources indicate broad areas where nationally important ecological networks/green infrastructure exist as a basis for promoting action to protect and enhance biodiversity and improve the resilience of ecosystems and recognising the importance of strategic green infrastructure. The importance of these areas should be given particular attention when identifying development proposals.

Policy 9 states that there is a need to expand and make connections between designated sites to increase the ability of species and ecosystems to adapt to the pressures of climate change and pollution. Protected sites are critically important to the long-term resilience of our ecosystems and should not be seen as islands within the landscape but should instead form the nodes of large-scale resilient and functional ecological networks and green infrastructure.

In fulfilling duties in relation to biodiversity planning authorities should have regard to the **Welsh Government's Approach to Net Benefits and the DECCA Framework in the Terrestrial Planning System**, a joint CIEEM (Chartered Institute of Ecology and Environmental Management) and Welsh Government briefing note which provides further supporting information on delivering net benefits for biodiversity and the resilience of ecosystems and key considerations for ecologists and developers in submitting planning proposals. [CIEEM Briefing: Welsh Government's Approach to Net Benefits for Biodiversity and the DECCA Framework | CIEEM](#)

Planning Policy Wales will be amended to further emphasise the importance of net benefit for biodiversity and the resilience of ecosystems, including strengthened protection for SSSIs, trees and woodlands. A consultation exercise will take place on amendments to policy early in the New Year. We will continue to work with stakeholders to provide further guidance to enable the implementation of this vital policy.

Yours faithfully,



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Y Gweinidog Newid Hinsawdd  
Minister for Climate Change