



24 May 2024

WASHERY – LANDSCAPE STRATEGY

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This document has 21 pages including the cover.

Document history

Document title: Landscape Strategy

Document reference: GCRE001-AWJV-XX-XX-DO-YL-00004

Revision	Purpose description	Originated	Checked	Reviewed	Authorised	Date
P01	For Planning	SN	DB	DB	RL	24/05/2024

Client signoff

Client	
Project	THE WASHERY SITE - GCRE
Job number	
Client signature/date	



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Introduction

Commission

- 1.1. Atkins have been commissioned by Walters on behalf of their client Global Centre of Rail Excellence (GCRE) Ltd, to produce a Landscape Strategy and landscape design for the site as part of the GCRE project, which sits in the Counties of Neath Port Talbot and Powys.

Background

- 1.2. The Landscape Strategy and Landscape Design have been produced to discharge condition 28 of the planning consents P2021/0381 (Neath Port Talbot Council (NPTC) and 21/0559/OUT (Powys County Council (PCC), which relate to the site clearance and development of infrastructure associated with GCRE.

Objectives / Purpose of this document

- 1.3. The purpose of this document is to detail the landscape strategy to be applied to the Washery site and the construction of associated earthworks. A landscape strategy for the wider site was previously produced and submitted. The strategy aims to support the mitigation goals of the Environmental Statement which was produced as part of an EIA application (under the Town and County Planning (Environmental Impact Assessment (Wales) Regulations 2017 ('The EIA Regulations')).
- 1.4. This document and the Landscape design, in addition to supporting the aims of the Environmental statement also includes requirements that have arisen from recent ecological surveys conducted since the ES was compiled and from the ongoing design development of the Washery Site.

Legislation and Policy Context

- 1.5. The project's ES1 and planning condition 28 requirement for the production of the Landscape Strategy and Landscape Design, are underpinned by a framework of wildlife and environmental legislation and policy which aim to protect specific sites, features, habitats and species. Full details of relevant legislation and policy are provided in Appendix A.

Site Description and Context

- 1.6. The Project site (hereafter referred to as the 'Site'), as defined by the planning application red line boundary is shown in Appendix B. Onllwyn Washery and Distribution Centre (58ha), which is found to the south-east of the GCRE Site, has served as a preparation and washery facility for the mining activities. This part of the site is referred to as the 'Washery' site. Coal Washing Activities and dispatch of coal by rail and road ceased in 2022.

Landscape Baseline

- 1.7. The rational of the landscape design is to produce the baseline from which the ecological conditions needed to support existing and desirable habitats can develop. These goals are consistent with and support the requirements of the mitigation objectives of the Environmental Statement which was



produced as part of an EIA application (under the Town and County Planning (Environmental Impact Assessment (Wales) Regulations 2017 ('The EIA Regulations'))¹.

- 1.8. It is assumed that some of the newly created habitats along with retained habitats would be subject to enhancements through long term management.
- 1.9. Based on existing conditions and experiences across the wider site it is expected that newly created habitats will be quickly populated by mobile species from outside and within the site. Where existing habitats are enhanced, such as marshy grassland, acid grassland / heathland and wetland, it is considered likely that in the long term these would support higher numbers of some species of flora and fauna.
- 1.10. Areas of the washery site will support retained habitats, these are typically found in the north, south and east, including the retained Onllwyn Coal Washery SINC and Gorsllwyn Meadows SINC. These are mostly unaffected by the earthworks and drainage designs and will form an important habitat asset in the form of wildlife corridors connecting the east of the site to the west. These areas include habitats such as species rich grassland (neutral and acid), marshy grassland, heathland, scrub, broadleaved and conifer woodland. These habitats will be subject to long term management to enhance their ecological value, refer to The Washery Ecological Management and Monitoring Plan and The Washery Ecological Appraisal Report.
- 1.11. The principal areas where the works will take place are within the central Washery Site, which is the former working area, this consisted of buildings, hard standings and spoil heaps with no or little ecological habitat value. The aim is to introduce new habitat features into this area, taking the form of species rich grasslands to any earthworks, while drainage features provide a number of habitats including wetland grassland, wetland with aquatic planting, scrub and tree planting. This should supply varied and rich new habitats to areas that were previously barren.
- 1.12. The landscape strategy looks to link with, extend and complement the existing habitats and therefore support the existing species found on site.

Landscape Design Principles

Existing habitats / Landscape retained and enhanced

- 1.13. Wherever possible it is intended to keep areas where the landscape has been previously remediated and has now been established or is establishing. Extensive areas of acid grassland have been created with significant areas of scrub and self-seeded trees establishing across the site.
- 1.14. Some areas will need to be removed to facilitate the works area needed to construct the earthworks and associated drainage features. Removal of established landscape will be kept to a minimum sufficient only to facilitate the works. Where this interfaces with well-established habitats temporary fencing will be used to protect the habitats and any fauna or flora within them.
- 1.15. To the east of the site, adjacent the Onllwyn Coal Washery SINC and A4221, an area of existing habitat has been identified for ecological enhancement. This includes three existing ponds, surrounding woodland and scrub planting as well as areas of marshy grassland boarding onto the east edge of the SINC.
- 1.16. Proposals for enhancement of this area consist of works to the existing ponds to remove debris and some marginal planting as well as thinning of understory planting around the peripheries. This will allow



more light into the ponds, helping to improve biodiversity. Further thinning and removal works are proposed to remove self-seeded saplings from the area of woodland to the south-east of the ponds, this will allow more space for trees to mature and reduce the current overcrowding.

- 1.17. The area to the north-west of the ponds (bordering onto the SINC) has been identified as being suitable for thinning works. This will then allow for establishment of marshy grassland species, which will function as an extension of the grassland species found within the SINC and form a gradual blending of the SINC habitat into the more wooded area to the west. This area of new marshy grassland would offset the area of the existing SINC that would be lost to development in the south.

Proposed Grassland Development

- 1.18. Across the site where existing landscape is not to be retained, after the ground has been graded and profiled, species rich acid grassland seeding will be carried out. This will either remain as acid grassland which will harmonize with the existing grassland supplying visual assimilation or provide a base for habitat development as the ecology of the site develops. The seed mix is based on a proprietary mix suitable for acid grasslands, featuring 80% grasses and 20% wildflower species, the mix will be ideally locally sourced, if possible, but will as a minimum be of native provenance. Once established the grassland will require one annual cut and should supply a significant habitat asset. Where seeding is needed to steep earthworks batters, hydroseeding will be employed to ensure even coverage and enhanced establishment results.

Proposed Water Bodies and Ditches

- 1.19. Attenuation pond - As part of the site drainage design there will be attenuation pond. These ponds will be designed to be empty for most of the time, filling up during rain events then discharging slowly to attenuate the flow of water into the wider drainage system / watercourses. Within each pond an area of permanent water has been designed. The wider pond area will be managed as grassland and the volume of the pond maintained in order to ensure continual performance of the drainage system. The permanent water area will be managed and planted to supply natural native habitat indicative of the area. It is expected that the ponds will self-populate with native aquatic plants however a range of native marginal, submergent and floating species will be planted to kick start the process. Species have been chosen to be typical of the local flora and include those preferred by amphibians. The whole extent of the attenuation pond will be seeded with a wetland seed mix, tolerant once established of periods of being submerged.
- 1.20. Swale – a large swale will feature, running centrally across the Washery Site. The swale has been designed with 1:3 side slopes and a wide flat base. Check dams will be used along the length of the swale, which will create ephemeral shallow pools and boggy areas. It's proposed the base of the swale and toe of the side slopes will be planted with marginal plant species as well as reeds and sedges species translocated from onsite. This will provide a vegetated habitat to the base of the swale, forming an important habitat corridor and drainage filtration aid. The lower half of the banks are to be seeded with a species rich wet grassland mix suitable for areas that will be occasionally submerged. Species used will thrive in this environment, while also providing enhanced biodiversity. Upper sections of banks will be seeded with the acid species rich grassland mix as described above.
- 1.21. Ditches – ditches will be seeded with a species rich wetland seed mix and the bases planted with marginal plant species and /or translocated reeds and sedges from on site, in a comparable manner to the swales as discussed above.



Landscape Maintenance

Establishment Maintenance

- 1.22. Maintenance during the establishment period will be prescribed in the Landscape specification which will include:
- Seasonal mowing of new grasslands
 - Seasonal replacement of any failed scrub, shrubs, or trees
 - Vegetation clearance around newly planted transplants and trees
 - Removal of plant guards once plants are established.
 - Control of invasive or injurious plant species

Post Establishment Maintenance

- 1.23. Beyond the establishment period the site will be managed in accordance with the Environment Monitoring and Management Plan (EMMP) which will be a dynamic document which along with guidance on annual maintenance tasks will be updated as required to respond to the ongoing development of the site and its objectives to provide habitat as targeted in the Environmental Statement.

Landscape Monitoring

Establishment Monitoring

- 1.24. During the establishment period all planting will be inspected once a year (August to October) to ensure that it is viable and in good condition. The inspection will be to establish if the planting is achieving its design objectives in terms of habitat creation and or visual assimilation.

Post Establishment Monitoring

- 1.25. Following establishment of the landscape scheme monitoring of the vegetation will take place in accordance with the Environment Monitoring and Management Plan (EMMP).

Landscape Design

Proposed Landscape Design

- 1.26. The proposed Landscape Design can be seen in Appendix B.
- 1.27. Indicative sections through the pond and swale can be seen in Appendix C.



APPENDICES

Appendix A. Relevant Planning Policy and Legislation

Legislation

A framework of international, European, national, and local legislation and planning policy guidance exists to protect and conserve wildlife and habitats. This is described in the following sections.

Conservation of Habitats and Regulations 2017 (as amended)

The Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations') transpose the requirements of Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) into law within England and Wales. These regulations provide for the designation and protection of sites of European importance known as European Sites or the National Site Network.

European Sites comprise:

- Special Areas of Conservation (SACs), including candidate sites, designated under the Conservation of Habitats and Species Regulations 2017 (as amended); and
- Special Protection Areas (SPAs) including candidate sites, designated under the Wildlife and Countryside Act 1981 (as amended)
- Ramsar Sites designated under the Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 are also considered as European Sites as a matter of UK Government policy along with proposed SACs and SPAs.

The Habitats Regulations require that consideration is given to the implications of plans and projects (developments) on European Sites. Specifically, Regulation 63(1) states:

"A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:

(a) is likely to have a significant effect on a European site or European marine site (either alone or in combination with other plans or projects), and;

(b) is not directly connected with or necessary to the management of that site.

must make an appropriate assessment of the implications for that site in view of that site's conservation objectives".

The formal consideration of effects on European Sites is therefore undertaken by the determining authority such as the Local Planning Authority under the Town and Country Planning Act 1990. The determining authority is known as the Competent Authority with the Regulations.

The Habitats Regulations also convey special protection to a number of species, which are listed in Schedule 2 of the Regulations and are referred to as European Protected Species (EPS). Those relevant to the Scheme include:

- All UK resident bat species;
- Common dormouse (*Muscardinus avellanarius*);
- Great crested newt (*Triturus cristatus*);



- Otter (*Lutra lutra*);
- Marsh fritillary butterfly (*Euphydryas aurinia*).

Regulation 43 makes it an offence to:

- Deliberately capture, injure, or kill any wild animal of an EPS;
- Deliberately disturb wild animals of such a species;
- Deliberately take or destroy the eggs of such a species;
- Damage or destroy a breeding site or resting place of such an animal.

Disturbance in the context of the offences above is disturbance, which is likely to impair the ability of the animals to survive, to breed or reproduce, to nurture their young, to hibernate, to migrate; or to affect significantly the local distribution of the species.

Licences can be granted by the relevant Statutory Nature Conservation Organisation (SNCO) for developments (sometime referred to as EPS Licences or Derogation Licences) providing the purposes of the licence is for "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".

Ramsar Convention 1971

Wetlands of International Importance (Ramsar Sites) declared under the Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 are considered European Sites as a matter of UK and Local Government Policy.

Wildlife and Countryside Act 1981 (as amended)

A network of nationally designated sites has been established through the designation of Sites of Special Scientific Interest (SSSIs) under the Wildlife and Countryside Act 1981. The protection afforded by the Act means it is an offence to carry out or permit to be carried out any operation listed within the notification without the consent of the Statutory Nature Conservation Organisation (Natural Resources Wales). The protection afforded to SSSIs is used to underpin the designation of areas at a European Level.

The Wildlife and Countryside Act also places obligations on Welsh Ministers and other public bodies with regard to the conserving and enhancing of the features of SSSIs in the exercise of their functions.

The Wildlife and Countryside Act 1981 provides protection to both EPSs and other species including wild birds, water voles and reptiles.

All wild birds, their nests and eggs are protected, with some rare species afforded extra protection from disturbance during the breeding season (these species are listed in Schedule 1 of the Act). It is illegal to take any wild bird or damage or destroy the nests and eggs of breeding birds. There are certain exceptions to this in respect of wildfowl, game birds and certain species that may cause damage.

In England and Wales water voles are listed on Schedule 5 of the Wildlife and Countryside Act 1981, receiving full protection since 2008. The Wildlife and Countryside Act 1981 together with amending legislation, lists the following offences:

- Intentionally killing, injuring, or taking a water vole by any method.
- Intentionally or recklessly damaging or destroying a water vole place of shelter or protection.



- Intentionally or recklessly damaging disturbing a water vole whilst it is occupying such a structure or place it uses for shelter or protection.
- Intentionally or recklessly obstructing access to a water vole's place of shelter or protection.
- Selling, offering for sale, or possessing or transporting for the purposes of sale, any live or dead water vole, or any part or derivative, or advertising any of these for buying or selling.

All native reptile species in the UK are subject to partial protection from intentional or reckless killing or injury only.

The Act also includes provisions for the control of invasive non-native species (INNS). Under these provisions it is an offence to:

- Release or allow to escape into the wild any animal which is not ordinarily resident or a regular visitor to Great Britain or is included in Schedule 9 of the Act.
- Plant or otherwise cause to grow in the wild any plant which is included in Schedule 9 of the Act.

People undertaking works in proximity to invasive non-native plant species should take all reasonable steps and exercise all due diligence to avoid committing an offence.

The Invasive Alien Species (Enforcement and Permitting) Order 2019

The order came into effect on the 1st of December 2019 to allow for enforcement of EU Regulations (Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species in England and Wales) also known as the IAS Regulations.

It lists 66 species which are of European Union concern. There are currently 19 species listed in the Order (16 of these species are found in Wales). Species include:

- Chinese mitten crab (*Eriocheir sinensis*)
- Red Swamp crayfish (*Procambarus clarkii*)
- Crayfish signal (*Pacifastacus leniusculus*)
- Spiny cheek crayfish (*Orconectes limosus*)
- Muntjac deer (*Muntiacus reevesi*)
- Ruddy duck (*Oxyura jamaicensis*)
- Egyptian goose (*Alopochen aegyptiacus*)
- Grey squirrel (*Sciurus carolinensis*)
- Himalayan balsam (*Impatiens glandulifera*)
- Fanwort (otherwise known as Carolina water shield) (*Cabomba caroliniana*)
- Giant hogweed (*Heracleum mantegazzianum*)
- Water hyacinth (*Eichhornia crassipes*)
- Parrots Feather (*Myriophyllum aquaticum*)
- Floating pennywort (*Hydrocotyle ranunculoides*)
- Floating water primrose (*Ludwigia peploides*)
- Water Primrose (*Ludwigia grandiflora*)
- Giant rhubarb (*Gunnera tinctoria*)
- Curly waterweed (*Lagarosiphon major*)
- Nuttall's waterweed (*Elodea nuttallii*)

This Order allows for the enforcement of, including the relevant licences, permits and rules for keeping invasive alien species.



The amendments remove these Invasive Alien Species (IAS) of Union concern from the ambit of the provisions relating to invasive non-native species in sections 14 and 14ZA of the Wildlife and Countryside Act 1981. This is to make the legislation more transparent and easier to use by bringing all the offences relating to species of Union concern into one place.

Criminal offences are introduced for breaches of the main restrictions of The IAS Regulation, as well as offences relating to:

- False statements;
- Altering, or not meeting, the conditions of permits and licences;
- Attempts to commit offences;
- Obstruction; and
- Offences for companies and partnerships.

It is also an offence to:

- Allow the escape or release into the wild an animal that is not normally a resident or regular visitor to Great Britain, or an animal listed in Part 1 of Schedule 2, including species of crabs, ducks, and squirrel.
- Plant, or allow to grow in the wild, plants listed in Part 2 of Schedule 2.

Sell, or be involved in the sale of, any plant listed in Part 3 of Schedule 2, including Water Primrose and Floating Pennywort.

If found guilty of an offence a person may be liable to imprisonment of up to two years, or a fine. Permits and licences may be made void where an offence is committed, and a person may be banned from being granted a permit or licences again for up to 5 years.

The legislation in relation to the remaining species listed in Schedule 9 of the Wildlife and Countryside Act 1981 remains unchanged.

National Park and Access to the Countryside Act 1949 (as amended)

Local Nature Reserves (LNRs) can be given protection against damaging operations through powers within the National Parks and Access to the Countryside Act 1949. However, this protection is usually conveyed through inclusion of protection within local planning policy relating to these sites and other non-statutory sites such as Sites of Importance for Nature Conservation.

The Protection of Badgers Act 1992

Badger and their setts are protected under the Protection of Badgers Act 1992 which makes it an offence to kill, injure or take a badger, or interfere with a sett.

Interference with a sett includes damaging or destroying it, obstructing access to it, causing a dog to enter it, or disturbing the badgers which are occupying it.

Hedgerow Regulations 1997

The Hedgerow Regulations 1997 set out a framework for the protection of hedgerows against removal where they are deemed to be important either due to their age, ecological or archaeological features. Approval is required from the local authority prior to the removal of hedgerows. Local authorities can enforce the retention of Important Hedgerows through the issuing of Retention Notices.



Salmon and Freshwater Fisheries Act 1975 (as amended)

The Salmon and Freshwater Fisheries Act (SAFFA) is legislation that aims to protect freshwater fish, with a particularly strong focus on salmon and trout. The legislation covers a broad range of topics, but of particular relevance to development are those sections covering water pollution, habitat disturbance and fish migration routes.

Under Section 2 (4) it is an offence to wilfully disturb spawn, spawning fish, or spawning areas and under Section 4 (1) it is an offence to knowingly permit the flow of poisonous matter and polluting effluents into river courses that are poisonous or injurious to fish or the spawning grounds, spawn, or food of fish.

Sections 9 to 15 are concerned with fish passage and migration routes. It is the duty of the waterway owner that when constructing dams, screens, or sluices to provide and maintain a facilitating fish pass for migrating salmon or trout. Section 9 allows the regulator to serve notice on the owner or occupier of a dam or obstruction, to install a fish pass where necessary. This section applies to dams which are either new or have been altered to create an increased obstacle to the passage of migratory salmonids. It is also applicable where dams in a state of disrepair have been rebuilt over at least one half of their length.

Eels (England and Wales) Regulations 2009

This implements Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel. The regulations are focussed on the management of commercial eel fisheries (licences, catch returns and restocking) and the passage/migration of eels. The regulations afford powers to the regulators (Environment Agency and Natural Resources Wales) to implement eel recovery measures in all freshwater and estuarine waters in England and Wales.

Part 4 of the regulations is concerned with the passage of eels and makes it a legal requirement to notify the regulator of the construction, alteration, or maintenance of any structure likely to affect the passage of eels. This includes water intakes and outfalls, dams and weirs, sluices, or any other in-river obstruction. Where any such structure exists, the owner, occupier, or person in charge of the land on which the dam, structure or obstruction lies may be required to construct and operate an eel pass to allow the free passage of eels.

Wild Mammals (Protection) Act 1996

This Act operates in parallel with the legislation listed above conferring specific protection on rare or threatened mammal species by protecting all wild mammals from any action intended to cause unnecessary suffering.

Natural Environment and Rural Communities (NERC) Act 2006

The Act is primarily intended to implement key aspects of the Government's Rural Strategy published in July 2004; it also addresses a wider range of issues relating broadly to the natural environment. The Act also makes provision in respect of biodiversity, pesticides harmful to wildlife and the protection of birds, and in respect of invasive non-native species. It alters enforcement powers in connection with wildlife protection and extends time limits for prosecuting certain wildlife offences. It addresses a small number of gaps and uncertainties which have been identified in relation to the law on sites of special scientific interest. It also amends the functions and constitution of National Park authorities, the functions of the Broads Authority and the law on rights of way (DEFRA website September 2016).

The Environment (Wales) Act 2016

The Environment (Wales) Act 2016 replaces the duties on public bodies in Wales to conserve and enhance biodiversity in the exercise of their functions. This duty includes consideration of the resilience of ecosystems in terms of their diversity, connectivity, adaptability, scale, and condition. The Act also reinforces the duties in relation to the lists of species and habitats of importance and duties to conserve and enhance those species and habitats.



Within this Chapter these are referred to as Section 7 Habitats and Species, although revised lists have not been published to date.

The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act requires public bodies in Wales to consider the long-term impacts of decisions on the social, cultural, environmental, and economic well-being of both current and future generations.

In particular the Act includes a number of goals including to maintain and enhance a biodiverse natural environment with healthy functioning ecosystems that support social, economic, and ecological resilience and the capacity to adapt to change.

EIA Directive 2014/52/EU

The Directive 2014/52/EU states that EIAs shall identify, describe, and assess the direct and indirect significant effects of climate change relevant to the project. The regulations implementing this directive were transposed into UK legislation in May 2017; The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations, 2107.

Policy Context

The Neath Port Talbot County Borough Council (NPTCBC) Adopted Local Development Plan (LDP) 2011-2026 includes a number of policies relating to nature conservation, in particular:

Policy EN 6 Important Biodiversity and Geodiversity Sites Development proposals that would affect Regionally Important Geodiversity Sites (RIGS), Local Nature Reserves (LNRs), Sites of Interest for Nature Conservation (SINCs), sites meeting SINC criteria or sites supporting Local Biodiversity Action Plan (LBAP) or S42 habitats or species (now referred to as Section 7 habitats and species, in response to the requirement of the Environment (Wales) Act 2016) will only be permitted where:

- They conserve and where possible enhance the natural heritage importance of the site; or
- The development could not reasonably be located elsewhere, and the benefits of the development outweigh the natural heritage importance of the site.

Mitigation and / or compensation measures will need to be agreed where adverse effects are unavoidable.

5.3.34. “Where harm to biodiversity sites is unavoidable, effective mitigation measures will be required to ensure that there is no reduction in the overall value of the area or feature. Where mitigation is not possible, compensation measures will normally be required to offset harm as far as practicable. However, compensation measures are considered to be a last resort option”.

5.3.35. “The Biodiversity Supplementary Planning Guidance (SPG) will indicate how biodiversity should be taken into account in the planning process and will also give details of the procedure for providing off-site compensation if necessary.”

- Policy EN 7 Important Natural Features: “Development proposals that would adversely affect ecologically or visually important natural features such as trees, woodlands, hedgerows / field boundaries, watercourses or ponds will only be permitted where:
- Full account has been taken of the relevant features in the design of the development, with measures put in place to ensure that they are retained and protected wherever possible; or
- The biodiversity value and role of the relevant feature has been taken into account and where removal is unavoidable, mitigation measures are agreed.”

The Powys County Council (PCC) LDP includes a number of policies relating to nature conservation, in particular:



Policy DM2 – The Natural Environment: “Development proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site”.

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

The important site designations, habitats and species afforded the highest levels of protection through European legislation including:

European Sites (SAC, SPA and Ramsar).

Development proposals likely to have a significant effect on a European site, when considered alone or in combination with other proposals or plans, will only be permitted where it can be demonstrated that:

- a) The proposal is directly connected with or necessary for the protection, enhancement, and positive management of the site for conservation purposes; or
- b) The proposal will not adversely affect the integrity of the site.

Where it cannot be demonstrated that development proposals would not adversely affect the integrity of the site and there is no satisfactory alternative solution, permission will be refused unless:

- a) There are imperative reasons of over-riding public interest; and
- b) Appropriate compensatory measures are secured.

European Protected Species afforded strict protection by the Conservation of Habitats and Species (Amendment) (Eu Exit) Regulations 2019 (Habitats Directive Annex IV Species).”

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

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

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

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

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

- The proposal contributes to the protection, enhancement or positive management of the site, habitat, or species; or
- There is no suitable alternative to the proposed development; and



- a) It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site, habitat, or species; and
- b) Appropriate compensatory measures are secured; and
- c) The population or range and distribution of the habitat or species will not be adversely impacted.

The locally important site designations, habitats and species including:

- Local Nature Reserves;
- Local Biodiversity Action Plan Habitats and Species; and
- Regionally Important Geodiversity Sites and Geological Conservation Review Sites.”

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

- They conserve and where possible enhance the natural heritage importance of the site, habitat, or species; or
- The development could not reasonably be located elsewhere; and
- The benefits of the development outweigh the natural heritage importance of the site, habitat, or species; and
- Mitigation and/or compensation measures are provided where adverse effects are unavoidable.

Policy DM7 – Dark skies and External lighting: “Development proposals involving external lighting will only be permitted when a lighting scheme has been provided that demonstrates that the lighting will not individually or cumulatively cause:

- Unacceptable levels of light pollution especially in the countryside.
- An unacceptable adverse effect on the visibility of the night sky.
- A nuisance or hazard to highway users including pedestrians, and local residents.
- An unacceptable disturbance to protected species.”

4.2.48 “Thought needs to be given on how external lighting schemes can avoid potential impacts to nocturnal wildlife, particularly protected species, such as bats, otters, and badgers. Dark wildlife movement corridors should be left, e.g., no external lighting of boundary habitat features, wildlife corridors, and watercourses.”

4.2.49 “Protected species are a material planning consideration. The way in which protected species are considered in the planning process is detailed in TAN 518. The LDP does not repeat this guidance on how to deal with protected species and in this instance relies upon national guidance.”

Planning Policy Wales (PPW) (Edition 12)

Planning Policy Wales¹ (WG, 2024) sets the national policies in relation to development control through the Town and Country Planning Act 1990. Chapter 6 of Planning Policy Wales which sets out the policy for biodiversity and nature.

“Planning authorities must follow a step-wise approach to maintain and enhance biodiversity, build resilient ecological networks, and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimised, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact’.

¹ https://www.gov.wales/sites/default/files/publications/2024-02/planning-policy-wales-edition-12_1.pdf

Paragraph 6.4.21 of the Annex to Heads of Planning Letter Dated 11 October 2023: Addressing the Nature Emergency through the Planning System: Updated National Planning Policy for Chapter 6 of Planning Policy Wales sets out the 'Step-wise Approach' that should be applied to inform design development.

These steps are:

- Avoid damage to biodiversity and ecosystems;
- Minimise impacts on biodiversity and ecosystems;
- Mitigate damage to biodiversity features and ecosystems;
- Compensate damage to biodiversity and ecosystems

The development proposals have adhered to this policy and the design development has embraced this step-wise approach.

Future Wales

Future Wales – the National Plan 2040 provides the National Development Framework for Wales, setting out the direction for development in Wales until 2040. It addresses national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems, and improving the health and well-being of communities in Wales. It is a spatial plan and therefore sets out a direction of where development and infrastructure should be located for the good of the communities in Wales.

The principles of the Well-being of Future Generations Act are embedded within the plan, to facilitate sustainable development. Importantly, it sets out how biodiversity needs to be safeguarded, and how actions should secure the maintenance and enhancement (net gain) of biodiversity, ecosystem resilience and green infrastructure, and part of development proposals.

United Kingdom Biodiversity Action Plan (UK BAP)

In 1992 the UK signed the Convention on Biological Diversity at the Rio Convention pledging the UK to develop national strategies for the conservation and sustainable use of biological diversity. The UK Government subsequently produced Biodiversity: The UK Action Plan in 1994, which described the biological resources of the UK as a whole and in turn led to the production of Biodiversity Action Plans for individual habitats and species.

Biodiversity policy within the UK has been revised through the publication of the UK Post-2010 Biodiversity Framework (JNCC, 2012) which covers the period from 2011 to 2020. A total of 65 Priority Habitats and 1150 Priority Species have been identified as the most in need of protection. Such species and habitats present in Wales have been listed as species and habitats of principal importance for conservation in response to the requirements of the Environment (Wales) Act 2016. They are hereafter referred to as Section 7 (S7) species.

Powys Local Biodiversity Action Plan

The Powys Local Biodiversity Action Plan² was published by the Carmarthenshire Biodiversity Partnership. It includes 17 Habitat and 28 Species Action Plans with a number of actions relating to the protection of biodiversity within the county.

² <https://en.powys.gov.uk/article/2553/Local-biodiversity-action-plan>. Accessed online 12/11/2019.

Neath Port Talbot Biodiversity Action Plan

No information is currently available on the Neath Port Talbot LBAP. The report is unpublished, due to containing confidential information on partners, and currently being revised to tie in with WG's new Nature Recovery Plan. As such the NPTCBC ecologist has recommended using the published list of habitats and species of principal importance for the purpose of maintaining and enhancing biodiversity conservation in Wales, in response to Section 7 requirements of the Environment (Wales) Act 2016 (i.e., Section 7 habitats and species).



Appendix B. Landscape Proposals



Appendix C. Indicative Sections – Pond and swale



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