



BIODIVERSITY:

How biodiversity can be protected and enhanced in the development process

SUPPLEMENTARY PLANNING GUIDANCE

May 2014

For use alongside:

Local Development Plan:

from Adoption (2013) – 2021

PEMBROKESHIRE COUNTY COUNCIL

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Summary

Biodiversity is fundamental to the physical, economic and social well-being of all who live and work in Pembrokeshire but it also has a value in its own right.

This Biodiversity Supplementary Planning Guidance (SPG) supports the policies contained within Pembrokeshire County Council's Local Development Plan. The guidance within this document applies to all areas of Pembrokeshire excluding the Pembrokeshire Coast National Park. Its purpose is to provide guidance to everyone involved with development proposals on how biodiversity should be protected and enhanced in the County in accordance with policies in the Local Development Plan (LDP) and statutory requirements. It provides guidance on:

- The legislation protecting flora and fauna and habitats
- The relevant Local Development Plan policies
- The information required when making a planning application
- The integration of biodiversity into development proposals in order to enhance existing habitats and create new habitats for flora and fauna

Development can have negative impacts on biodiversity, both direct (for instance through the destruction of habitat) and indirect (such as through severing critical nature connection corridors). These impacts can be significant and lead to the loss of biodiversity in the County. Development can also have positive impacts for biodiversity for instance by integrating new roosting or nesting opportunities into buildings and enhancing the surrounding environment. This Biodiversity SPG is intended to guide development within the County to ensure sustainable development which serves to protect and enhance biodiversity.

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Abbreviations

BAP	Biodiversity Action Plan
CROW (Act)	Countryside and Rights of Way (Act)
HAP	Habitat Action Plan
LBAP	Local Biodiversity Action Plan
LDP	Local Development Plan
LNR	Local Nature Reserve
MNR	Marine Nature Reserve
NERC (Act)	Natural Environment and Rural Communities (Act)
NNR	National Nature Reserve
NRW	Natural Resources Wales
PBP	Pembrokeshire Biodiversity Partnership
PCC	Pembrokeshire County Council
PCNPA	Pembrokeshire Coast National Park Authority
PPW	Planning Policy Wales
SAC	Special Area of Conservation
SINC	Sites of Importance for Nature Conservation
SPA	Special Protection Area
SPG	Supplementary Planning Guidance
SSSI	Site of Special Scientific Interest
TAN	Technical Advice Note
WG	Welsh Government

1 Introduction

1.1 Purpose of the document

1.1.1 Biodiversity is a material consideration in the planning process and must be integrated from an early stage into the timetabling, design and delivery of any development.

1.1.2 The purpose of this Biodiversity SPG is to provide guidance to everyone involved with development proposals on legal responsibilities, obligations and the protection, conservation and enhancement of biodiversity during the development process.

1.2 Status of the document

1.2.1 The Pembrokeshire Local Development Plan (adopted February 2013) is the starting point for determining planning applications for development or the use of land. This SPG provides further detail and guidance on the implementation of LDP policy to assist those involved in the development process in meeting statutory and policy requirements.

1.2.2 This SPG is a material consideration in determining applications for planning permission.

1.2.3 The guidance contained within this document applies to all areas of Pembrokeshire excluding the Pembrokeshire Coast National Park.

1.3 Aims of the document

1.3.1 This SPG aims to:

- Assist in ensuring that the key principles of national planning policy and guidance on biodiversity and nature conservation are met fully at the local level;
- Assist in ensuring that local planning decisions do not result in adverse impacts on species and habitats and protect and enhance biodiversity in Pembrokeshire;
- Ensure compliance with good practice;
- Secure timely consideration of ecological issues from the outset and, in so doing, streamline the application process to minimise cost and delay;
- Integrate Pembrokeshire's Local Biodiversity Action Plan into the planning process.

2 Biodiversity and Nature Conservation

2.1 What is biodiversity?

2.1.1 Biodiversity encompasses all living plants and animals (including human-kind), and the habitats and ecosystems they (and we) depend on and support. Biodiversity is, literally, the breadth of life on earth and it is everywhere: in towns, gardens, fields, hedgerows, mountains, cliffs and in the sea.

2.2 Why is it important and why do we need to consider it?

2.2.1 As human beings we are an element of, and reliant on, the biodiversity of the planet. Increasingly, alongside its life-support functions, the economic and social benefits of biodiversity are recognised. Biodiversity is an important contributor to our quality of life, well-being and sense of place but it also has 'intrinsic value' – a value in its own right, and is not something that should simply be viewed for its usefulness to humans.

2.2.2 Biodiversity in Pembrokeshire is influenced by both natural and anthropogenic factors. Development can have significant negative impacts on biodiversity that can lead to the destruction of habitats and the loss of biodiversity. However, by considering biodiversity issues at an early stage in the design and development process, development can provide significant positive benefits for biodiversity e.g. through the creation of new and enhancing existing habitats, providing new opportunities for species conservation and enhancing ecological connectivity in the wider countryside.

2.2.3 The conservation of biodiversity, which entails both its protection and enhancement, is a principle set out in both law and planning policy. It is not only about protecting specific designated sites; it is also concerned with habitats and species beyond them. The edges or boundaries of sites and green corridors that link sites represent zones of transition from one ecosystem to another and are where two or more different types of habitat meet and integrate. These ecological edges or stepping stones often exhibit high levels of productivity and species richness and provide essential connectivity for wildlife – a break in a narrow 'corridor' can have a disproportionate effect on local and regional biodiversity.

3 Biodiversity in Pembrokeshire

3.1 Pembrokeshire's biodiversity resources

3.1.1 Pembrokeshire is internationally important for many of its coastal, marine and lowland heathland habitats, and also of national importance for others, e.g. ancient semi-natural oak woodland.

3.1.2 The number of designated sites¹ in the County demonstrates its importance for biodiversity and its rich diversity of habitats and species, including marine and riverine Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs), Local Nature Reserves (LNRs) and Wildlife Reserves.

3.1.3 These habitats support numerous rare and vulnerable species, such as otters, bats dormice, farmland birds, Marsh Fritillary and Brown Hairstreak butterflies. Whilst the total area which is formally designated for its biodiversity value is 35.3km² (3530 ha) or 3.4% of the land area of Pembrokeshire, many species exist and migrate across the area as a whole and beyond. The connectivity of habitats within and between designated sites and across the wider landscape is therefore crucial.

3.2 Pembrokeshire Biodiversity Partnership

3.2.1 Several organisations work together in Pembrokeshire to maintain and improve local biodiversity. Together, they form the Pembrokeshire Biodiversity Partnership (PBP). The PBP was formed in 1998 and today includes statutory agencies and local authorities, and non-statutory conservation, farming and land-owning organisations.

3.3 Pembrokeshire Local Biodiversity Action Plan

3.3.1 The Partnership has produced a Local Biodiversity Action Plan (LBAP) to co-ordinate existing, and initiate new actions, to conserve, enhance and promote biodiversity in Pembrokeshire, taking account of local, national and international, including European, priorities. The LBAP identifies key habitats and species which are a priority for conservation action in Pembrokeshire and, for each, has produced an action plan to coordinate effort in line with the aims agreed amongst the partners of the PBP. These provide a focus for conservation action, including that within the development process. The planning system is an important mechanism for implementing actions set out in the Biodiversity LBAP and its individual habitat and species action plans. Further information on the LBAP including the habitat and species action plans can be found in the Council's Biodiversity web pages: www.pembrokeshire.gov.uk.

¹ Maps, descriptions and management information for each of these sites can be found using the designated sites search at: www.naturalresourceswales.gov.uk or on the Council's website at: www.pembrokeshire.gov.uk.

4 Legislation and Policy

4.1 Key principles

4.1.1 The key principles to consider are that:

- ❖ The Local Planning Authority has a statutory duty to have regard to protecting and enhancing biodiversity (NERC Act 2006).
- ❖ The Local Planning Authority is expected to promote approaches to development that create new opportunities to enhance biodiversity, prevent losses and compensate for losses that are unavoidable (PPW, 2014).
- ❖ The Council is committed to the implementation and review of the Local Biodiversity Action Plan that identifies nature conservation interest and sets aims for future works.
- ❖ Certain sites, habitats and species are afforded legal protection. The Council has an obligation to protect and promote their long-term conservation as part of the planning process. **Table 1**, below, provides a brief overview of these.

4.2 European and UK legislation

4.2.1 The following international and national legislation provides statutory protection to many of the species and habitats in Pembrokeshire:

The Conservation of Habitats and Species Regulations 2010 (“The Habitats Regulations”) – transposes the EU directive on the Conservation of Wild Fauna and Flora (92/43/EEC) into UK law. This legislation requires the establishment of a network of protected sites including SACs and SPAs and affords high level protection to identified individual species (such as otters) and species groups (such as bats).

The Birds Directive 2009 – the 2010 Habitats Regulations were amended in 2012 to transpose Article 2d of the Birds Directive 2009 into UK law, Regulation 9A places a statutory duty in public bodies for the provision of sufficient diversity and area of habitats for wild birds. Joint Department for Environment Food and Rural Affairs (DEFRA) and Welsh Government guidance on the interpretation and implementation of Regulation 9A is currently in preparation.

Wildlife and Countryside Act 1981 (as amended) – sets the general framework for habitats and species protection and provides statutory protection for certain species additional to those protected under the Habitats Regulations.

The Natural Environment and Rural Communities (NERC) Act 2006 – places a statutory duty on Local Authorities to have regard to the conservation of biodiversity and identifies species and habitats of principle importance for nature conservation. Section 40(1) places a duty on every public authority, in exercising its functions, to have regard to the purpose of conserving biodiversity. This includes restoring or enhancing a population or habitat. Section 42 lists those habitats and species of principal importance in Wales.

Protection of Badgers Act 1992 – protects badgers and their setts.

The Hedgerows 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 determined.

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.

4.2.2 The proposed Environment (Wales) Bill, currently in the form of a White Paper that has been subject to formal consultation, has the aim of providing for a more integrated management of the environment and protection of natural resources in Wales.

4.3 National planning policy and guidance

4.3.1 The planning process operates in parallel with relevant environmental legislation, to deliver government commitments. The importance of the above legislation and commitments is reflected in the importance accorded to biodiversity in national planning policy. National planning policy contained within Planning Policy Wales (PPW), Edition 6 2014, emphasises the importance of integrating nature conservation or biodiversity into all planning decisions at an early stage, whilst looking for development to deliver social, environmental and economic objectives together over time. Specific guidance in relation to nature conservation is available in chapter five of PPW and TAN 5 – Nature Conservation and Planning (2009).

4.3.2 The British Standards Institute (BSI) has published the British Standards for Biodiversity – Code of practice for planning and development (BS 420202:2013). The document amalgamates best practice and gives recommendations and guidance for those in the planning and development sectors whose work might affect or have implications on biodiversity. Pembrokeshire County Council will take into account the British Standard for Biodiversity and would encourage those in the planning, development and environmental sector to adopt the processes and recommendations as published.

4.4 Local planning policy

4.4.1 Pembrokeshire County Council's Local Development Plan (LDP) expands upon these principles, through policies which seek to ensure that development protects and enhances biodiversity and encourages proposals that achieve this.

SP 1 Sustainable Development – an overarching strategic policy that relates to all proposals. It aims to ensure that all development is sustainable.

GN.1 General Development Policy – provides a framework for the evaluation of potential development impacts. **Criterion 4** ensures that development will respect and protect the natural environment, including protected habitats and species. Any development proposal must demonstrate that it protects the natural environment and, where possible, enhances it.

GN.3 Infrastructure and New Development – makes provision for contributions to be sought, where appropriate and necessary, in conjunction with development proposals including for biodiversity.

GN.37 Protection and Enhancement of Biodiversity – requires all new developments to demonstrate a positive approach to maintaining and, where possible, enhancing biodiversity. It aims to ensure that species and their habitats as well as wildlife and landscape features in both countryside and urban environments are protected from the potentially adverse effects of development and requires that where any such effects are anticipated, appropriate mitigation and/or enhancement should be made.

Table 1. Protection of Sites, Habitats and Species

	Importance	Feature	Legislation & Policy	Implications for development
Sites	International Importance	Special Area of Conservation (SAC) Special Protection Area (SPA)	The Conservation of Habitats and Species Regulations (2010) ("The Habitat Regulations")	Sites are protected against potentially damaging operations. Strong presumption against damaging development. SPA's and SAC's known collectively as 'Natura 2000' sites (see Habitats table below).
		Ramsar 'Wetland of International Importance'.	Ramsar Convention (1971).	
	National Importance	Sites of Special Scientific Interest (SSSI).	Wildlife and Countryside Act (1981) (as amended).	Sites are protected against potentially damaging operations. Strong presumption against damaging development.
		National Nature Reserve (NNR).	National Parks and Access to the Countryside Act (1949) or Wildlife and Countryside Act (1981) (as amended).	
	Local Importance	Local Nature Reserves (LNR).	National Parks and Access to the Countryside Act (1949).	Sites to be protected and enhanced. Material planning consideration.
Sites of Importance for Nature Conservation (SINC).		Planning Policy Wales edition 5 2012		

Habitats	International Importance	Habitats of European Importance (see Priority Habitats)	The Conservation of Habitats and Species Regulations (2010) ("The Habitat Regulations").	Habitat may be a designatory feature of a Natura 2000 site (see above).
	National or Local Importance	Hedgerows.	Hedgerow Regulations (1997).	Certain hedgerows are protected from removal. Hedgerows to be protected and enhanced.
		UK BAP Priority Habitat and/or LBAP Habitat.	Natural Environment and Rural Communities Act (2006) ("The NERC Act"). Pembrokeshire Local Biodiversity Action Plan.	Planning consideration.

Table 1. Protection of Sites, Habitats and Species (cont.)

	Importance	Feature	Legislation & Policy	Implications for development
Species	International Importance	European Protected Species including: Bats (all species); Dormouse, Otter.	The Habitat Regulations".	Species are protected from intentional or reckless killing, injury or capture. Areas used for shelter or protection are protected from intentional or reckless destruction and whilst the species is using any such site it is protected from intentional or reckless disturbance.
		Habitats Directive and Birds Directives Species.	The Habitat Regulations".	Protected through the designation of SAC/SPA.
		Badger.	Protection of Badgers Act (1992).	Setts and badgers are protected from intentional or reckless interference.
		Schedule 5 Animals including: Water Voles, Reptiles.	Wildlife and Countryside Act (1981).	Species have different levels of protection, including: protected from intentional killing, injury or taking; uprooting or destruction; protected from harm at all times; or whilst nesting. Species should be protected and their habitats enhanced.
		Schedule 8 Plants including:		
		Schedule 1 Birds including: Barn Owl, Cetti's Warbler.		
	Nesting birds (all species).			
National or Local Importance	Species of principal importance and/or included on LBAP.	"The NERC Act".	Planning consideration. Includes urban / brownfield habitats.	

5 Protecting and Enhancing Biodiversity in the Development Process

5.1 Building nature into development

5.1.1 This section looks at how biodiversity is best protected and enhanced through the development management process. There are three key elements to this:

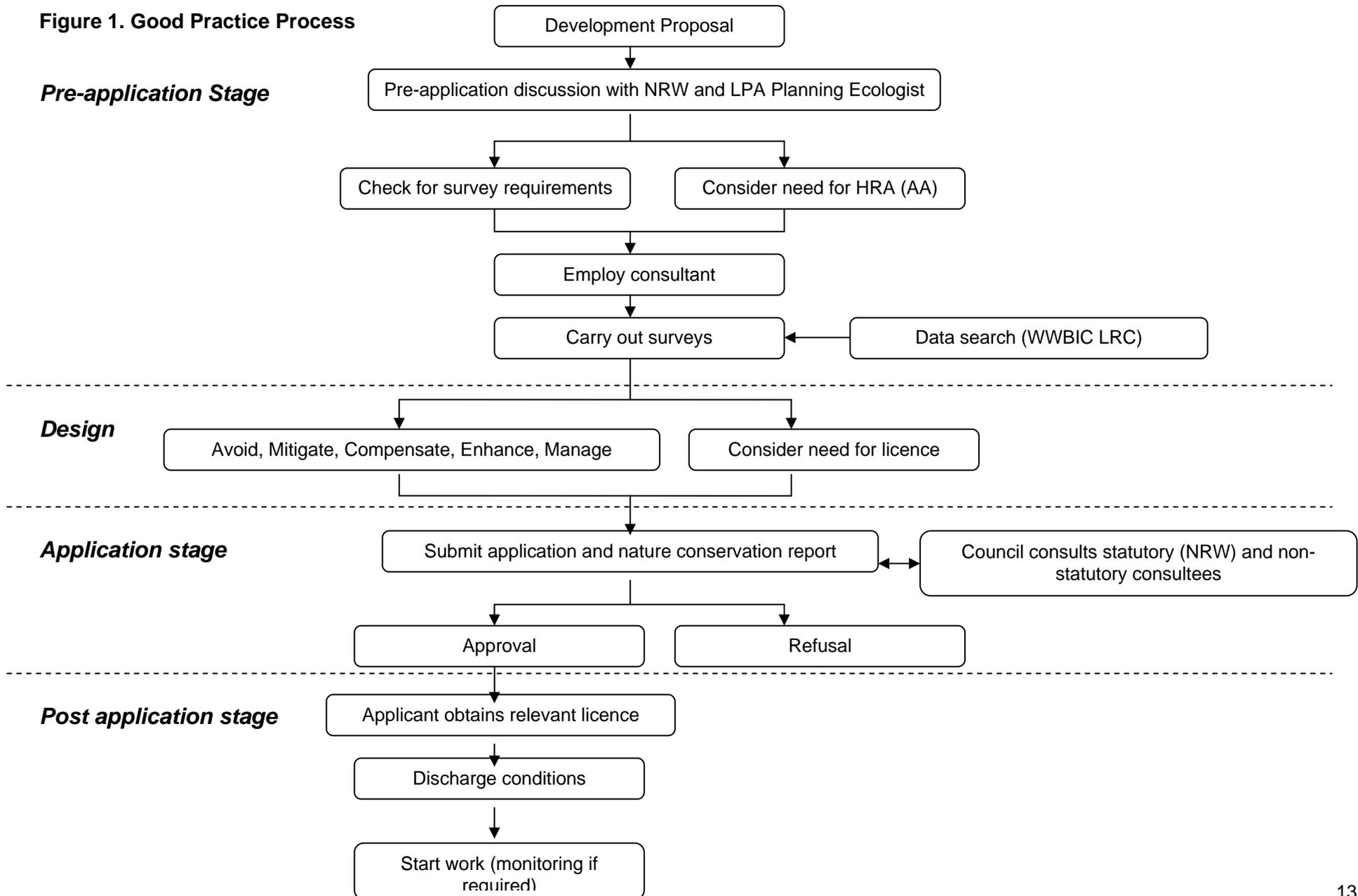
- I. Providing accurate information with the planning application on the existing status of habitats or features and the presence of plants, invertebrates, amphibians, reptiles, birds or mammals (including bats) on or adjacent to the proposed development site.
- II. Where it is known that a protected or priority species or habitat is present, ensuring that assessments are undertaken to identify the potential impact(s) of the proposed development on them, so as to inform the planning process.
- III. Where such assessments demonstrate that species or habitats would be adversely affected, ensuring the development proposal is modified, to avoid the destruction or damage of sites used by protected species and/or to mitigate/compensate any potential impact.

5.1.2 Biodiversity needs to be considered at all stages during the development process. Understanding the habitats and species that are present on a development site will help to:

- Comply with legislation protecting wildlife and habitats.
- Meet planning policy requirements (PPW and LDP).
- Protect and enhance habitats and species.

Figure 1, overleaf, provides a simplified guide to the steps necessary to protect and enhance biodiversity on development sites throughout the application process.

Figure 1. Good Practice Process



5.2 Pre-application discussions

Consider ecology early on to ensure it does not result in avoidable delays

5.2.1 The potential for species and habitat features to be affected by a development must be considered at the first stage of any scheme. Failure to do so may prevent a planning application from being validated or lead to delays in the planning process or to refusal of consent.

5.2.2 The planning department welcomes early discussion of ecological issues at the pre-application stage. This will help to identify if ecological surveys are required to support a planning application. Information about the pre-application process can be found on the Council's web site: www.pembrokeshire.gov.uk. Pre-application discussions with statutory consultees such as NRW are also recommended, in addition to non-statutory consultees if appropriate.

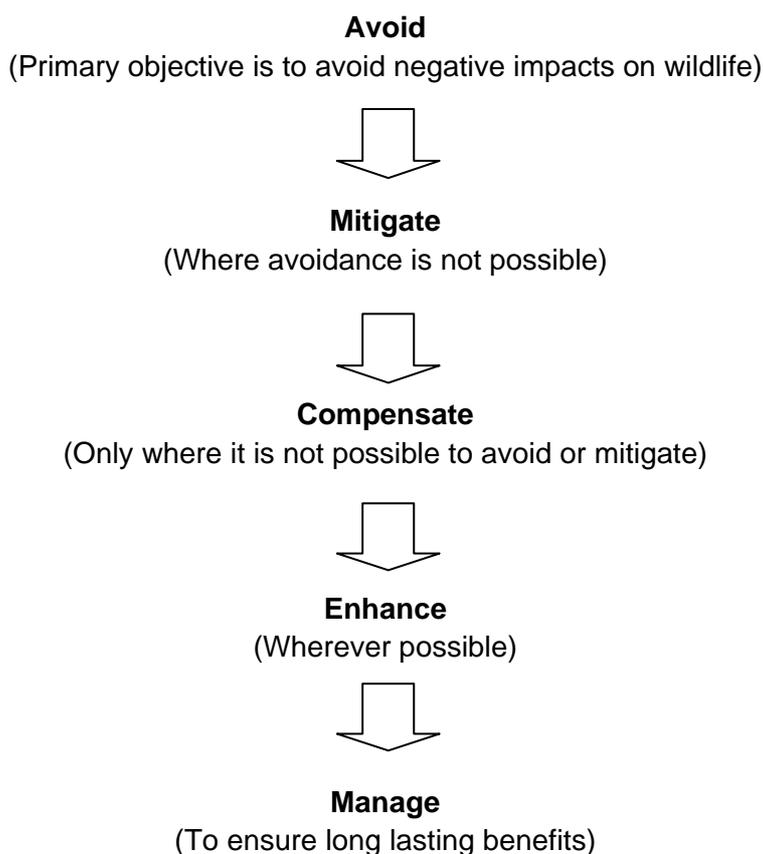
5.3 Adequate information and the requirement for survey work

5.3.1 In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 and the British Standards for Biodiversity, applications which require ecological surveys will not be validated until such information can be provided. The level of information should be necessary, relevant and proportionate to the development and adequate to inform the determination of the application. Pre-application discussions provide an opportunity for applicants to identify if surveys are required and the necessary level of information.

5.3.2 If an ecological survey is required it will need to be undertaken and incorporated into the early stages of a project. This will enable design work to take full account of constraints and opportunities on-site. Survey information should include data from the Local Records Centre, and use nationally recognised survey guidelines/methods where available. A suitably qualified ecological consultant will need to be employed to carry out any necessary survey(s). There are seasonal and time constraints to ecological surveying, which should be carefully planned into the development process.. **Appendix 1** sets out Ecological Survey Seasons. If you are unsure on survey requirements, pre-application advice should be sought.

5.3.3 In some cases where there is not a reasonable likelihood for protected habitats or species to be present or affected by development, survey work may not be needed. However, additional information may still be requested by the Local Planning Authority in order to assist with the determination of the planning application. For more details of survey requirements see the following sections on 'Protected Species' and 'Protected Sites' as well as the biodiversity pages of the Council's website: www.pembrokeshire.gov.uk.

5.4 Design Stage



5.4.1 It is important that the findings of any survey work are taken into careful consideration during the design stage. Good survey work will provide details of both the constraints and opportunities on a site. A proposal must show how it has been designed in such a way so as to minimise any adverse effects on those habitats or species present. This may involve incorporating appropriate new features or habitats within the development or site.

Avoid

5.4.2 Wherever possible, development should avoid impacting on any wildlife feature. The primary objective should be to **avoid** negative impacts 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. Wherever possible existing hedgerows should be retained, or re-aligned where adjustments are required, such as at entrances, where widening is required and for visibility splays. Consideration will need to be given to its connectivity to the wider landscape also. Should avoidance not be possible, justification is required as to why adverse impacts cannot be avoided.

Mitigate

5.4.3 Where avoidance is not possible then the design should aim to **mitigate** any negative impacts. You will need to take account of all the potential effects of a development and make sure that mitigation is appropriate to the proposal. Relatively small developments can have larger impacts on the wider landscape - for example, removing a hedgerow or line of trees could sever a commuting corridor for bats that links a maternity roost with an important foraging site.

Incorporate all aspects of mitigation onto drawings prior to submission

Compensate

5.4.4 In some cases it is not possible to avoid or mitigate adverse impacts on species or habitats. In exceptional circumstances either on- or off-site **compensation** is required. Compensation either restores or recreates the wildlife feature damaged by a development; however some habitats and features, such as ancient woodland, cannot be compensated for. It takes time for new habitats and features to establish and become functional and there is no certainty that it will ever achieve the nature conservation value or quality of the original.

Enhance

5.4.5 Planning Policy Wales requires the planning system to promote approaches to development which create new opportunities to **enhance** biodiversity. LDP Policy GN.37 requires development proposals to enhance biodiversity wherever possible. A planning application should include information on measures that will enhance, restore and/or create new habitats and improve the built environment for wildlife in addition to any measures for protecting existing wildlife and habitats on sites.

5.4.6 The Local Authority also has a statutory duty under the NERC Act (2006) to conserve and enhance biodiversity. One of the primary ways the Council can achieve this duty is through the planning process by ensuring development proposals maintain and enhance the habitat and species on site.. Examples of how a site and/or development may be enhanced could include:

- providing bird boxes around the site or for specific species (swallows, barn owls etc);
- providing roosting opportunities for bats (bat tiles, access to soffits, bat roosts);
- planting a native species hedgerow/trees or creating a wildlife pond and scrapes;
- establishing a wildflower meadow area or planting a native woodland area or copse;
- creating wildlife corridors/linear features to improve connectivity;
- creating buffer zones along watercourses.

5.4.7 Proposals to enhance and create habitat in Pembrokeshire should be informed by the Local Biodiversity Action Plan to identify priority habitats and species.

Manage

5.4.8 On sites where wildlife features are retained or new habitats or features are created, ongoing management is required to ensure long lasting benefits. However, management needs will vary from site to site. For some sites there may be a need for a specific **management plan**. It should identify specific actions, the organisation and personnel responsible for implementing the plan and it may need to identify monitoring required as part of a licence.

5.5 Protected Species

5.5.1 The presence of protected species will not usually prevent development entirely but steps will need to be taken to ensure there is no damage or disturbance to the species and to secure the protection of the species. It is the applicant's or developer's responsibility to ensure they comply with relevant legislation and licensing. Failure to do so can be a criminal

offence which may result in the person(s) concerned liable to a heavy fine and/or a prison sentence; for example, maximum penalties for destroying a bat roost are six months imprisonment and/or a £5000 fine per individual animal harmed. It is the responsibility of the Local Planning Authority to consider species and habitats when determining a planning application and to ensure that there are no unnecessary adverse impacts.

European Protected Species

5.5.2 There are a number of European Protected Species in Pembrokeshire; these include otters, bats (all species) and dormice. The Local Planning Authority will consider the potential impact of the proposed development upon these species based on information provided by the applicant to support their application. This may include a Protected Species or Extended Phase 1 Habitat Survey, proposals for compensation, mitigation or enhancement and drawings to support the inclusion of such features. Consultation will also take place with Natural Resources Wales (NRW). If this information is not provided and is considered necessary as a requirement for the purposes of planning then this may be requested.

5.5.3 If development or an activity will affect European Protected Species then it is likely a licence will be required from NRW to allow otherwise illegal activities to go ahead. If the development requires planning permission this must be granted prior to obtaining a licence. Once approved it is the applicant's responsibility to apply for a licence and further information can be found by searching 'European Protected Species licence' on the NRW website www.naturalresourceswales.gov.uk. See **Appendix 2** for details on submitting planning applications where bats may be affected.

5.5.4 It is important to note that planning permission (or a permitted development right) does not negate the need for a development licence before work starts on site. Working without a development licence could lead to the disturbance of the species or destruction of their roost or resting place, resulting in a wildlife crime being committed and subsequent prosecution.

5.5.5 In some cases appropriate (sympathetic) design and mitigation will avoid the need for a licence – work can be managed so that it does not 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).

UK Protected Species

5.5.6 NRW is responsible for issuing licences for works which may interfere with UK protected species, including badgers and/or their setts in the course of development. The consideration and granting of such licences are separate from the process of applying for planning permission, but the Local Planning Authority must take account of the legislation throughout the development process.

5.6 Protected Sites

5.6.1 Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), collectively referred to as the Natura 2000 series, are designated under the EC Habitats Directive as sites that will make a significant contribution to conserving habitats and species identified as most in need of conservation. There are a number of Natura 2000 sites in

Pembrokeshire; certain forms of development impact upon habitats and/or species to which these sites are of European importance, both inside and outside Pembrokeshire County Council local planning authority jurisdiction.

5.6.2 The Local Planning Authority, as the competent authority, must make an appropriate assessment of the implications of development on European protected sites (SACs/SPASs) before approving any plan or project by screening the proposal through a Test of Likely Significant Effect (TLSE) as required under regulation 61 of Habitats Regulations. If the proposal is likely to have a significant effect a Habitats Regulations Assessment may be required. Applicants and developers are advised to seek advice regarding the scope of any survey required prior to undertaking survey work. Consent cannot be granted unless the results of the screening or Appropriate Assessment show that the proposal will not have a significant adverse effect. For more information on features of individual protected sites in Pembrokeshire see NRW website: www.naturalresourceswales.gov.uk.

5.7 Post Application Stage

5.7.1 It is good practice to address biodiversity and conservation as completely as possible within the design of the development approved. However, occasionally it may be necessary to secure further matters through the imposition of conditions and/or a planning obligation. Where licences have been obtained in respect of protected species, these will also usually require some level of post-development survey and monitoring.

Planning Conditions

5.7.2 Planning conditions mitigate identified harm that would otherwise result in the refusal of an application. Planning conditions can achieve this in several ways on major development sites including:

- Requiring monitoring of retained features and of new or enhanced habitats to gauge their success;
- Restricting or regulating the development in some way by requiring, for example, certain operations to be carried out at set times of the year;
- Requiring works to be carried out; including for example habitat enhancement;
- Requiring further details such as a comprehensive landscaping scheme to be submitted to the local planning authority for approval;
- Requiring existing ecological features such as trees and hedges to be retained as part of the development and protected during construction;
- Limiting the duration of all or part of the development;
- Requiring appropriate management and maintenance after construction to benefit biodiversity.

5.7.3 Planning conditions will only be used where they are: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. Survey for species or sites protected under the Habitats Regulations cannot be conditioned as part of any planning consent.

Planning Obligations

5.7.4 Planning obligations are a mechanism that binds the developer and those with a legal interest in the land under section 106 of the Town and Country Planning Act. Section 106

agreements are the usual way of formalising planning obligations. They are usually used where financial payments or on-going management are required to address biodiversity issues. They should only be used where it is necessary to make an otherwise unacceptable development acceptable. They must be reasonable, serve a planning purpose and relate to the proposed development in scale and kind.

5.7.5 Examples of the use of planning obligations for major developments may include:

- Provision of access and interpretation facilities for areas of biodiversity interest / feature;
- Provision of new habitats;
- Financial provisions such as a commuted sum for management to cover long-term maintenance costs;
- Ongoing management of new or improved habitats after the initial after-care or maintenance period, possibly through a 5-year (or longer) management plan with the developer;
- Agreement with a conservation organisation, housing association, the Council or local residents group where they are prepared to take on management responsibility.

6 Other Considerations

6.1 Permitted development

6.1.1 Some types of development, such as extensions and alterations, may be automatically permitted which means that there is no need to apply for planning permission. General permission is granted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in these cases. Even if a proposal is permitted development, the work may still disturb a protected species or damage an important habitat. If it is uncertain whether or not the proposal is permitted development, please contact the Council's Development Management team for advice. To ascertain the potential impact of a proposal or establish if a licence would be required contact the Council's Planning Ecologist or NRW. The presence (or potential presence) of protected species will require compliance with all of the relevant statutory obligations and responsibilities, and may involve obtaining a licence from the NRW, if criminal offences are to be avoided.

6.2 Demolition

6.2.1 Approval for the demolition of most buildings is required from the Local Planning Authority and is achieved by either indicating the demolition of a building(s) and gaining approval in conjunction with a planning application or by applying for 'prior notification'. Under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) a prior notification must be submitted to check whether the Council requires prior approval of the method of demolition and site restoration. This is in addition to any other forms of consent required for demolition such as Listed Building Consent, Conservation Area Consent or approval via a Demolition Notice.

6.2.2 Checks should be made prior to demolition to identify and define any biodiversity issues, such the presence of protected species that need to be addressed prior to commencing demolition. In advance of any planned demolition of a building or structure, advice may be obtained from the Council's Planning Ecologist on any requirements for surveys or precautions to be taken in respect of protected species. All bats are protected by European and UK legislation and it is an offence to disturb or destroy their habitat. Where protected species occur all of the statutory obligations and responsibilities relating to these, potentially including the need to obtain a licence from the NRW, will apply and must be resolved before demolition proceeds, otherwise a criminal offence may be committed.

6.3 Renewable Energy Proposals

6.3.1 Renewable energy proposals have the potential to impact on wildlife, including birds and bats. The Local Planning Authority recommends a 50m buffer between wind turbine blades and linear features such as trees and hedgerows. Careful consideration will need to be given to the location of access points and connections to grid, so as to reduce the potential impact on habitat features or species. If you are intending to submit a planning application for a renewable energy scheme the Local Planning Authority recommends undertaking an ecological walk over survey as a minimum. However, additional survey work identified from the preliminary survey may need to be undertaken prior to the submission of a planning application.

6.4 External lighting

6.4.1 Light pollution can have a serious impact on the natural patterns that govern wildlife behaviour such as mating, migration, sleeping and eating. Lighting in itself is not a problem; it only becomes a problem where it is excessive, poorly designed or badly installed. The impact of lighting on wildlife can be reduced by:

- Using lights only where and when needed
- Lighting the target area only
- Shining lights downwards
- Using sensor lights that come on only when necessary

Where light-sensitive protected species such as bats are involved, appropriate design of lighting to avoid or minimise adverse impacts will be a statutory requirement and may be subject to licensing by the NRW.

Glossary

Appropriate Assessment

A statutory assessment which is undertaken by a competent authority in respect of plans or projects which are likely to have a significant effect on a Natura 2000 site (see HRA definition).

Biodiversity

The richness and variety of living things (plants, birds, animals, fish and insects etc.) which exist in a given area, and the habitats which support them.

Biodiversity Action Plan/Local Biodiversity Action Plan (BAP/LBAP)

The UK's Biodiversity Action Plan recognises priority habitats and species and plans and works towards their conservation. Local Biodiversity Action Plans are the mechanism for local delivery.

Development Licence

Term used within this document to refer to a protected species licence (European or UK protected species) obtained by a developer for the purposes of undertaking a development.

Ecosystem

A system that includes all living organisms (biotic factors) in an area as well as its physical environment (abiotic factors) functioning together as a unit.

European Protected Species (EPS)

Species protected by the Conservation (Natural Habitats etc) Regulations 2010.

Habitat

The place in which a particular plant or animal lives. Often used in the wider sense referring to major assemblages of plants and animals together.

Habitat Regulations Assessment (HRA)

HRA is required under the European Directive 92/43/EEC and is an assessment of the impacts of implementing a plan or project on a Natura 2000 site. Its purpose is to consider the impacts of a land use plan against conservation objectives of the site and to ascertain whether it would adversely affect the integrity and features of the site. Where significant negative effects are identified, alternative options should be examined to avoid any potential damaging effects. Appropriate Assessment (AA) is one part of the HRA process. It is only required where the plan-making body determines that the plan is likely to have a significant effect on European Designated sites, either alone or in combination with other plans or projects. It considers whether the impacts of a plan or project assessed against conservation objectives of a European Site, are likely to cause adverse effects on site integrity and site features.

Local Development Plan

The Statutory Development Plan for each Local Planning Authority area in Wales, as required under Part 6 of the Planning and Compulsory Purchase Act 2004.

Local Nature Reserve

An area designated for its local importance in terms of nature conservation.

Local Planning Authority

A planning authority responsible for the preparation of the Local Development Plan and for determining planning applications.

Mitigation

The term mitigation in the document refers to action taken which offsets and minimises potential impacts on any wildlife features.

National Nature Reserve (NNR)

An area designated for its national importance in terms of nature conservation, and managed in accordance with a nature reserve agreement with landowners and occupiers.

Natura 2000 site

Sites protected under the Conservation (Natural Habitat) Regulations 2010, including Special Areas of Conservation, Special Protection Areas and Ramsar sites.

Natural Resources Wales (NRW)

Is the Statutory Nature Conservation Organisation for the Welsh Government. Its purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

Planning obligation

A commitment made by a developer under Section 106 of the Town and Country Planning Act to undertake certain actions (on- or off-site) necessary to make a development acceptable in planning terms.

Planning Policy Wales (PPW)

Current land use planning policy is contained in 'Planning Policy Wales' (2012) which provides the strategic policy framework for the effective preparation of local planning authorities' development.

Site of Special Scientific Interest (SSSI)

A site identified under the Wildlife and Countryside Act 1981 as an area of special interest for wildlife or geological features.

Special Area of Conservation (SAC)

A site designated under the European Habitats Directive (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations 1994), to protect internationally important natural habitats and species.

Special Protection Areas (SPA)

Sites classified under the European Community Directive on Wild Birds (enacted in the UK through the Conservation (Natural Habitats, &c.) Regulations 1994), to protect internationally important bird species.

Supplementary Planning Guidance (SPG)

These documents reinforce the policies of the Local Development Plan and provide clear in-depth guidance on planning and development issues.

Technical Advice Note 5 (TAN 5)

Technical Advice Note (TAN) 5 provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.

Welsh Government (WG)

The elected body in Wales that develops and implement policy via the Civil Service and a range of sponsored bodies.

Local Planning & Biodiversity Contacts

Address:

Planning Department, Pembrokeshire County Council, County Hall, Freemens Way, Haverfordwest, SA61 1TP.

Tel: 01437 764551

Fax: 01437 776496

Email:

Conservation Team - ecology@pembrokeshire.gov.uk
biodiversity@pembrokeshire.gov.uk
Planning Support Team - planningenquiries@pembrokeshire.gov.uk
planning.support.team@pembrokeshire.gov.uk
Development Plans Team - ldp@Pembrokeshire.gov.uk

Useful websites:

Amphibian and Reptile Conservation Trust: www.arc-trust.org/
Association of Local Environmental Records Centre: www.alerc.org.uk
Bat Conservation Trust: www.bats.org.uk or <http://roost.bats.org.uk/>
Buglife – The Invertebrate Conservation Trust: www.buglife.org.uk/
Bumblebee Conservation Trust: www.bumblebeeconservation.org/
Butterfly Conservation Wales: www.butterfly-conservation.org/165/wales.html
Carmarthenshire County Council: www.carmarthenshire.gov.uk/
Ceredigion County Council: www.ceredigion.gov.uk/
Institute of Ecology and Environment Management: www.ieem.net/surveymethods.asp
Joint Nature Conservation Committee (JNCC): www.jncc.gov.uk
Natural Resources Wales: www.naturalresourceswales.gov.uk
Pembrokeshire Biodiversity Partnership: www.biodiversitypembrokeshire.org.uk/
Pembrokeshire Coast National Park Authority: www.pcnpa.org.uk
Pembrokeshire County Council Ecology
<http://www.pembrokeshire.gov.uk/content.asp?nav=1626,109,2254>
Pembrokeshire Local Biodiversity Action Plan: www.pembrokeshire.gov.uk/biodiversity
Plantlife Cymru: www.plantlife.org.uk/wales
Royal Society for the Protection of Birds (RSPB): www.rspb.org.uk/
The Association of Local Government Ecologists: www.biodiversityplanningtoolkit.com
The Biodiversity Action Reporting System (BARS): www.ukbap-reporting.org.uk
The Wildlife Trust of South and West Wales: www.welshwildlife.org/
Wales Biodiversity Partnership: www.biodiversitywales.org.uk
Welsh Government: www.wales.gov.uk
West Wales Biodiversity Information Centre: www.wwbic.org.uk

Useful Documents:

British Standards for Biodiversity Code of Practice for planning and development (BS 420202:2013), British Standards Institute.
Local Development Plan (2013 - 2021), Pembrokeshire County Council.
Planning Policy Wales, Edition 5 (2012), Welsh Government.
Technical Advice Note 5, Nature Conservation and Planning (2009), Welsh Government.

Bat Surveys: Good Practice Guidelines, Edition 2 (2012), The Bat Conservation Trust.
The Town and Country (General Permitted Development) Order 1995 (as amended).

Other useful information:

Ecological Survey Report Guidance and a list identifying local Licensed Bat Surveyors and Ecologists is available on the Pembrokeshire County Council website:

http://www.pembrokeshire.gov.uk/content.asp?nav=1626,109,2254,2256&parent_directory_id=646. Please note however that inclusion on this list does not constitute a recommendation by Pembrokeshire County Council.

An interactive map of wind turbine applications within the County enables the potential cumulative effects of turbines in a given area to be assessed as well as their likely impact on wildlife: www.pembrokeshirecoast.org.uk

Appendix 1: Ecological Survey Seasons

Key: Optimal Survey Time: 

Extending into: 

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Badgers												
Bats (Hibernation Roosts)												
Bats (Summer Roosts)												
Bats (Foraging / Commuting)												
Birds (Breeding)												
Birds (Over-wintering)												
Dormice												
Great crested newts (Terrestrial)												
Great crested newts (Aquatic)												
Invertebrates												
Otters												
Reptiles												
Water voles												
White clawed crayfish												
Habitats and Vegetation												