

<b>REPORT TO:</b>	Executive Board
<b>REPORT NO:</b>	HEP/41/18
<b>DATE:</b>	18 May 2018
<b>LEAD MEMBER:</b>	Councillor David Kelly (Organisation – Planning and Corporate Services)
<b>CONTACT OFFICER:</b>	Emma Broad (Tel 298762)
<b>SUBJECT:</b>	Draft Local Planning Guidance Note 35: Great Crested Newt Mitigation Requirements – Johnstown Newt Site SAC and the Wider Countryside
<b>WARD:</b>	Ponciau, Pant, Johnstown, Ruabon, Penycae

## 1 PURPOSE OF THE REPORT

To seek approval for Local Planning Guidance Note 35: Great Crested Newt Mitigation Requirements – Johnstown Newt Site SAC and the Wider Countryside **(Appendix 1)**.

## 2 EXECUTIVE SUMMARY

- 2.1 This is one of a series of local supplementary planning guidance notes amplifying Unitary Development Plan (UDP) policies and reflecting national guidance in relation to development affecting Great Crested Newt (GCN) populations. This guidance note is intended to provide advice and guidance to developers, land owners, Members and Local Authority officers when assessing development proposals involving, or in close proximity, to GCN populations, together with other material planning considerations. Special consideration has been given to those GCN populations which are the special interest feature of Johnstown Newt Site Special Area of Conservation (SAC). In such situations the cumulative impact of small developments and indirect effects of development must be adequately considered and assessed.
- 2.2 The proposed LPGN uses a matrix system to determine when GCN mitigation is required, when that mitigation could be in the form of a commuted sum payment and when it should be physical habitat improvement on site.

### 3 RECOMMENDATIONS

- 3.1 That Members approve the **Local Planning Guidance Note 35: Great Crested Newt Mitigation Requirements – Johnstown Newt Site SAC and the Wider Countryside as supplementary planning guidance for use in the planning process.**

### REASONS FOR RECOMMENDATIONS

- (i) To enable the Council to meet the requirements of the Habitats Directive and to provide a standard framework for on-site and off-site mitigation requirements for developments affecting GCN in the Johnstown SAC area.

### 4 BACKGROUND INFORMATION

- 4.1 The Great Crested Newt (GCN) is protected under Schedule 5 of the Wildlife and Countryside Act 1981(as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017, making it a European Protected Species (EPS). Where EPS might be affected, Local Authorities are required to have regard to the Habitats and Species Regulations. This requires the planning system to prevent harm to GCN including preventing their incidental capture, killing or injury, disturbance, and damage and destruction of their breeding and resting sites.
- 4.2 Planning Policy Wales Technical Advice Note 5 advises that the presence of a protected species is a material consideration when a Local Planning Authority (LPA) is considering a development proposal that, if carried out would be likely to result in disturbance to the species or its habitat. LPAs should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the protection of the species, and advise developers that they must comply with any statutory species.
- 4.3 The majority of developments do not affect known sites directly, but rather habitats of varying quality adjacent, or in proximity, to known sites. The likelihood of a terrestrial site being used by GCN is based on habitat quality and its proximity to a breeding pond. The principal issue is therefore determining when mitigation or compensation is required and what this should entail in order that the Favourable Conservation Status (FCS) of the species is maintained. The scale of works required to determine this depend on whether the land has “High” or “Low” potential for GCN to be present.
- 4.4 The LPGN provides clear guidance on what level of mitigation will be expected of developments. Together with a similar LPGN adopted by Flintshire Council this document will help achieve consistency for developers and decision makers within this Borough. Adoption of the LPGN will reinforce the importance of GCN within the planning system and aid its protection through securing worthwhile yet appropriate mitigation which will halt and reverse the decline of GCN within both protected sites and the wider countryside.
- 4.5 Four consultation responses were received (as detailed in **Appendix 2**). All were supportive of the document, some changes to legislation and minor sentence changes were suggested and these have been incorporated within the final document (a copy of which is contained in **Appendix 1**).

## 5 IMPLICATIONS

- 5.1 **Policy Framework** – Amplifies existing policy within the Adopted Wrexham Unitary Development Plan and takes account of national guidance.
- 5.2 **Budget** – No implications.
- 5.3 **Legal** – No implications.
- 5.4 **Staffing** – No implications.
- 5.5 **Equality/Human Rights** - Members are advised of their duty to consider the full Equality Impact Assessment which is available at <http://vmwinsqld/equalityisalive/Menu.aspx> report number EP/EIA00080/2018. Members of the public can request a copy of the full Equality Impact Assessment from the Contact Officer named in the header box of this report.

A summary of the Equality Impact Assessment is attached as **Appendix 3**.

- 5.6 **Risks** – None.

## 6 CONSULTATION

- 6.1 Consultation took place between 5 March and 9 April 2018, additional consultations were carried out between 2 May and 18 May. The following were notified via e-mail about the consultation process in respect of the draft LPGN:
- i Community Councils within the Johnstown Newt Site Buffer
  - ii Council Leader, Chair and Vice Chair of Planning Committee, Planning Lead Member
  - iii All Members whose wards are within the Johnstown Newt Site Buffer
  - iv Natural Resources Wales
  - v Special Interest Groups
- 6.2 The draft LPGN was publicised on the ‘Consultations’ section of the Council’s website.
- 6.3 Responses to external consultation are summarised in **Appendix 2**.

## 7. EVALUATION OF OPTIONS

- 7.1 Option 1 - To adopt LPGN 35.
- 7.2 Option 2 - To not adopt LPGN 35. This would leave the Council without supplementary planning guidance that sets out what is the most appropriate means of mitigation when great crested newts are present. It could lead to a lack of consistency when making decisions and the requirement for this LPGN is recognised within the Habitat Regulations Assessment for the emerging Local Development Plan.

## 8. SCRUTINY COMMITTEE COMMENTS

- 8.1 The report has not been considered by any Scrutiny Committee.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO
None		