

Response to LPA and Ecology Department

- Policy and Legislation Application
- NBB Interpretation
- Pre-Emptive Clearance

Dated: 08th October 2025

Contents

1.	Scope Of This Document	4
1.1	Version Control.....	4
1.2	Referenced Documents	4
1.3	Regulatory Standards.....	5
1.4	Excluded Regulatory Standards	5
1.5	Policy.....	5
1.6	Excluded Policy	6
2.	Document Purpose	6
3.	Executive Summary.....	7
2.1	Applicant Statement	8
4.	Introduction.....	9
5.	Applicant Desktop Study Findings	10
4.1	Desktop Study Summary Findings.....	11
5.	PPW12 and the Environment (Wales) Act 2016 (6)	11
5.1	What Is the Environment (Wales) Act 2016?	11
5.2	What Is Planning Policy Wales Edition 12 (PPW12)	13
5.3	PPW12 Amendment for Pre-emptive Site Clearance.....	13
5.4	Policy Underpinned by Legislation Findings	14
5.5	Agreed Baseline for Net Benefit for Biodiversity (NBB)	15
5.6	StepWise and DECCA Framework	16
5.7	Baseline Clarification and Legislative Boundaries	17
5.8	StepWise Approach in PPW12	18
5.9	DECCA Framework	19
6.	Environment Act 2021	20
7.	Levelling Up and Regeneration Act 2023	21
8.	LPA Pre-Emptive Site Clearance Insistence	21
9.	Tree Planting	23
9.1	Severn Trent Guidance on Tree Planting.....	24
10.	Legislative Metric – NBB or BNG	25
10.1	What is Biodiversity Net Gain (BNG)	26
10.2	What is Net Benefit for Biodiversity (NBB)	27
10.2.1	NBB in Action	27
10.3	NBB Value Baselined.....	28
10.3.1	Has NBB Been Achieved Using the GIS and PEA as the NBB Value?.....	30
10.4	MTCBC Schemes for NBB.....	32

INTERNAL – MTCBC Ecology Response

10.4.1	Case Study 2 – Nature’s Gift Garden	32
10.4.2	Case Study 3 – The Marsh Field (PCH)	32
11.	Response to Ecologist Email -01 st Oct 2025	33
11.1	Ecologist’s Suggestions.....	34
11.1.1	Vertical Geocell.....	34
11.1.2	Landscaping and Japanese Knotweed Management Plans	35
11.2	Document and Artefacts	37
11.3	Landscaping Management Plan Requirement	38
11.4	Clarification on Integration of Biodiversity Enhancements	40
11.5	Elevation Consistency and Swift Box Integration	40
11.6	Document Consistency and Knotweed Clarification	42
11.6.1	Document 3 – Site Plan B	42
11.6.2	Document 4 – Clearsafe Knotweed Report	42
12.	Response to Ecologist Email -07 th Oct 2025	44
12.3	Misuse of Superseded Documentation and Vegetation Ownership Clarification	44
12.1	Post Site Clearance NBB Value	47
12.2	Permaculture Approach	48
13.	Summary Statement and Previous Request for Collaborative Engagement	50
	Appendix A – The legislative context for planning in Wales	51
	Appendix B – P250167 Internal Memo Responses	53
	Appendix C – Email Requesting Ecologist Engagement	54
	 Figure 1 - 2m Easement Reference from Ecology?.....	29
	Figure 2 - Proposed Enhancements - PEA Drawing	31
	Figure 3 - Northerly Elevation.....	41
	Figure 4 - Southerly Direction	41
	 Table 1 - References	5
	Table 2 - Welsh Policy and Legislation	6
	Table 3 - Severn Trent Tree Planting Guidance	25

1. Scope Of This Document

This document provides a detailed overview and timeline concerning the proposed increase in tree planting—from three to twelve trees—under planning application P205167, submitted to Merthyr Tydfil County Borough Council (MTCBC) Local Planning Authority (LPA) on 6 June 2025.

It outlines the applicant’s position that the proposed tree planting requirement is unwarranted. Furthermore, it presents concerns to the LPA, Planning Committee, and Welsh Government Audit Office regarding the subjective application of planning law, which appears to be based on an inaccurate and narrowly scoped desktop study. Additional considerations are included in response to further commentary provided by the appointed ecologist.

1.1 Version Control

Version	Date	Author	Changes
1.0	08.10.25	Nick Meaney	First Publication
1.1	08.10.25	Nick Meaney	Formatting

1.2 Referenced Documents

Document	Description
Planning Application	Submitted Planning Application
GIS Ver 1	GIS version 1 - Superseded
GIS Ver 2	GIS version 2- Superseded
GIS Ver 3	GIS version 3- Superseded
GIS Ver 4	GIS version 4 – Final and revised Version
PEA Ver 1	PEA version 1.1 - Superseded
PEA Ver1.1	PEA version 1.2 - Superseded
PEA Ver 1.2	PEA version 1.3 - Superseded
PEA Ver 1.3	PEA version 1.4 - Final and revised Version
P205167	Ecologist Internal Memo
P205167_2	Ecologist Internal Memo
Email P/25/0167 - Land at Six Bells Estate, Heolgerrig dated 01 st Oct 2025	Ecologist email
Email P/25/0167 - Land at Six Bells Estate, Heolgerrig dated 07 th Oct 2025	Ecologist email
Net-Benefits-briefing.pdf	CIEEM Chief Planning Officer reference 2019

CIEEM Net Benefits for Biodiversity Working Group (Wales) CIEEM	CIEEM NBB Working Group Guidance
The Biodiversity and Resilience of Ecosystems (S6) Duty Report	MTCBC S6 Project
Natural Resources Wales / The State of Natural Resources report 2016	NRW SONAAR report
The Section 6 Biodiversity and Resilience of Ecosystems Duty: reporting guidance GOV.WALES	WAG NBB
Factsheet 10 Biodiversity and resilience of ecosystems duty english	WAG NBB
COP15, Biodiversity Deep Dive, Section 6 Duty and the Planning System	UN and WAG COP 15 (Section 6)
Home » APHA - National Bee Unit - BeeBase	WAG Approved Hiney Bee Scheme

Table 1 - References

1.3 Regulatory Standards

The design complies with the following regulations.

- Planning Wales Act (2015)
- Environment (Wales) Act 2016

1.4 Excluded Regulatory Standards

The following Regulated Standards are excluded as it is relevant solely to England

- Environment Act 2021
- Levelling Up and Regeneration Act 2023

1.5 Policy

This document will adhere to planning policy standards as appropriated in the following reference documentation:

- Planning Policy Wales (12) Published Feb 2024.

In addition, the following references will be used to support the findings in this desktop study.

Title	Originator	Issue	Date
Environment (Wales) Act 2016: factsheets GOV.WALES	WAG		OCT 25
Planning Policy Wales - Edition 12	WAG		FEB 2024
Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure) [HTML] GOV.WALES	WAG		MAY 23
Targeted policy changes	WAG		MAY 23
Environment Act 2021	HMG		NOV 21
Levelling-up and Regeneration Act 2023	HMG		OCT 23
Biodiversity net gain: what local planning authorities should do - GOV.UK	HMG BNG		NOV 24

Table 2 - Welsh Policy and Legislation

1.6 Excluded Policy

The following Policy is excluded as it is relevant solely to England

- Biodiversity Net Gain

2. Document Purpose

Design Commentary Framework for Planning Response

Purpose: To document and categorise all design decisions, ecological enhancements, and planning responses in accordance with *Planning Policy Wales Edition 12*, the *Environment (Wales) Act 2016*, and feedback received from Merthyr Tydfil County Borough Council (MTCBC).

Each item is categorised to support clarity, proportionality, and traceability in line with PPW12's emphasis on collaborative, evidence-based planning. This framework may be used to annotate submitted artefacts (e.g. GIS, PEA, architectural drawings) or to structure formal correspondence.



Note

Used to highlight contextual information relevant to PPW12, ecological strategy, or site-specific constraints.



Risk

Identifies a potential planning or ecological concern that may require mitigation or clarification during the application process.



Issue

Represents a confirmed blocker or inconsistency that may impact planning approval or ecological compliance.



Design Decision

Indicates a confirmed and agreed-upon design or ecological enhancement that aligns with PPW12 and is ready for implementation.



Advisory

Highlights a recommended action or best practice that supports NBB delivery but is not mandatory under current policy.

3. Executive Summary

This document addresses the determination of when Net Biodiversity Benefit (NBB) has been achieved and the appropriate reference point for measuring that value, given the divergence in approaches. Merthyr Tydfil County Borough Council (MTCBC) is applying a baseline from 2018—**prior to the adoption of Planning Policy Wales Edition 12 (PPW12)—based on an alleged site clearance**. In contrast, the applicant contends that the baseline should be derived from the submitted **GIS and Preliminary Ecological Appraisal (PEA) artefacts**, which form part of the formal application process, noting that **PPW12** was only adopted in **February 2024**.

MTCBC supports its own desktop study by referencing Planning Policy Wales Edition 12 (PPW12), specifically section **6.4.16 on page 151** in relation to an alleged pre-emptive site clearance.

This response is provided in relation to multiple communications from the Local Planning Authority (LPA) and the appointed ecologist, namely:

- Email P/25/0167 – Land at Six Bells Estate, Heolgerrig, dated 07 October 2025
- Email P/25/0167 – Land at Six Bells Estate, Heolgerrig, dated 01 October 2025
- Internal Memo P2550167, dated 12 June 2026
- Internal Memo P250167_2, dated 26 September 2025

2.1 Applicant Statement

Affirmation Statement

The applicant affirms the following statement to be true and is prepared to sign an affidavit to that effect:

At no point did the applicant undertake, instruct, or authorise the clearance of the site. The removal of trees occurred during the winter of 2018/2019 and was reportedly carried out by residents of the Six Bells Estate and surrounding area, primarily for the collection of firewood. The applicant had no involvement in these activities and was not present at the time. The applicant is actively gathering supporting witness statements to corroborate this account and welcomes the opportunity to provide further evidence if required.

4. Introduction

Net Benefit for Biodiversity (NBB) was strengthened by the Welsh Government following the United Nations COP15 Biodiversity Summit in 2022. In response, the Welsh Government conducted its own Biodiversity Deep Dive, resulting in a series of actions aimed at protecting priority habitats and supporting nature's recovery.

The purpose of this document is to assess whether the desktop study conducted by the Merthyr Tydfil County Borough Council (MTCBC) Ecology Department has applied the correct NBB baseline value for the site, based on available open-source data. It also examines the policy rationale behind the selection of May 2018 as the effective date for NBB valuation and any associated site clearance, with reference to **Planning Policy Wales Edition 12 (PPW12), specifically section 6.4.16 on page 151**, which outlines the **Step-Wise approach**.

PPW12, adopted in February 2024, is codified in Chapter 6: *Distinctive and Natural Places*. This study further evaluates whether section **6.4.42 (page 159) of PPW12**—concerning additional planting requirements—is underpinned by enforceable legislative authority.

In addition, the document references the **Environment (Wales) Act 2016**, Part 1 – Section 6, and the corresponding Section 6 Duty as articulated in PPW12, published in **February 2024**. It draws upon the **Biodiversity and Resilience of Ecosystems Duty Report**, published by MTCBC on 22 December 2022. Notably, Section 2 of that report, titled *Highlights, Key Outcomes & Issues*, specifically the following case studies;

- Case Study 2 – Nature Gift Garden
- Case Study 3 – The Marsh Field (PCH)

The document also incorporates the following statement from the Chief Planning Officer's letter (2019):

“A net benefit for biodiversity can be achieved through a range of actions, ranging from bat and bird boxes to large-scale creation, and/or restoration or long-term management of habitats. The Chief Planner's letter highlights that this does not ‘need to be onerous’ and should be proportional to the extent and impact of development, to contribute to a bigger, better, more joined-up approach to a resilient and biodiverse ecological network in Wales. This will mean some small or low-impact developments can deliver NBB relatively easily; others will need to invest in delivering land area for NBB and long-term maintenance of habitats.”

This summary is intended to be read alongside the submitted GIS and Preliminary Ecological Appraisal (PEA) documents, particularly when considered within a timeline context. The version control of these documents demonstrates the applicant's ongoing commitment to working collaboratively with the Council to deliver meaningful biodiversity enhancements in line with the Environment (Wales) Act 2016 and relevant planning frameworks and also the removal of incorrectly identified vegetation not in the ownership of the applicant.

This study represents an impartial review conducted by the applicant, Nick Meaney, to establish whether the desktop study by Mr Davies has fully utilised all available open-source information and applied the correct policy interpretation. .

Finally, this document seeks to clarify—under PPW12 and the Section 6 Duty—when the NBB value should be measured from, and whether biodiversity enhancements have been achieved from that reference point.

5. Applicant Desktop Study Findings

Background:

Approximately seven years ago, trees were removed from the site in Merthyr Tydfil by local residents—not the landowner. Following public consultation in May 2023, *Planning Policy Wales Edition 12* (PPW12) was formally adopted in February 2024. This edition includes guidance on pre-emptive site clearance.

Policy Context and Interpretation:

Following an exhaustive desktop study, the applicant concludes that there is no statutory basis to retroactively apply a pre-emptive site clearance date prior to the adoption of PPW12 Section 6. The effective date for such policy application is therefore February 2024, as no prior framework existed to support retrospective enforcement.



Note

If this interpretation is incorrect, clarification is respectfully requested from the LPA

Regarding the ecological proposals, the Council has stated that a *Net Benefit for Biodiversity* (NBB) has not yet been demonstrated and that further enhancements are required to meet both statutory duties and policy expectations.

Response to Ecologist's Statement:

“As the site was pre-emptively cleared sometime since 2018, the baseline for biodiversity should be taken from a point prior to clearance. A net benefit for biodiversity must be achieved from this baseline. The recent survey work provides a post-clearance baseline, rather than a pre-clearance 2018 biodiversity baseline.”

The applicant maintains that the appropriate NBB baseline is represented by the submitted GIS and Preliminary Ecological Appraisal (PEA) documents. There is no statutory instrument applicable in Wales that legislates a retroactive date for pre-emptive site clearance. The relevant English frameworks cited below do not apply under Welsh planning law:

- **Levelling Up and Regeneration Act 2023**
Introduced provisions stating that any authorised activity carried out on-site habitats on or after 25 August 2023 shall be used to determine the pre-development biodiversity value. This legislation is applicable only in England.
- **Environment Act 2021 - Schedule 14** of the Act, specific measures empower English planning authorities—such as English District Council's—to account for habitat degradation or deliberate destruction occurring on a site **since 30 January 2020**. In such cases, the earlier habitat condition may be used as the baseline for assessing **Biodiversity Net Gain (BNG)**.
- **Biodiversity Net Gain: What Local Planning Authorities Should Do**
Provides guidance for English LPAs to assess whether biodiversity degradation occurred prior to application submission, and to set the baseline accordingly. Again, this framework is not adopted in Wales.

Internal Memo Reference:

In *Internal Memo P250167_2*, the ecologist attempts to assign a timeframe to the site clearance:

- “The site was cleared of vegetation sometime between May 2018 and October 2021. The planning department considers this to constitute pre-emptive clearance.”

This timeframe appears to align with English legislative windows and frameworks. However, as agreed, these are not applicable under PPW12 or the *Environment (Wales) Act 2016*, which underpins biodiversity policy in Wales.



Risk

The attempt to assign a retrospective timeframe to site clearance using English legislative instruments is not supported by current Welsh policy. Therefore, the ecologist’s assertion regarding pre-emptive clearance appears moot. The applicant reaffirms that the most recent GIS and PEA documents represent the valid NBB baseline, and any enhancements should be measured from this point forward.

4.1 Desktop Study Summary Findings

The Local Planning Authority (LPA) and the Ecology Department have referenced the **Targeted Policy Changes Consultation—which concluded on 31 May 2023**—as part of the Planning Policy Wales Edition 12 (PPW12) framework. Specifically, Section 6.4.16 (page 151) states:

“Potential applicants are advised to not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place... In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.”

While this guidance provides a precautionary principle, it is important to note that Section 6.4.16 is not underpinned by the **Environment (Wales) Act 2016**, nor does it rely on retrospective enforcement mechanisms such as **Biodiversity Net Gain (BNG) under the Environment Act 2021**, which applies only in England.

Accordingly, it is the applicant’s understanding that the Net Benefit for Biodiversity (NBB) should be assessed using the most recent ecological evidence—namely, the *Preliminary Ecological Appraisal (PEA)* and *Green Infrastructure Statement (GIS)* submitted. These documents reflect the site’s correct condition post any alleged clearance and provide a valid baseline for determining biodiversity value and enhancement potential.

5. PPW12 and the Environment (Wales) Act 2016 (6)

5.1 What Is the Environment (Wales) Act 2016?

The *Environment (Wales) Act 2016* establishes a legislative framework for the sustainable management of natural resources in Wales. It addresses climate change, biodiversity, waste reform, and environmental governance, aiming to ensure long-term ecological resilience and public accountability.

Key Objectives of the Act:

1. **Sustainable Management of Natural Resources**
Promotes a proactive, integrated approach to managing Wales' natural resources for the benefit of current and future generations.
2. **Biodiversity and Ecosystem Resilience**
Places a statutory duty on public bodies to maintain and enhance biodiversity and promote ecosystem resilience, with mandatory reporting every three years.
3. **Climate Change Mitigation**
Empowers Welsh Ministers to set statutory targets for reducing greenhouse gas emissions, aiming for at least an 80% reduction by 2050.
4. **Waste Management Reform**
Introduces improvements such as separate waste collection and bans on food waste disposal via sewers, with the goal of increasing recycling and reducing environmental impact.
5. **Fisheries and Marine Licensing**
Clarifies regulatory frameworks for shellfisheries and marine activities to ensure sustainable practices.
6. **Public Engagement and Reporting**
Requires public bodies to engage stakeholders in resource management, fostering transparency and accountability.

Relevant Legislative Duty:

Under **Part 1, Section 6** of the Act, public authorities are required to:

(1) Seek to maintain and enhance biodiversity in the exercise of their functions in relation to Wales, and in doing so, promote the resilience of ecosystems, insofar as consistent with the proper exercise of those functions.

(2) In complying with subsection (1), take account of the resilience of ecosystems, particularly:

- (a) Diversity between and within ecosystems
- (b) Connections between and within ecosystems
- (c) Scale of ecosystems
- (d) Condition of ecosystems (including structure and functioning)
- (e) Adaptability of ecosystems

In its *Biodiversity and Resilience of Ecosystems (S6) Duty Report*, MTCBC describes this obligation as follows:

“The Section 6 duty – as a public authority, MTCBC must seek to maintain and enhance biodiversity wherever possible within the proper exercise of their functions and, in doing so, seek to promote the resilience of ecosystems.”

**Advisory****Interpretation and Limitation:**

Notably, the Act does **not** confer legislative authority for public bodies to retroactively apply policy when exercising the Section 6 duty. While PPW12 provides guidance on pre-emptive site clearance, it is not underpinned by retrospective enforcement powers akin to those found in the *Environment Act 2021* (England). Therefore, any attempt to assign a pre-2018 biodiversity baseline without statutory support may fall outside the scope of lawful application under Welsh policy.

5.2 What Is Planning Policy Wales Edition 12 (PPW12)

Planning Policy Wales Edition 12 (PPW12) is the current national planning policy framework issued by the Welsh Government. It sets out the land use planning policies for Wales and is designed to ensure that the planning system actively contributes to sustainable development, while enhancing the social, economic, environmental, and cultural well-being of the nation.

PPW12 is supported by a suite of Technical Advice Notes (TANs) and is considered a material consideration in the determination of all planning applications across Wales.

The latest edition was published in **February 2024**, following public consultation in 2023. It is structured around four key themes:

- **Strategic and Spatial Choices** – promoting integrated planning and place-making
- **Active and Social Places** – supporting healthy, inclusive, and connected communities
- **Productive and Enterprising Places** – enabling economic growth and innovation
- **Distinctive and Natural Places** – protecting and enhancing Wales’ natural and cultural assets

PPW12 also introduces updated guidance on biodiversity, including the *Step-Wise Approach* to achieving a Net Benefit for Biodiversity (NBB), as codified in Chapter 6: *Distinctive and Natural Places*. However, as noted in Section 5.1, PPW12 does not carry retrospective legislative authority and must be interpreted in conjunction with the *Environment (Wales) Act 2016*.

5.3 PPW12 Amendment for Pre-emptive Site Clearance

The Local Planning Authority (LPA) and Ecology Department appear to be relying on provisions introduced through the *Targeted Policy Changes Consultation*, which concluded on **31 May 2023** and was subsequently adopted into the *Planning Policy Wales Edition 12* (PPW12) framework in **February 2024**.

Of particular relevance is **Section 6.4.16 (page 151)** of PPW12, which states:

“Potential applicants are advised to not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.”

While this guidance introduces a precautionary principle, it is important to note that:

- **No defined timeframe** was established in the consultation or final policy to retroactively apply this provision.
- **No amendments to any statutory instrument**—including the *Environment (Wales) Act 2016*—grant retrospective enforcement powers for pre-emptive site clearance under PPW12.



Note

Therefore, it is the applicant's understanding that this policy can only be applied **from its formal adoption date of February 2024 onward**, and not retroactively to events occurring prior to its existence. The applicant respectfully invites the LPA to confirm whether they agree with this interpretation.



Advisory

Policy Distinction: Wales vs. England

It is also of significant relevance that the *Net Benefit for Biodiversity* (NBB) framework applied in Wales differs fundamentally from the *Biodiversity Net Gain* (BNG) regime legislated and enforced in England. This distinction will be explored further in subsequent sections, particularly in relation to statutory authority, enforcement mechanisms, and baseline determination.

5.4 Policy Underpinned by Legislation Findings

We acknowledge the reference to **Section 6 of the Environment (Wales) Act 2016** as the statutory foundation underpinning biodiversity obligations in Wales, and appreciate the clarification regarding how *Planning Policy Wales Edition 12* (PPW12) operationalises this duty. It is helpful to understand that the Environment (Wales) Act 2016 serves as the legislative basis—particularly in relation to the alleged pre-emptive site clearance and the requirement to assess biodiversity from a pre-clearance baseline.

What is especially relevant here is the point at which this statutory power was formally appended to policy and became effective. The specific section relied upon must be clearly defined to establish lawful application.

Of note from the consulted legislation is the following statement:

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

This indicates that while biodiversity metrics may be considered, they must align fully with the Section 6 duty and the DECCA framework—Diversity, Extent, Condition, Connectivity, and Adaptability.

The LPA has further stated:

“From a legislative perspective, the Environment (Wales) Act 2016, specifically Section 6, imposes a statutory duty on all public authorities, including LPAs, to:

‘Seek to maintain and enhance biodiversity in the exercise of their functions, and in so doing, promote the resilience of ecosystems.’

This duty is not discretionary and applies to all planning decisions. It forms the legal foundation for requiring biodiversity enhancements and assessing ecological impacts, including those resulting from pre-emptive site clearance.”

PPW12 builds upon this statutory duty by providing a policy framework that operationalises Section 6, including the following provisions:

- Development proposals must demonstrate a **Net Benefit for Biodiversity (NBB)**
- Where a site has been cleared prior to application, its biodiversity value should be deemed to reflect its **pre-clearance condition**
- LPAs are empowered to **refuse planning permission** if biodiversity net benefit cannot be achieved



Issue

Clarification Required:

- While the statutory duty under Section 6 is clear, the **effective date** at which this duty was formally codified into PPW12 policy—particularly in relation to pre-emptive site clearance—is critical.
- The applicant respectfully requests confirmation from the LPA regarding whether this duty can be applied **retrospectively** to events occurring prior to the formal adoption of PPW12 in **February 2024**, given that no statutory instrument currently provides for such retroactive enforcement.

5.5 Agreed Baseline for Net Benefit for Biodiversity (NBB)

To ensure compliance with the legislative framework governing biodiversity in Wales, the applicant recognises the following statutory duty under **Section 6 of the Environment (Wales) Act 2016**:

“Seek to maintain and enhance biodiversity in the exercise of their functions, and in so doing, promote the resilience of ecosystems.”

This duty forms the legal foundation upon which *Planning Policy Wales Edition 12* (PPW12) builds its operational guidance. As of **February 2024**, PPW12 introduces two key mechanisms for assessing and delivering biodiversity enhancements:

- **StepWise Approach** – a structured method for evaluating ecological impacts and identifying appropriate mitigation and enhancement measures
- **DECCA Framework** – a policy lens that considers Diversity, Extent, Condition, Connectivity, and Adaptability of ecosystems



Design Decision

The applicant affirms that compliance with these requirements is being achieved through the use of the submitted ecological artefacts—namely the **Geographic Information System (GIS)** and **Preliminary Ecological Appraisal (PEA)**. These documents provide a robust and evidence-based baseline for assessing the site’s biodiversity value and identifying opportunities for enhancement in line with both statutory and policy expectations.

5.6 StepWise and DECCA Framework

As part of the adoption of *Planning Policy Wales Edition 12* (PPW12), and in accordance with the public consultation concluded on [insert final consultation date], the **StepWise Approach** was formally recommended for integration into the **DECCA Framework**—a policy model designed to support the delivery of biodiversity enhancements in line with the Section 6 Duty under the *Environment (Wales) Act 2016*.

This is further defined in **PPW12, Page 148, Section 6.4.8**, where the StepWise Approach is presented as a structured methodology underpinned by the DECCA principles:

- **Diversity**
- **Extent**
- **Condition**
- **Connectivity**
- **Adaptability**

Of particular relevance to the application of the DECCA Framework is **Paragraph 6.4.11 of PPW12**, which advises:

“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 minimized, 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.”

This guidance reinforces the structured methodology of the **StepWise Approach**, which is designed to guide planning decisions in a **proactive** and **forward-looking** manner. It is not intended to be applied retrospectively.

The StepWise process emphasises a sequential hierarchy of ecological responsibility:

1. **Avoidance** – Preventing adverse impacts at the outset
2. **Minimisation** – Reducing unavoidable impacts
3. **Mitigation** – Implementing measures to offset residual harm
4. **Compensation** – Addressing remaining impacts through off-site or adjacent interventions

5. **Enhancement** – Delivering biodiversity gains beyond mitigation requirements



Design Decision

At all times, the applicant has sought to address these concerns within the appropriate legislative and policy framework. The guiding legislation remains the **Environment (Wales) Act 2016**, and this is acknowledged and agreed upon by all parties. The framework ensures that biodiversity is not only protected but actively enhanced through planning decisions that are evidence-based, proportionate, and aligned with national policy.

5.7 Baseline Clarification and Legislative Boundaries

The ecologist has stated:

“Even in the event that a post-clearance biodiversity baseline was used, a Net Benefit for Biodiversity (NBB) has not been demonstrated.”

To address this, the applicant affirms that the **Preliminary Ecological Appraisal (PEA)** and **Geographic Information System (GIS)** artefacts submitted as part of the planning application represent the appropriate baseline for assessing NBB. These documents reflect the site’s ecological condition at the time of submission and are aligned with the current policy framework.

The Local Planning Authority (LPA) has confirmed the following interpretation of *Planning Policy Wales Edition 12* (PPW12):

Development proposals must demonstrate a **Net Benefit for Biodiversity (NBB)**

- Where a site has been cleared prior to application, its biodiversity value should be deemed to reflect its **pre-clearance condition**
- LPAs are empowered to **refuse planning permission** if NBB cannot be achieved

While PPW12 is a **policy document**, not legislation, it is **underpinned by the statutory duty** in the *Environment (Wales) Act 2016*. LPAs must demonstrate that they have taken “all reasonable steps” to fulfil this duty.

There is agreement that the LPA has the authority to refuse planning permission if NBB is not demonstrated. The **DECCA Framework** and **StepWise Approach** are the accepted metrics for evaluating compliance. However, it is critical to note the following:

- The *Environment (Wales) Act 2016* does **not** grant LPAs the power to **retroactively apply policy provisions**, including those found in **PPW12 Section 6.4.16 (page 151)**, which addresses pre-emptive site clearance.
- These provisions were introduced through the **Targeted Policy Changes Consultation**, which concluded on **31 May 2023**, and were formally adopted into PPW12 in **February 2024**.



Risk

Therefore, any attempt to apply a **chronological baseline prior to this adoption date** lacks statutory authority.



Note

The applicant asserts that the **NBB baseline** must be derived from the **PEA and GIS artefacts** submitted to the LPA, which reflect the site's condition at the time of application. This is the only lawful and policy-aligned reference point moving forward.

The LPA has stated:

“As the site was pre-emptively cleared sometime since 2018, the baseline for biodiversity should be taken from a point prior to clearance. A net benefit for biodiversity must be achieved from this baseline. The recent survey work provides a post-clearance baseline, rather than a pre-clearance 2018 biodiversity baseline.”



Risk

This position appears to shift the goalposts beyond what is supported by current legislation and adopted policy. The applicant respectfully requests that any assessment of NBB be grounded in the **effective policy date of February 2024**, and the **submitted ecological evidence**, in accordance with the *Environment (Wales) Act 2016* and PPW12.

5.8 StepWise Approach in PPW12

The **StepWise Approach**, as outlined in *Planning Policy Wales Edition 12* (PPW12), provides a structured methodology for planners and developers to systematically assess biodiversity impacts and identify opportunities for enhancement. It ensures that biodiversity is considered early and thoroughly throughout the planning process, aligning with the Section 6 Duty under the *Environment (Wales) Act 2016*.

Step-by-Step Application:

1. **Define the Ecological Context**
Identify existing biodiversity and ecosystem features on-site.
2. **Explore Constraints and Opportunities**
Consider legal protections, species presence, and habitat quality.
3. **Generate Enhancement Options**
Develop proposals to improve biodiversity, such as habitat creation or green infrastructure.
4. **Evaluate Ecological Outcomes**
Use ecological metrics or expert input to assess potential net benefits.
5. **Choose the Best Biodiversity Strategy**
Select the most effective and feasible enhancement plan.
6. **Act Through Planning and Design**
Integrate biodiversity measures into site layout, design, and construction.
7. **Review and Monitor**
Track biodiversity outcomes post-development and adapt strategies as needed.

This approach is embedded within PPW12's Chapter 6: *Distinctive and Natural Places*, and is underpinned by the **DECCA Framework**—which evaluates Diversity, Extent, Condition, Connectivity, and Adaptability of ecosystems.



Design Decision

The applicant confirms that this methodology is being actively implemented through the submitted **Geographic Information System (GIS)** and **Preliminary Ecological Appraisal (PEA)** artefacts. These documents provide the necessary baseline and strategic framework to demonstrate compliance with both the StepWise Approach and the Section 6 Duty.

5.9 DECCA Framework

Supporting Decision-Making That Balances Development Needs with Ecological Integrity

The **DECCA Framework**, embedded within *Planning Policy Wales Edition 12* (PPW12), provides a structured decision-making model to ensure that biodiversity is not only protected but actively enhanced through planning processes. It complements the **StepWise Approach** and is underpinned by the statutory duty in the *Environment (Wales) Act 2016*.

Step	Application in PPW 12
Define	Clarify the planning proposal and its potential biodiversity impacts.
Explore	Investigate ecological data, site surveys, and policy requirements.
Consider	Weigh alternatives like redesign, mitigation, or off-site compensation.
Choose	Select the option that delivers a measurable Net Benefit for Biodiversity.
Act	Implement biodiversity actions and embed them in planning conditions or agreements.

This framework ensures that ecological integrity is considered at every stage of the development lifecycle.



Design Decision

The applicant confirms that this process is being actively followed through the submitted **Preliminary Ecological Appraisal (PEA)** and **Geographic Information System (GIS)** artefacts, which together form the baseline for assessing and delivering NBB in accordance with PPW12 and the Environment (Wales) Act 2016.

6. Environment Act 2021

The *Environment Act 2021* establishes a comprehensive legal framework for environmental governance across the United Kingdom, with a focus on improving air and water quality, enhancing biodiversity, and reducing waste. It introduces statutory targets, regulatory reforms, and enforcement mechanisms designed to support long-term environmental resilience.

Key Provisions Relevant to Biodiversity:

Within **Schedule 14** of the Act, specific measures empower English planning authorities—such as English District Council’s—to account for habitat degradation or deliberate destruction occurring on a site **since 30 January 2020**. In such cases, the earlier habitat condition may be used as the baseline for assessing **Biodiversity Net Gain (BNG)**.

This retrospective mechanism allows English authorities to prevent applicants from benefitting from pre-emptive site clearance and to enforce biodiversity restoration based on historical ecological conditions.



Advisory

Jurisdictional Application in Wales:

While certain provisions of the Act—such as those relating to **producer responsibility**, **hazardous waste**, and **charging powers for Natural Resources Wales**—have been enacted in Wales via the *Environment Act 2021 (Commencement No. 1 and Saving Provision) (Wales) Regulations 2022*, the **BNG provisions in Schedule 14 do not apply in Wales**.

Instead, Wales operates under a distinct legislative framework, primarily governed by the *Environment (Wales) Act 2016* and *Planning Policy Wales Edition 12 (PPW12)*. These frameworks emphasise **Net Benefit for Biodiversity (NBB)** rather than BNG, and do **not include retrospective enforcement powers** akin to those found in the Environment Act 2021.



Design Decision

The applicant respectfully asserts that references to Schedule 14 and BNG enforcement mechanisms under the *Environment Act 2021* are **not applicable** to planning decisions in Wales. Any biodiversity assessment must be conducted in accordance with Welsh legislation and policy—namely the *Environment (Wales) Act 2016*, PPW12, and the DECCA/StepWise frameworks adopted in **February 2024**.

7. Levelling Up and Regeneration Act 2023

The *Levelling Up and Regeneration Act 2023* is a significant piece of UK legislation aimed at empowering local communities, reforming planning systems, and driving regional growth and regeneration. It introduces a range of measures to improve transparency, accountability, and environmental stewardship within the English planning system.

Key Provision on Biodiversity Degradation:

In 2023, the Act was amended to include additional wording that strengthens legal protections against habitat degradation. Specifically, it states:

“Any authorised activity, in accordance with a planning permission, that is carried out on onsite habitats on or after **25 August 2023**, shall result in the **pre-development biodiversity value** of that habitat being taken as its official biodiversity value.”

This provision is designed to prevent applicants from benefitting from pre-emptive site clearance or degradation, by locking in the original ecological value of the site for the purposes of **Biodiversity Net Gain (BNG)** assessments.



Advisory

Jurisdictional Limitation:

It is important to note that the *Levelling Up and Regeneration Act 2023* does **not apply to Wales**. The biodiversity provisions, including those related to retrospective baseline enforcement, are specific to **England** and are not recognised under Welsh planning law.

In Wales, biodiversity policy is governed by the *Environment (Wales) Act 2016* and operationalised through *Planning Policy Wales Edition 12* (PPW12), which focuses on delivering a **Net Benefit for Biodiversity (NBB)** rather than BNG. These frameworks do not include retrospective enforcement powers or statutory mechanisms to apply pre-clearance baselines prior to the adoption of PPW12 in **February 2024**.

8. LPA Pre-Emptive Site Clearance Insistence

The Local Planning Authority (LPA) has cited the following wording from *Planning Policy Wales Edition 12* (PPW12), Section 6.4.16 (page 151), in support of its position:

“Potential applicants are advised to not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.”



Issue

The LPA appears to be relying on this guidance to assert that the site was **pre-emptively cleared** between **May 2018 and October 2021**, and that this constitutes a basis for applying a **pre-clearance biodiversity baseline**.



Advisory

However, this position is **not enforceable under PPW12**, for the following reasons:

- **PPW12 is policy, not legislation.** While it provides guidance on best practice, it does not confer retrospective enforcement powers. It must be interpreted in conjunction with the statutory framework provided by the *Environment (Wales) Act 2016*.
- **No statutory instrument exists** that allows LPAs in Wales to retroactively apply policy provisions to site clearance events occurring prior to the formal adoption of PPW12 on **7 February 2024**.
- The cited guidance in Section 6.4.16 was introduced through the **Targeted Policy Changes Consultation**, which concluded on **31 May 2023**, and was only adopted into PPW12 in **February 2024**. Therefore, it cannot be applied to events allegedly occurring between 2018 and 2021.
- The *Environment (Wales) Act 2016* imposes a duty to **seek to maintain and enhance biodiversity**, but it does not provide LPAs with the power to assign retrospective ecological baselines or enforce pre-clearance conditions absent supporting legislation.



Risk

The LPA's reliance on an alleged pre-emptive clearance window between 2018 and 2021 is not supported by enforceable policy or statute. The applicant maintains that the appropriate **Net Benefit for Biodiversity (NBB)** baseline is represented by the submitted **Preliminary Ecological Appraisal (PEA)** and **Geographic Information System (GIS)** artefacts, which reflect the site's condition at the time of application and are aligned with the effective policy framework.

Any attempt to apply a retrospective baseline prior to the adoption of PPW12 constitutes a misapplication of policy and exceeds the statutory powers granted under the *Environment (Wales) Act 2016*.

9. Tree Planting

In the **Internal Memo dated 12 June 2025**, the ecologist referenced *Planning Policy Wales Edition 12* (PPW12), **Section 6.4.42 (page 159)**, which states:

“Replacement [tree] planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost.”

Based on this guidance, the ecologist initially advised that the scheme would require an element of replacement tree planting. The loss of an incorrectly cited conifer not spruce tree as requiring a **3:1 replacement ratio**, and due to uncertainty around the total number of trees previously removed, a **reasonable compromise of six replacement trees** was proposed, referencing historical StreetView imagery showing at least three trees.

In the **Internal Memo dated 26 September 2025**, the ecologist revised their assessment:

2A further review of **Google Street View imagery from May 2018**—when the site was reportedly under the applicant’s ownership—suggested the presence of **four trees**, alongside grassland and scrub habitat.

- The site was allegedly cleared between **May 2018 and October 2021**, which the planning department considers to be **pre-emptive clearance**.
- Based on this interpretation, the ecologist proposed a reassessment of tree loss, suggesting that **twelve replacement trees** would be required to meet the 3:1 compensation ratio.

However, this approach was challenged due to the risk posed the culvert in accordance with Severn Trent tree planting guidelines and this viability as a baseline was disputed. Furthermore, the planning department has since acknowledged the applicant’s concerns regarding **site safety at the culvert**, and has provided the following response:

“I appreciate the issues you raise specifically in relation to the planting of new trees on-site, however this is not the fundamental issue from an ecological perspective as there is the potential to deliver a Net Benefit for Biodiversity (NBB) through alternative means rather than significant tree planting.”



Design Decision

The applicant welcomes the LPA’s recognition that **tree planting is not the sole mechanism** for achieving NBB. While PPW12 provides guidance on replacement ratios, it also allows for **flexibility in delivery**, particularly where site constraints—such as culvert safety—limit planting feasibility.

The applicant reaffirms that NBB is being pursued through **alternative ecological enhancements**, as evidenced in the submitted **Preliminary Ecological Appraisal (PEA)** and **Geographic Information System (GIS)** artefacts. These documents provide a robust framework for biodiversity delivery, in accordance with PPW12 and the *Environment (Wales) Act 2016*.

9.1 Severn Trent Guidance on Tree Planting

The ecologist has referenced **Severn Trent Water's tree planting guidance** in support of a proposed **2m buffer zone** adjacent to the culvert, stating:

"Indeed, it is considered that, as shown in the photo below, there are on-site areas remaining outside of the culvert easement and 2m buffer (approximately shown) (as stipulated by Severn Trent Water and submitted by the applicant), that could still be used for planting."



Risk

- The applicant has **never submitted or referenced a 2m easement** in any documentation other than a suggested shrub safety area, if the ecologist is alluding to this.
- There is a **3m easement** as the recognised standard used MTCBC engineering department for culvert and underground asset protection.
- The ecologist's reference to a 2m buffer must comply with MTCBC engineering standards as the lead flood agency.
- Further it seems that is partially **supported by Severn Trent's published guidance** and appears to be based on an incorrect interpretation or an unverified rendering as there is one sole reference to a 2m reference amongst 4 others. This could conflict with **MTCBC engineering safety standards**,



Design Decision

The applicant remains committed to delivering biodiversity enhancements within the constraints of **engineering safety standards**, and reiterates that tree planting near the culvert must comply with the MTCBC as the lead flood agency as an official requirement as a baseline.

The planting guidelines are below for ease of reference;

Tree and plant species	Minimum distance from assets
Poplar and Willow	12 metres
Large for forest trees such as Oak, Ash, Beech, Sitka spruce, Douglas fir	10 metres
Medium sized trees such as Elm, Horse Chestnut, Lime, Oak, Sycamore, Apple, Pear and most Conifers	6 metres

Large shrubs such as Blackthorn, Broom, Cotoneaster, Elder, Hazel, Laurel, Privet, Quickthorn, Snowberry, and most ornamental flowering shrubs used for screening	2 metres
Soft fruit bushes such as blackcurrant, raspberries and gooseberries	Less than 1 metre, providing a path to the asset is kept clear

Table 3 - Severn Trent Tree Planting Guidance

10. Legislative Metric – NBB or BNG

There appears to be ongoing ambiguity regarding the applicable legislative metric for biodiversity assessment—specifically, whether **Net Benefit for Biodiversity (NBB)** or **Biodiversity Net Gain (BNG)** should be applied based on the application of a chronological timeframe. This confusion is compounded by the attempt to prescribe a retrospective baseline date between **May 2018 and October 2021**, which aligns with the enforcement window of English legislation under the *Environment Act 2021*.

In the **Internal Memo dated 26 September 2025**, the ecologist states:

“As referred to above, the biodiversity baseline is deemed to have been that present in May 2018. Therefore, the GIS as proposed in Document 1 is inadequate as it will not achieve a Net Benefit for Biodiversity. An updated proposal is required.”

This assertion appears to conflate **BNG principles**, which are underpinned by the *Environment Act 2021*, with **NBB policy**, which is governed by Welsh legislation. It is important to clarify the following:

Biodiversity Net Gain (BNG)

- **Legislative Basis:** *Environment Act 2021*
- **Jurisdiction:** England only
- **Key Feature:** Allows retrospective enforcement of biodiversity baselines, particularly where habitat degradation has occurred post-30 January 2020
- **Metric-Driven:** Utilises statutory biodiversity metrics to quantify ecological value and required compensation

Net Benefit for Biodiversity (NBB)

- **Legislative Basis:** *Environment (Wales) Act 2016*
- **Jurisdiction:** Wales
- **Key Feature:** Requires planning authorities to seek biodiversity enhancement through the **StepWise Approach** and **DECCA Framework**, but does **not** include retrospective enforcement powers
- **Policy-Driven:** Operationalised through *Planning Policy Wales Edition 12* (PPW12), adopted on **7 February 2024**

**Risk**

The attempt to assign a biodiversity baseline to **May 2018**—and to deem the submitted GIS artefact as inadequate—seems to be based on a **misapplication of English legislative principles**. The *Environment Act 2021* and its BNG provisions do **not apply in Wales** and therefore cannot be used to justify retrospective baseline enforcement.

The appropriate metric for Wales is **Net Benefit for Biodiversity (NBB)**, assessed in accordance with **PPW12 and the Environment (Wales) Act 2016**. The applicant reaffirms that the submitted **GIS and Preliminary Ecological Appraisal (PEA)** documents represent the valid baseline for biodiversity assessment, and that enhancements will be delivered in line with the StepWise and DECCA frameworks.

10.1 What is Biodiversity Net Gain (BNG)

Biodiversity Net Gain (BNG) is a statutory planning requirement in **England**, designed to ensure that development projects leave the natural environment in a **measurably better state** than it was before. It is mandated under the **Environment Act 2021**, which introduced legally binding biodiversity targets and standardised metrics for assessing ecological value.

Key Features of BNG:

- **Minimum Requirement:** Developers must achieve at least **10% net gain** in biodiversity value
- **Delivery Mechanisms:** Gains may be delivered **on-site, adjacent to the site, or off-site** through habitat creation or enhancement
- **Measurement Tools:** The approach relies on **statutory biodiversity metrics** to quantify habitat value, loss, and gain
- **Legal Enforcement:** BNG is a **legislative obligation** in England and forms part of the planning approval process

**Advisory****Purpose and Scope:**

BNG aims to contribute to **nature recovery**, improve ecological resilience, and embed biodiversity enhancement into the heart of land use planning. It is a **forward-looking mechanism**, ensuring that development does not merely mitigate harm but actively improves ecological outcomes.

Jurisdictional Limitation:

BNG is **not applicable in Wales**. Welsh planning authorities operate under a distinct framework governed by the **Environment (Wales) Act 2016** and **Planning Policy Wales Edition 12 (PPW12)**. In Wales, the operative principle is **Net Benefit for Biodiversity (NBB)**, which is policy-led and assessed through the **StepWise Approach** and **DECCA Framework**, without statutory metrics or retrospective enforcement powers.

10.2 What is Net Benefit for Biodiversity (NBB)

Net Benefit for Biodiversity (NBB) is a planning and ecological principle embedded within Welsh policy that seeks to ensure development activities leave biodiversity and ecosystem resilience in a **better state than before**. Unlike statutory Biodiversity Net Gain (BNG) in England, NBB is a **policy-led requirement** in Wales, operationalised through *Planning Policy Wales Edition 12* (PPW12) and underpinned by the **Environment (Wales) Act 2016**.

Key Features of NBB:

- **Policy Integration:** NBB is a material consideration in all planning applications under PPW12
- **Site-Focused Delivery:** Enhancements must be delivered **primarily on-site or immediately adjacent** to the development area
- **Ecological Resilience:** Emphasis is placed on creating and maintaining habitats, and promoting ecosystem resilience through **green infrastructure**
- **Sequential Mitigation:** Developers are expected to **avoid, minimise, and mitigate** ecological impacts, with any residual harm offset by **positive enhancements**
- **Framework Tools:** The **StepWise Approach** and **DECCA Framework** guide the assessment and delivery of NBB, focusing on Diversity, Extent, Condition, Connectivity, and Adaptability



Advisory

Purpose and Scope:

NBB supports the statutory duty under **Section 6 of the Environment (Wales) Act 2016**, which requires public authorities to:

“Seek to maintain and enhance biodiversity in the exercise of their functions, and in so doing, promote the resilience of ecosystems.”

This duty is not discretionary and applies to all planning decisions in Wales. NBB ensures that biodiversity is not only protected but **actively enhanced**, aligning development with long-term ecological goals.

10.2.1 NBB in Action

While **Net Benefit for Biodiversity (NBB)** shares conceptual similarities with **Biodiversity Net Gain (BNG)** in England, it is governed by a **distinct legislative and policy framework** in Wales. Unlike BNG, which is underpinned by the *Environment Act 2021* and permits retrospective enforcement, NBB is embedded within *Planning Policy Wales Edition 12* (PPW12) and the *Environment (Wales) Act 2016*. It places emphasis on:

- **Ecosystem resilience**
- The **StepWise Approach**
- The **DECCA Framework**
- The site’s relationship to **surrounding ecological networks**

The applicant confirms that these principles have been actively incorporated into the development proposal, as illustrated in **Figure 1**, and evidenced through the submitted **GIS** and **Preliminary Ecological Appraisal (PEA)** artefacts.

Biodiversity Enhancements Already Proposed:

- **Shrub planting** in designated areas
- Creation of a **permaculture zone**
- Installation of **apiaries**
- Provision of **bat boxes** and **bird boxes**

These measures directly support the NBB objective and reflect a proactive approach to biodiversity enhancement. If such interventions—designed to restore habitat structure, support pollinators, and encourage species diversity—do not constitute a Net Benefit for Biodiversity, it is unclear what further actions could reasonably be expected.

As stated in PPW12:

“NBB encourages development proposals to proactively maintain and enhance biodiversity and ecosystems with a firm focus on exhausting the options for avoidance measures before considering minimisation and, finally, mitigation of impacts within the context of the site.”



Risk

It is therefore perplexing that the ecologist continues to reference planting in areas that have **already been proposed and documented**. The applicant respectfully requests clarification on this point, as it introduces unnecessary duplication and undermines the integrity of the submitted ecological strategy. This will be evident.



Issue

The applicant maintains that the current proposal aligns fully with the NBB principles outlined in PPW12 and the statutory duty under the *Environment (Wales) Act 2016*. All enhancements have been designed to deliver measurable ecological value, and the planning process must now proceed based on **evidence-based assessment**, not speculative reinterpretation.

10.3 NBB Value Baseline

The applicant confirms that the **Net Benefit for Biodiversity (NBB)** framework has been adopted in full, in accordance with:

- **Environment (Wales) Act 2016**
- **Planning Policy Wales Edition 12 (PPW12)**

This approach supersedes any prior ambiguity regarding the use of **Biodiversity Net Gain (BNG)**, which is underpinned by the *Environment Act 2021* and applies exclusively in **England**, including its retrospective

enforcement provisions for pre-emptive site clearance. These powers do **not extend to Wales**, and therefore cannot be used to justify a baseline date prior to the formal adoption of PPW12 on **7 February 2024**.

The applicant welcomes the ecologist's updated position, which now references the submitted **Geographic Information System (GIS)** and **Preliminary Ecological Appraisal (PEA)** as the operative biodiversity baseline. This reflects a more accurate interpretation of PPW12 and aligns with the policy's guidance on post-clearance assessment.

However, the ecologist continues to raise two points that require clarification:

1. **“Even in the event that a post-clearance biodiversity baseline was used, a NBB has not been demonstrated.”**



Issue

- The applicant respectfully disagrees. The submitted GIS and PEA documents clearly outline a suite of biodiversity enhancements—including shrub planting, permaculture zones, apiaries, and nesting boxes—that collectively deliver measurable ecological value. These interventions are consistent with the **StepWise Approach** and **DECCA Framework**, and are designed to meet the NBB requirement under PPW12.

2. **“There are on-site areas remaining outside of the culvert easement and 2m buffer (approximately shown)... that could still be used for planting.”**



Issue

- The applicant reiterates that **planting in these areas has already been proposed**, as evidenced in the final submission and illustrated in **Figure 2**. and the planting strategy already in place.

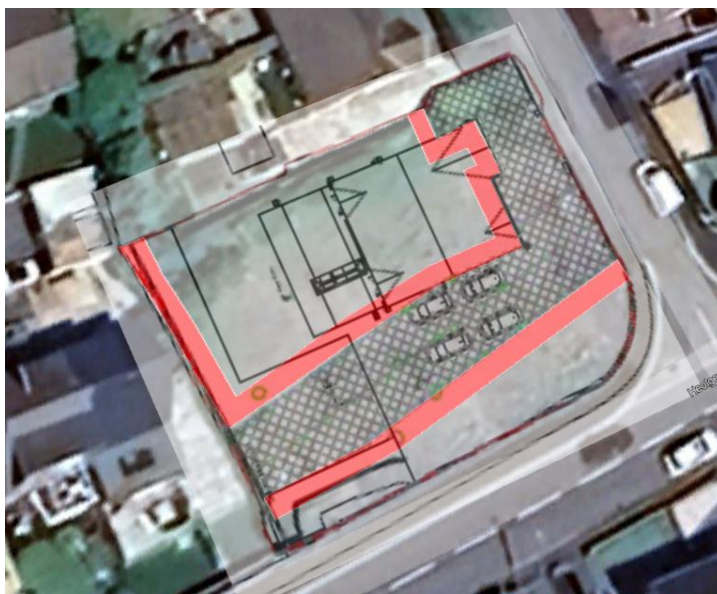


Figure 1 – Ecologist rendering



Issue

The applicant respectfully requests that the ecologist and planning authority review the final submission in full, acknowledging that:

- The **NBB framework** has been correctly adopted and implemented
- The **post-clearance baseline** is valid and policy-compliant
- The proposed enhancements are **evidence-based, site-appropriate**, and **already integrated** into the planning design
- References to planting areas and buffer zones must reflect **accurate technical guidance** and avoid duplication of measures already proposed

The applicant remains committed to delivering a robust and policy-aligned biodiversity strategy and invites constructive dialogue to resolve any remaining discrepancies.

10.3.1 Has NBB Been Achieved Using the GIS and PEA as the NBB Value?

The applicant wishes to respond to the following statement made by the ecologist:

“Even in the event that a post-clearance biodiversity baseline was used, a Net Benefit for Biodiversity (NBB) has not been demonstrated.”

This assertion raises a critical point of clarification. If the ecologist accepts that a **post-clearance biodiversity baseline** is valid, then the only available and policy-compliant baseline is that presented in the applicant’s submitted **Geographic Information System (GIS)** and **Preliminary Ecological Appraisal (PEA)**. These artefacts form the evidentiary foundation of the proposal and must be used consistently to assess NBB.

The applicant maintains that **NBB has been achieved**, and this is clearly demonstrated through the ecological enhancements outlined in the submitted documents. This position is supported by the guidance issued by the **Chief Planner for Wales**, who states:

“A net benefit for biodiversity can be achieved through a range of actions, ranging from bat and bird boxes to large-scale creation, and/or restoration or long-term management of habitats. The Chief Planner’s letter highlights that this does not ‘need to be onerous’ and should be proportional to the extent and impact of development, to contribute to a bigger, better, more joined-up approach to a resilient and biodiverse ecological network in Wales.”

This guidance reinforces the principle that **small or low-impact developments** can deliver NBB through **targeted and practical measures**, without the need for excessive or disproportionate interventions.



Figure 2 - Proposed Enhancements - PEA Drawing

- Establishment of a **large permaculture zone**, supporting soil health, pollinators, and native species
- Planting of **native climbers** in designated areas—already proposed in the very zones the ecologist has referenced
- Installation of **bat boxes**, **bird boxes**, and **apiaries (TBC)** to support species diversity and pollination
- Integration of **green infrastructure** to promote ecosystem resilience and connectivity

These enhancements are clearly evidenced in the GIS and PEA and reflect a commitment to **Net Benefit for Biodiversity**, not merely mitigation.



Advisory

Policy Alignment and Intent:

The applicant is a strong advocate of **One Planet Development (OPD)** principles (not framework), **permaculture**, and **edible landscape design**, and seeks to embed these values into the fabric of the proposal. This approach aligns with the **COP15 directive**, which underpins PPW12's Section 6 Duty, and is supported by the letter from **Julie James MS** (Ref: MA/JJ/3780/22, dated 20 December 2022), which outlined the future biodiversity policy direction that culminated in PPW12's adoption.



Issue

- The **post-clearance baseline** is valid and policy-compliant
- The **GIS and PEA** provide the operative ecological evidence
- The proposed enhancements are **proportional, site-appropriate, and aligned with PPW12 and the Environment (Wales) Act 2016**
- NBB has been **achieved and documented**, and any further assessment must reflect the submitted evidence



Design Decision

The applicant remains committed to ecological integrity, carbon reduction, and biodiversity enhancement, and invites the LPA and Ecology Department to formally acknowledge the validity of the proposal.

10.4 MTCBC Schemes for NBB

Merthyr Tydfil County Borough Council (MTCBC) has actively embraced the principles of **Net Benefit for Biodiversity (NBB)** through a series of local initiatives that demonstrate practical, community-led ecological enhancement. These schemes serve as precedent for acceptable NBB delivery within the Borough and provide a valuable reference point for the applicant's own proposal.

Of particular relevance are the following case studies:

10.4.1 Case Study 2 – Nature's Gift Garden

This initiative exemplifies how small-scale, site-sensitive interventions can deliver meaningful biodiversity outcomes. The scheme included:

- Cultivation of **medicinal plants**
- Integration of **culinary plants**
- Establishment of **edible landscapes**



Design Decision

The applicant seeks to **emulate this model** through the proposed **permaculture zone**, which will incorporate similar planting schemes alongside the installation of **apiaries** to support pollination and ecosystem resilience. This approach aligns with the **StepWise and DECCA frameworks** and reflects a commitment to **One Planet Development (OPD)** principles (Not Framework).

10.4.2 Case Study 3 – The Marsh Field (PCH)

This project demonstrates how **wetland restoration, habitat connectivity, and long-term ecological management** can be integrated into development proposals to deliver NBB. While the applicant's site differs in character, the underlying principles—**enhancement, stewardship, and proportionality**—remain applicable.



Design Decision

The applicant's proposal draws directly from successful MTCBC models and incorporates:

- **Permaculture planting** with edible and medicinal species
- **Apiaries (TBC)** to support pollination and biodiversity
- **Native climbers and shrubs** in designated planting zones
- **Green infrastructure** to promote ecological connectivity

These enhancements are evidenced in the submitted **GIS and PEA artefacts**, and reflect a clear alignment with **local precedent, PPW12 policy**, and the **Environment (Wales) Act 2016**.

The applicant respectfully requests that the LPA and Ecology Department acknowledge the validity of this approach and its consistency with established NBB delivery within the Borough.



Advisory

Could the ecology team and the Local Planning Authority (LPA) please direct us to the relevant GIS and Preliminary Ecological Appraisal (PEA) artefacts for these schemes, so we can establish a baseline for our approach? We look forward to receiving the documentation.

11. Response to Ecologist Email -01st Oct 2025

The applicant wishes to formally respond to recent comments and suggestions made by the Council's Ecologist, particularly in relation to the referenced documentation and the ecological assessment of the site.

It appears that the ecologist has relied upon a **superseded version** of the Green Infrastructure Statement (GIS), specifically the version dated **01 September 2025**, despite a **revised and updated version** having been submitted on **25 September 2025**. This updated document contains critical clarifications, enhanced proposals, and refined ecological metrics that directly address earlier concerns.

The **Internal Memorandum P250167_2** explicitly references the updated submission and confirms that it has been **read and responded to**. Therefore, it is unclear why the earlier version continues to be cited as the operative document in subsequent ecological commentary.

"In the interest of progressing the application and resolving this matter, I have requested further guidance from the Council's Ecologist on what could be deemed suitable on this site and result in an acceptable proposal in respect of ecology. The Council's Ecologist has suggested the following (shown in green):

DOCUMENT: Land at Six Bells Estate, Heolgerrig, Merthyr Tydfil. Green Infrastructure Statement 2025 prepared by East Ecology on behalf of Mr Nicholas Simon Meaney. Dated: 01/09/2025."

This reference is now outdated and does **not reflect the current ecological strategy** submitted by the applicant. The revised GIS (25/09/2025) includes:

- Updated planting schedules
- Clarified culvert buffer zones

- Expanded permaculture and apiary proposals
- Revised biodiversity enhancement mapping
- Alignment with PPW12 and the StepWise/DECCA frameworks



Issue

The applicant respectfully requests that all future ecological assessments and planning decisions be based on the **most recent submission**, dated **25 September 2025**, as referenced in Internal Memorandum P250167_2. Continued reliance on outdated documentation risks misrepresenting the proposal and undermining the integrity of the planning process.



Design Decision

The applicant remains committed to progressing the application constructively and invites the Council's Ecology Department to confirm that the updated GIS is now the operative baseline for assessment.

11.1 Ecologist's Suggestions

The applicant welcomes the constructive suggestions provided by the Council's Ecologist and remains committed to progressing the application in a collaborative and evidence-based manner. The following points are acknowledged and addressed in turn:

11.1.1 Vertical Geocell

• **Vertical Geocell Planting (Boundaries 3 and 4)**

The suggestion to explore **vertical geocell planting** is noted and appreciated. The applicant confirms that:

- The **latest version of the GIS and PEA**, dated **24 September 2025**, has been submitted for review and forms the operative baseline for all ecological assessments.
- Further enhancements involving geocell structures may be considered following a **site meeting**, and only if a **change in level is required** and the proposal is supported by **Building Control**.
- Species compatibility and viability will be assessed in consultation with ecological and engineering advisors.



Risk

Clarification on Geocell Proposal, Boundary Vegetation and Incorrect Documentation

The applicant wishes to address ongoing concerns regarding the use of incorrect documentation by the ecologist, which has repeatedly led to a misrepresentation of site conditions and an inaccurate Net Biodiversity Benefit (NBB) value.

- Despite numerous attempts to clarify, the ecologist continues to rely on outdated or incorrect versions of documents, perpetuating a misleading narrative.

The applicant also wishes to clarify the context and intent behind the reference to Geocell reinforcement within earlier documentation, and to correct any misinterpretation regarding its purpose:

- *The suggestion to use Geocell was made solely as a feasibility option to reinforce the boundary in the event that changes to site levels are required, subject to input from Building Control. This will be revisited and the relevant authorities reconsulted at the appropriate time when levels become apparent.*
- *It was not proposed as a form of ecological mitigation, nor was it intended to compensate for or justify the removal of any existing vegetation, including boundary bushes incorrectly identified.*
- *Furthermore, the bush in question is not within the applicant's ownership nor included within their legal title.*
- *As such, the boundary vegetation falls outside the scope of the applicant's ecological and landscape strategy and NBB value.*
- *This clarification has been communicated on multiple occasions, and the applicant wishes to ensure it is fully understood and accurately reflected.*

11.1.2 Landscaping and Japanese Knotweed Management Plans

The applicant acknowledges the request for a **long-term Landscaping Management Plan** and a **Japanese Knotweed Management Plan**, and offers the following clarifications based on the most recent submissions and professional recommendations.

Long-Term Landscaping Management Plan

- The **latest version of the GIS and PEA**, dated **24 September 2025**, has been submitted for review and includes references to long-term landscaping and ecological stewardship.
- Additional management details are outlined in the supporting document dated **01 September 2025**, which provides a framework for maintaining biodiversity enhancements, including permaculture zones, native planting, and pollinator support.



Design Decision

- The applicant remains committed to implementing a **site-specific landscaping strategy**, aligned with PPW12 and the StepWise/DECCA frameworks, to ensure ecological resilience and compliance with the Section 6 Duty under the *Environment (Wales) Act 2016*.

Japanese Knotweed Management Plan

- There is **no requirement for a formal Japanese Knotweed Management Plan**, as **no viable infestation currently exists on site**.
- The applicant has followed the **professional eradication strategy** recommended by Clearsafe, which included:
 - **Excavation and sifting** of rhizomes from areas designated for the dwelling and garden
 - **Incineration of rhizomes**, subject to an approved **‘exemption to burn’ application** from Natural Resources Wales
 - **Reuse of sifted soils** in low-risk zones (northern and western banking)
 - **Cessation of works** following a site visit from Enforcement Officer Jo Evans in **May 2025**



Design Decision

- Clearsafe further recommended a **5-year herbicide application** backed by a **10-year insurance guarantee** if the site were to be marketed for sale. However, as the applicant has **no intention to sell**, and the property is being developed as a **permanent family home**, this requirement does not apply.

Clearsafe’s assessment confirms:

- “The owner has indicated that he has employed a chemical herbicide treatment schedule over a number of years which would explain the dormancy and bonsai growth. The repeated herbicide applications have had a significant effect on the infestations, weakening them to a point that is close to no longer being viable.”



Design Decision

- The applicant will continue with **targeted herbicide treatment** in accordance with **GOV.UK guidance** on controlling Japanese Knotweed, should any regrowth appear in late summer or autumn.



Risk

- The **Landscaping Management Plan** is embedded within the submitted GIS and PEA artefacts and reflects a long-term commitment to ecological enhancement. **(If Required?)**
- The **Japanese Knotweed issue has been professionally addressed**, and no further action is required unless regrowth occurs, in which case the applicant will respond in accordance with regulatory guidance.
- The applicant respectfully requests that the LPA and Ecology Department acknowledge the current status and documented compliance and proceed with assessment based on the **most recent submissions**.

11.2 Document and Artefacts

The applicant wishes to respond to the following observation made by the Council's Ecologist in Memo No. 2, dated **26 September 2025**:

"The previous versions of the GIS document (dated 14/05/2025 and 18/07/2025) both state that the 'mature, but deformed **spruce tree?**' is 'growing on made ground' and 'will become unstable when loose material is removed to create a new retaining wall.' and therefore 'cannot be retained'. The updated version of the GIS (dated 24/09/2025) now simply states that the tree will be retained in position. How will this be achieved, given the previous assessment?"



Design Decision

- The earlier GIS assessments were based on **ground-level visual surveys**, which raised concerns about the stability of the spruce tree due to its position on **made ground** and the anticipated impact of constructing a retaining wall.
- However, following a **closer inspection conducted from the base of the tree**, it was determined that the tree's **rooting system is secure** and shows no signs of instability. This updated assessment is reflected in the **GIS version dated 24 September 2025**, which supersedes all previous iterations.
- Furthermore, the proposed **retaining wall**—if required—will be constructed under **Building Control supervision** and situated entirely on **land owned by the applicant**, as confirmed by a review of **Land Registry records**.



Note

- This matter is now considered **resolved**. The updated GIS reflects the most accurate and current understanding of site conditions. The applicant respectfully requests that all future assessments reference the **GIS dated 24/09/2025**, which incorporates this clarification and forms the operative baseline for planning and ecological review.



Risk

Tree Ownership and Documentation Clarification

The applicant wishes to address ongoing concerns regarding the use of incorrect documentation by the ecologist, which has repeatedly led to a misrepresentation of site conditions and an inaccurate Net Biodiversity Benefit (NBB) value.

- Despite numerous attempts to clarify, the ecologist continues to rely on outdated or incorrect versions of documents, perpetuating a misleading narrative.
- The tree in question is not within the applicant’s ownership, nor is it included within their legal title.
- Consequently, deformed conifer (**Not Spruce, again incorrectly referenced**) falls outside the scope of the applicant’s ecological and landscape strategy and should not be factored into the NBB calculation.
- This clarification has been communicated on multiple occasions, and the applicant respectfully requests that it be accurately acknowledged and reflected in all future assessments and documentation.

11.3 Landscaping Management Plan Requirement

The applicant acknowledges the Council Ecologist’s request for a **long-term Landscaping Management Plan**, specified as “in perpetuity or for at least 25 years.

” While the applicant remains committed to ecological stewardship, this request appears **disproportionate** given the **scale and nature of the development**—a single dwelling intended for permanent family occupation.”



Issue

Clarification of Submitted Documents:

- A **management plan** has already been included in the **Preliminary Ecological Appraisal (PEA)** dated **01 September 2025** and updated in the version dated **24 September 2025**. (**If Required?**)
- These documents outline the proposed biodiversity enhancements and ongoing maintenance strategy, proportionate to the site’s size and ecological impact.

Policy Context – Planning Policy Wales Edition 12 (PPW12):

📄 **Section 2.10 (page 138)** states:

- “The monitoring of the success and delivery of net benefits for biodiversity secured through conditions and obligations would usefully feed into this process in addition to any agreed management plan for the site...”



Issue

- This language clearly indicates that **management plans are not mandatory**, but may be agreed upon **where appropriate**. The emphasis is on **proportionality**, not prescription.

- **Chief Planning Officer’s Guidance – Securing Biodiversity Enhancements (2022):**
- The letter from the **Chief Planner for Wales** reinforces this interpretation:
 - “A net benefit for biodiversity can be achieved through a range of actions... This does not need to be onerous and should be proportional to the extent and impact of development...”
 - The guidance explicitly states that **small or low-impact developments**—such as single dwellings—can deliver NBB **relatively easily**, without the need for extensive reporting or long-term obligations.



Issue

Applicant’s Position:

- The request for a **25-year management plan** appears to be based on **large-scale development standards**, and is **not proportionate** to the current proposal.
- The applicant questions the **practical value** of producing long-term reports for a single dwelling, particularly when the site is not being marketed for sale and is intended for **permanent family use**.

The applicant has already proposed a suite of **ecological enhancements**—including permaculture planting, apiaries, and habitat features—that meet the NBB requirement under PPW12 and the *Environment (Wales) Act 2016*.



Risk

The applicant respectfully requests that the LPA and Ecology Department reconsider the necessity of a 25-year management plan in light of:

- The **scale and impact** of the development
- The **existing management provisions** in the PEA
- The **policy guidance** in PPW12 and the Chief Planner’s letter
- The **statutory duty** under Section 6 of the *Environment (Wales) Act 2016*, which encourages enhancement but does not mandate long-term reporting for small-scale proposals



Design Decision

The applicant remains committed to maintaining the site's ecological integrity and invites the LPA to confirm that the current management provisions are sufficient and proportionate.

11.4 Clarification on Integration of Biodiversity Enhancements

In response to the following statement in **Section 7 of the Biodiversity Enhancements** documentation:

Architectural Compliance:

- A **bird box** has already been referenced on the **northerly elevation**, as evidenced in the submitted architectural plans and elevations.
- The applicant will liaise with the **draftsman** to ensure that a corresponding feature is added to the **southerly elevation**, subject to site constraints.
- It is noted that the site does not have a **true north/south orientation**, and elevation bearings are aligned to the **site boundary**, not cardinal directions. This should be taken into account when assessing optimal placement for species-specific enhancements.



Design Decision

The applicant remains committed to integrating biodiversity features in accordance with ecological best practice and planning policy. All enhancement features will be:

- **Clearly shown** on updated architectural plans, drawings, and elevations
- **Positioned appropriately** based on species requirements and site orientation
- **Integrated** as per final guidance from the LPA and Ecology Department

11.5 Elevation Consistency and Swift Box Integration

The applicant acknowledges the Council Ecologist's comments regarding inconsistencies between **Document 1 (GIS)** and **Document 2 (Side Elevations & Site Plan Drawing)**, specifically in relation to the placement and specification of **bat and bird boxes**.

Clarification and Response:

- **Document 2** currently shows all boxes on the **eastern elevation**, with only a **single bird box labelled**, and references to **surface-mounted models**.
- **Document 1** specifies **two integrated swift boxes**, positioned at a **minimum height of 5 metres**.



Design Decision

- The applicant will liaise with the **draftsman** to ensure that the **southerly elevation** is amended accordingly, and that **both swift boxes are integrated** as per ecological guidance.

Site Orientation Note:

- The site does not feature a **true north/south orientation**. Elevation bearings are aligned to the **site boundary**, not cardinal directions. This should be taken into account when assessing optimal placement for species-specific enhancements.

Window Placement Guidance:

- The ecologist has suggested that boxes should **not be placed directly above windows** where possible.
- As evidenced in **Figure 3 – Northerly Elevation**, the bird box is **not positioned above any window**, and the **height requirement is met**.

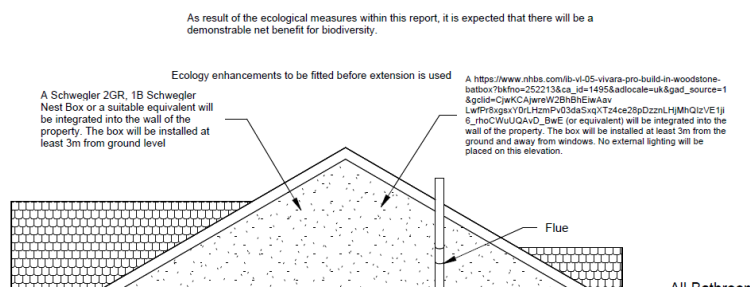


Figure 3 - Northerly Elevation

- The same approach will be applied to **Figure 4 – Southerly Elevation**, ensuring that enhancements are positioned appropriately and in accordance with best practice.

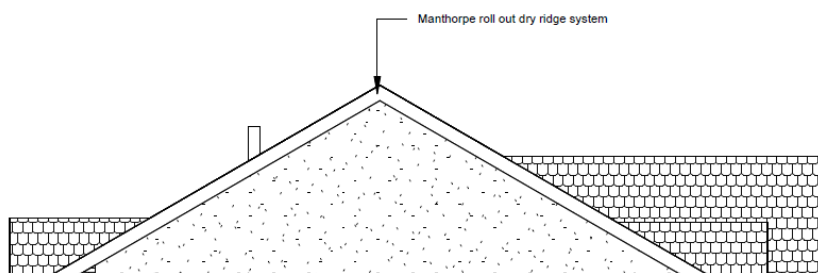


Figure 4 - Southerly Direction



Design Decision

The applicant remains committed to integrating biodiversity features in a manner that is:

- **Technically feasible**
- **Ecologically appropriate**
- **Architecturally consistent**

Updated drawings will be submitted following consultation with the draftsman, and the applicant invites the LPA and Ecology Department to review the revised artefacts once available.



Design Decision

Consistency Commitment:

- The applicant confirms that **Document 1 and Document 2 will be aligned**, with all enhancement features clearly shown on updated architectural plans, drawings, and elevations.
- This will ensure full compliance with PPW12, ecological guidance, and the Section 6 Duty under the *Environment (Wales) Act 2016*.

11.6 Document Consistency and Knotweed Clarification

11.6.1 Document 3 – Site Plan B

The applicant acknowledges that **Document 3 (Site Plan B)** references the **EL1 flowering lawn**, consistent with the ecological enhancement strategy outlined in **Document 1 (GIS)**. To ensure full alignment:



Design Decision

- The **Preliminary Ecological Appraisal (PEA)** and **GIS**, dated **24 September 2025**, remain the **primary artefacts** supporting the Net Benefit for Biodiversity (NBB) assessment.
- The applicant confirms that **architectural plans will be amended** to remove the EL1 flowering lawn and other proposed enhancements added, ensuring consistency across all submitted documentation.
- This update will ensure that **Document 1 and Document 3** are fully harmonised, in accordance with PPW12 and the Section 6 Duty under the *Environment (Wales) Act 2016*.

11.6.2 Document 4 – Clearsafe Knotweed Report

The applicant wishes to clarify the status of Japanese Knotweed on site, as referenced in **Document 4 (Clearsafe Report)**.

- The site **does not currently contain viable Japanese Knotweed**, as confirmed by Clearsafe following a **final eradication strategy** involving:
 - **Dogging and riddling** of dormant rhizomes
 - **Sifting and incineration** of material, subject to NRW exemption
 - **Relocation of sifted soils** to low-risk zones (northern and western banking)
- The eradication works were completed in **May 2025**, and subsequently paused following a site visit by **Enforcement Officer Jo Evans**.
- Clearsafe further noted:
 - “The owner has indicated that he has employed a chemical herbicide treatment schedule over a number of years which would explain the dormancy and bonsai growth. The repeated herbicide applications have had a significant effect on the infestations, weakening them to a point that is close to no longer being viable.”



Risk

- *The ecologist is requesting management plans for Japanese knotweed that are not required. This is clearly outlined and documented in the Clearsafe report, which confirms that the knotweed has already been successfully treated with herbicide. These additional requests introduce unnecessary complexity and misrepresent the actual ecological status of the site.*



Design Decision

As such, there is **no requirement to commission a Japanese Knotweed Management Plan** at this time. However, the applicant confirms that:

- Should any regrowth occur, the applicant will continue with **seasonal herbicide monitoring and treatment**, ensuring compliance with environmental legislation and site safety.
- **Document 3** will be amended to ensure consistency with the GIS and PEA, particularly regarding the EL1 flowering lawn.
- **Document 4** confirms that Japanese Knotweed has been professionally addressed, and no further action is required unless regrowth occurs and this will be dealt with as per the previous treatment plan already defined.
- The applicant remains committed to ecological integrity, document transparency, and compliance with all relevant planning and environmental standards.

12. Response to Ecologist Email -07th Oct 2025

The applicant again wishes to formally respond to recent comments and suggestions made by the Council's Ecologist, particularly in relation to the referenced documentation and the ecological assessment of the site.

It appears that the ecologist has again relied upon a **superseded version** of the Green Infrastructure Statement (GIS), specifically the version dated **01 September 2025**, despite a **revised and updated version** having been submitted on **25 September 2025**. This updated document contains critical clarifications, enhanced proposals, and refined ecological metrics that directly address earlier concerns.

The **Internal Memorandum P250167_2** explicitly references the updated submission and confirms that it has been **read and responded to**. Therefore, it is unclear why the earlier version continues to be cited as the operative document in subsequent ecological commentary.



Risk

Clarification on Documentation

The applicant wishes to address ongoing concerns regarding the use of incorrect documentation by the ecologist, which has repeatedly led to a misrepresentation of site conditions and an inaccurate Net Biodiversity Benefit (NBB) value.

- Despite numerous attempts to clarify, the ecologist continues to rely on outdated or incorrect versions of documents, perpetuating a misleading narrative.

12.3 Misuse of Superseded Documentation and Vegetation Ownership Clarification

The applicant wishes to address the continued use of superseded documentation by the ecologist, which undermines the accuracy of the ecological assessment and perpetuates a misleading narrative.

1. Despite the provision of updated and correct documentation clearly reflecting the vegetation within the applicant's legal ownership, the ecologist persists in referencing outdated materials.
2. The current and accurate documentation confirms that certain vegetation, including specific trees and boundary planting, lies outside the applicant's ownership and is not included within their legal title.
3. This information has been verified and is supported by the legal title plan.
4. Nevertheless, the ecologist continues to base assessments and Net Biodiversity Benefit (NBB) calculations on incorrect assumptions, leading to flawed conclusions.
5. For example, his instance on using the following superseded documentation references as littered throughout this document and his correspondence, where vegetation not under the applicant's ownership was incorrectly attributed and factored into the ecological strategy. As evidenced below

INTERNAL – MTCBC Ecology Response

Email 01st Oct 2025

*DOCUMENT: Land at Six Bells Estate, Heolgerrig, Merthyr Tydfil. Green Infrastructure Statement 2025 prepared by East Ecology on behalf of Mr Nicholas Simon Meaney. Dated: **01/09/2025**.*

The document above included reference to ‘vertical geocell’ proposed to be used along boundaries 3 and 4 of the site (the northern and western boundaries respectively). This was to be planted with x7 native species shrubs.

To demonstrate the viability of this proposal, evidence would be needed to show the ‘vertical geocell’ feature could accommodate (in terms of rooting depth for example) the types of species proposed (x7 woody species) and at the density specified? If this can be demonstrated then, in effect this feature would form a hedgerow of sorts along these boundaries.

Whilst a hedgerow is not normally considered commensurate with the loss of non-hedgerow trees, in this case – given the onsite constraints (easement across the centre of the site) – the ‘vertical geocell’ planting would be adequate compensation for the loss of the trees present in 2018.

A previous version of the GIS document (dated 14/05/2025) included reference to an area of flowering lawn (‘EL1 flowering lawn’)

Therefore, in addition to the ‘hedgerow’, a grassland/wildflower area would be required and together these could achieve both adequate compensation for the loss of the onsite trees plus NBB for the scheme.

Document 1 (GIS)

*The previous versions of the GIS document (**dated 14/05/2025 and 18/07/2025**) both state that the ‘mature, but deformed spruce tree’ is ‘growing on made ground’ and ‘will become unstable when loose material is removed to create a new retaining wall.’ and therefore ‘cannot be retained’. The updated version of the GIS (**dated 24/09/2025**) now simply states that the tree will be retaining in position. How will this be achieved, given the previous assessment?*

Email 07th Oct 2025

*NB the species proposed for the ‘vertical geocell’ feature (see GIS dated **01/09/2025 and PEA, V1.2 dated 03/09/2025** ... hazel *Coryllus avellana*, field maple *Acer campestre*, crab apple *Malus sylvestris*, wayfaring tree *Viburnum lanatana*, guelder rose *Viburnum opulus*, blackthorn *Prunus spinosa* and broom *Cytisus scoparius*), show the feature would completely align with the principles of permaculture. As would an area of wildflower grassland feature as proposed in the GIS dated **14/05/2025**. These elements would provide food, shelter, and ecological benefits within a permaculture design, creating and contributing to a self-sustaining system.*

These features were removed from subsequent versions of the GIS and PEA. This is unfortunate because, as mentioned in a previous e-mail - “Therefore, in addition to the ‘hedgerow’ [vertical geocell planting], a grassland/wildflower area would be required and together these could achieve both adequate compensation for the loss of the onsite trees plus NBB for the scheme.” Inclusion of these elements would allow the lifting of any objections in terms of ecology.



Risk

Tree Ownership and Documentation Clarification

The applicant wishes to address ongoing concerns regarding the use of incorrect documentation by the ecologist, which has repeatedly led to a misrepresentation of site conditions and an inaccurate Net Biodiversity Benefit (NBB) value.

- Despite numerous attempts to clarify, the ecologist continues to rely on outdated or incorrect versions of documents, perpetuating a misleading narrative.
- The tree in question is not within the applicant's ownership, nor is it included within their legal title.
- Consequently, the boundary vegetation below and the deformed conifer (Not Spruce, again incorrectly referenced) falls outside the scope of the applicant's ecological and landscape strategy and should not be factored into the NBB calculation.
- This clarification has been communicated on multiple occasions, and the applicant respectfully requests that it be accurately acknowledged and reflected in all future assessments and documentation.



Risk

Clarification on Geocell Proposal and Boundary Vegetation

The applicant wishes to clarify the context and intent behind the reference to Geocell reinforcement within earlier documentation, and to correct any misinterpretation regarding its purpose:

- *The suggestion to use Geocell was made solely as a feasibility option to reinforce the boundary in the event that changes to site levels are required, subject to input from Building Control. This will be revisited and the relevant authorities reconsulted at the appropriate time when levels become apparent.*
- *It was not proposed as a form of ecological mitigation, nor was it intended to compensate for or justify the removal of any existing vegetation, including boundary bushes incorrectly identified.*
- *Furthermore, the bush in question is not within the applicant's ownership nor included within their legal title.*
- *As such, the boundary vegetation falls outside the scope of the applicant's ecological and landscape strategy and NBB value.*
- *This clarification has been communicated on multiple occasions, and the applicant wishes to ensure it is fully understood and accurately reflected.*

12.1 Post Site Clearance NBB Value

The ecologist states the following;

I note that the applicant states that the Council's Ecologist suggests that a post-site clearance baseline may be appropriate and he is in agreeance with this approach. Please note that this is not the case, as clearly discussed in my last email dated 1st October 2025 (shown in orange):

In his email of **01st Oct 2025**, he clearly references the following;

*“Even in the event that a **post-clearance biodiversity baseline was used**, a Net Benefit for Biodiversity (NBB) has not been demonstrated.”*

As is clearly evidenced in the submitted documentation, the NBB value presented is the only one that can be legislatively applied and should the Local Planning Authority (LPA) consider the applicants desktop study to be inaccurate, the applicant respectfully invites the LPA to provide an alternative position, grounded in Planning Policy Wales (Edition 12) and the Environment (Wales) Act 2016.



Risk

The LPA's reliance on an alleged pre-emptive clearance window between 2018 and 2021 is not supported by enforceable policy or statute. The applicant maintains that the appropriate **Net Benefit for Biodiversity (NBB)** baseline is represented by the submitted **Preliminary Ecological Appraisal (PEA)** and **Geographic Information System (GIS)** artefacts, which reflect the site's condition at the time of application and are aligned with the effective policy framework.

Any attempt to apply a retrospective baseline prior to the adoption of PPW12 constitutes a misapplication of policy and exceeds the statutory powers granted under the *Environment (Wales) Act 2016*.

Even in the event that a *post-clearance* biodiversity baseline was used, a NBB has not been demonstrated.



Issue

- The **post-clearance baseline** is valid and policy-compliant
- The **GIS and PEA** provide the operative ecological evidence
- The proposed enhancements are **proportional, site-appropriate, and aligned with PPW12 and the Environment (Wales) Act 2016**
- NBB has been **achieved and documented**, and any further assessment must reflect the submitted evidence



Advisory

Policy Alignment and Intent:

The applicant is a strong advocate of **One Planet Development (OPD)** principles, **permaculture**, and **edible landscape design**, and seeks to embed these values into the fabric of the proposal. This approach aligns with the **COP15 directive**, which underpins PPW12's Section 6 Duty, and is supported by the letter from **Julie James MS** (Ref: MA/JJ/3780/22, dated 20 December 2022), which outlined the future biodiversity policy direction that culminated in PPW12's adoption.



Design Decision

The applicant remains committed to ecological integrity, carbon reduction, and biodiversity enhancement, and invites the LPA and Ecology Department to formally acknowledge the validity of the proposal.

The ecologist goes on to further state;

"Indeed, it is considered that, as shown in the photo below, there are on-site areas remaining outside of the culvert easement and 2m buffer (approximately shown) (as stipulated by Severn Trent Water and submitted by the applicant), that could still be used for planting."



Note

This has already been addressed numerous times.

12.2 Permaculture Approach

Regarding the reference to permaculture. As previously stated *"The scheme needs to ensure biodiversity is maintained and enhanced and a Net Benefit for Biodiversity is achieved (NB species used must be native and of local provenance) – whether permaculture can be incorporated to achieve this depends on the details, which will need to be supplied for consideration."*

To date, only very broad references have been made to the onsite area regarding permaculture within the supporting documentation (GIS and PEA). There is no real detail regarding, for example, what native species and numbers of specimens would be involved or a planting plan? Without this, a judgement regarding whether the proposed permaculture area could *contribute* to NBB cannot reasonably be made.



Design Decision

The applicant's proposal draws directly from successful MTCBC models and incorporates:

- **Permaculture planting** with edible and medicinal species
- **Apiaries** to support pollination and biodiversity (TBC)
- **Native climbers and shrubs** in designated planting zones
- **Green infrastructure** to promote ecological connectivity

These enhancements are evidenced in the submitted **GIS and PEA artefacts**, and reflect a clear alignment with **local precedent, PPW12 policy**, and the **Environment (Wales) Act 2016**.

The applicant respectfully requests that the LPA and Ecology Department acknowledge the validity of this approach and its consistency with established NBB delivery within the Borough.



Advisory

Could the ecology team and the Local Planning Authority (LPA) please direct us to the relevant GIS and Preliminary Ecological Appraisal (PEA) artefacts for these schemes, so we can establish a baseline for our approach? We look forward to receiving the documentation.

13. Summary Statement and Previous Request for Collaborative Engagement

The applicant acknowledges and appreciates the Council’s stated willingness to engage constructively:

“We appreciate the Council’s willingness to engage constructively and look forward to progressing the application collaboratively.”

In the spirit of this commitment, the applicant wishes to reiterate that **multiple requests for a meeting with the Council’s Ecologist** have been made to facilitate a collaborative and solution-focused dialogue. One such request is evidenced in the email dated **Friday 18 July 2025 at 07:53 (Appendix C)**, which forms part of a series of communications seeking direct engagement. Unfortunately, no response has been received to date.

The applicant remains **fully open to collaboration** and invites the Ecologist to initiate or accept a meeting to:

- Explore the **integration of Geocell planting** where appropriate, particularly in relation to site level alterations
- Discuss the incorporation of **One Planet Development (OPD)** principles, **permaculture**, and **edible garden design** into the ecological strategy
- Ensure that all enhancements are **technically viable, ecologically beneficial, and aligned with planning policy**



Advisory

Conclusion:

This meeting is requested with urgency, ideally **prior to the Planning Committee scheduled for 16 November 2025**, to ensure that all outstanding matters can be addressed constructively and without delay.

The applicant reaffirms their commitment to delivering a **meaningful biodiversity benefit**, as evidenced in the **version-controlled GIS and Preliminary Ecological Appraisal (PEA)** documents submitted. These artefacts reflect a clear alignment with the **Environment (Wales) Act 2016**, and demonstrate a proactive approach to ecological enhancement.

The applicant will continue to liaise with their ecological consultants to review all points raised and ensure that the proposal remains robust, policy-compliant, and responsive to feedback. A collaborative meeting remains the preferred route to resolution, and the applicant respectfully awaits a response to this request.

The applicant will continue to liaise with their ecological consultants to review all points raised and ensure that the proposal remains robust, policy-compliant, and responsive to feedback. A collaborative meeting remains the preferred route to resolution, and the applicant respectfully awaits a response to this request.

Appendix A – The legislative context for planning in Wales

Primary legislation A1 The main items of primary legislation relating to land-use planning are:

- the Planning (Hazardous Substances) Act 1990 – established special controls over hazardous substances on land;
- the Planning (Listed Buildings and Conservation Areas) Act 1990 – makes provision for the listing of buildings of special architectural or historic interest, the designation of conservation areas and the exercise of planning functions in relation to these; provisions for the establishment of Strategic Planning Panels to prepare Strategic Development Plans. It made other improvements to the development management and enforcement systems and provided for nationally significant development applications to be made to the Welsh Ministers instead of to local planning authorities as Developments of National Significance. Subordinate legislation A2 The main items of subordinate legislation are:

- the Town and Country Planning Act 1990 – the principal Act regulating the development and use of land in England and Wales;
- the Planning and Compulsory Purchase Act 2004 – introduced the Local Development Plan system in Wales, a statutory duty requiring the Welsh Ministers to prepare the Wales Spatial Plan and local planning authorities to have regard to the Wales Spatial Plan when preparing a Local Development Plan, and made other reforms to development management provisions in the Town and Country Planning Act 1990;
- the Planning Act 2008 – introduced further reforms to development management; and • the Planning (Wales) Act 2015 – amended the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 to introduce a number of reforms to strengthen development planning, including the introduction of the National Development Framework in place of the Wales Spatial Plan and
- the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) (SI 1987 No 764); • the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992 No 666);
- the Town and Country Planning General Regulations 1992 (SI 1992 No 1492);
- the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (SI 1995 No 418);
- the Town and Country Planning (Trees) Regulations 1999 (SI 1999 No 1892);
- the Town and Country Planning (Local Development Plan) Regulations 2005 (SI 2005 No 2839) (W 203);
- the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) (SI 2012 No 801) (W. 110);
- the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (SI 2016 No 53) (W 23) the Developments of National Significance (Procedure) (Wales) Order 2016 (SI 2016 No 55) (W 25);
- the Developments of National Significance (Wales) Regulations 2016 (SI 2016 No 56) (W 56); and
- the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (SI 2017 No 567) (W 136). Other relevant legislation A3 Other pieces of legislation which have an impact on the planning system are:

INTERNAL – MTCBC Ecology Response

- the Ancient Monuments and Archaeological Areas Act 1979 – makes provision for the investigation and protection of assets of archaeological or historical interest and the regulation of operations or activities affecting them;
- the Human Rights Act 1998 – gives effect to the rights and freedoms of individuals and communities set out in the European Convention of Human Rights. The Act makes it unlawful for a public authority to act incompatibly with the European Convention on Human Rights (ECHR) except where, as a result of primary legislation, it could not have acted differently;
- the Commons Act 2006 – makes provisions about common land and town or village greens;
- the Government of Wales Act 2006 – sets out the Welsh Ministers' duty to make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people and to make appropriate arrangements to promote sustainable development;
- the Children and Families (Wales) Measure 2010 – places a duty on local authorities to secure sufficient play opportunities for children;
- the Active Travel (Wales) Act 2013 – requires the Welsh Ministers and local authorities to take reasonable steps to enhance the provision made for, and to have regard to the needs of, walkers and cyclists;
- the Housing (Wales) Act 2014 – introduced new legislation for improving the supply, quality and standards of housing in Wales, including by requiring local housing authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers and to meet those needs in their areas; • the Well-being of Future Generations (Wales) Act 2015 – places a duty on the Welsh Ministers (and other public bodies) to produce well-being objectives and take reasonable steps to meet those objectives in the context of the principle of sustainable development. Further information on this issue is provided in the next chapter; • the Environment (Wales) Act 2016 – requires that the national natural resources policy is taken into account by the Welsh Ministers in the preparation of the National Development Framework and for local planning authorities to have regard to area statements in the development of Local Development Plans. The Act makes provision to improve procedures for the collection and management of waste and confers powers on the Welsh Ministers to set targets for reducing emissions of greenhouse gases;
- the Historic Environment (Wales) Act 2016 – makes provision for the protection and sustainable management of the historic environment, introducing measures giving more effective protection to listed buildings, establishing historic environment records for local authority areas and establishing an Advisory Body for the Welsh Historic Environment; and
- the Public Health (Wales) Act 2017 – sets out provisions for making improvements to health including for the Welsh Ministers to publish a national strategy on tackling obesity and to make regulations about the carrying out of health impact assessments by public bodies.

Appendix B – P250167 Internal Memo Responses



P250167_2.pdf



P250167.pdf

Appendix C – Email Requesting Ecologist Engagement



PEA.eml