

**Supplementary
Planning
Guidance**

**Caeau
Mynydd Mawr
Special Area of
Conservation**



**Adopted
December 2014**



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1.0 INTRODUCTION

Purpose of Guidance

- 1.1 This Supplementary Planning Guidance (SPG) is an elaboration and clarification of the policies and provisions of the Carmarthenshire Local Development Plan (LDP) adopted 10 December 2014. The Plan level HRA undertaken in support of the LDP recommended that the adoption of this SPG is pivotal to mitigating likely significant effects at a strategic level. In this regard, the SPG provides specific guidance in relation to the consideration of proposals for potential developments impacting upon the Caeau Mynydd Mawr Special Area of Conservation (SAC) and the need to establish a management strategy to ameliorate for the loss of and secure the ongoing and future management of habitat used by the Caeau Mynydd Mawr SAC marsh fritillary butterfly metapopulation. The SPG focuses on the Caeau Mynydd Mawr SAC Marsh Fritillary core metapopulation area (referred to in this document as the SPG area).
- 1.2 The SPG area has been robustly defined by analysis of the marsh fritillary records reported since 1990 and is based upon a 'habitat landscape' extending out from the core SAC units, taking into account the quality, quantity and location of the habitats as well as connectivity considerations for marsh fritillary butterflies to move through the countryside (landscape permeability). This adopts the best available scientific knowledge to reflect the greater accuracy and understanding we now have of marsh fritillary metapopulation dynamics in the Cross Hands area. The precautionary 2km radius used within the current conservation objectives for the SAC will be updated shortly as part of the core management plan review.
- 1.3 The existing conservation objectives for the SAC set a minimum threshold of 50ha habitat in suitable condition to support populations of marsh fritillaries. This threshold is derived from population modelling and represents the smallest amount of habitat needed to maintain a viable metapopulation in the long term. However this SPG provides a framework for sufficient land to be managed in order to seek to provide a minimum 100ha of suitable habitat. This figure takes account of the improved understanding of the extent of the marsh fritillary metapopulation in the Cross Hands Area and will ensure that, even with fluctuations in habitat condition, sufficient habitat will always be available to meet the 50ha minimum. The SPG provides a mechanism for funds to be secured from planning permissions issued in order to mitigate for the loss of habitat that is likely to occur as a result of development. It also similarly mitigates for any reduction in the permeability of the landscape within the SPG area due to development. This enables planning permission to be granted without the need for an Appropriate Assessment in every instance. (See EU Habitats Directive 1992 which transposed into British law by the Conservation of Habitats and Species Regulations 2010 as amended) within the SPG area.
- 1.4 This SPG clarifies the means in which the Council will secure the ongoing and future management of habitat used by the marsh fritillary butterfly meta population with the use of developer contributions through planning obligations as part of the granting of planning permission for specific classifications of development within the SPG area. Such contributions will support and resource the delivery of mitigation measures (examples of which are set out within this SPG).
- 1.5 The SPG provides a coherent basis for mitigation to be achieved simplifying the Habitats Regulation Assessment (HRA) process for specific projects, particularly the consideration of potential 'in combination' effects. Any Tests of Likely Significant

Effect (TLSE) conducted by the Authority when assessing planning applications within the SPG area, should generally be able to conclude that there will be no likely significant effect (alone and in combination) due to loss of habitat or connectivity resulting from the proposed development on the features (and their conservation objectives) for which the Caeau Mynydd Mawr SAC has been designated. In most, if not all, cases this should avoid the requirement for regulation 61 Appropriate Assessments (AA) for each application thus facilitating a smoother delivery of the permissions required for development. It will also enable a proactive approach to be taken to the management of the SAC and compliance with the Habitats Regulations.

- 1.6** The potential impact of losing connectivity to supporting habitat within the metapopulation 'core landscape', defined by the SPG area, will be addressed by securing the appropriate management of areas suitable for the marsh fritillary and also to provide links (such as areas of open grassland of suitable size) between areas of supporting habitat.
- 1.7** Where planning permission for development is approved within the SPG area, a contribution will be required from the developer which has been calculated to be sufficient to fund the management of twice that area lost to development.
- 1.8** This SPG establishes a transparent and consistent approach to securing contributions towards habitat management. It also seeks to make applicants aware, at an early stage of the development process, of the Council's expectations in respect of the level of contributions required. Upon adoption this SPG will be a material consideration in the determination of planning applications and appeals for development proposals located within the SPG area as set out within this SPG.
- 1.9** The Council has worked alongside a range of partners in the development of this SPG and the associated background evidence. These include:
 - Natural Resources Wales;
 - JACOBS (consultants to the Council);
 - Menter Cwm Gwendraeth;
 - The Butterfly Conservation Trust.
- 1.10** The LDP does not repeat national policy statements. The Council will therefore utilise national policy to assist in determining development proposals that have potential to impact on international and nationally designated sites. Such policies also underpin the implementation of this SPG.
- 1.11** The preparation of this SPG has been subject to a 6-week public consultation exercise with comments invited on its content. The consultation has been conducted in a manner consistent with that set out within the Delivery Agreement for the LDP. It has been adopted concurrently with the LDP. It should be noted that the Plan should be read in its entirety in formulating any proposals.

2.0 LEGISLATIVE AND POLICY CONTEXT

National Policy Context

Planning Policy Wales (Edition 7, July 2014)

- 2.1. Chapter 3 provides guidance on the use of developer contributions. Specific regard should be given to section 3.7 which provides guidance on negotiating planning obligations and confirms that they should only be sought where they are necessary to make a proposal acceptable in land use planning terms. It also states that “Planning obligations are useful arrangements to **overcome obstacles which may otherwise prevent planning permission from being granted. Contributions from developers may be used to offset negative consequences of development**, to help meet local needs, or to secure benefits which will make development more sustainable. It is essential that arrangements are fair to both the developer and the community, that the **process is as transparent as possible**, and that development plans provide guidance on the types of obligations which authorities may seek from developers”. Chapter 3 also advises on CIL – reference should be made 2.17 of this SPG in this regard.
- 2.2 Chapter 5 also provides guidance which is relevant to the application and interpretation of this SPG.
- 5.1.3 states that “A key role of the planning system is to ensure that society’s land requirements are met in ways which do not impose **unnecessary constraints on development** whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, **conservation and development can often be fully integrated**. With careful planning and design, not only can the potential for conflict be minimised, but **new opportunities for sustainable development** can also be created.”
 - 5.2.8 states that “The planning system has an important part to play in meeting biodiversity objectives by **promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable**... Ways in which the adaptation needs of biodiversity could be considered include identifying the scope for **minimising or reversing the fragmentation of habitats** and improving **habitat connectivity** through the promotion of wildlife corridors. Local planning authorities should ensure that development minimises impact within **areas identified as important** for the ability of species to adapt and/or to move to **more suitable habitats**”
 - 5.3.9 states that “The Assembly Government will ensure that international responsibilities and obligations for conservation are fully met, and that, consistent with the objectives of the designation, statutorily designated sites are **protected from damage and deterioration**, with their important features conserved by **appropriate management**.”
 - 5.5.3 states that “In some cases it will be necessary to refuse planning permission on conservation grounds. However, **local planning authorities must always consider whether environmental issues could be adequately** addressed by modifying the development proposal or by attaching appropriate planning conditions **or obligations**. Where this is not possible and the adverse effect on the environment clearly outweighs other material considerations the development should be refused.”

Technical Advice Note (TAN) 5, Nature Conservation and Planning (2009):

- 2.3** TAN 5 provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. It provides an overview of all relevant legislation within the field and “demonstrates how local planning authorities, developers and key stakeholders in conservation can work together to deliver more sustainable development that does not result in losses from the natural heritage but instead takes every opportunity to enhance it” (para 1.6.1)
- 2.4 states that local planning authorities should..” adopt a step-wise approach to avoid harm to nature conservation, minimise unavoidable harm by mitigation measures, offset residual harm by compensation measures and **look for new opportunities to enhance nature conservation...**”
 - 3.2.6 states that “Local development plans should include policies in respect of the conservation of the natural beauty and amenity of the land; such policies should encourage the management of features of the landscape which are of major importance for wild flora and fauna. Suitable planning conditions and **obligations may serve to promote such management.**”
 - 3.4.2 states that “Local planning authorities may adopt **SPG to provide more detailed, locally relevant guidance** for:
achieving more **sustainable solutions to development problems and opportunities that respect natural processes and ecological systems...**
developers to **avoid adverse effects** on nature conservation, **minimise unavoidable effects by mitigation measures** and **compensate** for residual effects on nature conservation, and providing **new benefits** for conservation, using examples of different types of development and different conservation scenarios and initiatives...
the **creation of new wildlife habitats** and the enhancement of nature conservation interests..”
 - 4.4.1 states that “The development control process is a critical stage in delivering the protection and enhancement of nature conservation required by PPW. The following can help to achieve these objectives...securing necessary measures to **protect, enhance, mitigate and compensate** through planning conditions and **obligations**”
- 2.4** Section 4.7 confirms that planning obligations can also be an effective way of **avoiding potential adverse effects on nature conservation enabling a permission to be granted.** It states that if there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable, however in many circumstances, for nature conservation matters, obligations provide a more flexible, but equally reliable and enforceable, means of controlling development. It adds that obligations are “**particularly useful for delivering the measures in a proposed development to avoid, mitigate or compensate for potential harm to nature conservation and to ensure proposed natural heritage benefits are delivered in a timely and appropriate way, where these have been material considerations in the planning decision.**”
- 2.5** Section 4.7.1 states that obligations may be appropriate for providing:
- for the **management of land and conservation** of natural heritage features associated with development including any **compensatory areas**;
 - **monitoring systems** and the means of reporting, reviewing and adjusting, monitoring and mitigation and compensation measures;
 - **new habitats or enhancing** existing habitats, **on or off-site**;

- information and interpretation, for example, about the geological interest of a site or feature;
 - improved access for all to sites or features of nature conservation interest;
 - new nature reserves or the funding of nature reserve management or provision;
 - warden or ranger services to help manage recreational or other pressures on land on or off-site;
 - measures to avoid harm to protected species in buildings or elsewhere;
 - other appropriate financial contributions to nature conservation.
- 2.6 TAN 5 confirms that “whilst the above is not an exhaustive list but illustrates the scope of use of planning obligations. Local planning authorities and developers are encouraged to use obligations in a positive and innovative way in accordance with the Assembly Government’s policies set out in PPW.”

Legislation - developer contributions/obligations

- 2.7 *What are developer contributions?* In order to create sustainable communities the Council wants to ensure that the necessary infrastructure is put in place to meet local community needs. This includes not only the physical infrastructure such as roads and utilities that enable development to proceed, but also the community facilities and environmental improvements which will ensure occupiers of those developments have adequate access to services such as education, healthcare and leisure activities which will improve their quality of life. The Council will require developers to fund or contribute directly to the necessary improvements or new provision so as to mitigate for the impact of their proposals (to include measures which secure the maintenance and improvement and biodiversity of the area). These measures are known as “developer contributions”.
- 2.8 *What are planning obligations?* Developer contributions will normally be secured through a “planning obligation”. This is a legal commitment by the developer to secure a contribution to address community and infrastructure needs associated with development. The legislative basis for planning obligations is Section 106 of the Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act (1991). Typically obligations are negotiated in the context of granting planning permission and are used to secure provisions to enable the development of land that are not suitable or capable of being contained in a condition attached to the planning permission.
- 2.9 Planning obligations are intended to make acceptable development which would otherwise be unacceptable in planning terms. The legislation allows planning obligations to:
- restrict development or use of the land;
 - require operations or activities to be carried out in, on, under or over the land;
 - require the land to be used in a specified way; or
 - to require payments to be made to the authority either in a single sum or periodically. (PPW Chapter 3)
- 2.10 Planning obligations secured by way of a Section 106 agreement or Unilateral Undertaking (also called a Unilateral Obligation), are binding on the land and are therefore enforceable against all successors in title.
- 2.11 Detailed policy guidance on how planning obligations should be properly negotiated and used by Planning Authorities is provided by **Planning Obligations Welsh Office Circular 13/97 (8th July 1997)**. This policy requires that planning obligations should

be necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development, and; reasonable in all other respects.

- 2.12. Annex B of Circular 13/97 provides further guidance on how these tests should be met. Paragraph B2 of Annex B states that planning obligations ‘should only be sought where they are necessary to make a proposal acceptable in land-use planning terms’ and that ‘Planning obligations may relate to matters other than those covered by a planning permission, provided there is a direct relationship between the planning obligation and the planning permission... but they should not be sought where this connection does not exist or is too remote..’
- 2.13 Paragraph B9 of Annex B to the Circular provides some illustrations of what might be ‘reasonable’ in the terms of the policy test. It requires that what is sought or offered must be: **Necessary from a practical point of view** to enable the development to go ahead and **Necessary from a planning point of view** and is so directly related to the proposed development and to the use of the land after its completion that the development ought not to be permitted without it.
- 2.14 **All contributions levied within the SPG area will be utilised towards funding the implementation of specific habitat management initiatives within that same SPG area. This area has been robustly defined.** This satisfies the requirements of the circular in relation to the tests for the use of planning obligations and the SPG is strongly rooted within national and local planning policy. The SPG also adheres to paragraph B9 of Annex B in that it provides the framework for contributions to address the below tests:
- **Necessary from a practical point of view:** There are barriers to giving permission for schemes that comply with the development plan because a precautionary principle approach is unable to conclude that there are no potential ‘in combination effects’ on the SAC and thus a series of appropriate assessments are required;
 - **Necessary from a planning point of view:** A long term and suitably resourced strategy is required to increase managed land so as to accord with the conservation objectives of the SAC. The Plan level HRA undertaken on the LDP states that the adoption of this SPG is required.

Future Reform of Planning Obligations and the Community Infrastructure Levy

- 2.15 The Barker Review of March 2004 proposed that Government should use tax measures to extract some of the windfall gain that accrues to landowners from the sale of their land for residential development. The Government considers this principle applies for both residential and non-residential development.
- 2.16 In November 2007 the Government introduced the Planning Bill into Parliament. This became law via the 2008 Planning Act (see 2.17 below).
- 2.17 Part 11 of the Planning Act 2008 provided for the introduction of the Community Infrastructure Levy (CIL) to fund the provision of infrastructure in England and Wales. The Community Infrastructure Levy Regulations came into force on 6th April 2010. Regulation 122(2) gives legal effect to three of the tests from Circular 13/97, as follows: “a planning obligation may only constitute a reason for granting planning permission if it complies with the three tests...namely, that it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.”

- 2.18** The Council is currently considering the application of CIL in the context of Carmarthenshire. The charging schedule and other evidence that underpins CIL within Carmarthenshire will need to take account of the requirements of this SPG. Reference should also be given to guidance set out in para 3.7 of PPW as well as the LDP Planning Obligations SPG. The provisions of the CIL charging schedule should consider the prioritisation of the provisions of this SPG as an acknowledgement of the Council’s statutory responsibility under the Conservation of Habitats and Species Regulations. In applying the principle of prioritisation and in order to achieve the objectives of the SPG, the Council will (in appropriate instances) negotiate any agreed level of contribution on a case by case basis.
- 2.19** This SPG provides a framework through which the drawing down of finances from a centralised CIL resource pool may be considered to fund habitat management. This is because it is a strategic/area based policy (focused on the SPG area) rather than a localised/site specific intervention.
- 2.20** The drawing down of CIL funds to resource this SPG may the potential to facilitate vital strategic investment in the area’s hard and soft infrastructure because it provides the required mitigation to satisfy the Habitats and Species Regulations. Paragraph 2.23 below confirms the strategic importance of the SPG area in developmental/ infrastructural terms and this further consolidates the link between the SPG and CIL. The provisions of this SPG and its relationship a potential for the upcoming CIL will be reviewed concurrent with its preparation.
- 2.21** Reference should be made to the LDP Planning Obligations SPG, together with Appendix 3 (useful contacts) for further information on the use of developer contributions in Carmarthenshire and the implementation of SPG.

Local Policy Context

Local Development Plan

- 2.22** The LDP is the statutory development plan for the County. Its spatial strategy is underpinned by the identification of three growth areas which are supplemented within the hierarchy by a range of settlements of differing sizes with their position within the hierarchy determined by virtue of their respective merits in terms of sustainability and the services and facilities they offer. The Plan is informed, and supported by, extensive Habitats Regulations Assessment (HRA) and Sustainability Appraisal (SA-SEA) input.
- 2.23** The identification of Ammanford/Cross Hands Growth Area 3 (GA3) reflects the high population levels and the availability of an extensive range of services and facilities. The area is well served by those facilities which are vital to supporting the principles of sustainability and are capable of accommodating a proportionally high level of growth. It represents a large and established urban area located on sustainable transport routes. The area’s regional or sub regional status is recognised through the Wales Spatial Plan.
- 2.24** The detailed assessment of GA3 within the Plan Level HRA recommended that a mitigation strategy is required to ameliorate the loss of habitat used by the SAC

marsh fritillary metapopulation. As a result, the LDP includes a commitment to prepare this SPG. Subject to the preparation and implementation of this SPG, the HRA considered that there will be no significant effects on the European site network (primarily the Caeau Mynydd Mawr SAC) as a result of the LDP proposals in Growth Area 3.

- 2.25** Policy GP3 (Planning Obligations) provides the over arching context for the use of developer contributions and is set out below:

‘GP3 Planning Obligations

The Council will, where necessary seek developers to enter into Planning Obligations (Section 106 Agreements), or to contribute via the Community Infrastructure Levy to secure contributions to fund improvements to infrastructure, community facilities and other services to meet requirements arising from new developments.

Where applicable, contributions will also be sought towards the future and ongoing maintenance of such provision either in the form of initial support or in perpetuity.

In implementing this policy schemes will be assessed on a case-by-case basis’.

- 2.26** The LDP does not repeat national policy statements. The Council will therefore utilise national policy to assist in determining development proposals that have potential to impact on international and nationally designated sites. Such policies also underpin the implementation of this SPG. An overview of the national policy context has been previously provided, however particular regard should be given to paragraphs 5.3.9 and 5.5.3 of PPW along with paragraph 4.4.1 of TAN 5. Policy EQ7 below provides sets the provisions for consideration of such matters in relation to Caeau Mynydd Mawr SPG Area.

‘EQ7 Development within the Caeau Mynydd Mawr SPG Area

Proposals will be permitted where they accord with the Council’s commitment to promote and contribute to the delivery of the Conservation Objectives of the Caeau Mynydd Mawr Special Area of Conservation (CMM SAC) in line with the Habitats Directive. Where applicable, proposals in the SPG area will be required to contribute towards increasing the quality and amount of suitable habitat for Marsh Fritillary butterfly available within the SPG Area. The SPG Area is defined on the Proposals Map.

In order to achieve these objectives, and to mitigate for the loss of potential supporting habitat and connectivity for the marsh fritillary butterfly that may result through the development, the Council will, where applicable, seek to secure Planning Obligations (in accordance with policy GP3 and the provisions of the SPG for the CMM SAC) from relevant developments within the SPG area. The agreed contribution will be negotiated on a case by case basis subject to the provisions and requirements of the CMM SAC SPG.

6.6.41 Developments can proceed within the Caeau Mynydd Mawr SPG Area subject to there being no demonstrable likely significant effect upon the Caeau Mynydd Mawr Special Area of Conservation (CMM SAC). To this end, the Council will (where appropriate) seek developer contributions in accordance with the provisions of

the Caeau Mynydd Mawr Supplementary Planning Guidance (CMM SAC SPG). In order to ensure the LDP's compliance with the Habitats Regulations, the Council will (where appropriate) give priority to securing those obligations in respect of the SAC. The Council may also (where appropriate) seek further detailed information from developers to inform the determination of planning applications.

6.6.42 The Caeau Mynydd Mawr SPG Area is identified on the proposals map. Reference should be made to the adopted CMM SAC SPG, together with Policies H1 and SP7 and Appendix 2 of this Plan.

6.6.43 In providing certainty and spatial focus, policy EQ7 does not advocate a rigid/blanket approach to calculating the amount of 'chargeable' development. Reference should be made to the SPG, particularly in terms of 'in kind' contributions.'

2.27 Regard is also afforded to the following relevant LDP policies:

- SP14 Protection and Enhancement of the Natural Environment;
- EQ4 Biodiversity;
- EQ5 Corridors, Networks and Features of Distinctiveness.

2.28 In elaborating upon 2.25 and 2.26 above, this SPG provides the mechanism to secure developer contributions to fund habitat management within the SPG area set out in Appendix 1. All chargeable development (see 5.7) that is given planning permission within the SPG area will be subject to the provisions of the contribution levy set out in Section 5 of this SPG.

2.29 Furthermore, all land use allocations potentially subject to the provisions of this SPG are identified within the relevant appendices of the LDP written statement.

2.30 The Council recognises that the provisions of this SPG must take priority over all other planning obligations within the SPG area. This reflects the duties placed upon it as a Competent Authority under the Conservation of Habitats and Species Regulations 2010. In applying the principle of prioritisation and in order to achieve the objectives of the SPG, the Council will (in appropriate instances) negotiate any agreed level of contribution on a case by case basis. Reference should be made to the LDP Planning Obligations SPG for further information on the wider use of obligations within the County.

3.0 CAEAU MYNYDD MAWR SAC CONDITION AND CONSERVATION OBJECTIVES

- 3.1** The SAC has been designated as it contains habitats and species that are rare or threatened within a European context namely:
- Marsh Fritillary butterfly, for which this is considered to be one of the best areas in the United Kingdom;
 - *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils for which the area is considered to support a significant presence.
- 3.2** The SAC lies at the centre of a wider area that sustains one of Wales' most important marsh fritillary populations. The butterfly functions in a meta-population – a group of local (smaller) populations connected by migrating individuals. The marsh fritillary requires large areas of continuous or closely connected marshy grassland in order to survive in the long term. The food plant on which the eggs are laid, and on which larvae feed is devil's bit scabious (*Succisa pratensis*), these plants need to be abundant throughout the habitat in order to support the butterfly. The marshy grassland that supports the butterfly and its food plant will also include species such as purple moor grass, sweet vernal grass, greater bird's foot trefoil, whorled caraway, sneezewort, ragged robin and wild angelica.
- 3.3** While the marsh fritillary population in and around the Caeau Mynydd Mawr SAC is one of the most important in the United Kingdom it is threatened by loss of habitat as a result of development, and also by the deterioration in the condition of its habitat due to inappropriate management. Over-grazing results in the loss of the food plant, and under grazing in scrub encroachment which similarly results in a loss of the food plant.
- 3.4** The conservation objectives for the SAC seek to establish 50ha of habitat within management, however this SPG provides a framework for sufficient land to be managed in order to seek to provide a minimum 100ha of suitable habitat.
- 3.5** The site location plan of the SAC is set out in Appendix 2.

4.0 JUSTIFICATION AND SUPPORTING EVIDENCE

Overview

- 4.1 Cross Hands and a number of the surrounding settlements through the Strategic Sustainable Settlement Framework form part of the Ammanford/Cross Hands Growth Area as defined within the LDP. Its identification forms an important element of the plan's sustainable settlement strategy providing a focus for the provision of growth within County both in terms of housing and employment land. The Cross Hands area also sustains one of Wales' most important populations of the marsh fritillary butterfly a species that requires large areas of continuous or closely connected habitat to survive in the long term. Caeau Mynydd Mawr SAC lies at the centre of this area and the marsh fritillary is a feature of this SAC.
- 4.2 As part of the statutory responsibility of the Council, under the Conservation of Habitats and Species Regulations 2010 as the relevant "competent authority", development proposals shown (at the detailed assessment stage) to have an adverse significant affect upon the qualifying interest (or features), conservation objectives and integrity (in relation to the site's ability to support its objectives) of the SAC – alone or in combination with other plans or projects – which do not provide for, or are unable to achieve an acceptable standard of mitigation should not be permitted.
- 4.3 This SPG resources an integrated management scheme to provide the required mitigation. Whilst providing this mitigation, the SPG also satisfies the tests set out in WG circular 13/97 and implements the recommendations of the Plan level LDP HRA undertaken.
- 4.4 Further clarification on the policy and practical justification of seeking developer contributions to resource this SPG is provided in Section 2.

Previous Planning Solutions

- 4.5 Precedents have been set, both in terms of agreements negotiated and at planning appeals. For the following residential schemes development the sums agreed were £1,000 per open market dwelling.
- Land at rear of 14-20 Heol Y Parc, Cefneithin;
 - Carmarthen Road, Cross Hands;
 - Cross Hands West;
 - Cross Hands East.
- 4.6 Although the above approaches relate to the provisions required in the determination of individual planning applications, they are important for noting particularly because the appropriateness of securing planning obligations for habitat management have been tested and the Appropriate Assessment requirements met. Reference can also be made to the SPG prepared by the Council to elaborate upon and clarify the policies and provisions of the Carmarthenshire Unitary Development Plan (UDP) in relation to the Caeau Mynydd Mawr SAC. This was adopted by the Council in February 2014.

Habitat Management Specification

4.7 The habitat management specification report commissioned to support the preparation of this SPG undertakes to:

- (a) Provide the criteria by which land acquired through this SPG will be managed to continue to provide Marsh Fritillary habitat, if it is already present;
- (b) Provide criteria by which land acquired through the SPG will be restored to create the opportunity for suitable and good condition habitat to become established;
- (c) To provide a framework to measure the success of the habitat management scheme.

This allows developers to gain an appreciation on what their contributions will be committed towards resourcing.

4.8 In order to comply with EU regulations, the habitat management objective is to provide 50 hectares of managed habitat with at least 10 hectares in good condition over the period of the LDP for the metapopulation of the Caeau Mynydd Mawr SAC. The SPG however seeks to provide for a minimum of 100ha of habitat within the SPG area. In terms of baseline information: the core landscape area, as defined through this SPG, contains approximately 1578.50 hectares that could be suitable for marsh fritillary based on the 2005 Phase 1 habitat mapping. However, the 2010 habitat quality mapping demonstrated that only 272.6 hectares were considered as capable of supporting breeding habitat and 147ha of this were in poor condition, demonstrating the need for proactive policy intervention. They also clarify that there is still a large amount of potential or suitable habitat land available within the overall SPG area of 5,600 ha and it therefore mediates the potential acquirement costs of land parcels as there is a limited premium on potential manageable land. This aids the deliverability potential of the SPG in affordability as well as practical terms.

4.9 The management and monitoring of the land acquired under the SPG is implemented by a project officer and associated governance structure whilst there is also considerable scope for partnership working with the local community. Further reference should be given to Section 6 (monitoring) in this regard.

4.10 There are a number of management options available and are grazing based, using appropriate breeds of cattle or ponies in conjunction with scrub clearance to maintain the appropriate vegetation structure for marsh fritillary. In habitat patches that are not currently in good condition other management techniques will need to be employed subject to survey results.

4.11 The management is resourced by developer contributions and delivered through this SPG. The cost implications for each management initiative will be unique however they could include a mixture of both capital and revenue expenditure. An example is set out below in terms of a parcel of land newly acquired for management. Reference should be made to Section 5 of this SPG for information on how such overheads/cost headings have been factored into the SPG developer contribution tariff rates.

- Acquiring of land and associated costs (eg legal fees);
- Delivery of appropriate management option;
- Administration and monitoring;
- On costs – salaries, office etc.

- 4.12** Using the data reviewed and the experiences recorded on other schemes, the proposed management options have been set out depending on the nature of the existing habitat. At this stage the management options are simplistic and are only intended as a guide. As each new site/ area is brought in to the SPG management area, it will require its own specific management plan depending on the prevailing conditions, resources available and proximity to other sites already under management. Reference should be made to Section 5 of this SPG for information on how such overheads/cost headings have been factored into the SPG developer contribution tariff rates. Guidance on prevailing conditions can be gleaned from paragraph 3.3.1. of the Caeau Mynydd Mawr Habitat Management Specification Report compiled by JACOBS in December 2012.
- 4.13** A series of management options (as clarified within the SPG Habitat Specification Report) are set out below. The SPG delivers these interventions which are managed on a day to day basis by the project officer.
1. Livestock Grazing;
 2. Removal of intensive grazing, followed by scrub clearance followed by low intensity livestock grazing;
 3. Mowing and scrub clearance followed by low intensity stock grazing;
 4. Seeding and/or plug planting devil's bit scabious with 3 month stock grazing.
- 4.14** The monitoring and review of this SPG is essential for ensuring ongoing compliance with the Conservation of Habitats and Species Regulations 2010 as well as the requirements set out in PPW and Circular 13/97 in relation to the tests for the use of planning obligations. Further information on the monitoring and management of this SPG and resultant management projects is provided in Section 6.

The Supplementary Planning Guidance Area

- 4.15** The SPG area denotes the area from which contributions will be secured and where habitat management will be delivered. The defining of this area has been informed by robust evidence in that it is underpinned by meta population theory and habitat mapping work undertaken in the area and has also benefitted from planning and technical inputs. **The SPG area identified on the LDP proposals map and is set out in Appendix 1 of this SPG.**
- 4.16** The SPG Area Report commissioned to support the preparation of this SPG provides a full account of how the area has been defined. This includes a review of key considerations, what data has been used and how the baseline data has been manipulated. Regard should be given to the references set out in Section 4 of the JACOBS report for more information on the science that underpins the identification of the SPG area.
- 4.17** The SPG area (Appendix 1) encompasses approximately 5600ha of land within which developer contributions are being secured to deliver the objectives of this SPG and thus contribute to sustaining the long term future of the marsh fritillary butterfly and, therefore, the Caeau Mynydd Mawr SAC. It should be noted that the area includes some sizable development allocations (including housing, employment and development brief/mixed use)
- 4.18** Whilst not all of this area will attract development proposals or indeed be suitable as management land, the extent of the area is important as it provides a measure of flexibility (in terms of the amount and diversity of potential habitat available). It also assists in keeping land values for potential habitat management sites at a reasonable

rate whilst maintaining higher values on development allocations thus aiding their viability.

- 4.19** Developers should note that the committing of contributions is not time bound and (except for certain exceptions) they are likely to be committed on delivering off site rather than on site management options/mitigation. Contributions go towards funding the implementation of specific management options within the defined geographic area set out within the SPG area. The SPG area clarifies the spatial relationship and land use planning relevance that exists between development and ecological management within this SPG. Applicants can determine with certainty that if their site is located within the SPT area, and falls into the levy schedule, then the Council will seek a contribution. The certainty provided by this SPG also confirms that contributions will be committed to management schemes within that same area.

Deliverability

- 4.20** The Council recognises that the provisions of this SPG represent a long term commitment which will be subject to ongoing monitoring and review.
- 4.21** This guidance supplements the adopted LDP (notably policies GP3 and EQ7) in order to provide a framework for developers and the Council to agree the necessary contributions required within an open and transparent manner. The SPG also prioritises the provisions of this SPG and its requirements in relation to contributions when negotiating other contributions within the SPG area. This ensures compliance with the requirements placed upon the Council under the Conservation of Habitats and Species Regulations 2010 and the associated LDP policies. In applying the principle of prioritisation and in order to achieve the objectives of the SPG, the Council will (in appropriate instances) negotiate any agreed level of contribution on a case by case basis.
- 4.22** It is unlikely that conditions will suffice in most instances as they are unlikely to satisfy the provisions of the Habitat Regulations (including 'in combination' matters) however their use will always be explored in the first instance (PPW 3.7.10) and they may prove useful for any 'on site' conservation/mitigation measures. The Council and developers will agree on the potential value of any 'on site' mitigation as part of negotiating contributions. The levy schedule in Section 5 does allow for offsetting (or part offsetting) of contributions in lieu of on-site mitigation which can be conditioned within a planning permission.
- 4.23** Constructive negotiation in terms of developer contributions will need to be undertaken by all parties. Such negotiations should be informed by the provisions of this SPG. Reference should be given to Section 5 where the levy schedule is set out and a flow chart provided.
- 4.24** Adequate long term resourcing of the SPG is critical. This reflects the fact that mitigation needs to be in place before development commences and because there will be ongoing revenue costs associated with the delivery of the SPG from its adoption to the end of the LDP eg salaries or managing land. Such considerations have informed the developer contribution tariff and associated supporting evidence.
- 4.25** Whilst the SPG needs to be suitably resourced, it is accepted that in some instances (e.g. larger developments) developers are unlikely to be able to provide the total sums of agreed contributions to the Council upon commencement. Financial modelling by virtue of a cash flow analysis will form an important part of the Council's management of the SPG. This analysis will inform any negotiations with regards to

the phasing of contributions, as will the overall monitoring framework in terms of the progress being made in increasing the suitable habitat within the SPG area.

- 4.26** The Council recognises that the majority of resources must be committed towards delivering land management so as to increase the habitat in good condition. The focus is therefore on agreeing reasonable sums in terms of land acquisition/management agreements and avoiding ransom issues. In this regard, this SPG manages hope/premium value aspirations on potential management land to be acquired by promoting flexibility. This flexibility is built into the SPG so that it is not unduly restricted by land purchase/acquirement in order to deliver management. An allowance has been made for funds to be allocated to securing long term lease and management agreements alongside land purchase to provide this flexibility and as shown in para 4.18 the sheer size of the SPG area will mediate hope value for potential management land. Further comfort in deliverability terms is provided by the fact that funds have already been secured from prior planning applications granted permission (see para 4.5) and as such the project officer post funding is in place.
- 4.27** The delivery of this SPG is fundamentally important for planning and conservation reasons. The levy schedule (Section 5) confirms the instances where the Council will seek a contribution as part of the granting of planning permission.

5.0 DEVELOPER CONTRIBUTION

- 5.1 Given that the policy and practical cases for seeking contributions are firmly established, this section provides guidance on the level of contributions that will be sought by the Council and confirms the various classifications of development that are privy to the provisions of the SPG levy.
- 5.2 The levy schedule is developed from, and supported by, the Payment Justification Paper developed by the Council in partnership with Natural Resources Wales (NRW). This paper sets out a land management cost for typical hectare where planning permission is granted. This evidence is based upon land valuations within the SPG area with independent advice provided by chartered surveyors.
- 5.3 **Figure 1 overleaf** confirms the amount of developer contributions that the Council will seek to secure. The schedule also confirms the specific classifications of development that will be subject to the provisions of the levy. A flow chart has been developed to provide added clarity for all parties.
- 5.4 **Where established through negotiation and the production of evidence to the satisfaction of the Council**, consideration will be given to the phasing of contributions. Such phasing (including timing of contributions) will be set out within the legal agreements and will be negotiated by the Council on a case by case basis.
- 5.5 Suitable evidence in terms of 'in kind' contributions (eg land/retention of connectivity corridors) will also need to be confirmed to the satisfaction of the Council if these are to be used to offset/part offset the financial sums owed.
- 5.6 The Council's requirements in relation to developer contributions are underpinned by evidence in terms of operating principles and payment calculations resulting in a concluding total cost per hectare of delivering the required mitigation. Reference should be made to the Payment Justification Paper (see para 5.2 above).
- 5.7 The below classifications of development are subject to the provisions of the levy set out in future 1 overleaf and are thus 'chargeable':-
- **Housing**
 - **Commercial/ Retail**
 - **Employment**
 - **Education/Community**
 - **Transport/highways infrastructure**

The above list is not exhaustive and does not preclude the Council seeking contributions from other development proposals within the SPG area

- 5.8 The provisions of this SPG does not preclude the Council from undertaking TLSE or AA with regards to planning applications within the SPG area as and where it considers them appropriate.
- 5.9 The SPG contribution set out in the legal agreement will not include any legal fees owed to the Council or incurred by the applicant. In terms of what to submit and when, it is advisable that applicants liaise with the Council in advance of submitting a planning application. In order to validate the application and underpin the legal agreement, the Council will require the necessary legal documentation to be made available at submission (eg proof of title). A range of useful contacts is set out in Appendix 3 – including the Council's Legal Department. A template/exemplar legal

agreement is available for viewing and reference should also be made to the LDP Developer Contributions SPG.

Figure 1 – Flowchart for Levy Schedule

- 1 Is the development proposal situated within the SPG area set out in Appendix 1 of this SPG ? Y/N

If N then the development is not subject to the provisions of this SPG. If Y then please proceed to stage 2 below.
- 2 Does the development fall into any of the below classifications ? Y/N.

If N then the development is not subject to the provisions of this SPG. If Y then the development is chargeable at the stated rate.
 - **Housing:** £1,043 per dwelling.
 - **Commercial/Retail:** Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.
 - **Employment:** Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.
 - **Education/Community:** Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.
 - **Transport/highways infrastructure:** Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.

The above list is not exhaustive and does not preclude the Council seeking contributions from other development proposals within the SPG area
- 3 In the instance of housing development, calculate a residual figure for the number of 'chargeable' dwellings proposed as agreed with the Council.
4. In the instance of 'other' development, calculate a residual figure for the amount of 'chargeable' land take/site area proposed as agreed with the Council.
5. In the instance where an in kind/site specific mitigation scheme has been agreed with the Council, quantify (in monetary terms) the amount of financial contribution that will be offset from that owing to the Council as a result. **Subtract this sum to form a residual overall chargeable total at this point*.*
- 6 What is the total amount of 'chargeable' development?
 - Housing (number of chargeable units x 1,043) = £
 - Other (chargeable site area pro rata where 1ha is £31,290) = £
7. Total financial contribution required (i.e. the sum owed to the Council and to be included within the legal agreement). £

The contribution sum identified in 7 above does not include any legal fees owed to the Council or incurred by the applicant

6.0 MONITORING AND MANAGEMENT

Measuring success

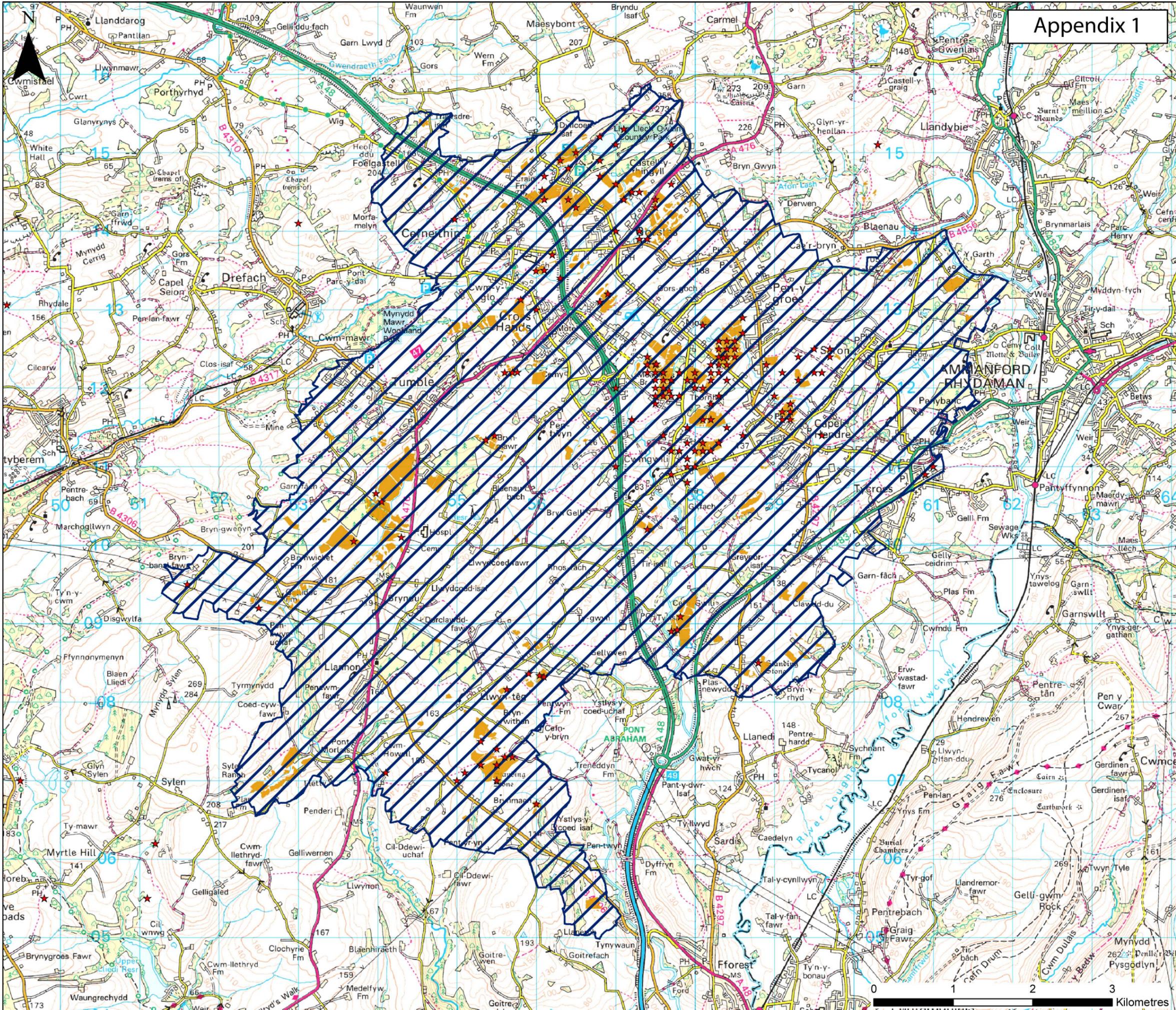
- 6.1** The monitoring and review of this SPG is essential for ensuring ongoing compliance with the Conservation of Habitats and Species Regulations 2010 (as amended) as well as the requirements set out in PPW and Circular 13/97 in relation to the tests for the use of planning obligations.
- 6.2** Detailed evidence on monitoring the success of habitat management, including a methodology for quantifying success, has been developed by the Council. Ongoing liaison is being undertaken with NRW as part of a collaborative approach towards developing monitoring and management best practice.
- 6.3** As the competent Authority, the Council gives a commitment to monitor. This allows for an evaluation of the success of the SPG in terms of the amount of land brought into appropriate management and will also allow for input from a planning point of view in terms of implementation, practicalities and feedback from developers (particularly in terms of the levy and the SPG area). This will also include an update of key evidence that underpins the SPG and its charge tariff (including a review of management/land costs and a refresh of the payment justification paper). A full review will be undertaken in accordance with the monitoring framework of the LDP.
- 6.4** Progress reports will also be considered by the Steering Group (see below).

Management

- 6.5** The Council commits to monitor and account for the receipt and allocation of developer contributions into dedicated SPG financial ledgers.
- 6.6** The setting up of the Caeau Mynydd Mawr SAC partnership and the employment of a project officer is key to successful the delivery of the SPG. The officer is funded by developer contributions secured via the SPG.
- 6.7** The work of the project officer is steered by the Steering Group and associated partnerships.
- 6.8** This SPG sets out the Council's acknowledgement of the importance of developing partnerships. Consideration will be given to third and private sector involvement as well as the considerable potential that this project presents in terms of education and awareness raising of nature conservation issues. It is considered that the project has the potential to act as a pilot for habitat management techniques and best practice.
- 6.9** The management and monitoring for the land acquired and managed under the SPG will be carried out by the constituted Steering Group.

Further information

- 6.10** For further information please contact the Forward Planning Section, Planning Division, Carmarthenshire County Council, 7/8 Spilman Street, Carmarthen, SA31 1JY. forward.planning@carmarthenshire.gov.uk. 01267 228818.
- 6.11** Reference should also be made to Appendix 3 – useful contacts.



Appendix 1



- Legend**
- SPG Boundary
 - Final refined area
 - 2010 Carmarthenshire CC Habitat Mapping
 - Suitable Habitat (GC, SS, SU, SO, PR)
 - ★ Marsh Fritillary records 1990 - current

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| Rev. | Rev. Date | Purpose of revision | Drawn | Checked | Reviewed | Approved |
|------|-----------|---------------------|-------|---------|----------|----------|
| C | 10.12.12 | Final | IP | WB | WB | HMW |
| B | 28.09.12 | Final Draft | IP | WB | WB | HMW |
| A | 10.08.12 | Draft | IP | IP | WB | WB |

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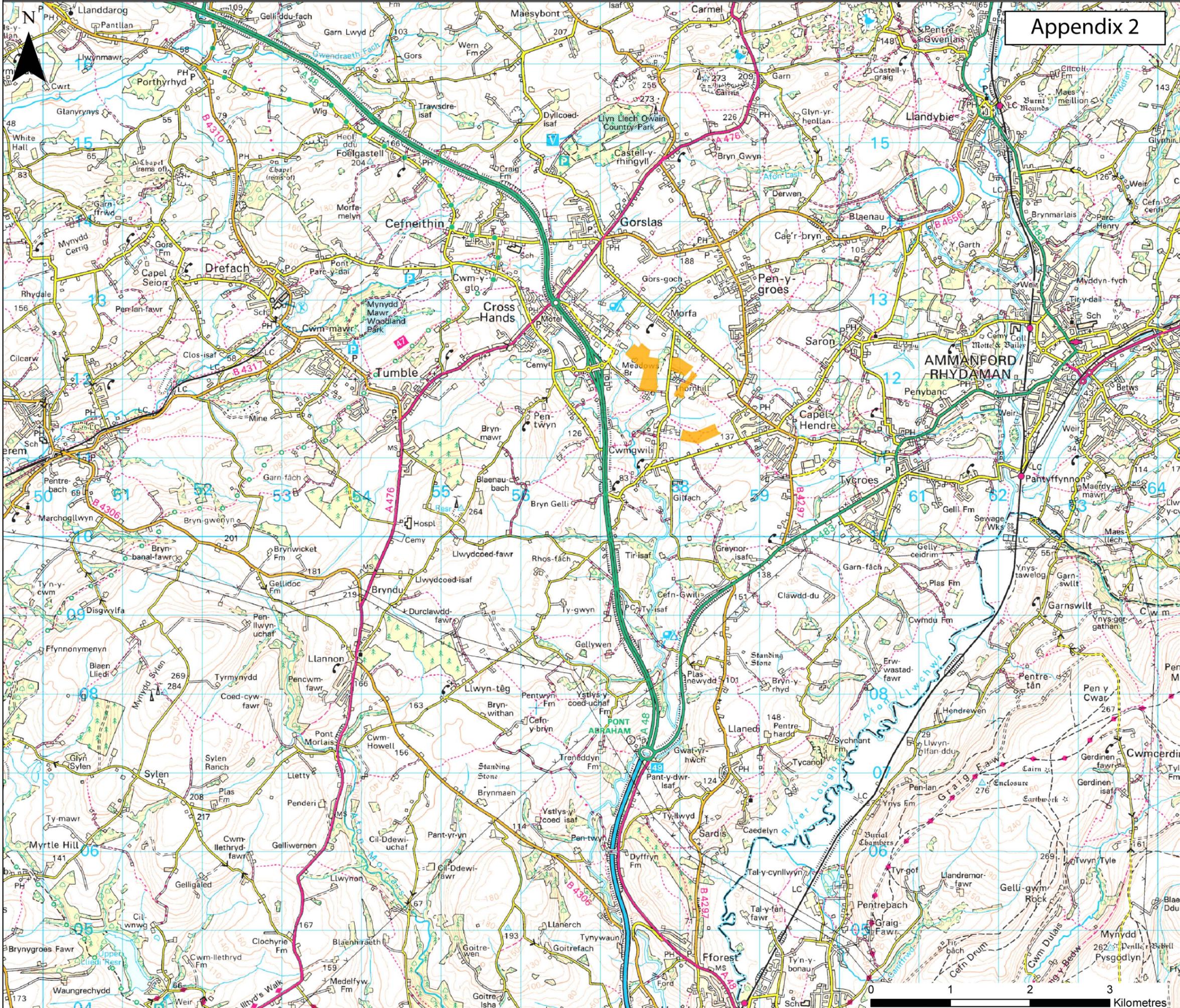


Caeau Mynydd Mawr SAC
Supplementary Planning Guidance

| | | | |
|----------------|---|--------------|--|
| Drawing Title | Illustration of the overlap of the SPG area marsh fritillary records and areas of suitable marsh fritillary habitat | | |
| Drawing Status | Final | | |
| Scale | 1:45,000 @ A3 | DO NOT SCALE | |
| Drawing No. | Figure 10 | C | |



Appendix 2



Legend
Special Area of Conservation
 Caeau Mynydd Mawr SAC

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| C | 10.12.12 | Final | IP | WB | WB | HMW |
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| A | 10.08.12 | Draft | IP | IP | WB | WB |

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Caeau Mynydd Mawr SAC Supplementary Planning Guidance

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|----------------|---------------|---------------------------------------|----------|
| Drawing Title | | Location of the Caeau Mynydd Mawr SAC | |
| Drawing Status | | Final | |
| Scale | 1:45,000 @ A3 | DO NOT SCALE | |
| Drawing No. | | | Figure 1 |
| | | | C |



APPENDIX 3 – USEFUL CONTACTS

CCC Forward Planning Section, Planning Division, Carmarthenshire County Council, 7/8 Spilman Street, Carmarthen, SA31 1JY.

forward.planning@carmarthenshire.gov.uk. 01267 228818.

CCC Development Management (South) Section: Planning Services
Ty Elwyn, Llanelli, Carmarthenshire, SA15 3AP.

planning@carmarthenshire.gov.uk 01554 742172

CCC Development Management (east) Section: Planning Services
Civic Offices, Crescent Road, Llandeilo, SA19 6HW.

planning@carmarthenshire.gov.uk 01558 825396

CCC Legal Services. County Hall, Carmarthen, SA31 1JP.

CELegalServices@carmarthenshire.gov.uk 01267 224024

The Carmarthenshire County Council Website has a full range of contacts and sets out the supporting evidence for this SPG.