



Neuadd y Sir / County Hall, Llandrindod, Powys, LD1 5LG

QUESTIONS AT ANY TIME TO CABINET PORTFOLIO HOLDERS

Question From:	County Councillor James Gibson-Watt
Subject:	Habitats Regulation Assessments
Question To:	County Councillor Iain McIntosh Portfolio Holder for Economic Development, Planning & Housing

Question:

The following legislation is mandatory for Powys County Council when exercising its functions as the Local Planning Authority.

- Environment (Wales) Act 2016 Section 7 – list of the habitats of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Note: This interim list, which is exactly the same as the previous list under Section 42 of the NERC Act, is under review in consultation with NRW.

The list includes rivers and streams

- Environment (Wales) Act 2016 Section 6 – Biodiversity and resilience of ecosystems duty

Section 6 under Part 1 of the Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (the S6 duty) for public authorities in the exercise of functions in relation to Wales. The S6 duty requires that public authorities must seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions and in so doing promote the resilience of ecosystems.

- The Consolidated Regulations November 2017; European Protected Species
- Both Powys County Council and Natural Resources Wales have a legal responsibility to protect Special Areas of Conservation (SACs) such as the river Wye SSSI SAC.

Habitats Regulations Assessment (HRA)

- Powys County Council is a local authority or a Section 28G Authority for the purposes of the Wildlife & Countryside Act (W&CA) 1981. This means is that it is not required to comply with the notification process contained in S28E of the W&CA 1981 but is required to comply with the notification process contained in S28I of the W&CA 1981
- If a S28G authority is intending to permit an activity which is likely to have a significant effect on a European protected site, then Reg 63 of the Habitats Regulations 2017 requires it to carry out a HRA and consider the implications of the proposed activity on the conservation status of the site. (Screening) Permission for the activity can then only be given if the HRA concludes that it will not adversely affect the integrity of the protected site.

Can the Portfolio Holder advise why Powys County Council is apparently not routinely complying with the above mandatory environmental process? Evidence of this is provided by the fact that I have been informed that Mr Peter Morris, Professional Lead Planning, has now arranged for staff training in relation to appropriate consideration of protected species and habitats and Habitats Regulations Assessments in response to concerns raised in respect of planning application 21/0042/AGR (Construction of an Agricultural Building on land Adjacent to Llowes Court, Llowes, Hereford HR3 5JA).