

CYNGOR SIR POWYS COUNTY COUNCIL.

**CABINET EXECUTIVE
15th June 2021**

REPORT AUTHOR: County Councillor Heulwen Hulme
Portfolio Holder for Environment

REPORT TITLE: Biodiversity and Resilience of Ecosystems duty, Section
6 of the Environment (Wales) Act 2016

REPORT FOR: Decision

1. Purpose

1.1 The purpose of the report is to put forward an approach to the Council meeting its duties under the Environment (Wales) Act 2016 for consideration.

2. Background

2.1 Under section 6 of the Environment (Wales) Act 2016, Powys County Council (as a public authority) must seek to maintain and enhance biodiversity in the exercise of its functions, and in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions.

2.2 To demonstrate compliance with these duties, the Council must publish two key documents; these are:

- A plan, setting out what the Council proposes to do to comply with these duties (the 'Section 6 plan'); and
- A report, setting out what the Council has done to comply with the duties under section 6 (the 'Section 6 report.'). The Section 6 report was completed by the end of December 2019; it must be updated and republished every three years thereafter. It was intended to bring the plan to Cabinet in the spring of 2020 but this has been delayed due to the pandemic.

2.3 A Section 6 report for Powys was prepared before the end of December 2019; it formed a baseline for subsequent reports and the Section 6 plan. The 2019 report reflects the position at that time; it does not include developments since then.

2.4 The section 6 plan does not need to be a document in its own right; it can be incorporated into existing Corporate reporting mechanisms. However, the individual actions that are being taken to maintain or enhance biodiversity need to be discrete and identifiable. This will allow for progress to be monitored and the information to be submitted to the Welsh

Government. The information will also be used to prepare the next section 6 report, which is due by the end of 2022.

3. Advice

- 3.1 It is proposed that the contents of the Section 6 report (appendix A), be accepted as reflecting the position at that time in terms of the actions taken to maintain or enhance biodiversity. If accepted, a summary of the report can then be published on the Council website, to be accessible for the public. That will complete the actions required to meet the Council's duty to prepare a Section 6 report by the end of 2019.
- 3.2 It is proposed that rather than producing a separate document, the Section 6 plan be incorporated into the Council's Corporate Improvement Plan. This would be achieved by compiling a list of the activities being carried out by individual Services to maintain or enhance biodiversity. These would be captured as measures for 2022-23 and onwards, linked to an overarching biodiversity objective in the Corporate reporting programme.
- 3.3 The reason for proposing this approach is that it would allow the Section 6 plan to evolve each year, as opportunities arise and the situation changes. Most importantly, it better demonstrates the embedding of biodiversity consideration within the Council's functions; an approach welcomed by the Welsh Government, which has prioritised mainstreaming of the s6 duty in its Nature Recovery Action Plan 2020-21 (NRAP). The Section 6 report does include commentary on future actions as well as reflecting on those already taken and is reviewed every three years. As such, it is proposed that the Section 6 plan need not be a separate document.
- 3.4 Reporting against these measures will demonstrate the way in which the Council is meeting its duties to maintain and enhance biodiversity. In addition, the activities will deliver against the Powys Nature Recovery Action Plan (NRAP) (previously the Powys Local Biodiversity Action Plan). Delivery of local NRAPs by Local Nature Partnerships (LNP) is a significant means of securing the objectives of the Wales NRAP. The NRAP for Powys is being finalised by the Powys Nature Partnership through the LNP Cymru project. It will reflect the actions being taken by a range of organisations and individuals across Powys to enhance biodiversity; as such, it is broader than the Section 6 duty, which relates to public authorities only.

4. Resource Implications

- 4.1 Consultation with individual Services will be needed to compile a set of measures, reflecting the activities that will be carried out in 2022-23 to maintain or enhance biodiversity. This will require specialist officer time; as it will contribute to developing the Powys NRAP, it is proposed that the task be carried out by the Biodiversity officer. This post is externally grant funded, so this element of the work will be cost neutral to the Council.

- 4.2 In subsequent years, each Service will need to update their measures as part of the Integrated Business Plan process, using existing resource.
- 4.3 Implementing new activities to maintain or enhance biodiversity will have resource implications. However, it is anticipated that many of these activities will be delivered through grant funded programmes such as the Local Places for Nature funding, so any up-front costs will be met without placing additional demands on core Council budgets.
- 4.4 When planning grant funded enhancements, long term sustainability must be integrated in the proposal. Individuals or organisations in the community may be able to assist with maintaining assets or continuing any processes developed; for example, trained volunteers may be able to assist with ongoing survey work or look after a sensory garden.
- 4.5 In other cases, maintenance will need to be incorporated into ongoing Service work. Some activities to maintain or enhance biodiversity may result in a change to the 'business as usual' approach. An example of this would be the change to roadside verge cutting regimes to create Road Verge Nature Reserves. The resource impacts will depend on individual projects; however, it is not anticipated that Services will commit to enhancements that cannot be maintained through core revenue budgets and staff.
- 4.6 The Head of Finance (Section 151 officer) notes the content of the report, section 4 above states that Services should be able to implement new activities to maintain or enhance biodiversity from within existing resources or through specific grant funding, on this basis the recommendations can be supported.

5. Legal implications

- 5.1 The Council has a statutory duty to prepare a section 6 report and plan and to report against the way in which it is meeting its responsibility to seek to maintain and enhance biodiversity in the exercise of its functions. Adopting the proposed approach, as set out in points 3.1 and 3.2 above would address that legal requirement.
- 5.2 Legal Services have been consulted in the preparation of this report and note that the Environment (Wales) Act 2016 places a statutory duty on the Council to publish a plan setting out what it proposes to do to maintain and enhance biodiversity and thereby promote the resilience of ecosystems. Legal Services therefore support the recommendations of this report.
- 5.3 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: "I note the legal comments and have nothing to add to the report".

6. Data Protection

6.1 The Section 6 plan, report and the measures and objectives in the Corporate Improvement Plan reflect the activities carried out by Services to enhance the quality of the environment. No information about individuals is included; as such, the proposal as set out in points 3.1 and 3.2 above does not require the processing of personal data.

7. Comment from local member(s)

7.1 Not applicable - this report reflects an approach to monitoring and reporting on county wide activities to meet a legal duty. It is expected that Local Members would have opportunity to comment on individual schemes to maintain or enhance biodiversity in their Ward, as they arise.

8. Integrated Impact Assessment

8.1 An Impact assessment is attached.

9. Recommendation

It is recommended that:

9.1 The contents of the Section 6 report (appendix A), be accepted as reflecting the position at that time (December 2019) in terms of the actions taken to maintain or enhance biodiversity; and

9.2 The Section 6 plan be incorporated into the Council's Corporate Improvement Plan. This would be achieved by compiling a list of the activities being carried out by individual Services to maintain or enhance biodiversity. These would be captured as measures for 2022-23 and onwards, linked to an overarching biodiversity objective in the Corporate reporting programme.

9.3 The Section 6 report be reviewed in 2022.

10. Appendices:

Appendix A – Section 6 report, prepared in 2019.

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