

Appendix 1: Summary of recommendations to the executive and executive responses [climate and ecological emergency review]

Between 20 January 2020 and 25 January 2021 a scrutiny review concerning the climate and ecological emergency was conducted and 58 recommendations were made to the executive. The executive response was published on 25 March 2021 and is available here: <https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7731>.

On 12 April 2021 General Scrutiny Committee considered the executive response to the climate and ecological emergency review where the following further recommendations were made to the executive:

(Number references in brackets is to the recommendations made to the initial executive to which this executive responses referred)

Recommendation 1	The Committee requests the executive to reconsider its response to those recommendations that have been rejected or accepted in part and the recommendations made during the debate and an updated response be presented to the Committee's next scheduled meeting, clarifying in particular the misunderstanding that appeared to have been caused by the use of the word "rejected" which in several cases appeared misleading in the context of the detailed response;				
Executive Response	Accepted - 17 & 33 to be changed to be Accepted in Part and 14 & 34 to Accepted. 30D has been reconsidered and accepted (see recommendation 7 below).				
Action	Owner	By When	Target/Success Criteria	Progress	
N/A					
Recommendation 2	Subject to confirmation from the solicitor to the Council, the committee establish a standing Panel to monitor the executive response to the Committee's recommendations, the members of the former task and finish group being invited to consider if they would wish to serve on this Panel in the first instance, with the Panel's terms of reference to be reported to the Committee's next scheduled meeting;				
Officer Response	Solicitor to the Council confirms no objection to this proposal.				
Action	Owner	By When	Target/Success Criteria	Progress	
N/A					
Recommendation 3	Further consideration be given by the executive to whether sufficient resources have been allocated to implement the recommendations of the review, mindful also of the need to manage the workload of officers;				
Executive Response	All action owners have been further consulted and the executive can confirm actions are resourced as per the original executive response.				

Action	Owner	By When	Target/Success Criteria	Progress
N/A				

Recommendation 4	(17) It be noted that this recommendation has not in effect been rejected but partly accepted and particular re-consideration be given to the production of a local list more swiftly than currently proposed;
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Executive Response	Accepted in part – It is noted that recommendation 17 is accepted in part. There is currently a significant implication on resources in the planning and built and natural environment teams due to a nationwide uplift in planning application submissions and staff resources. It is therefore not possible for the planning service to introduce a local list at the current time or the date for review to be brought forward.
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Action	Owner	By When	Target/Success Criteria	Progress
N/A				

Recommendation 5	Consideration be given to the extent to which notes of meetings between the council and the Environment Agency and others can be made public, even if an abbreviated form to avoid disclosure of confidential information and included in the NMB agenda papers;
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Executive Response	Accepted - The council will publish abbreviated notes from these meetings within the www.herefordshire.gov.uk/floods part of our website.
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Action	Owner	By When	Target/Success Criteria	Progress
Abbreviated notes to be published after each meeting.	Steve Hodges	Monthly	Notes published monthly.	

Recommendation 6	(20) Consideration be given to introducing a mechanism to seek responses from Parish Councils to measure the effectiveness of the advisory notes issued by the Neighbourhood Planning Team in effecting change;
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Executive Response	Accepted - The Neighbourhood Planning team do periodically issue a questionnaire to all parish councils regarding the service they have been provided by the team during the production of their neighbourhood plans. This includes a question about the effectiveness of the current guidance notes. The last questionnaire was sent to parish councils in Autumn 2019. Given that many parishes did not progress their NDPs during the pandemic, the questionnaire was not run in 2020. The team will issue a questionnaire in Autumn this year (2021) which will fit well with the new Planning Bill. It should be noted that changes are expected to the National Planning Policy Framework (NPPF), the Planning Policy Guidance (PPGs) and all the neighbourhood planning guidance notes will need to be updated accordingly in due course.
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	It is the policies of the neighbourhood plans themselves which result in 'effecting change'. The guidance notes are only a small part of this development plan process.				
Action	Owner	By When	Target/Success Criteria	Progress	
2021 Parish Council questionnaire issued.	Sam Banks	November 21	Responses reviewed.		
Recommendation 7	(30d) this recommendation should be revisited and explored more imaginatively and constructively, for example proactively working with Verging in Wild and any other groups within the County that can promote such schemes;				
Executive Response	Accepted - As part of the Annual Plan 21/22 and subsequent years – Balfour Beatty are committed to working with 'Verging on Wild' and other community groups to increase wildflower areas on Highway Verges in Herefordshire where suitable. Currently over 50 sites have been identified and assessed. Additionally, further to contacting all Parish Councils 19 responded this year identifying roads within their Parish which would be suitable for a reduced maintenance regime which would promote the growth of wild flowers and biodiversity. Verging on Wild, supported by Balfour Beatty can offer training on maintenance, identification and management of wildflower verges on the Highway Network to Parish/Town Councils and lengthsman.				
Action	Owner	By When	Target/Success Criteria	Progress	
Identify number of Parish Councils that would like support with wildflower verge management	Spencer Grogan/BBLP	April 2022			
Deliver wildflower verge training sessions	Spencer Grogan/Verging on Wild/BBLP	Nov 2022	Delivery of sessions		
Recommendation 8	(32b) greater clarification be provided on the operation of a phosphate trading platform and what it entails as a briefing to Councillors and the NMB be invited to review the merits of the proposal with a view to information being added to the relevant section of the council's website in due course;				
Executive Response	Accepted - The mechanism through which the phosphate trading platform can be secured and delivered is currently being developed by Ricardo consultants, this will be published on the River Lugg catchment area of the website when complete and signed off by the council in collaboration with Natural England. A non-technical summary will also accompany the report in full which can be shared with Councillors and also made publicly available on the website.				
Action	Owner	By When	Target/Success Criteria	Progress	

Phosphate trading platform, full technical report and non-technical summary to be published on the Council's website.	Liz Duberley	July 21	Published on website	
Recommendation 9	(33) The committee encourages the executive to continue to explore all solutions to protecting the River Wye SAC catchment including that the possibility for a Water Protection Zone to be proactively discussed with the Environment Agency;			
Executive Response	Accepted			
Action	Owner	By When	Target/Success Criteria	Progress
Officers to continue exploring all solutions to protecting the River Wye SAC catchment area in partnership with the Nutrient Management Board.	Liz Duberley	Ongoing quarterly meetings	N/A	
Officers to continue proactive discussions with the Environment Agency to consider a Water Protection Zone.	Liz Duberley	Ongoing	N/A	
Recommendation 10	(42) work is undertaken in conjunction with the transport team to undertake surveys with schools, to identify barriers and opportunities for active travel. A full survey to commence and report back with opportunities and recommendations by November 2021; and			
Executive Response	Accepted – Additional questions covering mode of travel to school and barriers to and opportunities for active travel have been included into the Children & Young People's Survey. The Survey closed at the end of May and a summary report will be available in July. In addition, questions covering modal choice will be added to the Hereford Travel Survey that will report in late Autumn.			
Action	Owner	By When	Target/Success Criteria	Progress
Report findings to General Scrutiny	Richard Vaughan	November 21	Findings reported	
Recommendation 11	(54) That this response be reconsidered with a view to developing a county-wide policy.			
Executive Response	Rejected The National Planning Practice Guidance at paragraph 38 of the section titled "When is permission required?" states;			

“When is it appropriate to use article 4 directions?”

The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to:

- A wide area (e.g. those covering the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)
- Agriculture and forestry development. Article 4 directions related to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty
- Cases where prior approval powers are available to control permitted development
- Leisure plots and uses
- The installation of microgeneration equipment”

As set out in the guidance it will be necessary to demonstrate that there is risk of potential harm or loss of amenity is over the Council’s entire administrative area. The guidance further states that there will need to be particularly strong justification for the withdrawal of permitted development rights related to a wide area.

Paragraph 53 of the NPPF also states;

“The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area”

It would therefore be necessary for the Council to have evidence to demonstrate that there is a significant risk to amenity or the local wellbeing of the area by the holding of motocross events across the County. There is no evidence of such an issue at present.

The Secretary of State has the power to modify or cancel Article 4 directions at any time before or after they are confirmed. Paragraph 49 of the National Planning Guidance also states it is important for local planning authorities to monitor any Article 4 directions regularly to make certain that the original reasons the direction was made remain valid. Where an article 4 direction is no longer necessary it can be cancelled. It would also be necessary for the Council to regularly review the position and whether there is still appropriate justification for making a county wide Article 4 direction.

An Article 4 direction would remove permitted development rights. However an application can still be made for planning permission for the use of the land for motocross. Any application would need to be considered in accordance with the

Council's local plan and any other relevant material considerations. Therefore some motocross use could still be allowed if it is in accordance with the Council's local plan.

Compensation can be payable for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted rights. Loss or damage directly attributable to the withdrawal of permitted development rights would include the depreciation in the value of land or buildings, when its value with the permitted development right is compared to its value without the right. The making of a county wide article 4 direction could therefore leave the Council with a significant liability to pay compensation to affected landowners.

Any action taken by the Council needs to be proportionate. A county wide Article 4 direction would not, without significant evidence being provided of a countywide threat to amenity, be proportionate and could not be justified in accordance with the requirements of the National Planning Practice Guidance and NPPF.

The Council has planning enforcement powers and environmental health powers which can be used to control unauthorised events. In the event a countywide Article 4 direction was made and an event held without planning permission the Council would need to issue an enforcement notice to control the breach.

It is considered more appropriate and proportionate to consider Article 4 directions on a case by case basis to ensure that there is appropriate justification. This will ensure that any making of an Article 4 direction cannot be successfully challenged by way of judicial review or modified or cancelled by the Secretary of State.

Action	Owner	By When	Target/Success Criteria	Progress
N/A				