Herefordshire Council

Minutes of the meeting of Environment and Sustainability Scrutiny Committee held at Conference Room 1 - Herefordshire Council, Plough Lane Offices, Hereford, HR4 0LE on Monday 18 November 2024 at 10.00 am

Present: **Councillor Louis Stark (chairperson)**
Councillor Justine Peberdy (vice-chairperson)

Councillors: Dave Davies, Helen Heathfield, Robert Highfield and Richard Thomas

In attendance: **Stephen Klenk (Co-chair of Farm Herefordshire), Andrew McRobb (Trustee and Director of CPRE), Councillor Elissa Swinglehurst (Cabinet Member Environment)**

Officers: **James Bisset (Ecology and Arboriculture Officer) (Ben Boswell (Head of Environment Climate Emergency and Waste Services), Simon Cann (Committee Clerk), Liz Duberley (Phosphate Mitigation Lead), Alfie Rees-Glinos (Democratic Services Support), Danial Webb (Statutory Scrutiny Officer)**

103. APOLOGIES FOR ABSENCE

No apologies for absence had been received.

104. NAMED SUBSTITUTES

There had been no named substitutes received.

105. DECLARATIONS OF INTEREST

No declarations of interest were made.

106. MINUTES

The minutes of the previous meeting were received.

Resolved: That the minutes of the meeting held on 23 September 2024 be confirmed as a correct record and be signed by the Chairperson.

107. QUESTIONS FROM MEMBERS OF THE PUBLIC

No questions had been received from members of the public.

108. QUESTIONS FROM MEMBERS OF THE COUNCIL

No questions had been received from members of the council.

109. TREE AND HEDGEROW MANAGEMENT

The Chair provided an overview of the report and explained that the debate would be structured around four main topics and objectives:

- Scrutinise council tree and hedgerow management policy and its alignment with the work on the local nature recovery strategy (LNRS) and landscape recovery and climate change adaptability.
- Understand the findings of the recent Defra consultation on hedgerow management.
- Consider the county tree strategy as an enabler for Herefordshire to become a carbon offset trading partner with others.
- Examine countywide action on ash dieback and replacement.

Tree and Hedgerow Management Policy

1. The committee asked for update on the local nature recovery strategy (LNRS) and if/how that was being joined up with council's tree and hedgerow management policy.

    - The Phosphate Mitigation Lead explained that the local nature recovery strategy was derived from the Environment Act and it required a period of consultation and engagement, both with internal and external interested parties.

    - The baseline and opportunities mapping had been completed. Members and officers had been engaged with so that they were aware of what was being done and how it linked up with wider strategies that were being developed across the county. In addition to this, external engagement sessions were being run with landowners and members of the public.

    - The tree and hedgerow management policy was a document for public realm partners and was aligned with the LNRS work. The ash dieback action plan was also aligned and joined up with the other two plans. At all periods of progress throughout the development of the plans there was a consultation phase to ensure that they were in alignment.

2. The committee enquired why the tree and hedgerow management policy had been kept as a separate policy from the LNRS rather than being included as a subsection of it.

    - The Phosphate Mitigation Lead explained that the LNRS was a very specific piece of work and Defra had set out the criteria for the strategy so that it focused purely on nature recovery - even though it did touch on wider areas and notes the wider benefits. The tree and hedgerow management policy had to sit as a separate document, but running the two pieces of work in parallel made sense and that was the approach the council had taken in carrying out the work.

3. The committee enquired if there were any constraints from the LNRS on the tree and hedgerow management policy.

    - The Phosphate Mitigation Lead explained the tree strategy was a council initiative and did not have a list of criteria that was set out by Defra, but the council would be referring back to national guidance around the tree strategy.

- The Ecology and Arborculture Officer pointed out that the two policies were intrinsically linked and that the tree, hedgerow and woodland strategy would support the work of the LNRS, particularly on a local scale in terms of practical action on the ground from local communities.

- It was explained that the Defra and Forestry Commission Trees and Woodland Strategy (TAWS) Toolkit, which the council was referring to for guidance, contained links and passages around local nature recovery, biodiversity net gain and public health that would join up with the LNRS work being done.

4. The committee noted work being carried out by the Herefordshire Wildlife Trust around natural flood management, and asked for assurance that all the different strategies that were being worked on were being brought together in a unified manner.

    - The Head of Environment Climate Emergency and Waste Services explained that the various pieces of work being carried out in these areas were being done in parallel and were following structured national guidance relating to how they should all be brought together. Stakeholder forums and engagement, coupled with consistent partnership conversations ensured that all key stakeholders were working together in partnership over the long term.

5. The committee asked if there was joined up work between the baseline surveys that were being mapped, in relation to identifying trees that might need a protection order of looking after for ash dieback.

    - The Phosphate Mitigation Lead explained that within the LNRS baseline mapping there were designated sites for wildlife. Within the opportunities mapping there was a layer that identified opportunities around types of woodland habitat and creating connectivity for nature. Internally within the council there were records of tree preservation orders and mapping around tree canopy coverage that could be broken down into urban and rural areas. There was also the ancient tree inventory, planning applications and notifications from members of the public which could be referred to when considering tree protection orders.

    - It was stated that the mapping did consider tree protection order and die ashback requirements, but that the work done in this area went much wider.

6. The committee asked if the management of the tree and hedgerows policy would present an opportunity to review whether enough was being done to manage and enforce tree protection orders.

    - The Phosphate Mitigation Lead suggested that there was an opportunity to include - within the broader tree strategy - the work that had been done to date on confirming and enforcing tree protection orders, and providing a summary on the process and the number of tree protection orders within the county.

    - The Head of Environment Climate Emergency and Waste Services explained that trees in conservation areas had a degree of protection already and engagement with the council was required to do work to/around them. Where the council was aware of trees being at risk, a temporary protection order would be issued and a consultation would be

carried out to establish whether it needed to be made permanent. Currently the tree and hedgerow management policy was not looking at the tree protection order process - a separate review of the process could be undertaken - although all of the strategies and polices in place were feeding into it already.

7. The committee felt there was an opportunity to review the way trees and tree stock in conversation areas were managed and protected, as they weren't always protected in the way they were meant to be.

8. The committee raised concerns about unhealthy/dying trees being placed under tree protection orders and enquired about the criteria and process involved in determining whether a tree protection order should be issued.

    - The Phosphate Mitigation Lead explained tree protection orders could come through the planning system, which stated that category A and B trees should be protected. Queries or alerts from members of the public would also be investigated and there was a scoring template used to evaluate whether a tree met certain criteria values including; form/health, amenity value and risk. If a tree was considered under threat by a planning application then the developer could be requested to submit an aborcultural report, if this was not submitted then a tree officer would vist the site to make an assessment.

9. The committee asked if there were enough workforce resources in place to ensure officers could visit sites to make assessments. Concerns were also raised about the reactive nature of the tree protection order process and whether it was quick enough to prevent trees at risk being damaged/removed before a protection order was placed on them.

    - The Head of Environment Climate Emergency and Waste Services pointed out that as soon as the service became aware of a tree that was it was risk it would immediately place a tree protection order on it and conduct a consultation with: the ward member, trees wardens, landowners and other stakeholders.

    - The Phosphate Mitigation Lead noted that the service currently only had one tree officer, but it had recently secured funding for a two-year fixed term post for a form of graduate level tree officer.

10. The committee asked whether the baseline mapping included all existing trees, hedge trees and traditional orchards, as many of the latter were being lost to mistletoe or ripped out.

    - The Phosphate Mitigation Lead stated that the criteria of the sites included in the baseline mapping were set by Defra and it was now recognised as an oversight that traditional orchards were not included. However, traditional orchards were included in the opportunities mapping, due to their value as local landscape features and their biodiversity value.

    - The Trustee and Director of CPRE raised the point that process only worked if you had enforcement and was concerned that there was little protection for ancient orchards and ancient woodlands within the county.

    - The Ecology and Arboriculture Officer pointed out that the Forestry Commission was now using the environment impact assessment (EIA) rules - that historically applied to the removal of woodlands - in relation to

the protection of orchards. There had previously been a disconnect between orchards as an agricultural product and orchards as trees, and bringing orchards and trees into the same fold would potentially provide more control over what happens to traditional orchards.

- It was pointed out that however much protection was put in place, it was not possible to force people to manage their trees, and a tree protection order could not force or provide resources for a person to manage a tree, and the same applied to management and upkeep of orchards that were classed as priority habitats.

- The Phosphate Mitigation Lead acknowledged that the enforcement team was relatively small and had to oversee both planning and the environment, which meant there were limited resources to follow up on every case, but conversations were ongoing about the possibility of Section 106 planning contributions being used to resource an environmental enforcement officer.

- The Cabinet Member Environment suggested the committee support the proposal of funding an officer from Section 106 funding and stressed the importance of being able to enforce processes and protection.

11. A committee member raised concerns about the apparent reluctance - at both national and county level - to press on with active enforcement of rules and regulation through appropriate legal channels.

12. The committee enquired about compensation recovered for the unauthorised removal or loss of trees and hedgerows through development, and asked what kind of amounts were involved and was the money recovered ring-fenced to replace trees and hedgerows.

    - The Phosphate Mitigation Lead state that compensation wasn't normally of a monetary value and instead would involve replacement planting. When the original tree could not be retained compensation would likely involve multiple plantings to replace one tree.

    - The Trustee and Director of CPRE, acknowledged the pressure on the relatively limited resources the authority had in this area and suggested the council could embrace some of the work being done by bodies such as the CPRE, who would be happy if there was an appropriate way for them to carry out work on behalf on the council.

    - The Trustee and Director of CPRE raised concerns about the long term-maintenance of conditional plantings around developments and how many of them came to fruition and were looked after.

    - The Co-chair of Farm Herefordshire pointed out that if farmers entered into a Countryside Stewardship Agreement or Sustainable Farming Incentive (SFI) agreement then they were required, as part of their baseline, to map their hedges and trees on the farm whether they were in-field or in the hedge, and all of that information was held by the Rural Payments Agency (RPA)

    - The Co-chair of Farm Herefordshire highlighted funding available for managing, maintaining and retaining traditional orchards through countryside stewardship schemes.

- It was suggested that there was a disconnect between the Rural Payments Agency in terms of sharing and releasing the mapping information it had obtained from farmers for use as part of the LNRS work.

13. The committee enquired what could be done outside of planning to ensure that businesses and householders provided some kind of repayment/replanting support in instances where they had removed traditional orchards.

    - The Phosphate Mitigation Lead explained that on individual land the control didn't rest with the council and the council could only try to use influence rather than controls in these areas.

14. The committee enquired about the 'right tree, in the right place' policy and whether a mechanism was in place for a potential growing policy on council land within the county, which would encourage locally grown trees being used, where appropriate, as part of the policy.

    - The Phosphate Mitigation Lead explained there was an aspiration to give over certain areas of council owned land to use as a tree planting nursery. The tree management and ash dieback schemes would likely necessitate some tree removal, so it was important to consider regeneration at the same time, and there was merit in the council having its own trees stock, which would probably be cost efficient and ensure future resilience in terms of wider species of tree being available.

15. The committee asked how local tree suppliers were being supported by the authority.

    - The Head of Environment Climate Emergency and Waste Services explained the council's procurement purchasing policy encouraged a locally sourced approach and that the code of practice was signed up to by all partners in relation to delivery of services.

16. The committee asked if it would help to include social values as a driver for the developing the tree and hedgerow policy.

    - The Head of Environment Climate Emergency and Waste Services suggested this was inherent within the approach that was being taken and that when it looked to deliver any scheme the council always considered social value as a key part of its commissioning.

17. The committee asked how the replacement of trees it had removed was built into the council's tree policy, particularly in the case of locally important species such as elm and ash.

    - The Head of Environment Climate Emergency and Waste Services explained that this was part of the code of practice, which included looking at pathogen and pest resilient tree stock and locally sourcing a range of species. Tree officers and open space officers would decide what was appropriate for each space.

    - The Cabinet Member Environment stressed the importance of communications around the implementation of the tree and hedgerow strategy within communities and the benefits of involving tree seeding groups and scaling up the work they were carrying out to a county wide level.

18. The committee suggested that initiatives in the city, such as tree planters, might help gain support for wider activity around tree planting across the county. It would be beneficial to ensure there was clear communication about the benefits of tree and hedgerows, not just for biodiversity, but also from a financial and health and wellbeing perspective - this could all be reinforced by more community-based action.

19. The committee enquired about the pros and cons of placing trees in planters.

    - The Phosphate Mitigation Lead explained the council's recommendation was that, when possible, trees should be planted in the ground and that ideally this approach would be incorporated as part of any scheme when an area was being redesigned.

    - The Head of Environment Climate Emergency and Waste Services stated they were intending to encourage communication through bodies such as the Climate Age Partnership and initiatives such as the Green Footprints Campaign, with a view to better communicating and linking things together on a broader scale to promote best practice and learning.

Ash Dieback and Tree Health

20. The committee asked what was being done in relation to climate change and the health of tree stock across the county.

    - The Head of Environment Climate Emergency and Waste Services explained that a large adaption strategy piece had been commissioned by Sustainability West Midlands, which contained a long action plan that involved looking at pathogen and pest resilient trees. The strategy was shaping the development of the council's code of practice and wider tree strategy.

21. The committee raised concerns around the action plan, which suggested that only 5% of the tree population was resistant and how that would impact the replacement of ash trees that were likely to die. It was asked what the plan was in relation to tree replacement with regards to the action plan.

    - The Phosphate Mitigation Lead pointed out that the highways team were recommissioning a consultant to survey all the ash trees along the A and B roads, which would provide a clearer picture of the condition of those ash trees. A consultant from Balfour Beaty Living Places conducted an annual review of trees, which fed back into the mapping work, giving an overall picture of the health of trees and any risks to them. However, this sat with the highways team.

    - The Trustee and Director of CPRE stressed the benefits of not rigidly sticking to an approach of replacing a removed tree with the same species, but instead following the lead of the Forestry Commission, by adopting a policy of mixed tree planting, which had been shown to be beneficial in stopping diseases jumping from tree to tree.

    - The Cabinet Member Environment explain that the 'right tree, in the right place' policy would encourage locally sourced pathogen and pest resilient species to replace removed trees on a like-for-like basis, but would also promote the benefits of mixed planting where appropriate.

22. The committee suggested there might be a need for another policy to sit under the ‘right tree, in the right place’ policy to provide clarity around the specifics of replacing trees.

    - The Head of Environment Climate Emergency and Waste Services explained that specific information about the recovery plan and planting diverse species was contained within the ash dieback plan and the code of practice within it.

    - The Co-chair of Farm Herefordshire detailed how ash dieback limited the use of ash to firewood. From a private sector position, many farmers who were pre-empting the trees on their land becoming infected had been clear-felling significant areas of land whilst they could still expect some commercial return on the wood as timber. In many instances the farmers were then replacing the ash with mixed broadleaf trees.

23. The committee asked what kind of work was being conducted around the health of other tree species within the county other than just ash.

    - The Phosphate Mitigation Lead pointed out that this work was being carried out by the Balfour Beaty Living Places consultant and Open Space as part of the annual review of trees in the county, which would provide an overall picture of the health of the trees and also the level of risk around those trees across the council’s own estates.

24. The committee asked if the council was working with other authorities to establish an early warning network in relation to the spread of tree disease.

    - The Ecology and Arboriculture Officer explained that the council was ‘horizon scanning’ and was patched into the national network in terms of what was coming in the direction of the county. There were also regular reports from sources such as Forest Research about where pathogens and pests were, what the impact might be and what the impact of climate change may or may not add to the mix.

    - The ash dieback plan and the toolkit it was produced from would provide a template for the future. As pests and pathogens moved across the country it was possible to pick up on what other authorities had done to deal with risks and diseases. Herefordshire was well placed to keep on top of and deal with everything that was going on.

25. The committee asked if the code of practice was flexible enough to allow the council to resource any appropriate action that might be necessary in the future.

    - The Head of Environment Climate Emergency and Waste Services stated that the code of practice provided what was needed in terms of strong policy commitment and was backed up by ongoing horizon scanning.

    - In relation to resourcing, it was a case of not knowing what would be required until the need arose. However, in future the council would not be dealing with issues in isolation, but would be working with key strategic partners and government bodies to deliver joined up management of risks, especially in relation to climate change driven activity.

Carbon Management Plan

26. The committee enquired as to if/how the science regarding what was known about what was going on under the ground - in terms of carbon sequestration - had been incorporated into the management of trees and hedges strategy.

    - The Head of Environment Climate Emergency and Waste Services stated that the council was in the very early phases of the development of the new countywide tree, hedgerow and woodlands strategy, and was currently in the consulting stages of that work. An assurance was given that understanding and including the science around what was going on underground would be given full consideration.

    - The Head of Environment Climate Emergency and Waste Services explained that the council had always tried to follow the carbon hierarchy of designing out the need for energy and emissions, making things more efficient, looking at renewable energy and then finally offsetting. It was recognised that carbon sequestration would form an important part of the current plan.

    - There was a recognised need to get to net zero, and teams within the council were looking at opportunities across the council's estate including what assets were available and using the surveying that was being done to establish what sequestration had already been done. The team was also working with other bodies to develop a standardisation of a metric to calculate carbon offset.

    - A cabinet working group had just been set up to consider the development of the next carbon management plan.

27. The committee suggested it might be beneficial to have a percentage target for the intended increase in tree canopy on council land.

28. The committee discussed the definition of net zero and decided it might be a topic for further discussion as part of its work programme.

29. The committee enquired whether the council could be proactive with developers in offering the use of council owned land where developers could plant trees as an offset.

    - The Phosphate Mitigation Lead stated that property services were mapping and identifying where the key ecological corridors would be across the county and were hoping to be able to use council land to set up habitat banks, whereby they could trade biodiversity net gain credits.

    - The Trustee and Director of CPRE raised concerns about carbon offsetting and stressed the importance of actual stopping doing damaging things rather than just offsetting them. It was acknowledged that biodiversity net gain was a good thing, but shouldn't allow people to continue releasing emissions into the atmosphere.

    - The Phosphate Mitigation Lead pointed out that biodiversity net gain was specifically around nature recovery and was not intended to deliver carbon sequestration or offsetting for carbon emissions.

Defra's Regulations of 2024

30. The committee asked for an overview of the difference between the Hedgerow Regulations 1997 and the Hedgerow Management Regulations 2024.

- The Ecology and Arboriculture Officer explained that the Hedgerow Regulations 1997 came about through unmanaged removal of hedgerows in the wider countryside, they were a very distinct set of regulations that were closely and specifically linked with agriculture.

- The Hedgerow Management Regulations 2024 came in to replace European Union cross compliance requirements and controls that were removed following Brexit. These 2024 regulations were designed and brought in to ensure farmers and landowners managed their hedgerows in an appropriate manner, with penalties for non-compliance.

- The Ecology and Arboriculture Officer state that they didn't think anything significant had changed, all that was being done was replacing the previous EU cross compliance regulations with a new set of regulations controlled by England and Britain. The current consultation on these regulations was focused not on the regulations themselves, but how the Rural Payments Agency would enforce them, so in some respects it represented a strengthening and might be beneficial in clearly defining the distinct responsibilities of the RPA and local authorities.

31. The committee suggested that there was a potential need for the council to promulgate a best practice system for hedgerow management that would not be enshrined in law, but would acknowledge when people were doing things in the best way possible.

    - The Cabinet Member Environment suggested this might be better dealt with through improved communications and could be incorporated as part of tree week and hedgerow week to ensure the guidance became more widely known.

    - The Trustee and Director of CPRE stressed the need to keep communications on this subject simple in order for them to work effectively and get people on board, but ultimately it was about enforcement.

    - The Head of Environment Climate Emergency and Waste Services pointed out that there was a best practice guide within the code of practice, and that this needed to be promoted through wider communications delivered by the council and its partners.

At the conclusion of the debate, the committee discussed potential recommendations and the following resolutions were agreed.

Resolved

Herefordshire Council to:

1. **set out a percentage target (akin to biodiversity gain) for an increase in tree coverage on council land by 2030;**
2. **ensure that the strategy on local nature recovery and biodiversity gain be joined up with and become key drivers of the council's policy on tree and hedgerow management;**
3. **set out clearly in planning guidance that all new development should meet the requirements of our biodiversity net gain and green infrastructure in terms of tree and hedgerow planting in the development;**

4. **develop our own tree hedgerow nurseries, in collaboration with local seed gathering initiatives, to provide a source of future material to support the Herefordshire tree, hedgerow and woodland strategy;**
5. **support local communities in the planting of trees on council owned land (bordering green field sites)**
6. **provide advice and guidance on planting trees and promote hedgerow management best practice**
7. **review the planning contributions for Biodiversity Net Gain to include monitoring fees in order to incorporate monitoring and enforcement where appropriate**
8. **take more enforcement action where it is clearly warranted in all areas of activity**
9. **strengthen the current Tree and Hedgerow Council Code of Practice (specifically nos. 19, 26 and 29) to include ancient woodlands and traditional orchards; and**
10. **ensure the tree and hedgerow management strategy incorporates opportunities in applying tree protection orders and strengthens tree management in conservation areas.**

110. WORK PROGRAMME

The committee enquired about outstanding responses to recommendations it had made regarding: the Nutrient Management Board, Active Travel Measures and Public Rights of Way.

The committee discussed its work programme for the remaining municipal year.

Resolved:

The committee discussed the work programme for the year ahead and voted unanimously to approve it.

111. DATE OF THE NEXT MEETING

Monday 20 January 2025, 10pm

The meeting ended at 12:57pm **Chairperson**