

## Monmouth Town Council – Biodiversity Policy

This biodiversity policy has been created in line with the following legislation and planning guidance:

### Legislation and Policy Guidance

Country	Relevant Statutory Regulations	Primary Legislation	Planning Guidance and Statements
Wales	Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019	Wildlife and Countryside Act 1981  Environment (Wales) Act 2016  Well-being of Future Generations Act 2015	Planning Policy Wales 2012  Technical Advice note Tan 5 Nature Conservation and Planning 2009

### Environment (Wales) Act 2016

**Part 1** of the Environment (Wales) Act sets out Wales’s approach to planning and managing natural resources at a national and local level with a general purpose linked to statutory 'principles of sustainable management of natural resources' defined within the Act.

#### Section 6 - Biodiversity and resilience of ecosystems duty

Section 6 of the Act places a duty on public authorities to ‘seek to maintain and enhance biodiversity’ so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to ‘promote the resilience of ecosystems. The duty replaces the section 40 duty in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006), in relation to Wales, and applies to those authorities that fell within the previous duty.

Public authorities will be required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience.

#### Section 7 - Biodiversity lists and duty to take steps to maintain and enhance biodiversity

This section replaces the duty in section 42 of the NERC Act 2006. The Welsh Ministers will publish, review and revise lists of living organisms and types of habitats in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales.

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The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitats included in any list published under this section and encourage others to take such steps.

Part 1 of the Act, including Sections 6 and 7, came into force on May 21, 2016.

### **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act became law in April 2015 and is concerned with improving the social, economic, environmental, and cultural well-being of Wales.

It will make the public bodies in Wales listed in the Act think more about the long-term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach.

To help public bodies achieve the same vision, the Act puts in place seven well-being goals. Linked to the goals a set of National Indicators are currently under development to help measure whether we are achieving the goals including the Resilient Wales goal.

Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat...”

### **Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019**

- EU Habitats Directive adopted on 21<sup>st</sup> May 1992
- Natura 2000 designated sites listed for protection
- Transposed into UK Law after Brexit and retained under the European Union (Withdrawal) Act 2018

(1) A person who—

- (A) Deliberately captures, injures, or kills any wild animal of a European protected species,
  - (b) Deliberately disturbs wild animals of any such species,
  - (c) Deliberately takes or destroys the eggs of such an animal, or
  - (d) Damages or destroys a breeding site or resting place of such an animal,
- is guilty of an offence.

Notes: Incidental offence as a result of an otherwise lawful activity is no longer a defence.

Habitats Regulations Assessment – any activity / project in a SAC which may have a likely significant effect on the SAC must be subject to screening & appropriate assessment.

Recent Case Law – *(R) Harris V Environment Agency & Natural England (2022)* states that European conservation laws remain enforceable despite Brexit.

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## **Wildlife and Countryside Act 1981**

The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain

Under the Act it is illegal to

- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used by wild animals for shelter or protection.
- Intentionally or recklessly disturb wild animals whilst in their place of rest or shelter
- Sell or advertise for sale or transport wild animals (including their derivatives)

## **The Badger Act 1992**

It is an offence to:

- Wilfully kill or take a badger or attempt to do so
- Treat a badger with cruelty such as digging for badgers, using badger tongs, or using a firearm on a badger.
- Intentionally or recklessly damage or destroy a badger sett
- Intentionally or recklessly obstruct access to a badger sett
- Cause a dog to enter a badger sett
- Sell or offer to sell a live badger
- Disturb a badger when it is occupying a sett.

## **The Countryside and Rights of Way Act 2000**

The Act places a duty on Government Departments and the National Assembly for Wales to have regard for the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted, in accordance with the Convention on Biological Diversity.

Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981 including provisions to change SSSIs and providing increased powers for their protection and management. The provisions extend powers for entering into management agreements; place a duty on public bodies to further the conservation and enhancement of SSSIs; increases penalties on conviction where the provisions are breached; and introduce a new offence whereby third parties can be convicted for damaging SSSIs. To ensure compliance with the Human Rights Act 1998, appeal processes are introduced with regards to the notification, management, and protection of SSSIs.

Schedule 12 of the Act amends the species provisions of the Wildlife and Countryside Act 1981, strengthening the legal protection for threatened species. The provisions make certain offences 'arrestable', create a new offence of reckless disturbance, confer greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and enable heavier penalties on conviction of wildlife offences.

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## Planning Policy Advice

### Planning Policy Wales Tan 5 “Conserving and Improving Natural Heritage and the Coast”

The Welsh Government’s objectives for the conservation and improvement of the natural heritage are to:

- promote the conservation of landscape and biodiversity, in particular the conservation of native wildlife and habitats.
- ensure that action in Wales contributes to meeting international responsibilities and obligations for the natural environment.
- ensure that statutorily designated sites are properly protected and managed.
- safeguard protected species, and to
- promote the functions and benefits of soils and in particular their function as a carbon store.

### The UK Biodiversity Action Plan (UKBAP) includes objectives to conserve, and, where practicable, enhance:

- The quality and range of wildlife habitats and ecosystems.
- The overall populations and natural ranges of native species.
- Internationally important and threatened species, habitats and ecosystems.
- Species, habitats, and natural and managed ecosystems characteristic of local areas
- Biodiversity of natural and semi-natural habitats where this has been diminished over recent decades.

The Welsh Government is committed to promoting Habitat and Species Action Plans relevant to Wales prepared under the UKBAP in fulfilment of its obligations under the Countryside and Rights of Way Act.

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## Biodiversity Statement

Monmouth Town Council recognises its duty to protect, conserve and enhance biodiversity in line with the following documents:

- The Conservation of Habitats and Species Regulations 2017 (amended 2019)
- The Environment (Wales) Act 2016
- The Well-being of Future Generations (Wales) Act 2015
- The Wildlife and Countryside Act 1981 (As amended)
- Monmouthshire Local Biodiversity Action Plan

The town council will:

- Periodically survey our green open spaces such as the Town Field to identify, protect and conserve protected and priority species and habitats including any new species recorded during organized biodiversity awareness events.
- Liaise with and consult Monmouthshire County Council biodiversity team regarding green infrastructure projects and biodiversity enhancement projects.

Follow best practice guidelines regarding any cutting and removal of trees or vegetation, for example:

- I. letting grass grow longer at certain times of year and in certain places, to provide a more varied structure, encourage wildflowers, and enhance wildlife habitats.
- II. allowing some weedy areas to provide food for birds and animals.
- III. Retaining dead trees where safe to do so.

- Aim to use only organic pesticides and fertilizers.
- Reduce the amount of water we use as a town council and promote reducing water use to the general public.
- Time buildings or grounds maintenance work appropriately, for example to avoid nesting or breeding seasons of wildlife.
- Seek to enhance biodiversity habitats with the use of bird boxes, bat boxes, hedgehog boxes and planting of hedgerows where possible in line with the County Councils Green Corridors map.
- Use sustainably sourced native tree / plant species in new planting schemes wherever possible.

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- Seek opportunities to plant edible nut and fruit trees.
- Replace any Town Council tree which is felled or has fallen naturally, with a native species tree.
- Avoid the use of invasive non-native species and remove them where this is recommended.
- Use beneficial woodland / tree management practices, including (where consistent with health and safety considerations) leaving dead wood on site and possibly dead wood retained within the canopy when deemed safe to do so.
- Seek, through long-term planning, to enhance the biodiversity value of sites in Monmouth Town.
- Promote public access, interpretation and involvement in our sites to raise public awareness of biodiversity issues.
- Lead by example - well-managed sites can demonstrate the positive role of sensitive site management to businesses, other organisations and the general public.
- Integrate biodiversity into town council training and seek to promote biodiversity in town schools.
- Ensure current good practice guidelines and biodiversity legislation is followed.
- Seek expert advice when needed, for example from Monmouthshire County Council biodiversity team or Natural Resources Wales.

Version Number	Description of Change	By Whom	Adopted at
1	Written by Cllr. Wadley. Reviewed and adopted at FC	Cllr.Wadley	FC 24.07.23