

Agenda item 6

For discussion and decision - Establishing a nature rights bye law for the River Frome

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Summary

Sustainable Frome has requested the Council make a new type of bye law which recognises the River Frome as a subject of the legal system, capable of bearing rights in the same manner as humans and companies. This report has been drafted by them and the recommendation from the Town Clerk is that FTC work with Sustainable Frome to develop the idea with a view to establishing a nature rights bye-law.

Benefits of nature rights:

- Local people are directly empowered by the law to protect their local environment, in this case the River Frome and its tributaries. Waiting for central government agencies to act to protect the environment is a top down approach which encourages passivity and ends in frustration.
- Rights of nature shifts focus away from the assertion of property rights and planning court technicalities towards solutions for the benefit of all. The current legal system is balanced in favour of the destruction of nature.
- It is the first step to establishing a holistic, ecological and balanced structure for law. By granting rights to nature, humans and companies are encouraged to relate to the nature in a way which recognises how a healthy and thriving nature benefits everyone. Rights of nature is a paradigm shift and not merely another environmental regulation.

Key elements of a nature rights bye-law for the River Frome:

- The River is granted river appropriate rights. These rights stem from the function of rivers within the wider whole of nature. They express the conditions necessary for a thriving river.
- The River, local people and the Council are granted the power to enforce these rights on behalf of the River. Anyone trying to defend nature currently has to show a sufficient (usually property based) interest in order to bring a case. This is a way of shutting out discussion of environmental concerns.
- The Rivers rights are not subordinated to the rights and interests of companies or natural persons, whose property claims must respect the rights of the River.
- These rights have been granted by many municipalities in the USA and are forming the basis for community legal actions in opposition to destructive mining interests. There are other precedents from around the world but not yet in the UK.

Steps to making a nature rights bye-law:

- Approve a River Frome nature rights bye-law drafted with help from Rights of Nature (Europe). Sustainable Frome have already asked for this.
- Adopt the bye-law under the ordinary procedure for agreeing public nuisance bye-laws under general powers contained in Local Government Act 1972.
- Adopted bye-law new bye-law advertised in a local paper, followed by submission to the Department for Communities and Local Government for approval.

Recommendation from the Town Clerk

FTC has created bye-laws for a small number of offences in the past, most recently related to open spaces and dogs. If the process that was used is similar to that proposed by Sustainable Frome it is cumbersome but easily achievable.

It is recommended that the proposal is explored in detail with Sustainable Frome and, if all goes well, progress to the stage where a draft bye-law is brought back to a suitable Council meeting for approval.