



Growth and Development Scrutiny Group

Wednesday, 4 January 2023

Hedges and Hedgerows within the Borough

Report of the Executive Manager Neighbourhoods

1. Purpose of report

- 1.1. This report is to provide Councillors with an overview of the legal and policy framework for the protection and enhancement of hedgerows. It also provides insight into what will be required as a part of Government's mandatory Biodiversity Net Gain, including monitoring and reporting.
- 1.2. In addition, the report outlines the information that is available for residents and stakeholders to provide advice on the maintenance and management of hedgerows. Opportunities for how this could be improved are provided but the Group is asked to provide feedback on this and additional ideas.

2. Recommendation

It is RECOMMENDED that Growth and Development Scrutiny Group:

- a) Request a future Scrutiny item to be presented with details of requirements for methodology for the monitoring and reporting of Biodiversity Net Gain.
- b) Review current advice about the management and maintenance of hedges and suggest additional promotion opportunities and groups to engage with.

3. Reasons for Recommendation

- 3.1. The Council will soon have a requirement to report on bio-diversity net gain to demonstrate that all new developments in Rushcliffe are delivering their required 10%. The methodology for this reporting is yet to be outlined in detail by Government but a further report on this will be presented to scrutiny when this information is available.
- 3.2. It is important that Councillors understand the current legal and policy framework and how this will change over the coming year.

4. Supporting Information

Policy Framework

- 4.1. Rushcliffe Borough Council has a strategic aim to protect hedges within the Borough and to increase the hedgerow network by 40% by 2050. It is therefore important for Councillors to understand the current policy and legal framework and how this is proposed to change in 2023.
- 4.2. The Government's Environment White Paper 2011 - The Natural Choice: securing the value of nature and National Planning Policy Framework require land-use plans create a resilient and coherent ecological network of designated and non-designated habitats. These networks are those which, by virtue of their linear and continuous structure (such as rivers with their banks and hedgerow field boundaries) or their function as stepping stones (water bodies, grassland sites and woodland) are essential for the migration, dispersal and genetic exchange of wild species. It is important that the preservation and enhancement of biodiversity and the wider ecological network is considered as part of the design of proposed development schemes from the outset.
- 4.3. It is important to understand what we mean by hedgerow. DEFRA in its publication (2007) Hedgerow Survey Handbook defines a hedgerow as:

A hedgerow is defined as any boundary line of trees or shrubs over 20m long and less than 5m wide at the base, provided that at one time the trees or shrubs were more or less continuous. It includes an earth bank or wall only where such a feature occurs in association with a line of trees or shrubs. This includes 'classic' shrubby hedgerows, lines of trees, shrubby hedgerows with trees and very gappy hedgerows (where each shrubby section may be less than 20m long, but the gaps are less than 20m).

- 4.4. Rushcliffe Borough Council's Cabinet adopted the latest version of the Nature Conservation Strategy in February 2021. This is a partnership document that sets out nature conservation aspirations in Rushcliffe and covers the period of 2021 to 2025.
- 4.5. Rushcliffe's Nature Conservation Strategy is a material consideration within the Local Plan. Local Plan part 2 section 12.26 states:

"Policies in this Local Plan Part 2 regarding nature conservation should be read alongside those policies in the Core Strategy and other policies within this plan which seek to protect and enhance the green infrastructure network and Rushcliffe's Nature Conservation Strategy. Where appropriate, developments should take all opportunities to achieve net-gains in biodiversity, improve the ecological network and provide multi-function and accessible Green Infrastructure".

- 4.6. The Nature Conservation Strategy notes that hedgerows "both provide useful habitat and link wildlife sites" and sets out that the partners (including the Council) will seek to: Promote conservation, replanting and appropriate management of hedgerows using the Hedgerow Regulations as appropriate. Additionally, hedgerows are identified as an important aspect of nature

recovery and landscape feature and, for most landscapes, the Strategy seeks to protect, restore and develop hedgerows.

- 4.7. Hedgerows are also identified in the Strategy as useful carbon sinks, helping to address climate change when well managed. It also recommends shrub and hedgerow species to be used when planting hedgerows in Rushcliffe.
- 4.8. The Rushcliffe Local Plan seeks to improve and increase biodiversity through new development, including priority habitats such as hedgerows. This is achieved through Core Strategy policy 17 on biodiversity and several policies contained within Local Plan Part 2. Policy 38 is of particular relevance as it requires, where appropriate, that all developments will be expected to preserve, restore and re-create priority habitats and the protection and recovery of priority species in order to achieve net gains in biodiversity.
- 4.9. The Borough's biodiversity assets include woodlands, grasslands, hedgerows, wetlands and watercourses. These provide wildlife corridors and stepping stones which support the movement of species, and sustain designated and non-designated conservation sites and habitats. Ensuring these habitats are bigger, better and more joined up and not isolated is one of the most important factors in maintaining biodiversity.
- 4.10. Development should be appropriately designed to facilitate the emergence of new habitats through the creation of links between habitat areas and open spaces, for example hedgerow, shelter belts and drainage ditches. Together, these provide a network of green spaces which serve to reconnect isolated sites and facilitate species movement.
- 4.11. The priority habitats within Rushcliffe are identified within the Nottinghamshire Biodiversity Action Plan, Rushcliffe Nature Conservation Strategy and Rushcliffe Biodiversity Opportunity Report. The action plan identifies hedgerows, woodlands (coniferous and broad leaf), lowland grasslands and water courses (as well as others) as priority habitats and sets out a broad range of actions which should be taken to protect and enhance them. This includes local authority planning decisions.
- 4.12. When sites come forward for development the existing hedgerows are reviewed and where possible are protected through the design of the site and use of conditions. In addition, on sites where a design code is developed hedges can be incorporated into this if appropriate to the context of the site.

Bio Diversity Net Gain

- 4.13. Government's mandatory Biodiversity Net Gain is due to be enacted from November 2023. This is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. Under the mandatory scheme there is a requirement for the majority of developments to provide a minimum of 10% gain. The Council can require higher if the local plan, when it is updated, includes a policy stipulating a higher required gain. That would need to be

justified however and the impact of viability of any new developments considered. This is something that is being explored with advice from external experts.

- 4.14. Hedgerows and linear trees are measured separately within Biodiversity Net Gain, so if they are present to start with, at the end of the development there needs to be a minimum of 10% more (or the same length but in better condition), assessed using the Natural England metric, in addition to other biodiversity habitats.
- 4.15. Applicants for planning permissions will be required to assess the baseline length and quality of hedgerow on their site prior to development using the Natural England metric, they will then be required to assess the length and quality of hedgerow to be provided after the development is completed, using the metric. The applicant will need to demonstrate at least a 10% increase (in length and / or quality).
- 4.16. Following the completion of the development, the applicant will have to provide monitoring reports at intervals set out by the local planning authority to show that the planned hedgerow improvements have been achieved.
- 4.17. The local planning authority will be required to keep data to show what Biodiversity Net Gain (including hedgerows) achieved across the borough and report these at least each 5 year period, guidance on the methodology is yet to be published by the Government.

Hedgerow Removal Notice

- 4.18. There are regulations which are intended to protect important hedges in the countryside. These apply to hedges more than 20m long, (or less if connected to another hedge) on or adjacent to:
 - Land used for agriculture or forestry, including the keeping of horses or donkeys
 - Registered common land and village greens
 - Local Nature Reserves and Sites of Special Scientific Interest.

They do not apply if the hedge is within or on the boundary of the curtilage of a house.

- 4.19. Anyone proposing to remove a hedge to which the regulations apply must give the Council six weeks' notice and give the reason for seeking to remove it. Some works are exempt from the need to notify, including:
 - The creation of an access to replace an existing access which will be filled in with a new section of hedge, or where there is no existing access except at unreasonable cost
 - To carry out development which has been granted planning permission.
 - To comply with a statutory plant or forest health order
 - To gain temporary access in an emergency.

- 4.20. Some public bodies and utility operators also have exemptions; for example, for statutory drainage works and to keep power lines clear. The Council has a Hedgerow Removal Notice and guidance notes available on the website.
- 4.21. Once a Hedgerow Removal Notice has been received, the Council must decide if the hedge is 'important' as defined in the Regulations. This depends on its historical or wildlife value. For example, a hedge which existed before 1850 or which is associated with an archaeological feature will be important. A hedge which contains a diverse range of species of plant or provides a habitat for particular species of birds could also be important. Other factors include whether it adjoins a ditch, or public footpath.
- 4.22. If the hedge is important as defined in the Regulations, the Council must then decide whether its removal is justified or to serve a Hedgerow Retention Notice which prevents its removal. If it is not important it may be removed. Government advice is that there is a presumption in favour of retaining important hedgerows unless there is a strong case for their removal. There is a right of appeal against a retention notice.
- 4.23. If a hedgerow does not meet the criteria to be considered 'important' as defined in the Regulations, the Council has no option but to allow its removal. It is an offence to remove a hedge without giving notice whether it is important or not and to remove a hedge in contravention of a retention notice. In addition to a possible fine of up to £5,000, there is a duty to replant.
- 4.24. The Regulations also apply to hedges removed or destroyed as an incidental effect of other operations, for example, clearance of ditches. They do not apply to normal maintenance operations, including coppicing, from which the hedge will re-grow.
- 4.25. The Council has a record of 54 hedgerow removal notices, from 1997 to 2022:
- 27 hedgerow retention notices have been served since 1997
 - The Council has had no option but to allow 21 hedgerows to be removed because they were not 'important' as defined by the Regulations, or because it wasn't possible to prove they met the criteria to be considered important
 - 4 hedgerows were allowed to be removed for the reasons given
 - 2 hedgerow replacement notices have been served where hedgerows were removed without prior notice.
- 4.26. The Council does not currently record work allowed under exemptions, but this usually relates to utility operators removing small section of hedges to allow services to be installed. When this occurs the Council always ask for the gap to be replanted. Officers rely on the fact that half of the Borough is covered by Sanderson's 1835 map which covers an area 20 miles around Mansfield. If a field boundary is visible on this map, it can generally prove it is important for historical reasons. It is very rare that a hedge meets the criteria to be considered important for wildlife reasons.

Communication

- 4.27. There is currently a webpage on the Borough Council's website which has a focus on the protection of trees including details of funding. Officers could extend the content of this page to include hedgerows and hedgerow advice. Information about the Hedgerows Removal Notice process and forms are already available on the website.
- 4.28. Through the Nature Conservation Strategy the Council has a [Biodiversity Support Grant](#). Hedgerows creation and maintenance have been funded through this scheme. Between 2019 and 2022 £2800 has been awarded to support 890m of hedgerow in Cotgrave, Widmerpool and Kinoulton. The Council also currently provide community tree grants and this could be extended to cover hedgerow plants also. Officers in the Communities Team are exploring ways to extend this pot of funding including working with colleagues on plans for the UK Shared Prosperity and Rural England Prosperity Funding.

5. Risks and Uncertainties

- 5.1. This report provides Councillors with an overview of the current policy and legal framework for the protection and enhancement of hedgerows. There are no risks or uncertainties associated with this.
- 5.2. The new requirements for Biodiversity Net Gain place an additional duty on the Council to ensure the right processes are in place for monitoring and reporting on this. This could present a risk as it is a new and developing area of work however Officers have been planning for some time for the changes being implemented in November 2023.

6. Implications

6.1. Financial Implications

There are no financial implications associated with this report.

6.2. Legal Implications

There are no legal implications associated with this report.

6.3. Equalities Implications

There are no equalities implications associated with this report.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no crime and disorder implications associated with this report.

7. Link to Corporate Priorities

Quality of Life	Protecting and enhancing the environment of the Borough will have a positive impact on the quality of life of our residents.
Efficient Services	Not applicable
Sustainable Growth	The Biodiversity Net Gain duty will play an important role in strengthening broader sustainability objectives in terms of housing growth and development.
The Environment	Protecting and enhancing the hedgerow network in the Borough, as well as other natural habitats will have a positive impact on the environment.

8. Recommendations

It is RECOMMENDED that Growth and Development Scrutiny Group:

- c) Request a future Scrutiny item to be presented with details of requirements for methodology for the monitoring and reporting of Biodiversity Net Gain.
- d) Review current advice about the management and maintenance of hedges and suggest additional promotion opportunities and groups to engage with.

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Background papers available for Inspection:	
List of appendices:	