

## PROTECTION OF TREES, HEDGEROWS AND WILDLIFE POLICY

### INTRODUCTION

Trees and hedges are important wildlife habitat and this Policy aims to ensure good management on Town Council land.

### LEGAL STATUS

The main legislation relating to nesting birds is the Wildlife and Countryside Act of 1981. This Act protects all birds from intentional killing and injury and also makes it an offence to intentionally damage or destroy the nest of a wild bird when it is in use or being built.

There is an additional protection within the Act for the Barn Owl, Red Kite and Honey Buzzard (Schedule 1 birds). For these birds it is an offence to intentionally or recklessly disturb a bird while it is building a nest or is in, on or near a nest containing eggs or young. It is also an offence to disturb the dependant young of such birds. Recklessness is often defined as taking a deliberate unacceptable risk or failing to notice or consider an obvious risk.

Other than for schedule 1 birds the Wildlife and Countryside Act makes it clear that an offence shall not have been committed if the works were required for the purpose of preserving the public health and safety.

The Hedgerows Regulations 1997 make it unlawful to remove a rural hedgerow without gaining permission from the local planning authority. Hedgerows can support hundreds of species of plants and animals (including small mammals) and form valuable nesting sites for a variety of birds.

### BEST PRACTICE

The Royal Society for the Protection of Birds (RSPB) recommends that hedgerows should ideally not be cut during the nesting season. The main nesting season is considered to be between the beginning of March and the end of July and occasionally running into August. Common birds such as the blackbird, sparrow, thrush, robin, bullfinch and the spotted flycatcher amongst others often seek nesting sites in hedges and hedgerow trees.

The RSPB also recommends that hedge cutting, coppicing or laying should not take place between 1 March and 31 August and that where possible hedges should be cut in January or February to allow birds and wildlife to eat most of the berry crop in early winter.

### THE PRACTICALITIES OF COMPLIANCE WITH BEST PRACTICE

Ideally the Town Council would like to be able to work to best practice guidelines. On occasion however, particularly on grounds of health and safety or other statutory requirements, this might not always be achievable.

A 'common sense' approach must also be encouraged as there will always be a degree of variation in the nesting season due to weather conditions. For example over some recent milder winters there is evidence of birds preparing to nest in late February.

The Town Council will in future years be responsible for a considerable amount of hedging following recent planting at the cemetery extension and the allotment area. In view of the recommended fairly short period of time for hedge maintenance (January and February) it may well be that the Grounds Maintenance Team will need to consider maintaining each side of a hedge on alternate years.

Where a hedge, shrub or tree has been left unmanaged due to the presence of nesting birds and a complaint or request is received for work to be undertaken then the enquirer should be made aware of this Policy Document as well as the requirements under UK Law with respect to birds and their nests.

### **ESSENTIAL HEDGE/SHRUB CUTTING DURING THE BIRD NESTING SEASON: 1 MARCH TO 31 AUGUST**

Work needs to proceed in an accurate and carefully controlled manner that allows the operator to continue to observe whilst cutting is underway. Therefore it is important that works are carried out using a hand held hedge cutting tool only.

#### **Assessment of whether Nesting Birds are Present**

Birds have to make many trips to and from a nest, first to built and then to feed chicks when they have hatched. It is possible to use this information to find nest sites and/or the area of likely nests. This will however be less effective in identifying nests where eggs are yet to hatch and activity is much less.

The following procedure will be followed:

- 15 minutes of observation of the section of hedge/shrub to be cut looking and listening for birds coming and going to a nesting site
- If walls or fences are not in the way it is best to try to achieve an all round observation of a hedge or shrub to avoid the possibility that a bird might come and go from the opposite side unobserved. Observations should be carried out by standing a few metres back from the shrub/hedge as birds are naturally less likely to break cover/return if a person is close by
- If no birds are seen by standing back and observing then vegetation should carefully be parted and moved aside to make a careful physical inspection for bird nests. Birds that had been silent may give an alarm call if this gets close to them and in such a case the operative should withdraw.
- Providing that this does not identify a nest then work should proceed in a controlled way using a hand held hedge cutting tool.
- The operator should continue to observe for nests as they carry out works and stop if one is identified.

#### **TREE WORKS DURING THE BIRD NESTING SEASON**

**District Council permission is necessary for work on any trees within the Conservation Area or for any tree which is the subject of a Tree Preservation Order. Applications are submitted by application form in writing and no work may commence until written approval is received.**

This Policy covers the implementation of tree work to mature/established trees during the nesting season.

#### **Getting to a Tree and Carrying Out Work**

In some situations tree works may require the removal of lower growing vegetation. Whilst nesting birds may be absent from the tree itself they may be using the vegetation at the base. Therefore any base vegetation/hedge/shrub material should be treated in the same way as outlined earlier for hedge/shrub cutting.

## Vegetation Growing up a Tree

Trees may also have ivy or other climbers bridging the gap between the under storey and the tree itself. This will need a sensible approach depending on the situation on the ground. In some situations it might be approached in the same way as outlined for shrubs and hedges (for example if it only extends a limited way up a tree and/or the tree is yet to come into leaf). In other situations such as where there is dense ivy growth right into the crown which cannot be well observed from the ground it may be best to treat it as part of the tree itself.

## Trees Works in the Bird Nesting Season (providing there is no evidence that Schedule 1 birds are present)

Trees are often much easier to assess than hedges and shrubs as:

- The growth is often less dense and therefore easier to see into
- They often come into leaf later in the year and so can be more easily inspected much later into the nesting season
- Because of the lower density of growth in a mature canopy the types of birds which favour hedges are replaced by other species such as crows which build larger more obvious nests.

However trees may contain features such as cavities and splits which provide ideal conditions for bats and some birds such as the barn owl.

Where works are carried out in the nesting season the following approach aims to ensure that reasonable measures have been taken to avoid conflict with nesting birds.

Adherence to this Policy will ensure that all reasonable efforts are made to ensure that nesting birds are not affected by tree works. In carrying out assessments and subsequent works it is imperative that the operator does not do anything to compromise his/her own health and safety or that of others. It is acknowledged that once tree work has commenced they will often need to be completed in order to avoid leaving a tree in a dangerous condition

## Assessment of whether Nesting Birds are Present

An initial inspection should be made from the ground. The operator should look at the tree from all sides to determine whether it is clear of nests. Particular attention should be paid to:

- The material to be removed and whether that part of the tree can clearly be seen
- The route the arboriculturalist will take into the tree
- Any holes and cavities which might be present and which might be suitable for nesting or use by bats

Areas of dense growth that cannot be seen to be clear of nests should either be left uncut or if necessary the following two stage inspection used. If features such as splits, cracks or cavities are observed then specialist advice should be sought with respect to the likelihood of these being used by bats.

Birds have to make many trips to and from a nest but it is much more difficult to identify nests where eggs are yet to hatch as activity is much less thereby necessitating a second stage.

The following procedure will be followed:

- 15 minutes of observation of the tree (standing back a few metres) should be made looking and listening for birds coming and going from/to a nesting site.
- If a likely nest site is identified then works should avoid the area.
- If no birds are seen by observing then a more physical inspection **might** be necessary if the growth is dense and this might necessitate the use of ladders. Vegetation should be carefully

parted and moved aside to make a careful physical inspection for nests. Holes and cavities should be inspected with the use of a torch. Birds that had been silent might give an alarm call so the operative should be careful to listen as well as look. If a nest is identified the operative should withdraw.

Providing that this inspection does not identify a nest then work can proceed in a controlled way. The operator should continue to observe for nests as they carry out works and stop if one is identified if it is safe to do so.

## **RECORD KEEPING**

A record should be kept of hedge, shrub and tree works carried out during the bird nesting season for those instances where nests are encountered. The record should include:

- The nature of the work including dates and times
- Details of any enquiry/complaint
- Location and condition of any nests eg: empty or with eggs, adult bird present etc
- What level of assessment had been carried out
- Whether there were health and safety justifications for the work being undertaken
- Action taken on discovery of nest

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<b>Author</b>	Town Clerk	<b>Date last amended</b>	May 2016		